



West Lothian
Council

COUNCIL EXECUTIVE

MIXED TENURE ESTATES – FINANCIAL ARRANGEMENTS WITH PRIVATE OWNERS

REPORT BY HEAD OF HOUSING CONSTRUCTION AND BUILDING SERVICES

A. PURPOSE OF REPORT

To review the policy and existing arrangements on working with owners in mixed tenure housing estates and to ensure appropriate financial arrangements are in place where work is undertaken to recover monies from private homeowners.

The policy is to exclude privately owned property from council projects where possible to do so. However in some situations where it is mutually advantageous for work to be jointly undertaken involving owners and the council, then this will be properly arranged and accounted for.

B. RECOMMENDATION

Council Executive is invited to:

- (1) note the current position in managing investment in mixed tenure housing estates; and
- (2) approve the introduction of a single process for recovery of costs from all homeowners, with a standard security taken on all relevant works where owners agree to this.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs Being honest, open and accountable Making best use of our resources Working in partnership
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The report seeks to review operational details of established policies on working arrangements to enable investment in council housing on mixed tenure housing estates to continue. Legal advice is that the council do not have powers to compel owners to

participate in council investment projects except where there are clearly identified problems of disrepair or issues of amenity.

The policy meets the requirements set out in the Prudential Code and guidance on the operation of Housing Revenue Accounts.

- III Implications for Scheme of Delegations to Officers** The implementation of the approach will continue to be delegated to the Head of Housing, Construction and Building Services
- IV Impact on performance and performance Indicators** It is intended that the approach will help the council deliver the Housing Capital Programme which invests in council stock and help maintain the Scottish Housing Quality Standard (SHQS.) It should be noted that this change in approach will increase the level of debt shown on Service Accounts.
- V Relevance to Single Outcome Agreement** Relevant to;
- Outcome 10 We live in well designed, sustainable places where we are able to access all the services we need.
- Outcome 11 We have strong, resilient and supportive communities where people take responsibility for their actions and how they affect others
- Outcome 12 We value and enjoy our built and natural environment and protect it and enhance it for future generations.
- VI Resources - (Financial, Staffing and Property)** The introduction of a standardised process for recovery of costs from private homeowners will help ensure all monies due to the council are received. The proposal is for a single standard process for recovery of cost in line with corporate procedures.
- VII Consideration at PDSP** The subject was discussed at the Services for the Community PDSP in June 2011 and October 2012. This matters raised in this report were discussed at the Services for Community PDSP on 6 October 2015 and the panel agreed to refer the policy to Council Executive for approval.
- VIII Other consultations** Internal Consultation with Legal and Finance & Estates services.

D. TERMS OF REPORT

D.1 Background

The subject was last discussed by Council Executive in December 2012, in relation to the ongoing housing capital programme and investment in mixed tenure housing estates. The approach of excluding privately owned houses from council investment projects where it was possible to do so was confirmed. However, in some situations, it is impractical in adjoining properties to carry out works without mutual agreement. This applies particularly in the case of roughcasting and roof renewal in four in a block flats.

A council policy on this was agreed by Council Executive in August 2011 and December 2012. This approach requires early discussion with owners on projects and where it is mutually beneficial for joint involvement the council would offer to carry out works for the owner through council contracts at a subsidised rate. In order to encourage owner involvement, this rate would be the equivalent cost of repair rather than the full cost of improvement.

With large numbers of former council houses now being in private ownership there is a question about the extent to which council contracts should offer the facility for owners to participate in improvement and modernisation works. The current policy is to offer this opportunity only where the nature of the proposed work means that it is technically impossible to exclude adjoining properties.

To promote participation, owners were offered the option to make payment on completion of works, or to defer charges until the property was sold, with the council taking a legal security over the property.

D.2 Current Experience

As reported in December 2012, this approach is generally working well and numbers of owners are agreeing to participate in council contracts, paying a share based on the marginal cost or equivalent cost of repair works (whichever is the lesser). A number of owners are also taking up the option of a deferred charge which is secured on their property. This charge will be discharged when payment in full is received.

Again, as previously reported, there are still some points arising which can make it difficult for the council to proceed with improvement works to its own houses;

- In situations where the council would like everyone to agree, some owners remain unwilling to sign up to council arrangements to have work done even when this is offered at a subsidised rate. This can make it impossible to do comprehensive work to benefit council tenants. While each situation can vary on site, this may mean that less work is carried out to affected properties than on neighbouring properties. Particular examples of this include roofing work, work to external walls and improving cavity wall insulation. The current council policy, has been to try to do the work as far as possible after due discussion with the owner and seek to recover the equivalent cost of a repair even where the owner does not formally agree to it.
- Sometimes the council gets requests from owners to participate in projects where the owners are willing to pay the full cost. To date the council has not agreed to this where it is technically possible to exclude a property. To include a property requires the council to manage that work and give standard guarantees. It could however be argued that the council should do more in

certain circumstances to facilitate physical improvements and investment in an area, such as using powers in the Housing (Scotland) 2006 Act to comprehensively improve a community.

- Recent HRA Guidance indicates that councils should not only charge private owners for their share of any works carried out, but should also be able to agree an affordable repayment period where owners experience financial hardship. In order to comply with the guidance, and to ensure all monies are fully recovered, it is recommended that a single payment process is introduced, Security would be taken by the council as standard, a bill would be raised for all capital work undertaken and private homeowners would be offered an option to make full payment, adopt a repayment plan or defer the charge until the time the property was sold at which time a Standardised National Interest Rate would be applied on the monies due.

D.3 Future Policy

The present approach seeks to take a middle line between owners responsibilities to invest in their property and costs to the Housing Revenue Account. Current government policy and legislation makes it clear that maintenance and investment in their property is the responsibility of owners. Government guidance on operation of the HRA is clear that monies should be recovered from private homeowners where applicable, but recognition of financial hardship should be taken into account when determining the payment period.

Given the need to review arrangements, it was felt that the existing process could be streamlined to provide one single process for recovery of monies, whilst also strengthening the system to ensure that standard security was taken over all properties (where appropriate) to ensure that the council had a mechanism in place to allow recovery of the cost of capital works. It should be noted however that even this more comprehensive procedure cannot guarantee payment to the Council, particularly if there are higher ranking charges secured on the property.

E. CONCLUSION

The management of mixed tenure estates and housing capital investment is a difficult topic. Home owners ultimately have the responsibility to maintain and invest in their property. It is recognised that for many people this is a difficult practical and financial decision. In many well established public sector housing estates the council is often no longer the majority owner.

While the council does have a strong interest in investment in housing and making sure as far as possible that people do live in quality environments the council does not have the resources to do this unilaterally. It is desirable that a clear and consistent approach on investment in mixed tenure housing estates is established and reviewed as necessary.

F. BACKGROUND REFERENCES

Council Executive December 2012. Mixed Tenure Estates – Housing Capital Programme

Council Executive August 2011 Housing Capital Programme – Owner Occupiers in Mixed Tenure Estates

Services for the Community PDSP June 2011 Housing Capital Programme –
Owner Occupiers in Mixed Tenure Estates

Council Executive May 2010, West Lothian Scheme of Assistance for Private
Sector Housing.

Policy Partnership and Resources Committee December 2002 and June 2002,
Modernisation Work to Communal Flats and Implications for Owner Occupiers.

Appendices/Attachments: None

Contact Person: Colin Miller, 01506 281379, colin.miller@westlothian.gov.uk

Alistair Shaw

Head of Housing Construction and Building Services

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