

Engaging owners in mixed tenure neighbourhoods



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The report was written by **craigforth**

Notwithstanding the valuable contributions of those who commented on the report, the views in the report are those of the CIH in Scotland.

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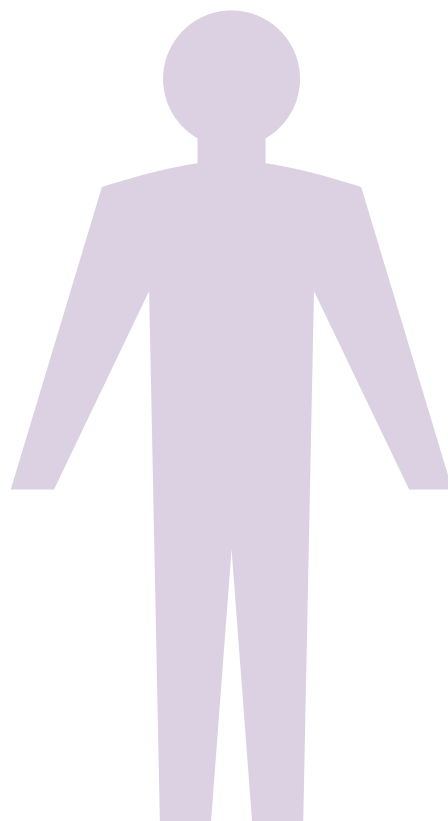


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Foreword

When the government announced its intention to radically overhaul social housing policy in Scotland with the publication of the Scottish Executives Green Paper, *'Investing in Modernisation - An Agenda for Scotland's Housing'*, the Chartered Institute of Housing in Scotland embarked on a comprehensive consultation with members and others on the government proposals. A number of common themes emerged from most of the consultation events, which the Institute organised. And one theme, which recurred in all of the events, was the lack of proposals to deal with the private sector and for involving owner-occupiers in the regeneration agenda.

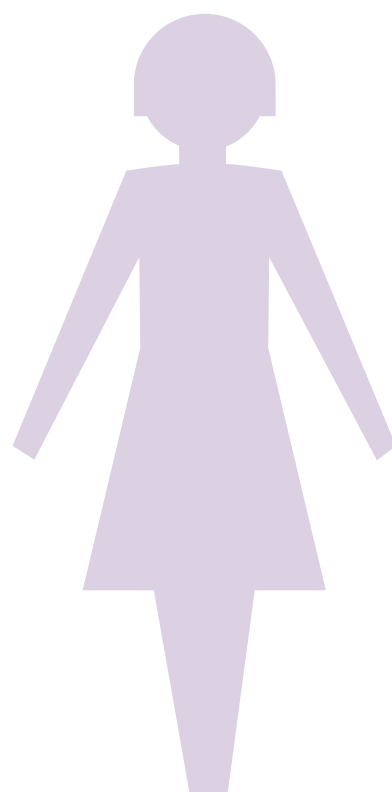
The Scottish Branch Committee of the CIH recognised that the eventual Housing Act would not deal in any great measure with these two issues and so during 2001 the committee published its own agenda for *private housing in Scotland called Private Renewal or Public Problems*. The report was considered by the first meeting of the Housing Improvement Task Force and helped to inform their discussions. In developing our work in this area, the Scottish Branch Committee is now publishing our contribution to the debate about involving owners in regeneration called *Engaging owners in mixed tenure neighbourhoods*.

Importantly the report looks wider than simply involving individual owners in improvement programmes and deals with the wider benefits of the involvement of owners in community regeneration, community capacity building and social inclusion.

I believe that this report, relying on practical examples, helps to inform the debate about the barriers to facilitating the participation of owners in housing-led regeneration and contributes to the argument for increased resources in creating and maintaining sustainable mixed tenure neighbourhoods.

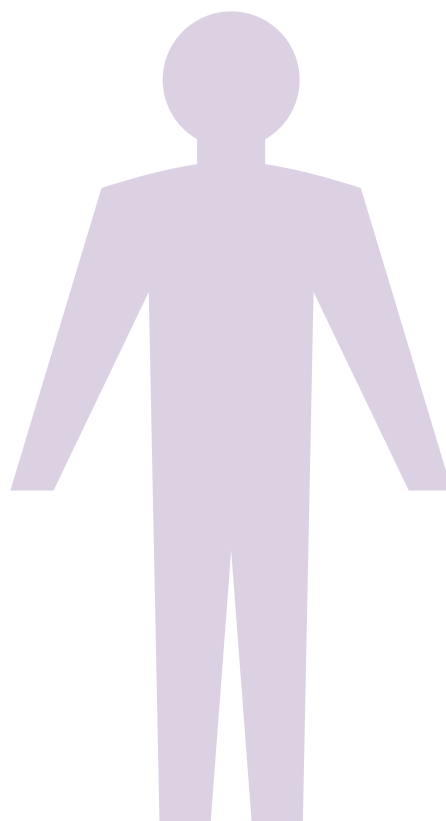
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Ian McLean
Scotland Branch Chair



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1 WHY ARE WE TALKING ABOUT OWNERS?

- 1.1 For well over 20 years, housing practitioners have been striving to find the most effective ways of engaging tenants in the policy and decision making processes of local authority housing departments, registered social landlords (RSLs) and even central government.
- 1.2 Promoting and supporting tenant involvement in all we do has become central to professional thinking and good practice. The establishment of tenant controlled and/or tenant member housing organisations has become the ultimate expression of meaningful involvement in terms of control and 'community ownership' of social rented housing.
- 1.3 The origins of much of this involvement at a local level has been related to housing investment and improvement programmes which have offered unique opportunity and leverage for engaging tenants. While sustaining tenant interest post investment has always proved more difficult, it is from these roots that many tenants groups, community based housing associations, and tenant members of RSL management committees have originated.

Owners and regeneration

- 1.4 The shift in emphasis of regeneration efforts, from a focus on the inner city to (largely) public sector housing estates in the 1980s, brought new imperatives to engage tenants not only in housing led investment but in wider matters of regeneration strategy often requiring more difficult and complex decision making. Because of the starting tenure profile in these areas, and the dominance of council housing in particular, community involvement largely meant tenant involvement in practice.
- 1.5 In such initiatives, the emphasis was to create local markets for home ownership, often for the first time, through the provision of low cost home ownership, most notably by creating development opportunities and securing developer interest through public sector subsidy (the use of GRO grants).
- 1.6 This particular focus, combined with lower levels of Right to Buy (RtB) ownership than found in other communities, meant that securing the specific involvement of owners in community participation structures was not regarded as a priority. Some housing investment programmes, for example in the 4 pilot Urban Partnership Areas, did secure the involvement of RtB owners in improvement works, but this was largely linked to the use of Repair and Improvement Grants by Local authorities and Scottish Homes.
- 1.7 The coming of Social Inclusion Partnerships (SIPs) as vehicles for achieving sustainable regeneration brought a renewed emphasis on involving all sections and interests of communities in decision making. Moreover, the principal tenet of effective 'community capacity building' is dependent on such an inclusive approach.
- 1.8 Many multi-agency partnerships are actively involved in promoting the physical renewal of their areas. They have had increasingly to face the difficulties of ensuring that owner occupied houses are brought up to similar repair and environmental standards as those in the social rented sector, and of ensuring that the very existence of owners does not delay or prevent improvement being realised.

Owners, stock transfer and New Housing Partnerships

- 1.9 The development of stock transfer as a vehicle for achieving community ownership and empowerment, as well as for securing increased investment in social rented housing, has arguably worked against this wider inclusive approach, focusing as it does almost exclusively on tenants in terms of developing transfer proposals, consultation and balloting arrangements.

- 1.10 The current guidance on stock transfers (Scottish Executive, 2000) says very little about owners:

"The Council will need to consider how it consults owners whose homes lie within the transfer area on how they may be affected by the proposals. In particular there will be a need to consider their participation in any common repair programmes."

- 1.11 In the New Housing Partnership (NHP) programme to date, the Executive has been clear that NHP funding may not be used to fund improvements, repairs or buy backs involving owners, even where their participation is essential for the package of works to be undertaken in tenanted properties.
- 1.12 Yet those practitioners who are most involved, on the ground, in trying to plan and manage housing investment, linked to regeneration and transfer initiatives, are acutely aware that scant attention has been paid as to how best to engage owners in such activities, far less wider community matters.
- 1.13 Owners are being caught up in this process. Both the imperative to carry out works and their timing are being dictated by a social rented sector agenda. The degree of participation and contribution of owners with shared interest in repairs, improvement, and in some cases demolition programmes is likely to have a significant impact on their feasibility.
- 1.14 However assessments of the potential impact on owners and the development of practical proposals for securing their co-operation in programme activity are only in their infancy. No clear funding proposals have been put forward. There is no clarity at national level as to how the effective involvement of owners is to be realised.
- 1.15 While successful, one off, yet inconsistent, solutions have been brokered in particular instances, there is recognition that the development of such ad hoc approaches is inappropriate for the demands to be generated by future regeneration and transfer related investment.
- 1.16 The lack of appropriate policy, legislative and funding frameworks for dealing effectively with the issues presented by owners in mixed tenure neighbourhoods, and in particular those living in flats and non traditional stock, is one of the key concerns currently facing local authorities and RSLs.
- 1.17 All hopes seem to lie with the Housing Improvement Task Force in coming up with proposals that address the full range of these issues. But not all of the critical issues are currently on its agenda or necessarily within its remit to solve.

The Housing Improvement Task Force

- 1.18 The Housing Improvement Task Force was announced by the Minister for Social Justice at the end of the year 2000. It continues the work of both the previous Common Repairs Working Group and the Scottish Executive's review of housing in Scotland 'Better Housing for Scotland's Communities'.
- 1.19 The Task Force has been given wide ranging terms of reference, largely associated with improving house conditions and reforming the house buying and selling process. Its scope includes the review of:
- ◆ the financial assistance available for owner occupiers
 - ◆ the powers of local authorities to compel private owners to invest
 - ◆ the management of flatted blocks
 - ◆ the house purchase process, specifically ways of providing better information and
 - ◆ matters affecting the private rented sector.
- 1.20 Task Force membership includes representatives from a range of public, private, academic and voluntary bodies, including CIH in Scotland.

Engaging owners

- 1.21 How to engage owners in housing-led community regeneration and transfer related investment activity is a critical issue. This requires in depth review of the nature and extent of the current difficulties and constructive and considered debate about possible ways forward in devising ultimate solutions.
- 1.22 The barriers to effectively involving owners are substantial and not easily soluble without concerted political effort and resource commitment. It is not adequate or appropriate to think of these issues as simply related to the shortcomings of the house purchase system in Scotland or simply a problem of house condition - they strike at the very heart of the Government's policy agenda - most obviously social justice and community empowerment as well as community ownership and investment in housing.
- 1.23 CIH in Scotland has published this report to highlight the serious issues being faced by local authorities and RSLs across Scotland in trying to overcome the barriers to engaging owners and getting investment programmes off the ground with their involvement.
- 1.24 It is clear from recent practical experience and research, cited in this report, that any comprehensive review of the legislative, financial and administrative framework needs to address the full range of issues associated with owners in mixed tenure neighbourhoods. These not only relate to issues around property condition (repair and improvement) and the house purchase process but also to issues around low demand, market failure and the unsustainability of home ownership markets in some instances.

Experience and practice

- 1.25 Of course home owners were engaged in the inner city focused regeneration activities of the 1960s, 1970s and early 1980s but much of this involvement was rather limited in scope, resulting in the acquisition of owners properties for improvement or demolition purposes. This usually led either to a transfer of tenure from being a home owner to being a tenant of the social rented sector or a move to alternative owner occupied housing, not always within the same community. Some however got involved more meaningfully, for example through the development of community based housing associations.
- 1.26 The housing, political and resource context since then has changed dramatically. Almost 2 in 3 Scots now own their own home, with sales of former public sector properties since 1980, under RtB legislation, being the single biggest source of expansion of home ownership. This has led to the creation of mixed tenure areas in what were formerly 100% public sector owned estates with owners now pepper potted throughout.
- 1.27 Public sector resources to assist owners in repairing, maintaining and improving their properties have substantially declined at a time when home ownership has expanded greatly. Previous research by the CIH in Scotland has highlighted the significant decline in repair and improvement grant funding from over £160 million per year in the mid 1980s to less than £60 million per year by the late 1990s, with further decline since then.
- 1.28 Trying to engage owners in former public sector estates in housing-led investment programmes has at times proved difficult. Many landlords have ended up having to absorb (even hide) owners shares of costs, while others have excluded them from works where this has proved feasible. In some instances, local authorities have avoided doing works in particular blocks, where agreement with owners (legally and/or financially) has proved impossible to reach, this has resulted in their own tenants in mixed ownership blocks missing out on the improved housing conditions enjoyed by their neighbours in fully tenanted blocks.
- 1.29 While it can be argued that the involvement of as many owners as possible in such investment programmes in mixed tenure areas is desirable, many landlords tend to avoid going out of their way to achieve this - not seeing it as their responsibility and/or viewing it as needless hassle.

- 1.30 There are however good examples of securing owners involvement - especially in the RSL sector and in some local authorities. These largely relate to ongoing repair and maintenance but in terms of major improvement and redevelopment these become more rare, especially in former public sector estates.
- 1.31 Some landlords have successfully offered options for individual owners to opt in to contracts, while others have encouraged direct negotiation between owners and contractors based on individual preferences regarding the range of works being undertaken. This approach can work well in cottage-type estates but difficulties can still arise, for example in relation to shared roofs, loft spaces and environmental improvements.
- 1.32 However in certain property types - most notably flats with common areas, non-traditional houses and flats as well as multi-stories - it is neither practical or desirable for landlords to work around owners or to offer simple 'opt ins'.
- 1.33 The investment requirements associated with major repair and improvement in such property types are generally far higher with considerable financial implications for owners. Furthermore in an increasing number of cases, major investment in flatted or non-traditional stock in mixed tenure neighbourhoods does not offer the best long term solution for the landlord or the wider community interest - demolition and redevelopment being the best option.
- 1.34 There are many examples, involving major repairs and improvements and even redevelopment, where solutions have been found to engage owners. These have tended to be one-off solutions for one-off cases and involved substantial effort and commitment from a range of agencies to solve the problem, often in an attempt to prevent key housing and regeneration objectives being jeopardised.

Critical issues

- 1.35 However there is no clear statutory or financial framework, or established good practice, to address the following range of challenges and circumstances currently being experienced in mixed tenure areas across Scotland by housing and regeneration agencies:
 - ◆ How to engage owners in the planned maintenance and major repair of their properties - where the costs involved are substantial and likely to be unaffordable by most owners;
 - ◆ How to engage (in particular) owners of former public sector flatted, non-traditional and multi-storey properties in planned maintenance and repair investment programmes mounted by local authorities and RSLs;
 - ◆ How to engage owners in the substantial repair, maintenance, improvement and redevelopment programmes being undertaken as part of housing led investment programmes related to regeneration and / or stock transfer related activity;
 - ◆ How to engage owners living in areas of low demand, low or declining property values, market failure (unsustainable home ownership markets) where there are strong disincentives to investment and where radical redevelopment is required.
- 1.36 There are a range of equally critical issues associated with buying and selling processes and practices, as well as the legal framework governing common or shared responsibilities in property, which are already central to the agenda of the Housing Improvement Task Force. Much hope is being placed by housing organisations on the prospect of future reform in these latter areas to help combat the continuing emergence of such critical conditions and issues, such as those outlined above.



2 THE EXISTING STATUTORY FRAMEWORK

- 2.1 Without an effective framework and workable solution to address the current issues surrounding owners involvement in housing investment programmes, there is arguably little hope that the objectives of wider regeneration, community ownership, housing and community capacity building agendas will be achieved.

The focus on disrepair

- 2.2 For over 20 years since the Tenants Rights Etc. (Scotland) Act 1980 introduced RtB, the legal and financial framework has had significant weaknesses within it, which inhibit the ability to engage owners effectively in repair, improvement and regeneration activity. The existing statutory framework, with its strong focus on tackling poor property condition, is outlined in the **Appendix** to this report, for information.

Other relevant legislation

- 2.3 Many other aspects of policy and legislation (not reviewed in detail in the Appendix) also impinge upon the ability of, and incentives for, private house owners to maintain their property.
- 2.4 Within the remit of the Scottish Parliament they include the basic law on ownership and sale, planning powers, building regulations (which are the subject of the current Building Standards Review), the Executive's fuel poverty strategy, the framework of council tax and control of local authority capital expenditure, together with legal provisions on debt and debt recovery.
- 2.5 Within the remit of the Westminster Parliament are interest rates, the regulation of mortgage providers, the tax treatment of home ownership and private renting and income maintenance for homeowners on low incomes.

Some recent developments

- 2.6 While there has been considerable success in removing concentrations of BTS housing, the persistence of unresolved house condition problems in several parts of the private sector means that the whole range of relevant legislation is now widely recognised as requiring attention to bring it into a more strategic framework and to promote a more proactive approach to maintaining and improving good property condition.
- 2.7 The Housing (Scotland) Act 2001 extends Improvement and Repair Grants to include replacement of unsafe electrical wiring and the installation of heating systems, insulation, smoke detectors, fire doors and door entry systems. The maximum level of expenditure towards which grant can be paid rises to £20,000. However the Act also signals a move towards means testing of grants to an, as yet uncertain, extent. Local authorities will set the level of contribution owners have to make to the cost, subject to future Scottish Executive regulations.
- 2.8 The introduction of a new non-mandatory "Index of Housing Quality", to be linked to the strategic planning process and the Scottish Executive's central heating initiative, is a matter of current debate, with some local authorities and fledgling transfer RSLs actively promoting the meeting of such a standard for their own stock.

Forthcoming legislation

- 2.9 It is widely recognised that property law in Scotland is outdated. The Scottish Law Commission has been working on proposals for a programme of reform for several years. The first stage, the Abolition of Feudal Tenure, is already law and soon to be implemented in full.

- 2.10 Two further bills have been drafted. A Title Conditions (Scotland) Bill, which attempts to make it easier to turn obligations from one neighbour to another, or 'community burdens' that place reciprocal obligations on all owners, into conditions of title deeds and a Tenements (Scotland) Bill, which provides that all flats within blocks of properties should have a management scheme in place. The proposed minimum scheme sets out some basic arrangements for maintenance, management, liability for costs and building insurance.
- 2.11 The Law Society of Scotland has drafted a more detailed "Management Scheme B", which, among other things, allows for the creation of an owners' management association. This could be used to fulfil obligations under either Bill, but neither would make it mandatory.
- 2.12 When these Bills are debated in the Scottish Parliament, arguments will probably be heard for mandatory owner associations. This may at first seem surprising, but mandatory membership of an association with the statutory responsibility to ensure maintenance is an automatic part of flat purchase in, for example, Australia, France and the USA.
- 2.13 The Housing Improvement Task Force has been meeting since March 2001 and has completed a first stage of work to allow publication of an "issues" report examining the legal, administrative and financial factors that prevent or encourage housing improvement. Its views on options for change are not expected to appear until the end of 2002.

The lack of powers on market failure

- 2.14 There is no statutory framework to deal with issues of market failure, which are often not primarily associated with poor property condition per se. However disrepair may be one of a range of social and environmental factors which suppress market demand and make areas unpopular. These may include economic marginalisation, enduring social stigma, undesirable property types, dereliction and abandonment, fear of crime etc.
- 2.15 The real costs associated with the lack of intervention, and the lack of a clear legislative and financial framework, are only now beginning to be fully realised and addressed. Certain towns and cities in Northern England and even in parts of the Midlands are scarred by market collapse and the abandonment of whole streets and neighbourhoods with devastating impacts on some communities.
- 2.16 Only now is the prospect of a 'market renewal fund' being mooted down south but there is recognition that this is far from straightforward, that intervention is belated, that tackling the problems associated with restructuring demand requires a strategic approach beyond local authority boundaries and that it is a long term problem and one that will not be solved over night (Inside Housing, 2002).



3 OWNERS EXPERIENCES, MOTIVATIONS AND ATTITUDES

Experience of factoring services

- 3.1 Over the past 20 years or so, new reasons have arisen for local authorities and other social housing providers to become more directly involved in facilitating or even managing repairs to privately owned houses. As a result of the progress of RtB, and to a lesser extent other forms of stock disposal, most areas of former public sector estates are now pepper potted with owners.
- 3.2 Factoring arrangements for owners funded through service or factoring charges are used by many local authorities and RSLs. Furthermore, robust frameworks of clear legal obligation on owners (for example through deeds of condition and sale agreements) to take part in larger scale repair work and property improvements are often lacking in key respects.
- 3.3 Not only do agreements vary within authorities by property type, by year drawn up, by predecessor authority etc, they often have key omissions - for example arrangements for carrying out and contributing to improvements, lack of common area/open space responsibilities etc.
- 3.4 A study of Scottish experience (Scott et al, 2001) has concluded that factoring services for owners in RTB or former RTB properties was seen as just one small element of a heavy workload and as a 'Cinderella service' by social landlords. Some staff (especially in local authorities) did not recognise that they were providing formal property management, repair and improvement services to owners, for which they were accountable. They did not see their ad hoc contact with owners over common repairs and proposed improvements as a form of customer service.
- 3.5 Prior research by the Scottish Consumer Council (1999) highlighted the low incidence of documented service standards in local authority factoring services, a lack of awareness among owners of the scope of service, and the common lack of formal complaint procedures.
- 3.6 Although overall, over two thirds of social landlords (especially RSLs) said that they offered factoring services, there was no standard, consistent approach to the range of services provided to owners beyond the core - repairs to common building parts, ground maintenance and lighting of common parts. RSLs were more likely to recognise their role as service provider, to be proactive in the provision of information and to involve owners in participation exercises (Scott et al, 1999).
- 3.7 However even RSLs struggle with their role as factors with many viewing this activity as difficult and time consuming, often at the expense of their quality of service to tenants - quite similar to the prevailing local authority view. It is difficult for local authorities and RSLs alike to make factoring services work financially with many reporting pressure to keep administrative and management charges low if there is to be a realistic chance of prising payment from owners.
- 3.8 The level of arrears in owner occupier factoring services can be quite staggering. Among local authorities it is not uncommon for as many as 30-50% of owners to be in arrears at any one time, despite the relatively low level of charge levied - typically £60-80 per year. RSL research has shown that arrears levels vary widely ranging from below 3% of owners to over 30%.
- 3.9 Factoring is included as part of the new regulatory framework for housing authorities resulting from the recent Housing (Scotland) Act. Communities Scotland will develop advice to landlords and establish standards. However, even if organisational failings are addressed, this is unlikely to resolve the fundamental problems - the same general issues faced throughout the private sector, especially in shared properties, by factoring services and agents, be they private or social rented.

Motivations and attitudes

- 3.10 Owners behaviour in investing in their properties is completely at odds with many housing and regeneration agencies - for example that of RSLs involved in transfer related investment activity. Owners invest at certain key stages - in an emergency, when they first buy a property and when they reach certain stage in their family cycle - not in a planned 30 year programme based on life cycle maintenance.
- 3.11 Recent research (Craigforth 2000 and 2001/02) has also examined the attitudes and perceptions of flatted owners in mixed tenure areas where the local authority is the factor and where major repairs have been carried out or improvements planned.
- 3.12 Many of owners attitudes and perceptions reported were perhaps not all that surprising -
- ◆ They want some control and preferably choice over the works to be carried out
 - ◆ Some would like involvement in the process of tendering and contractor appointment
 - ◆ They relate any costs of repair and improvement to their overall property value and in making decisions consider whether the value of their home will increase as a result
 - ◆ They want and expect to see a detailed breakdown of all the costs involved
 - ◆ They want and expect involvement in agreeing any increase in costs from what was originally anticipated
 - ◆ They expect to be advised (in writing) at key stages especially in relation to their share of the cost
 - ◆ They are suspicious of contractors and local authorities and not convinced that they get the best quality of work at the best price
 - ◆ In the case of works in which they are not compelled to take part - eg improvements (as opposed to repairs) they need to be convinced that any expenditure, disruption and inconvenience is worth the hassle
 - ◆ Older owners are likely to need tailored support and assistance during any major repair or improvement work.
- 3.13 These findings have important implications for the way local authorities and RSLs run their factoring and common repairs services and more major repair, improvement or regeneration works - particularly for the processes and procedures followed and methods and arrangements for communication and consultation.



4 AFFORDABILITY AND SUBSIDY ISSUES FOR OWNERS

- 4.1 One of the main barriers to involving owners in housing investment programmes centres around affordability and subsidy issues. Agencies funding regeneration and housing investment programmes have limited resources and these, along with any challenge funding from the Executive in recent years, has tended to focus on social rented sector housing and the provision of new housing for sale. Existing owners of former public sector properties have not been a priority, and therefore excluded.
- 4.2 In trying to identify potential policy and funding options for securing owner participation and contribution in such programmes, the Scottish Executive and the former Scottish Homes have long been concerned about the issue of 'double subsidy'. This revolves around the dilemma of whether those who bought under RTB should be eligible for any further subsidy to repair or improve their properties.
- 4.3 This focus has arguably been unhelpful and a barrier to policy progress being made - not least because RTB discount was a subsidy related to length of tenancy (and not the property). Furthermore the proportion of original RTB purchasers in former public sector estates, is becoming less and less. In some areas these are now already the minority among owners.
- 4.4 Yet there has been scant attention paid to understanding the current profile of owners who are being caught up in transfer and regeneration related investment activity and their characteristics. The commissioning of research into this key area is in its infancy, despite the relatively advanced stage of some proposals that will ultimately depend on owners co-operation and participation, especially in certain property types.
- 4.5 While owners of semi-detached and terraced properties are not necessarily much more affluent than the owners of flats, they do not tend to present the same challenges or barriers to getting regeneration and housing investment programmes underway. This is not to suggest that their involvement is not desirable, far from it, but moreover that they can be more easily ignored and left to their own devices. Yet this can be at the expense of losing an opportunity to engage them in the regeneration or investment process.
- 4.6 Ignoring or working around owners, is not an approach that works where repairs or improvements by necessity, perhaps due to building form or structure, require work to more than one property to be effective. Houses of non-traditional construction are good examples of this occurrence e.g. the Atholl Steel and SNHC houses featured in the case examples later.
- 4.7 Effective remedial works for structurally defective non traditional properties are expensive, typically over £20,000 per unit, in properties with values typically in the range of only £25-45,000.
- 4.8 Undoubtedly, the problems presented (and faced) by owners in former public sector flatted stock are even more significant, and the potential impact on the success and timing of housing led regeneration and transfer related investment programmes considerable. Their co-operation and participation in the repair and improvement of shared internal and external common areas is essential if such programmes are to be successful.
- 4.9 Low or at best modest incomes among flat owners are again the norm. Furthermore, turnover rates in flats are higher than in houses, with ownership changing hands more frequently. As a result there tends to be a higher level of more recent owners among flatted stock, with a considerable proportion having bought within the last 10 years with 90-100% mortgages, with little if any free equity. In some instances, owners are in negative equity.

- 4.10 Flatted owners are potentially facing typical common repair costs of £5-10,000 (gross of any subsidy) per unit for major repairs, and more for improvement, in programmes currently being planned. Combined with what are often low to modest property values (£20,000 - £35,000 being typical) of sluggish price growth and in some cases falling values, the financial equation is not one that is easy to solve.
- 4.11 Flatted owners profiles suggest that for the most part they are very poorly placed to contribute financially (to any great extent) towards investment and regeneration programmes.
- 4.12 Recent research (Craigforth, 2000 and 2001/2) has been commissioned by two local authorities with a view to help inform the development of potential policy and funding options for owners involved in major investment programmes. This examined flatted owners profiles in terms of household income levels, financial circumstances and mortgage commitments; the research results tend to suggest the presence of at least 6 groupings:

Group 1 Low Income/Low Mortgage Commitment in relation to Property Value

Group 2 Modest Income/Low Mortgage Commitment in relation to Property Value

Group 3 Low Income/High Mortgage Commitment in relation to Property Value

Group 4 Modest Income/High Mortgage Commitment in relation to Property Value

Group 5 Low or Modest Income/Low Property Value or Negative Equity

Group 6 Private Landlords

- 4.13 Groups 1 and 2 have largely bought their home under the RtB scheme, Groups 3 and 4 at market value and Groups 5 and 6 through RtB or on the open market.
- 4.14 On the basis of the research evidence it is not possible to generalise as to which groups are the most prevalent. The findings to date suggest that the profile may well vary quite markedly by area. Much may depend on the role that former RtB property is playing in the local housing market - e.g. the extent it is used by first time buyers and the potential for local 'trading up' opportunities.

Typology of Owners in Former Public Sector Properties

Group 1 Low Income/Low Mortgage Commitment to Value

This group can be the largest numerically, many are elderly and incomes low to the extent that they are unlikely to be able to service a loan for a major repair or improvement, except from savings.

Group 2 Modest Income/Low Mortgage Commitment to Value

This group are probably those best placed to contribute financially to the cost of major repair or improvement through some form of equity release. Yet they are usually a minority.

Group 3 Low Income/High Mortgage Commitment to Value

This group are also usually a minority and have often experienced a change in circumstance - e.g. relationship breakdown or becoming unable to work through illness or disability. This group also includes those older people who bought under RTB later in life.

Group 4 Modest Income/High Mortgage Commitment to Value

This group are those who have bought on the open market and typically have over 80% and up to 100% mortgages with between 15 and 25 years left to pay.

Group 5 Low or Modest Income/Low Property Value or Negative Equity

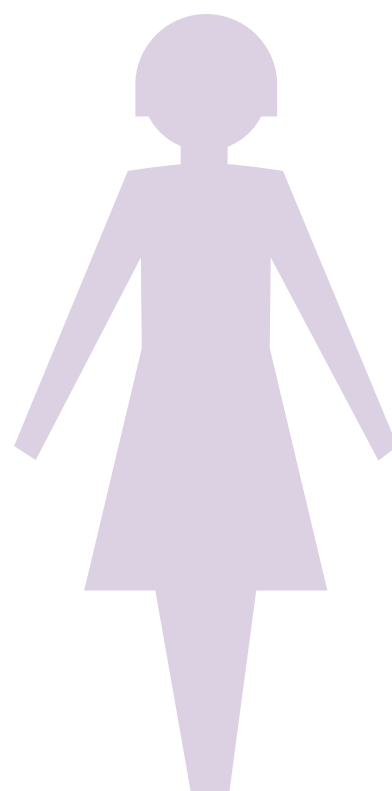
This group are found in selected areas where property values have fallen either because of local oversupply e.g. of flatted properties, through enduring or worsening area reputation/stigma or where structural problems have developed and were previously unknown. Some purchasers of multi-storey and other non-traditional flats fall into this category with falling demand and values reflecting greater awareness and wariness among purchasers and lenders as the long term implications of maintenance costs become more known and publicised.

Group 6 Private Landlords

This group are a small but growing group of mixed origins. In strong local markets and economies private investors are making positive choices to buy for letting purposes. Some former RtB owners who have moved away or bought other properties are choosing to hang on to their investment and realise rental income. For others however this is far from a positive choice. Some owners are finding that due to falling prices or experiencing selling difficulties, that renting out is the only option available to them.

- 4.15 With the abolition of MIRAS, there is now very limited financial support to low income homeowners. The general impact is shown by recent UK research (CML, 2001). State support through income support mortgage interest plus improvement grants plus low cost home ownership schemes, amounts to some £1 billion per year. Support to low income tenants in the form of housing benefit amounts to £11.2 billion per year. While low income homeowners are half the UK poor, they get just 8% of the benefits.
- 4.16 There is just one avenue by which Income Support payments may contribute directly to repair costs. Care and Repair clients receiving state benefits may qualify for assistance with part of the interest payments on some essential repairs. However take-up is limited because consequential work e.g. redecoration is not covered, the Benefits Agency assumes a standard (not actual) interest rate, and it will not indicate in advance whether any loan would be eligible for such assistance..
- 4.17 Nor would there appear to be an easy solution through new financial products. The range of financial products on the market to facilitate withdrawal of equity for property improvement and maintenance purposes is not extensive and tend to be unsuitable for younger purchasers, those on lower incomes, those in low value properties and those with high levels of mortgage commitment (in relation to property value).

- 4.18 Equity release, equity stakes, shared ownership and personal private loans (whether from traditional, community or innovative sources) may well have some potential in strong owner occupied markets of rising values. They do not address the fundamental issue of low income and high financial/mortgage commitments prevalent among many owners of former RtB properties combined with low, stable or declining property values.
- 4.19 The establishment of new financial companies or intermediaries providing tailored financial services and products for owners unable to access private sector financial products, has been mooted for some time, with little progress.
- 4.20 The roles of Credit Unions and Community Finance Initiatives have developed in parts of the UK, including Scotland. These have not been specifically geared to owners or regeneration and transfer related investment activity, but more to tackling the financial exclusion of whole sections of the community who have difficulty borrowing due to their low income or benefit dependent status (and who may have formerly been the prey of loan sharks).





5 CASE EXAMPLES

- 5.1 The section that follows highlights six recent case examples involving owners. They illustrate the range of issues and challenges currently facing local authorities and RSLs in trying to get housing led investment and regeneration programmes off the ground in former public sector estates.
- 5.2 The examples present a range of approaches in terms of practice and funding used to try and secure the co-operation and participation of owners in housing and regeneration investment programmes.

LARKFIELD

Inverclyde

Larkfield in Greenock is a former Scottish Homes estate and forms part of the Inverclyde SIP area and involves a transfer to the new community based Larkfield Housing Association.

During stock transfer negotiations, structural problems were identified with Atholl Steel 4-in-a-block flats which formed part of the estate. 96 properties were affected, of which 35 were privately owned. A further 4 properties (1 block) were wholly owned.

At the time of the transfer in 1997, a limited structural investigation of occupied flats resulting in work on a pilot block by the former SSHA, was based on estimated remedial costs of only £6,000 per unit to address the structural defect element (only).

After negotiation Scottish Homes agreed to reduce the transfer purchase price by around £200,000 which could be used in future to provide interest free loans to owners (for up to 15 years). At this point the availability of 50% Repair Grant funding from the Council had also been assumed.

Following transfer, a fuller structural survey confirmed that more substantial structural repairs were required. The RSL sought a robust technical solution to the problem providing at least 30 years guarantee. This, combined with the results of the fuller survey, increased the cost for owners from £6,000 to £16,000 for the structural element (only). (The current market value of the flats is in the order of £28-30,000.)

Scottish Homes (successors of SSHA) refused to consider the case for any additional funding assistance for either the tenanted or owned stock, claiming 'caveat emptor' - i.e. that the new landlord should have satisfied itself independently of Scottish Homes as to the condition and structural integrity of the properties.

The Council then advised it was not in a position to offer Repair Grant funding nor was it willing to take enforcement action to ensure that such funding became mandatory. Larkfield HA also considered promoting a case for the designation of properties as BTS, but this did not carry support among owners fearful of the blighting of all properties and the whole area.

The Council has still not agreed Repairs Grant since its priorities for grants is to tackle the backlog of repair and improvements in Victorian tenemental stock. Indeed the Council has confirmed that there will no consideration for grant assistance before 2003 (with no commitment to giving the Larkfield case any priority thereafter).

Given the stalemate, Larkfield HA has had to develop a lower cost package of measures involving an incremental approach for their own tenants in these Atholl Steel properties. Many are elderly and/or on low incomes and struggle to pay their annual maintenance charges of just over £30 per year.

As well as the offer of interest free loans, the RSL has also looked at the possibility of promoting an equity release scheme among owners but again there is not only little interest, but strong resistance to losing any significant amount of their existing equity.

The approach used in Larkfield which involved a reduction in the purchase price, together with the carrot of interest free loans, has not proved successful. The combined availability of 50% Repair Grants and interest free loans over a lengthy period is a fairly attractive package to offer owners. Without the Repair Grant element, owners are unlikely to engage. Despite these problems flats continue to be purchased (and valued) at £28-30,000.

On a positive note, the issue has mobilised owners to meet on a collective basis and 2 owners have joined the board of Larkfield HA as a result.

SPRINGBOIG

Glasgow City

An almost identical situation (with a different outcome) to that at Larkfield arose with another Scottish Homes transfer at Springboig, Glasgow related to an acquisition by Shettleston Housing Association. This again involved the transfer of non traditional stock, in this case SNHC steel clad 4-in-a-block flats, semi detached houses and bungalows. A total of 540 houses were involved 300 owners and 240 tenants.

Shettleston HA approached Scottish Homes and asked it to use its grant giving powers to assist in the development programme. This was initially on the basis of £12,000 per unit for owners and a grant level of 50%. At this stage Scottish Homes were only willing to consider grant funding those units in mixed ownership, refusing to offer any grant funding for owner only blocks.

However as in the Larkfield case, the original cost estimates proved to be unrealistic and increased significantly - in this case to £24,000 per unit - £20,000 for the flats and £30,000 for the houses. The flats were valued at only £20,000 and the houses at £40,000.

Grant negotiations had to be re-opened. This time around this involved Glasgow City Council, in recognition that the grant commitment required would go well beyond the anticipated life of Scottish Homes and its grant powers.

The involvement of the City Council changed the parameters of the grants discussion. It was not happy with the proposed 50% grant levels proposed, seeing them as both unrealistic and inconsistent with their own grants policy and practice. Nor was the Council happy with the proposal to exclude owner only blocks.

The Council's preferred approach was to use a combination of Improvement Orders and 75% Improvement Grant funding towards the cost of the works. Agreement was finally reached between the RSL, the Council and Scottish Homes on this basis. Scottish Homes designated the area for grants purposes and agreed a £4 million allocation in grant funding over the proposed 10-12 year development programme. Stock transfer was delayed as a result of attempts to resolve the owners issue.

With responsibilities for RSL development (and grants) funding likely to transfer to the Council within the programme period, a 'letter of comfort' is also in place between the Council and the RSL to continue the grant commitment, following any hand over of responsibilities between Communities Scotland (Scottish Homes) and the Council.

The owners required contribution is therefore between £5000 (for the flats) and £7500 (for the houses).

A number of options were explored by the RSL including:

- ◆ Equity release through further loan/mortgage advance - post completion valuations (£30,000 for flats and £50,000 for houses) were not high enough to be of comfort to lenders; the concept was unpopular with owners and not appropriate for elderly owners.
- ◆ Shared Ownership with the RSL acquiring a stake in the property - proved unworkable for a variety of reasons; the RSL would need to acquire at unimproved and tenanted market value; the rent that would need to be charged by the RSL for its share was too high to be affordable; the release of equity to the owner through the RSL buying a share could not be guaranteed to go into improvement (e.g. due to benefit regulations/restrictions); the concept proved to be unpopular with owners.
- ◆ Buy out/buy back by RSL - would need to be at tenanted valuation (around 55% of the (unimproved) market valuation) and not attractive to owners.
- ◆ The first phase of works is now underway involving 19 tenants and 9 owners. The RSL arranged for independent financial advice for owners which was taken up by only a few. Owners in this phase have borrowed from traditional sources (lenders) or from members of their family (especially those set to inherit).
- ◆ Whether this is a sustainable approach for the rest of the programme by the RSL will need to be tested in practice, given the size of owners contributions required and the modest post improvement property values. 75% grant levels have been crucial in achieving a breakthrough, with a very different outcome than in the Larkfield case.

CUMBERNAULD

North Lanarkshire

Cumbernauld highlights issues related to stock transfer led investment programmes in an area with high levels of owners in former public sector stock.

The issues within Cumbernauld were triggered by a proposal to transfer around 1860 tenanted properties to the Cumbernauld Housing Partnership (CHP) from Scottish Homes (who had been acting as landlord since a failed transfer proposal at the time of the wind up of the former Development Corporation).

In addition to the tenanted properties there were around 1100 factored owners living in mixed tenure blocks of flats with shared common areas and repair responsibilities, both high rise and low rise.

As part of the transfer process and underpinning the business plan, a 30 year life cycle maintenance assessment of repair and improvement requirements identified that significant levels of investment were required.

Household survey results indicated that many owners would have significant difficulties in meeting their share of common repair costs which were estimated in 1999 as being in the region of £10,000 per unit on average. Evidence gathered suggested that most owners had monthly incomes of less than £1,000 per month.

In response to the identified difficulties, the Cumbernauld Home Owners Association (CHOA) was set up in July 2000 as a company limited by guarantee. The aims of CHOA included:

To set up a common repairs fund for owners to contribute towards the likely cost of future repairs and improvements and to determine contribution levels

- ◆ To represent owners interests to CHP and in the planning, prioritising and delivery of its planned investment programme
- ◆ To negotiate and develop services for owners including building and contents insurance, an emergency repairs service and managed letting schemes.

The first phase of work on flatted properties is about to begin and this focuses on 566 units in 12 blocks of multis where levels of owner occupation can exceed 70%. The multis have been found to require essential repairs to external panel joints as well as lift replacement, with these elements having come to the end of their useful life.

The unit costs of this essential work to owners is over £4000 and the Council is providing 50% Repair Grants, meaning a net cost of over £2000 per owner. The properties have been typically valued at up to £28,000 or more in the past but values over the last few years have fallen significantly creating negative equity for some owners. Owners already pay an average annual factoring charge of £400 per year (equivalent to £33 per month).

North Lanarkshire Council has been very supportive in trying to help identify a potential solution for CHP and owners. The Council has agreed to provide 50% Repair Grants to owners. In addition the Council was successful in securing Executive agreement to £120,000 in NHP resources being used to support the work of CHOA and to pilot a potential solution to tackling the owners issue.

The common repairs fund has been set up as a facility for the use of CHOA members whose properties are included in common repair schemes. Membership allows owners to pay monthly (£35 per month in addition to the £33 monthly factoring fee) towards the costs of the repairs planned over the next 5 years over a 5 year period.

£100,000 of NHP money is being used to kick start the fund allowing owners to make their contribution towards the initial repair works, in advance of them having built up sufficient funds on an individual basis through their monthly payments.

Alternatively owners have to source the funds from other more traditional sources, although there is also a local Credit Union.

Difficulties encountered within Cumbernauld have included:

- ◆ The problems of negative equity within the high rise blocks in spite of the fact that many of the owners are long standing because building societies will no longer lend on these properties and values have therefore plummeted
- ◆ With the very low property values prevailing, some owners have been concerned that additional expenditure, even if in the form of an interest free loan, is not sensible and is throwing good money after bad
- ◆ Owners faced with low resale values/unsellable properties combined with negative equity have tended to opt for renting out privately (for which there is a relatively buoyant market).

CHP and CHOA have been successful in securing a funding package for the short term which allows some initial essential repair work (much of it to tackle water penetration problems) to be

started. The interest free common repairs fund of £100,000 (which is ultimately repayable to the Executive) is insufficient either to meet the need of all owners likely to be affected by the CHP programme or to enable more substantial repairs and community regeneration to be undertaken. The package, as elsewhere, is also highly dependent on a continuing commitment by the Council to provide Repair Grants.

DUMBIEDYKES

City of Edinburgh

Dumbiedykes is a high density mixed tenure estate of 669 properties in central Edinburgh which has recently been the subject of a stock transfer option appraisal exercise funded through the NHP programme. Formerly a 100% Council estate, there are now 251 owner occupiers (37% of the supply) and around 19 flats are owned by private landlords (a further 3%).

Dumbiedykes is one of a number of dispersed locations forming part of the Edinburgh Strategic SIP. It is located next to a major area of multi agency regeneration activity of national and international importance. The site is on the doorstep of the new Holyrood Parliament, Dynamic Earth, the new Scotsman development and luxury housing.

Owners are heavily concentrated in the low and medium rise blocks, with around 50% now owned. At June 2000, there was only one block where there were no sales and a third of the medium rise blocks had a majority of owners. That said there were also no blocks which were completely owner occupied. There are also a number of owners in multi storeys (of traditional construction).

Given its very central location, demand both for the owner occupied housing, as well as for the rented properties, is high. RtB sales continue to take place at a fairly high rate (20-30 per year) and resale prices have been rising steadily now averaging over £50,000 in the low and medium rise properties, and almost £40,000 in the high rise.

Under the terms of their sale agreement, owners are required to pay a share of the costs of repairing and maintaining the common parts, but they are not required to contribute to the costs of any improvement works. Neither are they responsible for the maintenance or improvement of the external environment (originally intended to keep this 100% under Council control).

The unit costs for owners associated with the preferred improvement option have been estimated at £26,000 for multi storey owners and around £9,500 for flat/maisonette owners. These costs are equivalent to over 60% of the current property values in the case of the multi-storey flats and just under 20% in the medium and low rise flats.

Household survey responses during the option appraisal stage suggested that the majority of owners who responded have sufficient equity in their homes to enable them to raise some additional funding for improvement works, but not all. Those with the lowest equity were recent open market purchasers who had bought without discount.

However the survey also identified that average income levels were low. Analysis of income levels in relation to loan repayment charges indicated that around 20% of owners would not be able to make any contribution to the cost of proposed improvements, while at least 2 in 3 would be unable to make the full contribution without some additional financial assistance.

The Option Appraisal concluded that a package of measures needed to be put in place if the regeneration of Dumbiedykes was to proceed with the participation of owners. This package included requirements for financial assistance to owners where there was insufficient income and/or equity, in the form of Improvement and/or Repair Grants.

The Council has recently tendered among RSLs to identify a development and transfer partner for the project initially managing to attract only one formal interest.

In light of the high level of owners costs, the income profile of residents and the weak position set out by the sale agreement - no compulsion to participate in improvements (as opposed to repair) and no mechanism for contributing towards estate works - the Council is planning to proceed on a mixed 'carrots and sticks' basis.

The Council intends to use the serving of Improvement Orders as an enforcement mechanism and offering the incentive of 75% Improvement Grants to resident owners, and up to 90% on a means tested basis. 50% Repair Grants are intended for non resident owners (private landlords). It is also keen to explore shared ownership and owner lending possibilities with any successful RSL for those owners who cannot raise their 10-25% contribution.

The Council is highly aware in this instance that the Dumbiedykes development is unlikely to happen at all, if the owners issue is not satisfactorily resolved and if there are not substantial carrots for owners to participate.

As long as sufficient resources can be secured for the whole development - both the tenanted and owners elements - this proposed package of measures for owners has a good chance of being successful, because it is substantial.

Although the mixed carrot and stick approach likely to be adopted by the Council is crucial to the development's success, this may ultimately owe as much to the minimum risks involved for owners, and the guarantee of further increases in property value in one of the already highest valued former public sector flatted estates in Scotland.

It can be argued that if owners involvement can be successful anywhere it is in the context of central Edinburgh. Notwithstanding this, substantial public resources are undoubtedly required to make it happen and secure owners co-operation.

EAST KILBRIDE

South Lanarkshire

East Kilbride is not in a regeneration area but has experienced a dramatic shift in its tenure profile. In 1979, the former New Town had over 24,000 public sector houses and now has less than 6,500. This example illustrates issues faced by Councils who are trying to be proactive in tackling problems of disrepair and previous lack of planned investment in flatted stock that is now in mixed tenure ownership.

Following persistent and growing problems of water penetration in medium rise flatted blocks, due to the failure of patch repairs, South Lanarkshire Council decided it had to mount a planned programme of roof and roughcast renewal in the interests of fulfilling its statutory duties to its own tenants. None of the blocks affected were in full Council ownership, with owners forming the majority in many. There were also a number of private landlords.

The unit costs per owner were typically in the range of £5000-£6000. As a 'carrot' to owners the Council earmarked 50% Repair Grants for owners affected by the works and not surprisingly there was 100% take up of these.

However the Council quickly realised, following approaches by distressed owners that it had to go further than this, if it was to have any hope of recovering its expenditure without resorting to legal action for the outstanding £2500-3000 owners share. The properties are typically valued at £28-35,000.

While legal action is almost always a measure of last resort, the Council was not keen to pursue such an approach given the already bad publicity over the works - some based on owners outrage at the works being carried out at all (those not directly affected by water) and some on poor communication during the contract, including rising costs.

While a handful of owners have made their own funding arrangements (private loans, savings etc) and paid the Council in full, most have had to be given interest free loans over 2 years and over 4 years (in the case of financial hardship).

Follow up research among owners has revealed the following:

- ◆ The profile of owners is complex with almost half having over 90% mortgages with over 15 years left to pay - original RTB owners being by far a minority
- ◆ While owners were aware of their factoring charge and patch repairs type responsibilities, the majority were unaware that such major repairs were likely to arise and were shocked and unprepared; this was a cause of great resentment partly due to the perceived failure of previous public landlords to maintain the properties in good condition (with owners now paying for such neglect)
- ◆ Mortgage commitments in relation to property value suggest little potential for equity release among half of owners (if this was likely to be palatable to/practical for owners - the research suggesting it was not)
- ◆ Income levels are low averaging around £1000- £1500 per month; around 1 in 3 owners are already paying over 20% of their income on mortgage payments
- ◆ The interest free loan over 2-4 years had meant that owners monthly outgoings had increased by £50-£100 per month; this was the cause of great resentment and many were struggling to maintain their repayments
- ◆ Perhaps not surprisingly, those owners who had been directly affected by water penetration were less critical and resentful than the majority.

The combination of 50% Repair Grants and interest free loans (over 2-4 years) has been sufficient to secure the agreement of owners to pay for their share of the works, albeit grudgingly; there is no doubt that this is causing some owners financial hardship given the size of monthly repayments in relation to household incomes and the Council is already experiencing defaulting in loan repayments.

ARDLER

Dundee City

Ardler Village in Dundee is major regeneration project representing over £75 million of investment in a community which forms part of the Ardler/Kirkton SIP area.

The housing investment led regeneration programme received NHP funding on the basis that local authority provision would transfer to an RSL as part of the redevelopment of the estate. Following the invitation of proposals, Sanctuary Scotland HA were selected as the preferred development partner and receiving landlord.

Of 1600 original properties - almost all flats including multi storeys - less than 100 are being retained, the preferred development option (and best value case) being large scale demolition and new build.

There are over 70 owners in the area affected by the proposals and there has been owners representation and involvement in the residents steering group since the project's inception.

Demolition and replacement was accepted as the most desirable option by the whole community - tenants and owners alike - recognising that such a dramatic change was required to halt neighbourhood decline. This posed the challenge of how in practice to secure owner co-operation and participation in the venture.

As was the case elsewhere, the Executive would not allow the use of NHP money to be used to fund owner occupiers (Cumbernauld being the only case nationally where this occurred).

An Owners Consultation Group was established to represent owners interests and to liaise with the lead agencies involved and the residents steering group through owners representatives. The owners received some independent advice from the Independent Tenants Advisor.

An offer to purchase at the District Valuer's initial valuation was made, but the levels of the offers were not acceptable to the owners. The RSL responded by commissioning an independent valuation which led to an upward revision of the DV's valuations and each owner was negotiated with individually on this basis.

The RSL is buying back the properties using a mix of funding sources - from their own private funding and from the Council. All owners to date have accepted the package put forward. The success of this package is based in part on the prices offered to the residents which did not reflect the decline that the area had experienced (and the impact of such on achievable sale prices). They were offered a value which was more akin to that of similar properties in non regeneration areas in the city. CPO powers were not needed.

In addition to compensation (also including Home Loss and Disturbance Payments etc) owners have been given the following rehousing options:

- ◆ To remain in the area and become an RSL tenant on an assured tenancy basis; although this is without the RTB status of a secure tenancy, it effectively offers them a new build house to rent following redevelopment
- ◆ To remain in the area and buy a GRO grant funded new build house for sale (being given the same priority as first time buyers in priority purchase)
- ◆ To move out of the area to an equivalent property elsewhere in the city as a Council tenant
- ◆ To move out of the area and buy a property elsewhere.

The offer of what is seen to be a fair price where owners properties are being acquired is crucial to the success of securing owners co-operation in such a demolition and redevelopment scenario. Their early involvement and the provision of support and advice is also important, as well as there being a range of rehousing options available from which they can chose which suits best.

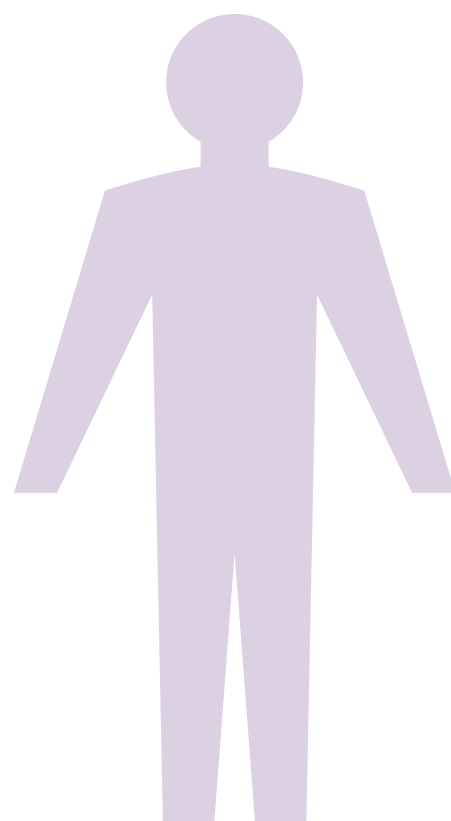


6 COMPLEX AND WIDE RANGING ISSUES

6.1 The issues to be addressed in securing the active participation of owners in housing led regeneration and investment programmes are complex and wide ranging. Some key pointers emerge from the case examples featured including:

- ◆ Achieving the effective involvement of owners in investment and regeneration programmes currently requires extraordinary levels of agency and community commitment, innovative thinking and approaches, and protracted regeneration and transfer timescales;
- ◆ The most practical and successful solutions require substantial public subsidy;
- ◆ The attitude and policy of local authorities as grants authority can be crucial in achieving workable solutions;
- ◆ The role and flexibility of the District Valuer in setting a fair and reasonable price for owners properties can also be crucial in situations where acquisition/buy back is the preferred option;
- ◆ The reduced levels of local authorities' grant funding for home owners (and competing properties for that funding) can prohibit local authorities from helping or from committing themselves;
- ◆ Low property valuation - both pre- and post-improvement - is the main deterrent for lenders and the key factor in the inability of owners to release equity or secure further loan advances on their property;
- ◆ The low and modest incomes of owners, combined with existing financial/mortgage commitments, severely limit their ability to contribute to the cost of works, for example through servicing loans;
- ◆ Buy back schemes only work if owners feel they are being offered a fair and reasonable price for their properties - not at a depressed level or at a tenanted market valuation;
- ◆ There are serious difficulties in making shared ownership and shared equity schemes work - and they are deeply unpopular with owners;
- ◆ The financial and mortgage commitment profile of owners of former public sector properties is becoming more complex, as properties are resold - those on long term loans of over 80% of property value are becoming more common;
- ◆ The potential consequences of the failings of the current framework, and the inability to get repair and improvement programmes off the ground, are likely to lead to further incidences of:
 - ◆ Falling demand
 - ◆ Collapsing property prices
 - ◆ Negative equity
 - ◆ Undermining of previous public and private investment
 - ◆ Unrealistic Business Plans among transfer RSLs
 - ◆ Thwarted community regeneration objectives.

- 6.2 There are no easy or single solutions to these practical difficulties. For some, there are one off solutions for one off problems.
- 6.3 In the case examples featured there has been strong commitment among partner agencies to try and overcome the hurdles. However where there have been solutions, the agencies involved are not necessarily keen to broker or adopt such solutions again, not least because of the resource implications and fear of setting precedent. In other cases the proposed solution is still to be tested in practice. In one case there is no solution in sight.





7 CONCLUSIONS

- 7.1 An effective framework needs to be developed which provides a consistent and coherent approach that will work for local authorities, RSLs and the owners of former public sector properties. Without a workable solution, there is little hope of the Scottish Executive's and Communities Scotland's wider regeneration, housing and community capacity building agendas being achieved.
- 7.2 The case examples featured in this report (as well as many others across the country) have resorted to fairly traditional methods of acquisition, buy back and compensation at market value in a redevelopment situation and to the 'carrots and sticks' of enforcement, substantial grants and interest free loans in a major repair or improvement situation.
- 7.3 While any new framework should draw on both the best aspects of good practice followed in such instances as well as the lessons learnt, a fundamental review of approach on how owners can be successfully engaged needs to take place. This needs to address the lack of incentives for owners in former public sector estates to take part in many instances, and the limited scope for enforcement by local authorities, as well as their reluctance to take action due to the unpopularity of such action combined with a lack of appropriate resources to support it.
- 7.4 In the case of flatted and non-traditional properties, the typology of owners in properties presented herein suggests that there is little scope for making progress without a strong financial framework being developed, involving subsidy and incentive in the case of those caught up in housing-led regeneration and transfer related investment programmes. Those who are most often required to participate are often those least able to take part due to low or modest incomes, high financial / mortgage commitments and low property values.
- 7.5 The proposal to widen means testing for Repair and Improvement Grants will ensure that scarce resources are increasingly targeted towards low income owners living in the poorest house conditions. However as illustrated by the case examples, those caught up in regeneration or transfer housing led investment programmes are not necessarily those living in such conditions.
- 7.6 In the context of dwindling grant resources and in some cases this has meant annual spend falling from £millions to £thousands for individual authorities since local government re-organisation, most have continued to target limited grant resources to the oldest and poorest property conditions and in some cases Care and Repair.
- 7.7 This has meant little scope or commitment to prioritising owners in former public sector estates caught up in priority regeneration or transfer led investment programmes, without additional or dedicated resources being made available through the Scottish Executive or Communities Scotland (Scottish Homes) for particular initiatives.
- 7.8 The Housing Improvement Task Force needs to provide a robust framework that enables, encourages and assists owners in mixed tenure areas to take part in housing investment programmes, such as those associated with current transfer proposals. Such a framework however is unlikely to be effective without substantial additional grant resources being made available to support it.
- 7.9 The development of specific viable new financial and tenure products is not within the remit of the Housing Improvement Task Force, and have so far been fraught with difficulty with no real progress being made in recent years by the Scottish Executive or Communities Scotland (Scottish Homes).
- 7.10 Yet as highlighted earlier, the need to regenerate or invest often reflects a wider set of complex interrelated factors and increasingly problems of low or collapsing demand. This often starts in the social

rented sector with knock on effects for owners who have bought former public sector properties, but can also affect purchasers of new low cost homes for sale in some locations, where regeneration momentum has not been sustained.

- 7.11 The best housing investment solutions for the social rented sector and the wider and long term regeneration and benefit of whole communities are often demolition and redevelopment or major improvement.
- 7.12 Owners in what are largely low value and sometimes marginal markets, are not in a position to positively take part in such regeneration activity within existing frameworks. There needs to be a far more comprehensive approach and robust framework whereby owners (on a par with social rented sector tenants) can become involved in reshaping and securing a vibrant future for their communities in such circumstances.
- 7.13 Not all social rented sector housing is worth continuing to invest in, nor is all privately owned property. Both main sectors in Scotland are beginning to exhibit symptoms of oversupply and market failure in a range of locations, especially in lower quality flatted properties and in areas of economic decline. Demolition proposals remain small scale and highly selective in most instances.
- 7.14 The issue of market failure needs to be faced up to by local authorities as strategic housing authority - for instance in the preparation of their forthcoming Local Housing Strategies (LHS) - as well as by RSLs involved in transfer related activity.
- 7.15 Local authorities need to be provided with a robust legislative and funding framework that encourages and supports them in developing a strategic interventionist approach to market failure. This by necessity will require a much more detailed and sophisticated understanding of the operation of home ownership markets as well as the development of robust criteria to justify such instances of intervention.
- 7.16 Parts of Northern England and the Midlands vividly illustrate what can happen when there is not early intervention in market failure.

APPENDIX - THE EXISTING STATUTORY FRAMEWORK

Local authority powers

- 1 Where private housing requires repair or improvement, local housing authorities are the only organisations with effective statutorily backed enforcement powers. The basic framework of their responsibilities and powers has remained unaltered since its introduction in 1974, although this was brought together again in the Housing (Scotland) Act 1987. Other powers have been acquired piecemeal through a wide range of statutes.
- 2 Most powers were originally intended to address the problems of large concentrations of houses lacking standard amenities or not meeting basic modern standards of construction or maintenance - Below Tolerable Standard (BTS). The legislation was designed to facilitate the removal of these houses, or their improvement to the required standard.
- 3 The number of HAAs being declared has fallen since 1987 and is now very few. Since 1996 the use of all statutory powers has declined sharply. While this is partly a result of the success of the slum clearance and improvement programmes in removing concentrations of BTS properties, it also appears to be the result of reduced resources available for grants.

Housing (Scotland) Act 1987

The 1987 Act gives councils the duty to identify houses that are below the tolerable standard (BTS) and to ensure that they are closed, demolished or brought up to standard within a reasonable period. The main instruments are

Enforcement Powers

Housing Action Area (HAA) Where a majority of houses within a defined area do not meet the tolerable standard the council may make an order creating a HAA. This can be

for demolition, where all the properties are acquired and demolished;
for improvement, where all are improved to meet the tolerable standard, have standard amenities and be brought up to a good state of repair; or
a combination of the two.

Compulsory Purchase Order (CPO) Where owners do not agree to carry out improvements the only option open to the council is to seek to acquire the property voluntarily or by (CPO). Owners who are permanently displaced have a right to be re-housed and to compensation.

Improvement Order placed on an individual BTS house outwith a HAA requires the owner to bring it up to the tolerable standard and to put it in good repair.

Demolition Order and Closing Order More extreme action against an individual BTS property is the serving of a Demolition Order or (if part of a building is to be saved) a Closing Order. A local authority may rescind the Order and accept an undertaking by the owner to bring the house up to standard.

Serious Disrepair Notice A council can require defects in individual properties to be repaired within a given period by a Serious Disrepair Notice. This can be enforced by direct intervention to carry out the work required and the cost can then be apportioned between owners. Full recovery

of the Council's expenditure may often be a problem, in spite of the power to make a Charging Order against the titles of the property requiring payments for up to 30 years.

Grants Framework

Improvement Grants and Repairs Grants- Improvement Grants (for upgrading BTS property) and Repairs Grants (for serious disrepair) may be either mandatory if they arise from the service of a statutory notice, or discretionary. Grants may also be made on a discretionary basis for 'improvement of amenity' (Section 251). Some authorities have used this in mixed tenure areas for such works as door entry systems, bin stores and drying areas.

Loans The power for local authorities to make loans for house purchase or improvement, once a significant factor at the lower end of the market in some areas, still exists but is now little used.

- 4 Since the abolition of the former 'Non HRA' capital allocation, which was earmarked for work to private housing, there has been fierce competition for resources with other local investment priorities, and reluctance to finance the enhanced grant entitlement associated with HAAs. Local authorities' responses to the 1999 Housing Green Paper showed widespread support for the re-introduction of ring fencing to protect available resources for grants.
- 5 In many areas the local housing authority is now only likely to intervene through statutory notices or enforcement action in respect of buildings in the very worst condition, although a few have adopted a more pro-active approach in response to owners having problems in carrying out repairs.

Other local authority powers

Civic Government (Scotland) Act 1982 enables local authorities to bring a building into a reasonable state of repair. This can include emergency situations where works are done without first serving notice, where the authority believes this is in the interests of health and safety or of preventing damage to another building (sect. 87); and to serve a notice requiring owners of open space in to maintain it and its fences and boundary walls to "prevent nuisance to the public", with the power to carry out the works where an owner fails to do so (sect. 91).

The Environmental Protection Act 1990 requires local authorities to identify any 'statutory nuisance' and to serve notice or, in default, to take action to stop or prevent it. These are situations where there is danger to health or a 'nuisance' from the state of the premises, noise, fumes, animals or rubbish. Individuals can also take court action against neighbours.

Licensing of Houses in Multiple Occupation From 1 October 2000 authorities must license all houses in multiple occupation (HMO) in their areas, and all landlords of such property must obtain a licence. By 2003 a dwelling will be automatically classified as an HMO if it is the only or principal residence of three or more people (currently six) who are not members either of the same family or of one of the other two families. Authorities are responsible for setting and enforcing licensing conditions.

General Quality Initiatives Local authorities implement other initiatives that have housing quality effects. These include energy efficiency initiatives such as 'Warm Deal' introduced in 1999, targeting 100,000 benefit dependent households for insulation improvements; the Central Heating Initiative, to be introduced from 2001, which will grant fund 40,000 pensioner homes in the

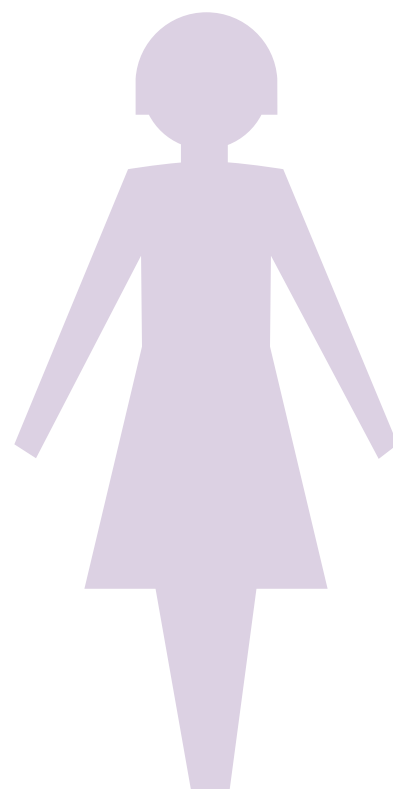
private sector; and smaller public/ private ventures such as the Transco 'affordable warmth' programme and the 'Energy Efficiency Commitment', made by all the power companies, under the Utilities Act 2000.

- 6 There is no requirement on local authorities to act strategically to tackle disrepair or to ensure that there are services to support owners in maintaining their houses. Non area based action to support or encourage repairs by low-income owner-occupiers has largely been confined to the elderly, and specifically Care and Repair schemes.
- 7 Perhaps the most significant weakness is the lack of any effective powers to ensure that houses, once improved or repaired, continue to be maintained in a good condition. The current statutory powers and enforcement mechanisms also bear no relation to any wider range of incentives for investment and improvement.
- 8 The existing framework for dealing with owners in a regeneration situation and the limited grant resources available, are largely geared to tackling the poorest property conditions. Yet property condition may not be the primary imperative for regeneration in housing terms - it may be because of low demand, enduring social problems and stigma, the need to redevelop for other uses etc.
- 9 These factors are combined with the fact that many such properties tend to be, on average, in better condition (for now) than that of the non RTB owner occupied stock or of other dwellings remaining in the social rented sector.
- 10 However, as in the case of HAAs, local authorities are increasingly reluctant to use their powers of acquisition for the 'proper planning of areas' as set out in the legislation. The need to enter into negotiation with owners, agree compensation arrangements as well as potentially assist in rehousing those affected, only tend to be used as a last resort in extreme cases by most local authorities. (If challenged, the process can be lengthy and time consuming with no guarantee of success).

Rights and responsibilities of homeowners

- 11 Perhaps the most important frameworks determining the behaviour of house owners are property law and the institutions for buying and selling houses. It is widely recognised that the rights and responsibilities that are placed on homeowners in Scotland are weak compared to those operating in other developed countries.
- 12 The Conveyancing and Feudal Reform (Scotland) Act 1970 sets out the standard conditions that mortgage lenders and borrowers are required to keep. Several place obligations upon a borrower to maintain the value of the property and give the lender rights to carry out repair or improvement if the borrower fails to do so. But lenders do not in practice monitor repairs issues or take action upon them. Even the practice of mortgage lenders keeping a 'retention' of part of the borrowing until specified works of repair or improvement are complete was once relatively common, but is now rare.
- 13 Buyers often have limited information on the condition of the property and rarely have detailed knowledge of likely repair and running costs. The majority rely on a basic valuation report as the source of professional advice on property condition, and tend not to understand the difference between this and a full survey.
- 14 Even where a full survey is commissioned this may lead to a recommendation for further specialist surveys, thereby incurring substantial costs and delay, often disadvantaging the purchaser in a competitive bidding situation. Sellers have no obligation to disclose defects.

- 15 A weakness in the current legal framework, and one with crucial implications for owners involvement in regeneration, is its treatment of the responsibility for the maintenance and improvement of elements of buildings and surrounding areas that are common to several owners. Although often discussed in terms of the regulation of flat ownership and the 'Law of the Tenement', the problem applies in less acute form to many other house types and area layouts.
- 16 Britain appears to be unique among developed countries in having no core statutory system for determining the collective interests of private property owners, and the problem is most acute in Scotland. Although the tenement form is prevalent in many areas, these were originally built mainly for private or social renting.
- 17 Responsibilities for collective areas are covered either through title deeds or through recourse to common law, but deeds rarely make arrangements for ongoing maintenance. There is also minimal statutory regulation of managing (factoring) agents.



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