

**To: HOUSING AND COMMUNITY SAFETY POLICY BOARD**

**On: 8 NOVEMBER 2016**

---

**Report by: DIRECTOR OF COMMUNITY RESOURCES**

---

**Heading: POLICY TO SUPPORT THIRD PARTY APPLICATIONS TO THE PRIVATE RENTED HOUSING PANEL**

---

## **1. Summary**

- 1.1 The Housing (Scotland) Act 2006, as amended, specifies minimum living standards for private rented properties that landlords have a legal obligation to ensure the property they let meets. Where they fail to do so, tenants can make an application to the Private Rented Housing Panel (PRHP) which has powers to compel the landlord to effect repairs, imposing penalties where action is not taken to do so.
  - 1.2 In recognition that many tenants are unwilling to make an application on their own behalf, often through fear of reprisal or eviction, powers were provided to Local Authorities to make third party applications to the Private Rented Housing Panel on behalf of tenants.
  - 1.3 At the Housing and Community Safety Policy Board on 17 May 2016 progress on developing criteria and a policy for the Council to make third party applications to the Private Rented Housing Panel was noted and it was agreed that a finalised policy and criteria would be developed and brought back to Board for approval. The proposed policy is attached as Appendix 1 for the consideration of the Board.
-

## **2. Recommendations**

- 2.1 It is recommended that the Housing and Community Safety Policy Board approves the policy and criteria to support Third Party Applications to the Private Rented Housing Panel, contained within Appendix 1.

---

## **3. Background**

- 3.1 A report was presented to the Housing and Community Safety Policy Board on 17 May 2016 regarding a proposal to develop a policy and criteria to support Third Party Applications to the PRHP where landlords fail to maintain their private rented property to minimum standards. The policy is attached to this report as Appendix 1.
- 3.2 In general terms the criteria proposed are that the Council should make third party applications on behalf of tenants when:
- The tenant is unable to make the application on grounds of capability, vulnerability or risk of adverse reaction from a landlord,
  - The living conditions are unlikely to improve without a referral to the Private Rented Housing Panel
  - An application would be considered to be in the interest of the tenant, future tenants, neighbours or the wider public interest,
  - The application is warranted and appropriate.
- 3.3 Information from the Private Rented Housing Panel indicates that there were twelve Repairing Standard applications by tenants within Renfrewshire during 2013/14 (latest published data). To date, there have been three applications made by Community Resources to the Private Rented Housing Panel on behalf of private tenants using the proposed criteria; both cases being in progress with several other potential applications under consideration.

---

## **Implications of the Report**

1. **Financial** – No financial implications for Renfrewshire Council. The cost of works to comply with a repair notice served by the PRHP would be borne by the Private Sector Landlord.
2. **HR & Organisational Development** – none

3. **Community Planning**

**Community Care, Health & Well-being** – Having powers to make third party applications to the PRHP will improve the physical condition of properties within the private rental market in Renfrewshire; improving the health and well-being of tenants. This will also contribute to the Council's Tackling Poverty Action Plan.

4. **Legal** – The Third Party Application Policy has been reviewed and approved by Legal Services

5. **Property/Assets**-none

6. **Information Technology** - none

7. **Equality & Human Rights**- 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. 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

---

**List of Background Papers- None**

---

**Author:** Oliver Reid, Head of Public Protection

**e-mail:** oliver.reid@renfrewshire.gcsx.gov.uk





**Third Party Referrals to the Private Rented Housing Panel  
Policy & Criteria**

## **1. Summary**

The Repairing Standard, introduced through the Housing (Scotland) Act 2006 specifies the minimum living standards for private rented properties. Where a property fails to meet the Repairing Standard (RS), a tenant's principal option for resolution is to refer the matter to the Private Rented Housing Panel (PRHP).

The Housing (Scotland) Act 2014 introduces powers for local authorities to refer cases to the PRHP and has been introduced on a phased basis across Scotland, with Renfrewshire having the powers from 1 April 2016. As this is a power, rather than a duty, a policy position is required which protects the most vulnerable tenants whilst ensuring that the majority of tenants do not have unreasonable expectations that we will automatically make a referral application to the PRHP on their behalf.

This document details the criteria on determining whether a Third Party Referral to the PRHP will be made by the Council.

## **2. Background**

Where a private rented property has previously been inspected and found to fail to meet the RS, but not be:

- Below the Tolerable Standard,
- Sub-Standard, or
- Subject to significant disrepair;

the tenant has been advised to take the matter up with the landlord, prior to lodging an application with the PRHP should no action to resolve the disrepair be taken by the landlord.

## **3. Legal Position**

The Housing (Scotland) Act 2006, as amended by the Housing (Scotland) Act 2014 defines the Repairing Standard and powers available to the PRHP for addressing disrepair within private rented accommodation.

Applications to the PRHP have to date, only been possible by tenants themselves making an application. The power for local authorities to make third party referrals was introduced in December 2015, however as this was introduced on a phased basis nationally, Renfrewshire were provided with these powers since 1 April 2016.

The Act sets out the process and level of information required when the Council makes a referral on behalf of a tenant.

#### **4. Policy Considerations**

There are several considerations on which a balanced approach has to be reflected in the policy:

- (i) Private sector housing is an essential element of Renfrewshire's housing mix. However, it has been recognised within the Renfrewshire Tackling Poverty Strategy that this sector has a disproportionate degree of disrepair relative to other tenures and the Council has undertaken to use all powers available to drive improvement in the sector.
- (ii) The principal responsibility for making applications to the PRHP will remain with the tenant and third party referrals by the Council will be made under certain circumstances, as detailed below.
- (iii) Tenants are commonly subject to a 'Notice to Quit' when they make an application to the PRHP. Alternative non-legal pressures or illegal evictions may be threatened or take place. In addition to distress, these may result in homelessness presentations.
- (iv) Certain information provided to the Council will be actioned in all cases. This includes:
  - Fire safety deficiencies. It should be noted that Scottish Fire & Rescue Scotland does not have powers to make Third party referrals to the PRHP and information is therefore likely to be received from SF&RS on failures of the Repairing Standard;
  - Gas safety deficiencies;
  - Electrical Safety deficiencies; and
  - Severe disrepair.

#### **5. Policy**

The Council will offer advice and guidance to tenants to assist with them making their own referral to the PRHP, however under the following circumstances, the Council will undertake to refer Repairing Standard failures:

- (i) Where physical fire, gas or electrical safety failure exists, or
- (ii) Where there is severe disrepair in the property.

In respect of any other disrepair in a property, referrals will only be made where the following points are deemed to apply:

- (i) The tenant is unable to make an application through-
  - Not having capacity to do so;
  - Being considered as vulnerable;
  - The tenant is leaving/has left the property;

- The tenant is considered likely to be subject to serious abuse by the landlord/others acting on his behalf; or,
- (ii) The living conditions are unlikely to improve without a referral to the PRHP.
- (iii) Making an application is in the interest of the tenant, future tenant or neighbours.
- (iv) It is considered necessary in the wider public interest.
- (v) An application is warranted and appropriate.

Where an application is made, all areas of Repairing Standard failures will be included in our report.

Where a tenant requests that a referral is not made by the Council, or wishes an application withdrawn, a decision will be made on a case specific basis and the following matters will be considered:

- The seriousness of Repairing Standard failure;
- The likelihood of actual or threatened harm to the tenant/their possessions;
- The availability of suitable alternative accommodation, should remaining in the property become untenable;
- Previous issues with the landlord not undertaking repairs;
- Whether issues within the property are adversely impacting on adjoining/neighbouring properties.