

TO: AUDIT, RISK & SCRUTINY POLICY BOARD

ON: 4th NOVEMBER 2019

REPORT BY: LEAD OFFICER

**HEADING: MAINTENANCE OF MULTI OCCUPANCY ACCOMMODATION
(MIXED TENURE BUILDINGS)**

1. SUMMARY

- 1.1 This paper updates progress on the review entitled “Maintenance of Multi Occupancy Accommodation” as agreed as part of the Audit, Risk and Scrutiny Board’s annual programme of activity for 2019/20.
 - 1.2 The Mixed Tenure Manager from Communities, Housing and Property Services has agreed to attend the Board on 04 November 2019 to discuss the maintenance process of multi-occupancy accommodation (mixed tenure buildings) within Renfrewshire and provide responses to any questions Board Members wish to ask.
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2. RECOMMENDATIONS

It is recommended that the Audit, Risk & Scrutiny Board:

- 2.1 Note the content of the report and agree its initial conclusions;
 - 2.2 Agrees the next steps for the review process;
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3. KEY POINTS

- 3.1 The key points to date in the review of maintenance of multi-occupancy accommodation (mixed tenure buildings) include:

A Working Group report of cross party MSPs on Maintenance of Tenement Scheme Property was published in June 2019 – Final Recommendations Report had three main recommendations including Building Inspections, Establishing compulsory owners' associations and Establishment of Building Reserve Funds. The majority of this report's proposals require legislative action. The timeline for the implementation of all of these proposals could take up to 10 years. Some may simply require secondary legislation and could be introduced relatively quickly; whilst other proposals – those which are more straightforward – might be included in related legislation dealing with, for example, planning, finance or energy.

4. NEXT STEPS

- 4.1 The Lead Officer will prepare a draft report for Board on the review of maintenance of multi-occupancy accommodation within Renfrewshire.
 - 4.2 The Lead Officer will meet with representatives of Paisley Housing Association and Tenant Residents Associations to gather their thoughts and opinions on the maintenance of Multi Occupancy Accommodation.
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5. BACKGROUND

- 5.1 Renfrewshire Council has 2,848 mixed tenure properties. Annually, there are around 1000-1500 repair jobs raised for mixed tenure properties.
 - 5.1.1 Renfrewshire Council or their appointed Contractor carry out all repair and maintenance in mixed tenure accommodation. Renfrewshire Council do not carry out these works as a factor. If a repair is an emergency then the Council would carry out the works as another owner and bill the owners. For routine repairs and maintenance, quotes are sent to owners to indicate if they are willing to pay their share. There is a 14-day period for the tenant to inform Renfrewshire Council of their decision with 28 day cooling off following a positive scheme decision.
 - 5.1.2 Generally, there is one vote per unit / dwelling. Voting is carried out under the Tenements (Scotland) Act 2004. A unit could have greater voting rights if their floor space is significantly greater than the other units in the block. A majority in the scheme decision is required for the maintenance or repairs to proceed.
 - 5.1.3 Around, one third of jobs do not go ahead as there is no majority agreement with tenants. Anecdotally, this is due to maintenance / repair costs and a lack of funds by owners. Around 20-50 owners in mixed tenure properties progress with completing the repair works themselves and invoicing Renfrewshire Council on completion.
 - 5.1.4 Three case studies detail the challenges obtaining the cooperation of owners to progress common repairs and an example where private owners have had to initiate common repairs. These case studies are contained at Appendix 3.

- 5.1.5 An example of good practice is the Working Group report of cross party MSPs on Maintenance of Tenement Scheme Property published in June 2019 (Background Paper D) which considered the challenges arising from the difficulties owners face in organising common repairs, identifying owners and securing contributions from owners. This report calls on regular inspections of common property, establishment of owners associations and/or compulsory factoring and the creation of reserve funds for blocks.
- 5.1.6 The recommendations proposed in this Working Group report, which is not restrictive to pre 1919 tenemental blocks and acknowledges that all flatted property have similar challenges in securing common repairs will require legislative changes which will take some time to evolve. Without these further changes in the law for “tenements,” landlords and owners associations will continue to face obstacles in securing common repairs and the cooperation of owners.
- 5.1.7 Compulsory factoring has been proposed as one of the solutions but again many factors have walked away from blocks as they have been unable to secure financial contributions from liable owners and could not continue to underwrite debts. Factoring is resource intensive and recovering debts associated with co-ordinating repairs can be a long and expensive process.
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Implications of the Report

1. **Financial** – None
2. **HR & Organisational Development** – None
3. **Community Planning** – None
4. **Legal** - None
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** – All work undertaken is assessed under appropriate Health and Safety legislation.

9. **Procurement** – All procurement legislation is adhered to when items are procured for this project.
 10. **Risk** – None
 11. **Privacy Impact** – None
 12. **Cosla Policy Position** – None
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List of Background Papers

- a) Working-Group-on-Maintenance-of-Tenement-Scheme-Property-Final-Recommendations-Report
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Appendix 1

Date	Action
28 th May 2019	Review Commences
26 th August 2019	Review Continues
23 rd September 2019	Review Continues
4 th November 2019	Review Continues
20 th January 2020	Draft Report to Board
16 th March 2020	Final Report to Board
7 th May 2020	Final Report to Council

Terms of Review

“Both Council tenants and private residents are losing out because all parties can’t agree on regular maintenance and upgrading contacts. Council tenants find their property is left to last whether or not private tenants are involved and have agreed an upgrade of the property. Minor repairs don’t get done because all parties won’t agree the work is necessary or the cost is fair. Because of this disagreement, properties don’t get maintained, become run down, lose value and don’t attract good tenants. This then brings down the whole area. Private tenants believe they are being asked to pay over the odds for maintenance work by Council employees etc.”

The expected outcome of the review is as follows: “Find a way forward by which all parties agree to any maintenance or upgrading work. There will always be the odd resident who won’t agree to the work but they should have to bow to the majority. Perhaps problem properties should be “factored” by a third party. Factors can then use their knowledge base and go to outside contractors for quotes (perhaps something private tenants don’t feel capable of doing themselves). Help should be offered to private tenants where it can be shown that they genuinely do not have the finances to pay for the work”

Case Study 1

Background

This is a 2-storey tenement that consists of 2 flats. The whole of the ground floor flat is privately owned and the whole of the upstairs flat is council owned.

Under the Tenements (Scotland) Act 2004 each flat has 50% voting rights in respect of non-emergency repairs. This has led to serious maintenance issues arising within the block due to lack of participation from the private owner.

Problem

Our tenant has been reporting issues with leaking gutters at the rear since November 2017 and Renfrewshire Council attempted to have the gutters cleaned and repaired by consulting with the private owner in November 2017 and April 2018. However, on both occasions we were unable to secure the agreement of the private owner and our proposal was cancelled.

The problem persisted and the external damage was being exasperated, this then led to us obtaining quotations before carrying out a consultation in September 2018 to renew the rear gutters, fascia and soffit. However, we were again unable to achieve the majority consent to allow us to proceed with our proposals.

We were then contacted by our tenant in January 2019 to advise that water ingress was now entering the inside of the property. This allowed us to allocate the work to our contractor using the emergency powers available under the Tenements (Scotland) Act 2004.

Our contractor attended on-site to commence the works but regrettably, they were unable to continue as they discovered wet rot. A report was obtained that advised the wet rot was extensive and the recommendation was that a new roof would be required.



Solution

Discussions were held with our asset management team and we were able to include this block into our proposals for our current external programme.

The Owner Services Team have attempted to contact the private owner on several occasions to request a meeting to discuss the options available but the owner has failed to engage with us.

As such, if we are unable to secure the owners vote for the external programme (where they will receive grant assistance) then the Council will be left with no other alternative than to renew the roof under the emergency powers of the Tenements (Scotland) Act 2004 (where the owner will receive no grant assistance).

Case Study 2

Background

A chimney serving 3 flats had become porous over the years and our tenant at the top floor experienced numerous cases of water ingress from the chimney.

Flats G/1 and 2/1 are both council properties with flat 1/1 being in private ownership.

After consultation in May 2016, our Building Services renewed the roughcast and leadwork at the chimney but our tenant experienced water ingress again in 2018 and our trades advised that the chimney was defective beyond repair and needed to be taken down and tiled over.

The water ingress had progressed to the stage that the council tenant was forced to sleep in another bedroom as the sound of running water was keeping her awake at night.

Problem

Despite Renfrewshire Council having the majority, we were unable to carry out the removal of the chimney due to not having access to the owner's property/confirmation from the private owner that they did not have any gas appliances flued through the chimney.

We attempted on many occasions to contact the owner (who was an absent landlord) with our correspondence being returned from their last known address as "addressee has gone away".

In addition, we spoke to the residents of the building who advised that the flat had not been occupied in over a year.

A potentially dangerous scenario could have unfolded if the council had removed the chimney and the private owner's property had a gas fire connected. A new owner/private tenant could've taken occupancy and turned the fire on which would have endangered life through carbon monoxide poisoning as the fumes would not have been properly ventilated.

The Owner Services Section had to seek advice from our colleagues at Environmental and Legal Services. Unfortunately, no legislation was available in assisting us to resolve the situation and we were advised to seek a decant for our tenant at the top floor.

Our tenant at the top floor refused a decant as they had resided at the property for 13 years, had decorated their property, got on with their neighbours and did not want to move.

Furthermore, this would not have resolved the situation and the water ingress would have continued and (with the house being unoccupied and unheated) only led to the

council having to spend more money in the future on expensive rot treatment/insurance claims from our tenant should the owner have ever got in contact with us to allow us to deal with the chimney removal.

Solution

Through an excessive amount of investigatory work ie searching all property titles in the private owner's own name and business name we eventually managed to locate the owner abroad.

Around the same time, the owner also had arranged for decorators to begin works in her property. Fortunately, our operatives were at the block on the day of their attendance and were able to secure a telephone number for the owner's property manager who confirmed that a gas fire was located in the property.

We were then able to correspond with the private owner and obtain a CP12 certificate from them to confirm that the gas fire had been removed.

This allowed us to proceed with the chimney removal and resolve the issue of water ingress to our tenant's property. It also prevented the need to move our tenant from their home and negated the need for expensive rot treatment/decoration works in the future.

Case Study 3

Background

Some of the maisonette blocks have experienced similar problems over the past few years where the common downpipes taking rain water from the roof are channelled internally and run through the properties from top to sub-floor level.

Problem

Residents have complained of water ingress issues coming from the pipe chase housing the downpipe. On occasion, the water ingress can by-pass the top floor property before manifesting in the lower ground flats.

The repair is normally required due to the erosion of the connection at the bend which is located behind the pipe chase in top floor flat. Although the pipes are communal, the repair can only be carried out from inside the premises of the top floor flat.

The pipe is accessed by removing the pipe chase which allows access to renew the defective connection/pipe. The repair itself is relatively straight forward however, we are only able to carry out the work where the property at the top is a council tenancy.

Where the property at the top is privately owned, the Council are unable to carry out the repair as we are unable to work in privately owned properties and the works to remove the pipe chase can often lead to damage (depending on how the occupier has decorated).

This is then up to the private owner of the flat in question to employ a contractor to carry out the repair.

As there is no appointed factor for the block, any repairs that are required to be proposed are done so in conjunction with the procedures as stipulated in the Tenements (Scotland) Act 2004.

Solution

The Owner Services Team contact the private owner in question and have provided advice on using the emergency powers of the Act to carry out the repair (no vote has to take place prior to the works being carried out) and then retrospectively issuing a letter to each owner requesting that they pay their share.

On completion of the works the Council arrange to pay our share of the costs and also offer to assist the private owners to collect the monies owed by the other owners. Correspondence is sent to each owner, enclosing a copy of the receipt for the works and to advise that we have paid our share and attempt to prompt them to send their contribution to the private owner who has paid for the works to be carried out.