

To: Safer and Stronger Renfrewshire Thematic Board

On: 24 November 2016

Report by:

Shona MacDougall, Director of Community Resources, Renfrewshire Council

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 and landlords have a legal obligation to ensure property they let meets this. 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 Renfrewshire Council Housing and Community Safety Policy Board on 17 May 2016 progress on developing criteria and a policy for Renfrewshire 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 for approval. The policy was taken to the Renfrewshire Council Housing and Community Safety Policy Board on 10 November 2016. The policy is attached as Appendix 1 to provide an update to the Safer and Stronger Thematic Board.

2. Recommendations

- 2.1 It is recommended that the Safer & Stronger Renfrewshire Thematic Board;
 - Notes the policy on third party referrals to the Private Rented Housing Panel has been approved by the Renfrewshire Council Housing and Community Safety Policy Board and the benefits that this can bring to ensuring private rented accommodation is safe and maintained to an appropriate condition.



- Notes the role and opportunity for partners providing support to vulnerable residents to increase awareness of the opportunity that private rented sector tenants have to raise concerns with the PRHP directly – and that Renfrewshire Council now has a policy to do this on a third party basis where certain criteria are met.

3. Background

- 3.1 A report was presented to the Renfrewshire Council 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; these cases being in progress with several other potential applications under consideration.
- 3.4 The onus still remains on the tenant to refer their application to the Private Rented Housing Panel. Renfrewshire Council will only become involved when the criteria in 3.2 are met.
- 3.5 This policy may have implications for services providing support to vulnerable residents that are private tenants. In instances where it is felt a tenant cannot make a referral for the reasons noted above in 3.2 this can be referred to Renfrewshire Council (Community Resources) for review and action as appropriate.
- 3.6 There is therefore a role for Community Planning Partners to ensure that their officers are aware that where problems are identified with tenants and their property, a third party referral can be made on behalf of the tenant by Renfrewshire Council in appropriate circumstances.



Appendix 1



Renfrewshire
Council

**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.