

**To:            Audit, Scrutiny & Petitions Board**

**On:            6<sup>th</sup> June 2016**

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**Report by:   Lead Officer**

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**Heading:    Upkeep of Common Areas within Council Housing Stock including  
                 Garden Areas**

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## **1.      Summary**

- 1.1    At its meeting on 2<sup>nd</sup> June 2014 the Audit, Scrutiny and Petitions Board approved the purpose of the Review namely, that it would consider how tenants comply with specific provisions within their Scottish Secure Tenancy Agreement in relation to common areas in gardens, ensuring that the landlord could and would take appropriate action and, in addition, agreed an annual programme of activity for the Board.
- 1.2    The Lead Officer submitted an initial scoping report on the Review of the upkeep of common areas within Council housing stock to the Audit, Scrutiny and Petitions Board at its meeting held on 30<sup>th</sup> September 2014. The Board considered and approved the purpose and scope of the Report and agreed the proposed provisional timescale for the Review. In addition, the Board approved that authority be delegated to the Lead Officer in consultation with the Convener, to alter the proposed timescale for the Review to accommodate the provision of material evidence including evidence provided by witnesses.
- 1.3    The purpose of the Review is to consider potential options for ensuring that internal and external areas of Council housing stock are maintained and that tenants should be made aware of their obligations.

## **2. Scope of Review**

- 2.1 The scope of the Review would consider the terms of the Council's Scottish Secure Tenancy Agreement particularly, in relation to the maintenance of gardens.
- 2.2 The Review would also look at evidence from Housing Services as to how compliance with the terms of the Tenancy Agreement was monitored.
- 2.3 The Review would further seek to identify areas of best practice from partner organisations including, Housing Associations.
- 2.4 In addition, local registered Tenants and Residents Associations would be contacted requesting their views on the subject matter of the Review.
- 2.5 The Review was requested by an elected member following concerns about the impact on the environment particularly within local authority housing areas.

## **3. Findings**

- 3.1 It is recommended that the Audit Scrutiny and Petitions Board notes the content of this report and considers and approves the following findings.
  - a) tenants of Renfrewshire Council occupy their homes by virtue of a Scottish Secure Tenancy and the Tenancy Agreement contains obligations on both landlord and tenant.
  - b) the Scottish Secure Tenancy Agreement confirms *inter alia*:-
    - i) that it is the responsibility of the occupiers who use shared parts to keep them clean and tidy (this includes any shared stairs, windows and banisters and any bin chutes). If the tenants cannot agree on the arrangements for the necessary cleaning, or if they do not do it, the Council can decide exactly what the tenants should do and as a result, tenants must accept the Council's decision and if they do not carry out the necessary work, the Council may do the work and charge tenants accordingly;
    - ii) the tenant must take reasonable care to keep gardens from becoming over-grown or untidy and from causing a nuisance. If the tenant does not do so, the Council can decide exactly what work needs to be done. If the tenant still does not do the work the Council may do it and charge the tenants;

- c) tenants are made aware of their responsibility by Housing Staff when Tenancy Agreements are signed;
- d) tenants also watch a DVD compiled and produced by the Council at the signing of the Tenancy Agreement reinforcing the terms of the Tenancy Agreement;
- e) tenants receive a copy of the Tenancy Agreement;
- f) tenants, at sign-up, receive a Tenancy Pack. The pack includes information on how to advise the Council that repairs are required, bin collection, rent payments and tenants are again reminded that “they must keep gardens tidy and cut grass regularly;”
- g) Housing Services have recognised that some tenants may be unable to adhere to their obligations and two assistance schemes are provided:-

- i) Common Maintenance Programme

This operates in tenement and deck access properties where there are shared common areas. The programme covers 1,300 properties cross Renfrewshire the properties being identified through the course of Housing Estate Management monitoring. Following consultation with Community Resources properties can be added to the programme and tenants and residents can approach the Council direct. The service attracts a charge. The service is provided by Community Resources.

- ii) Garden Assistance Scheme

This Scheme supports approximately 2,200 tenants who can approach the Council directly. The scheme runs from April to October with Community Resources cutting grass and removing clippings eight times a year and cutting hedges twice in this period. The criteria to be admitted to this scheme is age / medical related for tenants and assistance can also be provided to owners by Community Resources if owners again meet the appropriate criteria. The owners are charged accordingly.

- h) if a tenant breaches the terms of his Scottish Secure Tenancy Agreement in respect of not fulfilling his obligations in respect of common parts and / or gardens, Housing Services will follow their Estate Management procedures. These procedures include conducting home visits in an attempt to contact and consult with the relevant tenants. Written warnings can be issued including a final warning that if the work is not carried out

Housing Services may instruct the work and charge the tenant accordingly;

- i) breaching tenancy obligations can ultimately result in action being taken to end a tenancy and evict a tenant. This is a last resort for any social landlord. Tenancy sustainment is the primary concern of housing providers. No eviction actions have been raised by Renfrewshire Council in respect of a tenant's failure to maintain gardens. Eviction actions are subject to the "reasonableness test" and action raised by Renfrewshire Council as a housing provider is subject to the independent and impartial scrutiny of a Sheriff;
- j) for tenants struggling to adhere to their tenancy obligations, referrals to support services and agencies will be offered. Referrals include those to Money Advice and Housing and Social Work Support Services;
- k) officers from within the Council's Department of Development and Housing Services advise that almost all tenants who have been issued with written warnings take action to resolve any problems with only a very few tenants receiving a final warning where the work required is eventually undertaken by the Council and the tenant re-charged appropriately;
- l) the multi-tenure nature of housing estates within Renfrewshire contributes to the overall appearance and conditions within estates. Council ownership is often in the minority and many properties now lie within the private rented sector or are owner occupied. Private sector leases are generally granted on a six monthly basis and therefore these are transitory in nature;
- m) private sector stock (owner occupied and private rented) has increased on a year by year basis. Statistics show that from 73% of all stock in 2006, this has risen to 76% of all stock in 2014;<sup>1</sup>
- n) private landlords require to be registered by the Council. They have to meet the fit and proper test. The statutory process, as outlined to the Board, is contained within the Anti-Social Behaviour etc. (Scotland) Act 2004. In deciding whether a potential landlord is fit and proper a number of considerations can be looked at including:-
  - i) information as to whether or not the proposed private landlord has committed any offence including fraud, dishonesty, firearms offences, violence or drugs or has committed a sexual offence;

- ii) information that the proposed private landlord has practised unlawful discrimination in or in connection with the carrying on of any business, has contravened the Letting Code or has contravened the law relating to housing or landlord and tenant law;
- iii) information about anti-social behaviour for example information would be obtained as to whether or not the proposed landlord has ever been subject to an anti-social behaviour Order;
- iv) a repairing standard enforcement order.

If the Council refuses an application for registration, the landlord can appeal a decision to the Sheriff Court which, if upheld, could result in an Order against the Council for legal expenses. As explained to the Board by the Assistant Managing Solicitor (Licensing), untidy gardens are not a reason for refusing a landlord's application for registration. The Assistant Managing Solicitor (Licensing) has further confirmed that the total number of applications refused by Renfrewshire Council is 36.

- o) Renfrewshire Council housing stock has reduced over the years as a result of large numbers of Right to Buy transactions and demolition of stock as part of regeneration strategies. In 2006 there were 15,000 Council houses in Renfrewshire this has declined to 12,497 in 2014;<sup>2</sup>
- p) social rented stock in Renfrewshire is now in the minority and estimated to be 20,274 (24.082%) of all stock. There are 7,777 (9.24%) Housing Association properties and 12,497 (14.84%) Renfrewshire Council properties. There are 10,965 (13.02%) private rented sector properties and 50,484 (59.97%) of properties are owner occupied. There were also 2,464 vacant private sector homes (2.93%) (2014);. As at April, 2016 there were over 7,024 registered private landlords in Renfrewshire covering 8,703 properties;
- q) in their written submission, Ferguslie Park Housing Association confirmed that it operates both Garden Tidy Schemes and a Close Cleaning Service similar to the schemes operated by Renfrewshire Council. Charges are made by the Housing Association to residents. The Housing Association has also confirmed that they have not carried out any evictions for lack of garden maintenance and find that the use of estate management procedures assist the situation. They confirm that they do not carry out work for tenants who default and then re-charge. This is not included within their procedures. They feel that recovery of the costs involved is unlikely to be achieved. The Association's stock profile split is completely

different from the Council. They have houses rather than tenemental properties;

- r) Paisley South Housing Association, in conversations with the Lead Officer, confirmed that like the Council within traditional tenements they also had problems with mixed ownership. They too charged for their maintenance scheme and they had schemes to assist the elderly and disabled;
- s) River Clyde Homes, a Housing Association formed as a result of a major stock transfer there from Inverclyde Council advised that they had formed Cleaner, Greener Teams, their principal functions being:-
  - Care taking service
  - Environmental maintenance and contract management for common open spaces
  - Garden Tidy Scheme
  - Environmental Assessment
  - Neighbourhood Walkabout Programme Management
  - Rota for stair / common area cleaning and enforcement including letters and warning

They advised that their customers are welcome to join in the walkabouts. Their Cleaner, Greener Team inspect common areas and if said areas are not within the exclusive ownership of the Housing Association they will then work with other agencies, owner occupiers and private landlords in an attempt to solve problems. They have, in addition, set environmental standards as gold, silver and bronze with a gold standard requiring no action. The Cleaner, Greener Team will work with other agencies and individuals including home owners in an attempt to raise the grading to silver and gold. River Clyde Homes confirmed that their organisation was a Housing Association resulting from a major stock transfer and that their funding arrangements were accordingly different. This enabled them to set up these initial Cleaner, Greener Teams. It was also acknowledged by the Housing Association that with funding streams being under pressure, changes in the future may be required.

- t) tenants representatives were invited to take part and express their views. Views related to the upkeep of open areas rather than gardens attached to either individual houses or tenement properties. Open areas, which although outwith the scope of this review in relation to how tenants maintain their gardens, was an area of interest for tenants and their representatives. Individual areas of concern discussed were responded

to by the representative from Community Resources present. Issues raised included the maintenance of rose beds and their removal and the maintenance of open grass areas. The representatives were positive about walkabouts that had taken place. They did acknowledge however that areas discussed were not always directly related to Council owned stock nor related to individual tenant's gardens or other areas of responsibility. They acknowledged that, in the past, Housing Officers would have dealt with the whole of a traditional housing estate there being no private landlord and few owner occupiers;

- u) Housing Services advised that a similar model of "estate walkabouts" as described by the representatives from River Clyde Homes was in place within Renfrewshire. Council had reviewed the approach, as outlined in a report to the Housing and Community Safety Policy Board on 2<sup>nd</sup> March 2010 entitled "Review of Housing Services Regeneration Strategies and Estate Management Initiatives" and it was agreed that "instead of the annual estate walkabout programme, tenants, members and partners should report any issues through existing Estate Management and Repairs channels and that relevant Housing and Property and Environmental Services Managers will take direct responsibility for reporting progress on the resultant actions to Local Housing Forums, as part of their wider estate management responsibilities. Where required, local walkabouts can be arranged at any point in the year with appropriate officer support, and outputs reported back via the Local Housing Forum structure". The Board, on balance, recognised that "walkabouts" were useful but there was the need to streamline processes to reflect the responsibilities of the appropriate Council Department in the hope that issues are resolved as part of ongoing operational functions;
- v) open spaces are not the responsibility of Housing Services. If open spaces are owned by the Council, the responsibility for maintenance thereof is delegated to Community Resources in the main. These are maintained in line with the outcome specifications developed by Community Resources since the Council's review of Streetscene Services which commenced in 2010;
- w) Housing Services advised that despite a tenant's obligations being clear and outlined in the Scottish Secure Tenancy Agreement and despite its management procedures unfortunately some tenants do not comply with the terms of their tenancy agreement nor the upkeep of common parts and garden areas can fall below standards expected. Where this is found through scheduled estate management inspections or through reports from other tenants or their representatives, there are clear procedures in place for staff to follow from intervention, through support, if required,

through to warnings and ultimately the work would be done and the tenant re-charged;

- x) it was acknowledged by both Housing Services and by tenant representatives that, many residents, be they Council or Housing Association tenants, private tenants or owner-occupiers, may not be interested in maintaining a garden and some often do not have the resources to do so;
- y) Housing Services confirmed that by breaching the terms of their Scottish Secure Tenancy Agreement, tenants could become subject to eviction proceedings. They were at pains to point out that this is always a last resort particularly for a social landlord and that any eviction process would always be subject to the “reasonableness” test namely, would the Court consider that it is reasonable, in all the circumstances, to evict a secure tenant from social housing for having an untidy garden ;
- z) depending on the nature and location of issues of key concern, appropriate Officers from Development and Housing Services and / or Community Resources will respond.
- aa) from the evidence presented, it became clear that many of the issues raised, particularly in relation to the maintenance of open spaces, do not specifically fall within the scope of this review as these open spaces are not managed and dealt with in terms of the Council’s Secure Tenancy Agreement;

### **3. Recommendations**

There is no evidence to support the view that Housing Services are failing to advise Council tenants of their obligations under the Scottish Secure Tenancy Agreement or fail to address any issues raised with them which fall to be dealt with under their estate management procedures.

Housing Services operate two. This was confirmed by representatives of the Tenants and Residents Associations. One representative confirmed specifically that this had made a significant difference particularly within her area, namely Glenburn.

- It is recommended that Housing Services should be encouraged to continue both schemes.
- Targeted estate site visits continue to be encouraged, for example through Local Housing Forums.



- Housing Services consider refreshing the performance management guide within their Estate Management Procedures with pictorial guides using a similar system to the gold, silver and bronze standards for Council owned stock as used by River Clyde Homes.
- Housing Services should consider, with each new tenants pack providing a copy of the DVD played to tenants at their sign-up to the Scottish Secure Tenancy Agreement or providing a link through the Council's website depending on the preferred access route required by the customer.
- Housing Services and Community Resources should consider joint literature reflecting services available for all residents outlining and explaining the services available from the Council including for example the services of the Graffiti Squad, bin collections, bulk uplift etc.
- Acknowledge that with the increase in owner occupation and private landlords, the Council is often left as the minority owner in many Council areas and also in individual blocks of flatted dwelling houses with the resultant loss of control. The Board should also note that the Council has already taken the decision to offer for sale, single Council dwellings in larger common blocks where the Council has no other ownership. The majority of these dwellings are located in the Renfrew and Gallowhill areas as acknowledged within the report to Council on 13<sup>th</sup> May 2014:
  - ❖ Paisley North: 19
  - ❖ Paisley South: 1
  - ❖ Renfrew and Gallowhill: 69
  - ❖ Johnstone and Villages: 12
  - ❖ Houston, Crosslee, Riverside etc: 5
- That Housing Services continue to work with tenants outlining their obligations under their Tenancy Agreement and encouraging them to do all that is possible to maintain common areas and garden ground for which they are responsible.

### **Implications of the Report**

1. **Financial** – none.
2. **HR & Organisational Development** – none.
3. **Community Planning / Council Planning** – none.

4. **Legal** – none.
  5. **Property/Assets** – none.
  6. **Information Technology** – none.
  7. **Equality & Human Rights** – none.
  - (a) The recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because for example it is for approving scope of the review only. If required, following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored and the results of the assessment will be published on the Council's website.
  8. **Health & Safety** – none
  9. **Procurement** – none.
  10. **Risk** – none.
  11. **Privacy Impact** – none.
  12. **List of Background Papers** – none.
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<sup>1</sup> Source: SG, Housing Statistics for Scotland – Key information and summary table, last updated September, 2015, weblink – Owner Occupied – 59.97% + PRS – 13.02% + Vacant private – 2.93% = 75.92% rounded to 76%)

<sup>2</sup> Source for PRS landlord data – Licensing Renfrewshire Council, 07/04/16