



Glasgow City Council PRIVATE HOUSING: STATEMENT OF ASSISTANCE



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1. GENERAL INFORMATION & SETTING OF PRIORITIES



1. GENERAL INFORMATION & SETTING OF PRIORITIES.

1.1 Purpose of the Scheme of Assistance

Section 72 of the Housing (Scotland) Act 2006 requires a local authority to produce and make publicly available a statement outlining the circumstances which it will offer assistance (scheme of assistance) to private sector house owners and tenants in relation to the maintenance, repair and adaptation of their properties. Assistance will be in the form of general advice, information, practical support or financial assistance where a stated priority is being met.

This will be the second revision of the scheme since its first publication in 2009.

1.2 Vision & Strategy

Using the range of powers granted to local authorities under the Housing (Scotland) Acts 2006 and 2014 and various other enactments, Glasgow City Council will continue to encourage owners of private sector housing, to take responsibility for the maintenance and repair of their properties to protect our built heritage and provide assistance where required in order to support households. We aim to deliver information and advice, practical and financial assistance in a fair and equitable way, in partnership with owners, landlords, tenants and all other stakeholders.

The Scheme of Assistance reflects national policy priorities such as the repair of sub-standard housing, promoting the responsibility of owners to maintain their property and enabling older people and people with disabilities to live independently and also the three key strategic aims of Glasgow's current Local Housing Strategy

- **Regeneration:** Increasing the supply and improving the quality of housing available to Glasgow's people
- **Access:** Improving access to appropriate housing for Glasgow's people
- **Delivery:** Maximising resources, improving partnership working and effective monitoring

1.3 Partner Organisations & Services

The Council will deliver assistance via the following services and partners:

- DRS Housing and Regeneration Services Private Sector Team including Private Landlord Registration and HMO units.
- Planning and Building Control Services (DRS)
- Glasgow City Health & Social Care Partnership
- Environmental Health, Land and Environmental Services (LES)
- Registered Social Landlords in Glasgow
- Property Managers Association Scotland (PMAS)
- Equipu /Cordia
- City Building LLP/Assisted Living
- Community Safety Glasgow
- Glasgow Care and Repair Service
- Glasgow Credit Union
- Scottish Empty Homes Partnership/Shelter Scotland
- Home Energy Scotland/ Energy Savings Trust
- G-Heat
- Glasgow City Heritage Trust
- Landlord Accreditation Scotland
- Glasgow Advice and Information Network (GAIN)

Contact details for these partner organisations are shown in **Appendix 1**

1.4 Priorities for Assistance

Funding is limited and subject to its availability, financial assistance will be targeted at those owners most in need where national and local strategic objectives are being delivered. Assistance will be prioritised according to work type and by area.

The Priority Works for Assistance are:

- 1) Essential adaptations for people with disabilities.
- 2) Below Tolerable Standard (BTS) properties or properties at risk of becoming BTS. Funding may be considered for the first time installation of standard amenities.
- 3) *Common repairs required in pre 1919 tenement properties in priority areas, which impact on all of the property owners, where the property is deemed as sub-standard or is in danger of becoming sub- standard and require works to the common parts. This will include small scale preventative maintenance works which if carried out will enable the appointment of a property factor.
- 4) Flatted dwellings which have secured funding through the
 - a) Affordable Warmth scheme (HEEPS ABS or funding from any other similar type schemes) to carry out energy efficiency measures and may be in need of common repairs.
 - b) Glasgow City Heritage Trust or similar bodies.
- 5) Various work initiatives that may be undertaken from time to time within priority areas (see below) .
- 6) Empty Homes – to bring the property back into use. Assistance is likely to be in the form of finding a buyer for the property or offering practical advice.

* Common repair works may be eligible for funding on the following basis, in order of priority:

1. Pre 1919 tenement properties in identified Priority Areas*.
2. Other type tenement properties (6 or more in a block) in identified Priority Areas.
3. Pre 1919 tenement properties in non- Priority areas
4. Other type tenement properties (6 or more in a block) in non- Priority Areas.
5. Four in a Block type properties where all 4 properties are the subject of the common repair(financial assistance would only be considered in exceptional circumstances such as part of a targeted initiative).

The Priority Areas are:

- 1) Housing Renewal Areas (HRAs)
- 2) Enhanced Enforcement Areas (EEAs)
- 3) Other Priority Areas identified by Glasgow City Council DRS Housing and Regeneration Services.

For all of the above, financial assistance will only be considered where funding is available.

Financial assistance will not be considered for repair works to individual property types such as detached, semi-detached or terraced properties. Where such property types form part of a priority area designated by DRS Housing and Regeneration Services, financial assistance may be considered for common maintenance/ ground works etc subject to the availability of funding.

1.5 Summary of Assistance Available

Glasgow City Council will look to provide the following types of assistance:

- **Information and Advice**

Information and advice will be provided in the first instance to enable households to instruct their own repairs, or to be better informed when arranging for repairs to be carried out. Owners can obtain information from the Housing page on Glasgow City Council's website at [http:// www.glasgow.gov.uk](http://www.glasgow.gov.uk)- Advice for Home Owners. This provides information and advice on:

- Definition of a tenement
- Common property repairs and maintenance
- Responsibilities under the Title Deeds
- Tenement Management Scheme
- Property factoring and need for Buildings Insurance

Advice For Homeowners' is also available in booklet form and can be obtained from DRS Housing and Regeneration Services Private Sector team (See 1.6 for contact details).

Private Sector owners can also obtain more detailed information and advice on property maintenance and associated issues from the national website entitled 'Underoneroof Scotland' at <http://www.underoneroof.scot/>.

- **Practical Assistance**

Practical assistance could involve the council or partner organisation overseeing or carrying out some part of the repair or maintenance process on behalf of owners. This could include writing to owners, arranging for a survey of the property, organising owners' meetings and liaising with factors/property agents.

The Glasgow Care and Repair Service will be able to offer a more personal service to older people and people with a disability. Refer to Section 2.7

- **Financial Assistance**

The Council recommends that owners seek independent financial advice before taking out a loan. Refer to section 3.4.1

Subject to the availability of funding and the priority nature of the works Glasgow City Council may make financial assistance available to owners in order to carry out essential repair works to their property. This could take the form of grants; for adaptation works for people with disabilities, or for tackling sub-standard housing.

Financial assistance will be allocated according to the Council's stated priorities and on the terms set out in this Statement.

Under no circumstance will the Council consider retrospective applications for grants or other forms of financial assistance. Fees may be charged dependent on the type of assistance given.

Where financial assistance is in the form of a grant there is a legal requirement for the Council to register a Notice of Payment against an owner's property title.

Mortgage Guarantee Scheme

The Council is in partnership with the Glasgow Credit Union to deliver a 2 year pilot Mortgage Guarantee Scheme (to October 2017) targeted at first time buyers. Further financial incentives are available to bring Empty Homes back into use. Details on the scheme and information regarding availability can be obtained from the Glasgow Credit Union at:

- Address: 95 Morrison St, Glasgow, Glasgow City G5 8BE
- Phone: 0141 274 9933
- Website: www.glasgowcu.com/

1.6 Initial Access to Assistance

Access to assistance will in the first instance be to:
Glasgow City Council
Development and Regeneration Services
Housing & Regeneration Services (Private Sector)
2nd Floor
231 George Street
Glasgow
G1 1RX

Telephone 0141 287 8427/ 8531/ 8593
E-mail: EnquiryPSHG@drs.glasgow.gov.uk

Information is also available on the webpage at www.glasgow.gov.uk- Advice for Home Owners

1.7 Equalities and Service Standards

The Council is strongly committed to equal opportunities. Equality measures have been incorporated into the Scheme of Assistance, including:

- Providing advice and assistance to any homeowner who needs it, with particular sensitivity to the needs of the most vulnerable such as older people, people with disabilities and black and minority ethnic customers.
- Ensuring that literature is available when required in braille, large print, on CD and in the main community languages spoken. Translation services will be available if requested.
- Providing an interpreter where needed.
- Ensuring that our services are accessible to all communities by engaging with community groups and attending external events.
- Regularly reviewing, consulting on and monitoring our services to ensure that they are non-discriminatory.

Glasgow City Council is committed to providing an excellent service to its customers. Staff will always aim to:

- deal with you honestly, fairly and politely
- give out accurate information
- try to see things from your point of view
- respect your right to confidentiality
- be trustworthy and reliable
- take account of the needs of people with a disability and those who do not have English as a first language
- be efficient and effective
- advise you about our user-friendly complaints procedure if things do go wrong.

All enquiries will be responded to in a timeous manner within 10 working days. Where a complaint is submitted this will be dealt with in line with the timescales set out in GCC's Complaints Handling Procedure.

Freedom of Information (F.O.I) enquiries will be responded to within 20 working days.

1.8 Review Process for Decisions Relating to this Statement

Applicants seeking a review of a grant award or a decision taken which could impact on the repair of their property, should contact DRS Housing and Regeneration Services Private Sector team. If an applicant is not satisfied with the service or the information being provided they can lodge a complaint Stage One –Frontline Resolution where a response will be issued within 5 working days. If applicants are still not satisfied, they can proceed to Stage Two- Investigation of the complaints process which will be carried out by a Head of Service in DRS. All reviews will be carried out by senior staff members who have had no involvement in the original decision process. If applicants are still not satisfied then they can complain to the Scottish Public Services Ombudsman (SPSO).

2. ADAPTATIONS AND STANDARD AMENITIES FOR PEOPLE WITH A DISABILITY



2. ADAPTATIONS FOR PEOPLE WITH A DISABILITY

The Housing Scotland Act 2006 places a general duty on local authorities to provide assistance to make a house suitable for a disabled person where the house is or will be that person's only or main residence.

From 1st April 2016, equipment & adaptations for private sector housing come under the responsibility of the Glasgow City Health & Social Care Partnership. Glasgow City Council's DRS Housing and Regeneration Services Private Sector team will continue to manage this service on the Partnership's behalf.

2.1 Initial Stage

If you stay in a property which you own, or rent from a private landlord and you require the property to be adapted to meet your needs, this is the process you should follow when applying for a grant:

The initial enquiry/application can be made by an individual, carer or relative or through the intervention of another agency to Social Care Direct, Glasgow City Council, PO Box 26845, Glasgow or email socialcaredirect@glasgow.gov.uk or Tel 0141 287 0555. A referral form will be completed by Social Care Direct. To assist with initial screening and prioritisation it is important that detailed information is provided.

If appropriate, an applicant will be assigned an Occupational Therapist (O.T) or Social Care Worker (referred to from here on as suitably qualified person) who will carry out an assessment of the applicant's eligible needs.

Grant assistance is not payable on a retrospective basis. Therefore, applicants should not commence works prior to the issue of the grant award

2.2 Assessment Process

Following the initial screening a suitably qualified person will look to carry out an assessment for people with critical needs within 1 to 2 weeks. For those with substantial needs the response time will be longer and those with moderate or low needs who do not meet the criteria for Occupational Therapy/ Social Care services will receive information and advice and be signposted to other services.

Where the suitably qualified person has assessed needs and is supporting an adaptation a 'Recommendation for a Permanent Adaptation' will be completed within 5 working days of completion of the assessment. Applications relating to the installation of a standard amenity or structural alterations will be processed through a 'Managed Service' operated by Assisted Living, a division of City Building LLP. Where the application relates to the installation of a stairlift this will be processed through DRS Housing and Regeneration Services (Private Sector) but delivered through the Equipu service.

2.3 Eligible Needs

2.3.1 Critical Risk Assessment and Grant Assistance

Where an applicant whose needs has been assessed as critical and the works are in relation to the provision of a *standard amenity or essential structural work which will facilitate other permanent changes to an existing house, Glasgow City Council will offer a mandatory grant of 80%, irrespective of income, towards the approved cost of the work. **However, this will not include work to extend any structure to create additional living accommodation or work to create living accommodation in a separate building from the current living accommodation.**

*** Standard amenities are defined as:**

- a sink provided with a satisfactory supply of both hot and cold water within the house
- a water closet or waterless closet available for the exclusive use of the occupant of the house and suitably located within the house; and
- a fixed bath or shower and wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the house.

If you are in receipt of any of the following income replacement benefits, then you will receive 100% of the approved costs in relation to a critical application.

- income support
- income based jobseeker's allowance
- pension credit (guarantee element)
- employment support allowance (income related)

Please note that these benefits will be subject to change following the introduction of Universal Credit through Welfare Reform and you should check with DRS Housing and Regeneration Services for clarification.

Only the approved cost of the element of work covered by the critical assessment will be funded. If an applicant wants additional improvement works such as the provision of living accommodation or to enhance the works specification, then the applicant will require to meet this additional cost in full.

All adaptation works described above are currently carried out by Assisted Living, a division of City Building LLP. Applications are processed through a 'Managed Service' which consists of City Building working in partnership with DRS Housing and Regeneration Services and Glasgow City Health & Social Care Partnership.

Where a stairlift is required (critical risk), applications will be processed by DRS Housing & Regeneration Services (Private Sector) and delivered through the Equipu service at no cost to the applicant.

2.3.2 Substantial Assessments

Applicants whose needs have been assessed as 'substantial' by a suitably qualified person will be advised on the availability of funding. If funding is available applications will be processed in accordance with 2.3.1 above. Where funding is not currently available applicants will be given further advice and information regarding timescales. If necessary the council will signpost owners to any other relevant agencies which may be in a position to offer financial advice.

2.3.3 Moderate & Low Assessments

Grant funding will not be available for applicants whose needs have been assessed as moderate or low risk. Those applicants will be referred to the Glasgow Care and Repair Service for further support and assistance or signposted to any other relevant agencies which may be in a position to offer financial advice.

2.4 Alternative Housing Options

Where there is a feasible alternative to carrying out adaptation works which could provide a better housing solution then this will be considered and fully discussed with the applicant. Where the cost of carrying out adaptations is high, the council will give advice on alternative housing options or offer financial assistance to the applicant to move to a more appropriate property. If adaptation works are still required to the new property then the total cost of any financial contribution must be considered reasonable.

2.5 House Extensions other than those required to install a standard amenity (standard amenities are defined above)

As a result of the limited resources available and in recognition that property extensions will normally add to the value of a house, the council will only provide mandatory grant assistance in line with 2.3.1 above i.e. grant will only be available for the provision of standard amenities if additional bathroom facilities cannot be provided within the existing property. Funding for property extensions will only be considered where all other options have been dismissed. For example, moving to a house which is more suitable for the applicant's needs or altering the existing internal layout of an applicant's property. **Owners will be required to fund additional living accommodation such as a bedroom from their own resources.**

2.6 Assistance with Reinstatement Works

Information and advice will be provided to private tenants and their landlords for the reinstatement of any property which has previously been adapted.

Where a landlord has consented to the adaptation of a property but has placed a condition requiring its reinstatement in terms of S.52 (5) (b) of the Housing (Scotland) 2006 Act, the council will expect the landlord in the first instance to seek a new tenant who can make use of the adaptation. Failing this, the council will meet the cost of reinstatement works in relation to any adaptation which reduces the landlord's ability to let the property. For example, a wet floor shower is perfectly acceptable for most people to use and so financial assistance would not be provided, whereas financial assistance may be offered for reinstatement of a standard WC in place of a non-standard WC.

The council will not fund re-instatement works in owner occupied properties.

2.7 Care and Repair

The Glasgow Care & Repair Service assists home owners aged 65 or over and people with disabilities, with no adult family living with them, to organise repairs to their property. This assistance generally comprises identifying defects, obtaining quotations for the work involved and liaising with the contractor and client throughout the course of the work. The service will also assist owners with a disability to adapt their homes. (This is likely to be applicable to applicants whose needs have been assessed as moderate or low risk). It also provides a Handyman Service giving practical help with small repairs and tasks around the home that owners may find difficult to carry out. The services are free, although there may be a charge for materials. Also available, is a Home from Hospital service which provides practical assistance to prepare the homes of patients aged 65 or over for their discharge from hospital. The service is designed to support older people returning from hospital as a matter of urgency after receiving treatment, making sure that the environment they are returning to is safe and secure. Contact details for the Glasgow Care and Repair service are included in Appendix 1.

3. HOUSE CONDITION WORKS



3. HOUSE CONDITION WORKS

Glasgow City Council will provide information and advice to owners and tenants in private housing who are requiring assistance with repair works. In certain circumstances this may extend to practical assistance and resources permitting financial assistance may be available to assist owners carrying out common repair works identified within Section 1.4.

3.1 Information

A variety of sources of information are available in the form of leaflets, booklets, and on our web-site.

- Information on property maintenance including the repair and adaptation of properties.
- Legislation impacting on common repairs
- Information on the role and remit of property managers, responsibility for repairs and maintenance with reference to Title deeds and legislation impacting on tenement properties.
- Local awareness campaigns
- Targeted information for house purchasers, estate agents, lenders and builders.

A list of other websites providing more detailed information on repair issues can be found in **Appendix 2**. This information will be updated on a regular basis.

If you require information to be translated or interpreted, and to be made available in alternative formats, such as audio, please contact DRS Housing and Regeneration Services.

3.2 Advice

This includes:

- locally available advice provided by the local authority or its partner agencies
- national advice sources
- broad advice on the repair options available including how to organise a repair scheme
- talking to residents or attending owners meetings when requested
- advice on energy efficiency measures currently available

Glasgow City Council cannot give legal or financial advice but can signpost people to where this type of advice can be found.

3.3 Assistance

3.3.1 Practical Assistance offered by the Council – Common Repairs

All forms of practical assistance will be considered with the aim of helping owners undertake common repair works on a voluntary basis. The most common forms will include writing out to owners, liaising with factors/property agents and arranging owners' meetings.

Should owners be unable to carry out the works themselves, the information gathered as part of this process may then be utilised by the Council in any resultant enforcement action (Refer to Section 4 below).

3.3.2 Practical Assistance offered by the Council – Empty Homes

Where a report of an empty property is received then this will be investigated. This would involve inspecting the property, identifying the owner(s) and then contacting them with the aim of bringing the property back into use. Information and advice will be provided to owners on the options available. Owners can also contact the Scottish Empty Homes Partnership (Shelter Scotland) for advice (see Appendix 1 for contact details).

Where an empty property is causing public health issues or is regarded as a danger to the public then this will be investigated by the appropriate council service.

The council also offers incentives through its pilot Mortgage Guarantee Scheme.(see 1.5).

3.3.3 Practical assistance offered through a partner organisation:-

- **Factors or property managers**, can organise and co-ordinate repair and maintenance works on behalf of owners.
- **Registered Social Landlords** who may be able to take on factoring services, acquire properties and offer advice on property management.
- Where factoring services are being promoted this will include common building insurance.
- **Glasgow Care and Repair** helps owner occupiers aged 65 or over and people with a disability, living within the city boundary, and with no adult family living with them, to arrange repairs, improvements or adaptations to their home.
- **Landlord Accreditation Scotland (LAS)** is a voluntary scheme by which landlords and letting agents can assure tenants that the tenancy arrangements they have in place adhere to the high standards outlined in the Scottish Core Standards for Accredited Landlords. LAS provides access to support, information and landlord training in all aspects of managing residential property in Scotland.

3.4 Financial Assistance

This will always be subject to the availability of sufficient financial resources.

Owners have a number of potential sources of finance for house condition works:

- 1) owners' own financial resources such as savings;
- 2) loans (normally secured on the property)
- 3) grants from the Council or other agencies.

Where grant assistance is available from DRS Housing and Regeneration Services it will be targeted in accordance with the priorities listed in 1.4 above, and will be based on approved costs.

3.4.1 Loans

A range of loans may be available to owners to help finance works to their houses:

- **Commercial loan products.** In many circumstances these may provide a satisfactory solution. An owner's existing lender will often be prepared to make a further advance against home improvements or repairs, especially where these safeguard the value of the property which is the security for the original loan.
- **Equity loans:** Owners may have equity in their property which can be released. Check commercial banks or for Scottish Government backed schemes
- **Glasgow Credit Union** Glasgow Credit Union is prepared to consider applications for loans to pay for home repairs and improvements.
- **Energy Efficiency Loans** A small interest free loan scheme of up to £1,500 to install energy efficiency measures into a property. This can include putting insulation into a property or the installation of an energy efficient boiler. This is administered by the Wise Group on behalf of the Council. The Scottish Government also administers an interest free loan scheme of up to £15,000 for installing a variety of measures such as solid wall insulation, double glazing or a new boiler. Contact the Energy Savings Trust for further details. Please note that both schemes are likely to be subject to change.

The assessment of loans is a specialised process and should only be carried out by suitably qualified individuals. In particular, equity release products are complex and specialist advice is required before any such product is taken out.

Under no circumstances will Glasgow City Council staff recommend any type of loan product but simply point out the various options which may be available and advise the applicant to seek

professional guidance from an Independent Financial Adviser. Information on how to find a Financial Adviser can be obtained from the Financial Conduct Authority (FCA) website www.fca.org.uk or helpline 0300 500 8082

The Council does not offer loans for repair works under the 2006 Housing (Scotland) Act.

3.4.2 Grants for Fabric Repair

Subject to the availability of funding, financial assistance for common fabric repair works will only be available to owners where they carry out the works on a voluntary basis and where the council's strategic priorities are being met.

3.4.3 Large Scale Repairs

In the first instance, where owners are willing to participate on a voluntary basis, financial assistance will be directed towards priority areas above and towards those properties detailed in 1.4(3) above which have appropriate property management arrangements in place. In order to secure grant funding owners will require to appoint a property factor for their building and demonstrate that they have a current buildings insurance policy in place. Priority will be given to those properties where there is a common block buildings insurance policy in place.

Repair costs under £5,000 (per owner) will not be eligible for grant assistance and all applicants regardless of status and financial circumstances will be expected to at least meet this cost in full.

- **Owner Occupiers (sole or main residence)**
 - Owner-occupiers may be eligible for grant assistance at the rate of 50% on approved costs over £5,000. (Owners will be expected to pay in full the first £5,000 of their share of common repair costs). The rate of grant may be increased up to a figure which is unlikely to exceed 70% of approved costs in exceptional circumstances, on costs over £5,000, where DRS Housing and Regeneration Services is actively targeting the repair of properties within a priority area (this will normally involve working in partnership with a Registered Social Landlord) and where the owner can demonstrate hardship (eg on a passported benefit) and where financial resources permit.
- **Private Landlords**
 - A landlord will be deemed as any person who lets out his/her property under a tenancy and receives rental income. (Where the owner lets the property to an immediate family member and no tenancy arrangement is in place or rent is charged and the property is not sub-let, then for the purpose of grant consideration would be treated as an owner/occupier).
 - Landlords may be eligible for grant assistance where the following criteria are met;
 - Where required the landlord and property are registered with the Private Landlord Registration Unit and no prosecutions/enforcement action are pending in relation to their registration nor must the property be subject of a Repairing Standard Enforcement Order served by Private Rented Housing Panel.
 - Where appropriate the landlord and property must be licensed as a House in Multiple Occupancy and no prosecutions/enforcement action are pending in relation to their licence.

Landlords may be eligible for grant assistance up to a maximum of 50% on approved costs over £5,000. (Owners will be expected to pay in full the first £5,000 of their share of common repair costs) and where their co-operation is essential to enable major tenement repair works to be carried out on a voluntary basis and where the strategic aims of the Council are being met.

- **Commercial Proprietors**
 - Where a commercial premise is situated within a tenement building and is responsible for a share of the common repair costs, owners or tenants on a full repair and insuring lease may be eligible for grant assistance up to a maximum of 50%, on the same basis as landlords. Only in exceptional circumstances will larger businesses be eligible for consideration i.e. in addition to the above where they have to pay a disproportionate share of the common repair costs.
- **Other than in exceptional circumstances, the maximum grant payable to an owner in any work programme will be £50,000.**

3.4.4 Small Scale Repairs

Subject to the availability of financial resources DRS Housing and Regeneration Services will offer owners financial assistance to undertake small scale repairs to their property where this will facilitate the appointment of a factor and owners agree to taking on a common building insurance policy for their property. A 50% contribution may be available towards the costs of small scale common repair works (normally up to a maximum repair cost of £2,000) where owners agree to the above conditions and carry out the works on a voluntary basis. Similarly, a financial contribution at the same level and on the same basis may be considered where;

- this encourages owners in self-factored tenements to put a maintenance plan in place for their property
- this enables owners to take advantage of Home Energy Efficiency Programme funding (or similar type funding) and necessary small scale common repair works require to be carried out at the same time.

In priority areas the maximum approved expense limit will vary.

3.4.5 Other Works which may be eligible for grant funding

Low Cost Energy Efficiency Measures

Improving the energy efficiency of the existing housing stock is a key national priority which is linked to action on fuel poverty and affordable warmth. The Council will continue to work actively to identify areas and buildings which are least energy efficient and/or most at risk of fuel poverty and will promote energy efficiency works.

Where financial assistance is being made available for major repair works, we will encourage owners to take advantage of energy efficiency measures which may be available for their property which will contribute to carbon reduction targets for the city and help to reduce fuel poverty. For the purposes of grant, energy efficiency measures deemed appropriate for the type of property involved will be treated in the same way as other works.

The Council will also prioritise projects for funding which can lever in additional financial contributions from the Utility Companies and Scottish Government schemes in relation to energy efficiency works aimed at reducing carbon emissions.

Lead Pipes

Lead pipe replacement works will be included within larger repair projects where grant is given by the Council.

A grant at the rate of 50% of approved costs will be available to all other residential properties to replace lead piping from the toby in the street to the cold water drinking supply pipe in the kitchen. Owner/occupiers will automatically qualify for the 50% while landlords may be offered grant at a lower rate. Grant would not be considered just to remove lead pipes internally in a property if the external pipes bringing in the cold water supply are still lead lined. This also applies in tenement buildings.

3.4.6 Conditions of Grant Assistance:

Grant assistance will be given subject to the following conditions, which will apply to the house for ten years from the date on which, in the Council's opinion, the works have been completed satisfactorily :-

- (a) the house shall not be used for purposes other than those of a private dwelling-house, but a house shall not be deemed to be used for purposes other than those of a private dwelling-house by reason only that part thereof is used as a shop or office, or for business, trade or professional purposes;
- (b) the house shall not be occupied by the owner or a member of his family except as his only or main residence within the meaning of Part VII of the Taxation of Chargeable Gains Act, 1992 ;
- (c) all such steps as are practicable shall be taken to secure the maintenance of the house in a good state of repair
- (d) the owner of the land or premises must, if required to do so by the local authority, certify that conditions (a) to (c) are, in so far as they apply, being observed.

Where grant has been paid, the Council will arrange for a Notice of Payment of Grant to be recorded with the Registers of Scotland, the cost of which is included within the legal/administration charge deducted from the grant award.

Owners may at any time within the period of ten years be required to certify that these conditions are being observed.

In accordance with Section 86 (1) of the Housing Scotland Act (2006) where it is deemed that the grant conditions have been breached within the ten year period, the whole grant amount will require to repaid together with interest, which will accrue from the date of the final grant payment.

Any person wishing the local authority to discharge the grant conditions within the ten year period for any other reason eg to facilitate a property sale will require to repay the grant as above.

In recent years some lenders have raised concerns where Notices of Payments have been recorded. **Appendix 3** provides an advice Note from the Property Law Committee on the subject following detailed discussions between the Scottish Government and Council of Mortgage Lenders.

4. ENFORCEMENT ACTION



4. ENFORCEMENT ACTION

Enforcement action is a last resort and is subject to the availability of financial resources. The Council wants to work with owners to improve the condition of private housing in the city through the repair and maintenance of the stock. If the Council has identified a project as a strategic priority and owners agree to take part, financial assistance may be provided as set out in this Statement.

However, in instances where all or some owners do not agree to participate to repair or maintain their properties on a voluntary basis, the Council may require to take enforcement action in terms of the powers it has available under the Housing (Scotland) Act 2006. Where DRS Housing and Regeneration Services is required to carry out works on a statutory basis or underwrite owners costs in full to facilitate repairs, **grant assistance will not be available to the owner**. The only exception to this being where ground consolidation works are required and will impact on several tenement properties. Due to the highly specialised nature of the work required and the high number of owners likely to be affected the Council would not anticipate this work being carried out on a voluntary basis.

4.1 Work Notices

The Council may serve Work Notices in terms of Section 30 of the Housing (Scotland) Act 2006 where it considers a property to be sub-standard and the owners are failing to address issues of disrepair.

After a Works Notice is issued by the Council and the timescales set out in the Notice are not complied with, the Council may carry out the works in default or empower other parties such as a factor or agent to carry out the works.

In such circumstances, the Council will underwrite the costs for those owners who are unwilling or are unable to participate in the works and pursue them for recovery of their full share of the costs on completion of the works plus an additional charge of 15% to cover all professional and administrative expenses,.

4.1.1 Ground Consolidation Works

Where shallow mine workings have been identified which could be classed as minerally unstable and could have a structural impact on residential dwellings, the Council may recommend that ground consolidation works are necessary. Due to the specialised and complicated nature of the works it is envisaged that the Council will carry this work out on a statutory basis which will necessitate the service of Work Notices on all property owners affected. In such exceptional circumstances the Council may offer grant assistance, subject to the availability of financial resources, at the rate of 50% of the approved cost of works.

4.1.2 Small Scale Section 30 Repair Works

Where owners through their property factor approach the Council for assistance in connection with small scale common repair works required to their property, the Council will provide assistance by writing out to all of the owners and to highlight the works which are required and to encourage them to carry out the necessary common repairs on a voluntary basis. Where there is a property factor in place and he/she is unable to secure the support from a majority of owners to proceed with the works, the Council may intervene by serving of Section 30 Work Notices on those owners in order to facilitate the repairs and to prevent the works escalating into something more serious and therefore more costly to remedy. If the council is required to underwrite the costs for those owners who are unwilling or are unable to participate in the works, those owners will be pursued for recovery of their full share of the costs on completion of the works plus an additional charge of 15% to cover all professional and administrative expenses.

4.1.3 Payment of Missing Shares (Section 50 Housing (Scotland) Act 2006)

Where the majority of owners within a property in common ownership agree to undertake common repair/maintenance works, the Council may pay the missing shares of the minority who are unwilling or unable to participate. Where appropriate, monies will be paid into a maintenance account to facilitate the works and the Council will subsequently pursue these owners for recovery of their full share of the costs on completion of the works plus an additional charge of 15% to cover all professional, administrative and legal expenses. Priority for funding will be given to those properties which are factored.

4.2 Maintenance Orders/Maintenance Plans

For tenement properties in common ownership and in need of maintenance the Council may request that owners put a maintenance plan in place. Where owners fail to maintain their properties the Council may serve Maintenance Orders under Section 42 of the Housing (Scotland) Act 2006 and appoint a managing agent to prepare the necessary maintenance plan which will be put in place for a period for up to 5 years. The council will prioritise properties in designated priority areas which have been the subject of previous financial investment by DRS Housing and Regeneration Services in relation to property repairs and properties which could fall into a state of disrepair if maintenance works are not carried out.

A maintenance account would be set up by the Agent which owners will be asked to contribute to on a monthly/quarterly basis. The maintenance plan will highlight the works to be carried out on an annual/bi annual basis or which require ongoing maintenance throughout the year. Where owners fail to pay into the maintenance account the Council will cover the cost of their shares via the Missing Shares process and pursue the owners for these costs, plus an additional charge of 15% to cover all professional and administrative expenses.

4.3 Housing Renewal Areas

Under Part 1 of the Housing (Scotland) Act 2006 a local authority may by order designate any locality in its area as a housing renewal area (HRA) if it considers:

- a) that a significant number of the houses in the locality are sub-standard or
- b) that the appearance or state of repair of any houses in the locality is adversely affecting the amenity of that locality.

A house is sub-standard as defined under Section 68 (i) of the Housing (Scotland) Act 2006 if it –

- does not meet the tolerable standard
- is in a state of serious disrepair or
- is in need of repair and, if nothing is done to repair it, it is likely to:
 - (i) deteriorate rapidly into a state of serious disrepair, or
 - (ii) damage any other premises.

Before designating a HRA the council will consider all other means of improving the area to a satisfactory standard which will include the offer of financial assistance, subject to availability, to support and encourage owners to carry out the works on a voluntary basis. The use of alternative statutory powers will also be considered.

When determining whether any houses are adversely affecting the amenity of the area appropriate evidence will be gathered and a wide range of factors will be taken into account. The residents in the proposed HRA will be consulted to ensure that interventions by the council are appropriate and before any Action Plan is implemented. The council may appoint a partner organisation such as a Registered Social Landlord (RSL) to carry out works identified under an action plan and to effect a programme of planned maintenance, if required, post works.

Where the Council designates a HRA works will be facilitated through the service of Work Notices.

4.4 Repayment Charges

Where enforcement action has been taken and the council has required to underwrite owners' repair costs, on completion of the works the council will issue an account to those owners for their full share of the cost plus the additional 15% charge. Should owners fail to pay within the stipulated timescale, their debt will immediately be secured via a Repayment Charge against their property. This is a first ranking security which will incur additional legal fees and interest on the account which will be applied at a variable rate determined by the Council. This also applies to commercial properties if they form part of the tenement property which is the subject of common repairs work.

4.5 Below Tolerable Standard (BTS) Properties

The tolerable standard is a condemnatory standard; a house that falls below this standard is not considered acceptable as living accommodation. The Tolerable Standard is set out in the Housing (Scotland) Act 1987 with amendments being made under the Housing (Scotland) Act 2001 and Housing (Scotland) Act 2006.

Under Section 85(1) of the Housing Scotland Act 1987 local authorities have a duty to ensure that all houses in their area, regardless of tenure, which do not meet the tolerable standard are closed, demolished or brought up to the tolerable standard within such period as is reasonable in all circumstances.

In accordance with the Council's BTS policy properties in the worst condition will be targeted for the action as follows:

- Encouraging owners, by offering advice and practical assistance, to maintain their properties and carry out necessary works on a voluntary basis to bring their property up to the tolerable standard.
- Provide financial assistance, subject to the availability of funding, in the most exceptional of circumstances to owner/occupiers only. This may include :
 - First time installation of standard amenities bath or shower /WC/WHB/Hot and Cold water supply.) Priority will be given to support an elderly or vulnerable person to remain in their house. **Applications in this category would require the support of Glasgow Care and Repair.**

Financial assistance will not be considered where an owner is looking to replace existing amenities or re-instate amenities which have been removed from the property.

BTS failures will be tackled where a property has been declared sub-standard and is subject of a Work Notice.

The Tolerable Standard criteria are attached at **Appendix 4**

4.5.1 Closing Order

The local authority may serve a closing order under Section 114 of the Housing (Scotland) Act 1987 prohibiting the use of the house for human habitation. A closing order shall have effect from such date as may be specified in the order, not being less than 28 days from the date on which it comes into operation.

Where a property is found to be BTS and the owner is unwilling or unable to bring the property up to the required standard then the Council is likely to pursue this course of action.

4.5.2 Demolition Order

The Council may serve a demolition order under Section 115 of the Housing (Scotland) Act 1987. This would only be considered for a stand-alone property and would not be considered for a flat with common ownership.

4.6 Enhanced Enforcement Areas

In terms of Section 28 of the Housing (Scotland) Act 2014 a local authority can apply for additional discretionary powers to enable it to target enforcement action at an area characterised by poor house conditions in the private rented sector and can apply to the Scottish Ministers for an area to be designated as an Enhanced Enforcement Area (EEA) where it considers the area to

- (1) have an overprovision or a concentration of private rented housing that appears to the local authority to be –
 - (a) of a poor environmental standard,
 - (b) overcrowded, and
- (2) a prevalence of antisocial behaviour, as defined by section 81(4) of the Antisocial Behaviour etc. (Scotland) Act 2004

The designation will last for a period of five years.

Where the council seeks to designate an EEA we will work with landlords to improve standards in the private rented sector in terms of property management and property condition. Enforcement action will be taken where landlords fail to register with the Landlord Registration Scheme or where there are genuine concerns regarding their fit and proper status.

4.7 Third Party Reporting

Where the council is satisfied that a landlord has failed to meet his/her duty to their tenant(s) in terms of the repairing standard they can refer the matter to the Private Rented Housing Panel (PRHP) for consideration. Tenants are however encouraged to complain direct to the PRHP where they are unable to resolve issues of disrepair/ defective appliances with their landlords. The PRHP can be contacted at:

Private Rented Housing Panel
Europa Building
450 Argyle Street
Glasgow G2 8LH

Telephone: 0141 302 5900
Fax : 0141 302 5901
Website : <https://www.prhpscotland.gov.uk/>

APPENDICES

APPENDIX 1: CONTACT DETAILS OF USEFUL ORGANISATIONS

Development and Regeneration Services
Housing & Regeneration Services (Private Sector)
Glasgow City Council
Exchange House, 2nd Floor
231 George Street
Glasgow
G1 1RX

Telephone 0141 287 8427/ 8531/ 8593
E-mail: enquiryphg@drs.glasgow.gov.uk

Alternatively, visit the webpage
<http://www.glasgow.gov.uk/informationforhomeowners> .

Development and Regeneration Services
Planning and Building Control Services
Glasgow City Council
Exchange House, 1st Floor
231 George Street
Glasgow
G1 1RX

Website – <http://www.glasgow.gov.uk>

Planning

For information on planning consent/guidance etc

Telephone 0141 287 6060 (9.00am- 1.00pm)
Email- planningenquiry@glasgow.gov.uk

Building Control

Building Control and Public Safety is charged with the responsibility of enforcing the requirements of Section 29 of the Building (Scotland) Act, 2003 with regard to dangerous buildings.

Building Control Services will immediately investigate a report of a dangerous building. An "Emergency Call-Out" service is available 24 hours/day 7 days a week.

Office Hours:

Phone: 0141 287 8555

Outwith Office Hours:

Phone 0845 270 1558

Email – building.control@drs.glasgow.gov.uk

Glasgow City Health and Social Care Partnership

Referrals for disabled adaptation works.

Social Care Direct, Glasgow City Council, PO Box 26845, Glasgow
Tel 0141 287 0555.
Email socialcaredirect@glasgow.gov.uk

City Building LLP

City Building LLP, Assisted Living, 350 Darnick Street, Glasgow G21 4BA

Tel: 0141 287 3023 / Fax: 0141 287 1612

Email: AssistedLiving@citybuilding.glasgow.co.uk

Equipu Service - <http://www.cordia.co.uk/>

For information on stairlifts / hoists disabled adaptations.

Baillieston Distribution Centre
Units 17-20
Nurseries Road
Baillieston G69 6UL

Tel - 0845 270 2246
www.equipu.org.uk

Environmental Health

Phone: 0845 270 1558
E-mail: public.health@eps.glasgow.gov.uk

Glasgow City Council investigates allegations of the existence of statutory nuisances. A number of these are outlined below:

- The Public Health Unit will investigate complaints relating to water penetration/dampness in housing.
- Public Health Unit will investigate reports of defective drainage within private property under the Sewerage (Scotland) Act 1968. The works could be carried out in default and costs recovered from owners.
- The Public Health Unit has powers to inspect houses where there are complaints of unsanitary conditions and reports of vermin.

Glasgow Advice and Information Network (GAIN)

GAIN is a network of agencies that give free, confidential and impartial debt advice, and is funded by Glasgow City Council. It includes voluntary agencies, citizens' advice bureau, legal, housing and independent money advice agencies. GAIN can give advice on a wide range of financial issues including debt, money management, benefits advice, and housing issues as well as providing free legal advice. The advice given is impartial, completely confidential and is, absolutely free.

They have a website at: www.gain4u.org.uk

Independent Financial Adviser

You can get information on how to find a financial adviser from The Financial Conduct Authority (FCA) from their website www.fca.org.uk or by phoning their consumer helpline on 0300 500 8082.

Care & Repair

Glasgow Care & Repair Service, Southside Housing Association, Southside House, 135 Fifty Pitches Rd, Glasgow, G51 4EB

Tel: 0141 433 2749 Fax: 0141 433 2798

<https://www.glasgow.gov.uk/index.aspx?articleid=6722>

Glasgow Care and Repair Service helps owner-occupiers aged 65 or over living within the City boundary to arrange repairs, improvements or adaptations to their home so that they can live in comfort and safety.

The service is available to owners who have no adult family living with them. It provides eligible owners with free advice and assistance in obtaining quotations from reputable contractors and can also help people access grants from the Council towards the cost of undertaking the work, where applicable.

Glasgow Care and Repair service gives priority to properties in most need of attention and householders in greatest need, including:

- those who are aged 65 or over
- living in unsatisfactory housing conditions
- people in poor health or with a disability.

Home Energy Scotland

Home Energy Advice Scotland Centre

Tel: 0800 808 2282

Email: sustainable_energy@thewisegroup.co.uk

Your nearest Home Energy Scotland Advice Centre offers free, impartial and expert advice on how you can save energy, cut your carbon dioxide emissions and help fight climate change.

Based in your area they can:

- Provide a personalised home energy report, showing the best energy saving measures for your home
- Let you know about grants and offers available in your area for home energy improvements
- Put you in touch with local professional installers
- Advise you about cleaner cars, cleaner fuels and ways you can cut your fuel consumption and air pollution when driving
- Advise you on choosing micro-generation technologies
- Advise you on sourcing energy efficient appliances for your home

Home Energy Efficiency Programme for Scotland: National Schemes provide measures to support those likely to have difficulty paying their fuel bills or keeping their home sufficiently warm.

The Energy Savings Trust manages delivery of the Affordable Warmth and Energy Assistance Schemes through the Home Energy Scotland hotline on behalf of the Government. To find out what they can offer you, telephone the hotline on 0808 808 2282 or visit the Home Energy Scotland Website:

<http://www.energysavingtrust.org.uk/scotland/domestic/grants-and-support/home-energy-scotland>

Glasgow Home Energy Advice Team (G-HEAT)

G.Heat assists Glasgow City Council in its strategic aim of eliminating Fuel Poverty. (Fuel Poverty exists where a householder has to pay more than 10% of their disposable income on energy for the home).

The service provides independent advice on energy related issues to all householders, regardless of tenure, on a face to face basis, in their homes which is one way in which fuel poverty can be mitigated or reduced. The service will target householders who having difficulty in keeping their home warm at an affordable cost, helping to reduce fuel bills and make more effective use of the money they spend on fuel

G-HEAT has been developed through a Partnership arrangement between:

- Glasgow City Council
- The Scottish Federation of Housing Associations
- The Glasgow and West of Scotland Forum of Housing Associations
- Glasgow Advice and Information Network (GAIN) and
- The Wise Group

Householders requiring an energy assessment can contact G-Heat at:

Telephone No.: 0800 092 9002

Email: g-heat@thewisegroup.co.uk

Community Safety Glasgow **<http://www.communitysafetyglasgow.org>**

Community Safety Glasgow provides a wide and varied range of services, including:

- Community Safety
- Restorative Justice
- Safety Education
- Antisocial Behaviour Services

Contact: 722 London Road
Glasgow G40 3AQ

Telephone: 0141 276 7400

Email – commsafetycustomersupport@glasgow.gov.gov.uk

Private Landlord Registration

Housing & Regeneration Services, Exchange House, 231 George Street, Glasgow G1 1RX

Freephone: 0800 027 0414

Email: privatelandlordregistrationunit@glasgow.gov.uk

The Antisocial Behaviour Act 2004 requires local authorities to establish and maintain a register of private landlords and letting agents. As of 1st May 2006 it is an offence to own and let property without being registered with the appropriate Local Authority.

This means landlords and their agents will have to register with the Council if they own or let houses in the area, and give a list of the addresses of all of the houses they let.

It should be stressed that Registration does not exempt landlords from their statutory obligations in relation to the condition of the houses, health and safety (including fire safety), and welfare of their tenants. Failure to comply with all legal requirements may affect the outcome of an application for registration or may result in registration being revoked.

Glasgow Credit Union

Glasgow Credit Union, 95 Morrison Street, Glasgow, G5 8BE
Tel: 0141 274 9933 / Fax: 0141 420 6475
Email: office@glasgowcu.com

The Credit Union is a financial cooperative owned and run by its members. It is run on a 'not for profit' basis. Every Credit Union must have a 'common bond'. Glasgow Credit Union's 'common bond' services everyone living or working within the G postcode area.

The aim of the credit union is to encourage members to save and give them access to borrowing at reasonable rates of interest.

Further information on their services can be found on their website www.glasgowcu.com

Glasgow City Heritage Trust

Glasgow City Heritage Trust, 54 Bell St, Glasgow, G1 1LQ
Tel: 0141 552 1331 / Fax: 0141 552 6161
Email: info@glasgowheritage.org.uk

Building Repair Grants: The purpose of Glasgow City Heritage Trust's Building Repair Grant programme is to help preserve and enhance the unique character of the built environment within Glasgow's twenty-one conservation areas.

Eligible works: Listed and unlisted buildings within the city's conservation areas are, in principle, eligible for grant assistance from Glasgow City Heritage Trust for a variety of repair, restoration and reinstatement works. Works of a maintenance nature are not eligible.

Grants are limited to the external envelope of the building, though may include a building's setting (for example, boundary walls) or communally-owned spaces such as back lanes or gardens.

Heritage and Design

Heritage and Design, Development & Regeneration Services, Glasgow City Council, Exchange House, 231 George Street, Glasgow G1 1RX
Phone: 0141 287 8635

The Heritage and Design team, part of the Design and Environment Group, is the Council's specialist resource on a wide range of design issues providing advice, devising policy and delivering projects. Advice is available to residents, building owners and others in relation to design matters and conservation issues.

Landlord Accreditation Scotland

Improving management practices in the private rented sector

Hopetoun Gate
8B McDonald Road
Edinburgh EH7 4LZ

Tel 0131 553 2211
Email info@landlordaccreditationscotland.com

Scottish Empty Homes Partnership



Scotiabank House, 6 South Charlotte Street, Edinburgh, EH2 4AW
T: 0344 515 2461;
Web page: http://scotland.shelter.org.uk/housing_issues/more_homes/empty_homes

Empty Homes Advice Service – 0344 515 1941 or emptyhomes@shelter.org.uk

Property Managers Association Scotland (PMAS)

Affiliated body for property factors.

Contact address: 302 St Vincent Street
Glasgow G2 5RZ

Telephone: 0141 248 3434
Website: <http://www.pmas.org.uk/contact>

APPENDIX 2:

USEFUL WEBSITES / INFORMATION Re. MAINTENANCE AND REPAIR

Glasgow City Council – Advice for home owners

<https://www.glasgow.gov.uk/index.aspx?articleid=18321>

Under One Roof Scotland

<http://www.underoneroof.scot/>.

Historic Scotland – Short Guide - Maintaining Your Home

<http://www.historic-scotland.gov.uk/maintaining-your-home.pdf>

**Common Repair, Common Sense: A Short Guide to the Management of Tenements in Scotland
2nd Edition**

<http://www.gov.scot/Resource/0041/00417200.pdf>

Scottish Government Guidance - Management and Maintenance of Common Property

<http://www.gov.scot/Publications/2005/2194749/47514>

Shelter Scotland – Responsibility for Repairs and Maintenance in Common Areas

<http://www.scotland.shelter.org.uk/>

The Energy Savings Trust

<http://www.energysavingtrust.org.uk/scotland/>

Information about GHA factoring services is available at the website: Your Place Property
<http://www.your-place.net>

The Housing (Scotland) Act 2006 is available in full on the web at

<http://www.statutelaw.gov.uk/Home.aspx>. The Explanatory Notes and Policy Memorandum explaining the thinking behind the Act are available on the Scottish Parliament website at <http://www.scottish.parliament.uk/business/bills/40-housing/index.htm>

The Housing (Scotland) Act 2014 is available in full on the web at

<http://www.legislation.gov.uk/asp/2014/14/contents/enacted>

The Explanatory Notes are available on the Scottish Parliament website at http://www.legislation.gov.uk/asp/2014/14/pdfs/aspn_20140014_en.pdf

Appendix 3 – Advice Note Property Law Committee

Notices of Improvement and Repair Grants

This Advice Note was drafted by the Property Law Committee in consultation with the Scottish Government and the Council of Mortgage Lenders (“the CML”)

Introduction

When local authorities in Scotland provide financial assistance to homeowners to assist with adaptation, repair or improvement of their home, they tend to file a Notice of Payment of Grant (a “Notice”) with the Registers of Scotland. These Notices are statutory in their form and are based on provisions contained in the Housing (Scotland) Act 2006. The grant monies tend to be relatively small in relation to the value of the property and are non – repayable provided the property is used as a dwelling-house, used as a principal residence and maintained in good order.

If required to do so by the Local Authority, the homeowner must certify that the conditions are being observed (insofar as they still apply). The Notice transfers with the property when it is sold. At the end of the period of grant, the Notice is no longer enforceable. It is rare for a Local Authority to seek repayment and it will only be in circumstances where the Local Authority can prove that the conditions of the Notice have been breached, that they will do so. With the consent of the Scottish Ministers, local authorities can suspend or disregard a breach in the conditions if the owner is not at fault.

Disclosure requirements under the CML Handbook

Solicitors are bound by the terms of Clause 6.13 of the CML Handbook:

6.13.1 Where the property is subject to an improvement or repair grant which will not be discharged or waived on settlement, check **part 2** to see whether you must report the matter to us.

This will normally involve reporting the existence of a Notice to the lender.

Attitude of some lenders

Some solicitors report that the lender has sought to have the borrower repay the grant because it regards the Notice as a prior charge against the property. This has obstructed the progress of loans secured against properties subject to a Notice. As an alternative, some lenders request that a ranking agreement be entered into to preserve the lender’s first-ranking status.

The Scottish Government’s Response

In 2013, the CML was contacted by the Scottish Government on behalf of the Deputy First Minister who has had the issue raised directly with her. The Scottish Government is concerned about the potentially adverse impact on the workings of the Notices system.

Legal constitution of Notices

A Notice does not constitute a heritable security over the property as the only way to create a heritable security over land in Scotland since 1970 has been by way of a Standard Security. The Notice only becomes a charge upon default and, provided there is no default, it will never legally be treated as a charge and does not meet the criteria to become a Standard Security. Therefore the Lender will still receive a "First Charge" over the property.

Registers of Scotland ("the Keeper")

The Keeper shows Notices of Payment of Improvement/Repairs Grant in Section C (the Charges section) of the Land Certificate in accordance with provision 6(1) (b) of the Land Registration

(Scotland) Rules 2006 ("the Rules"), which provides that "particulars of any debt, including a pecuniary real burden affecting the interest" should be included in Section C.

Section 2 of the Rules provides the interpretation of the word "debt" as follows:

"debt" has the meaning assigned to it by section 9 (8) (c) of the Conveyancing and Feudal Reform (Scotland) Act 1970 which is currently defined as "any obligation due, or which will or may become due, to repay or pay money, including any such obligation arising from a transaction or part of a transaction in the course of any trade, business or profession, and any obligation to pay other periodical sum payable in respect of land, and " creditor " and " debtor ", in relation to a standard security, shall be construed accordingly".

On this basis, the Keeper is of the opinion that Notices of Payment of Improvement/ Repairs Grants lie squarely within the definition of "debt" (because they constitute an "obligation....which...may become due") and should consequently be shown in Section C of the Land Certificate.

There is a body of opinion that Notices should be placed in Section D (the Burdens section) but the Keeper currently has no intention to change her practice. Additionally, the Keeper's practice is consistent with that of HM Land Registry in England and Wales.

Repossession

CML has spoken to one large firm of solicitors who act for a number of lenders in repossession matters in Scotland. These solicitors have stated that in practice, when selling a repossessed property which is subject to such a Notice, they obtain a letter from the Local Authority which states that no sums are repayable providing the conditions continue to be met. The Local Authority also lists the conditions, and the sellers' solicitors would then provide this letter to the purchasing solicitor along with the title deeds. According to the sellers' solicitors, such procedures have resulted in no adverse issues to date. They have not had to pay any sums on behalf of a lender client and have not been asked to do so by a purchasing solicitor.

Summary

Notwithstanding the existence of a Notice, a lender will have a first ranking security over the property which will make their mortgage compliant with the Mortgages: Conduct of Business (MCOB) Sourcebook/ manual, although technically if the property was sold and the borrower had not adhered to the Notice conditions, then the grant made under the Notice would have to be repaid from the sale proceeds.

Although the provision of grants by Local Authorities under the Notice system is a long-standing practice, since the banking crisis, lenders have tightened up on their lending criteria and also on their auditing procedures. This has resulted in the issue of outstanding Notices coming to greater prominence and there being a greater awareness among solicitors regarding the need to disclose such matters to lenders.

However, in terms of CML Handbook requirements, lenders should not consider Notices an obstacle to their taking first charge on a property.

Recommendation

Lenders seeking repayment and discharge of Notices or ranking agreements in relation to Notices, should review their practices in regard to such Notices and should accept that notwithstanding any Notice, they are still obtaining a first/prior security over the property.

APPENDIX 4:

Tolerable Standard Criteria

A house meets the tolerable standard if it:

1. is structurally stable
2. is substantially free from rising or penetrating damp
3. has satisfactory provision for natural and artificial lighting, for ventilation and heating
4. has satisfactory thermal insulation (added to TS criteria in Housing (Scotland) Act 2006)
5. has an adequate piped supply of wholesome water available within the house
6. has a sink provided with a satisfactory supply of both hot and cold water within the house
7. has a water closet or waterless closet available for the exclusive use of the occupants of the house and suitably located within the house
8. has a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the house
9. has an effective system for the drainage and disposal of foul and surface water
10. in the case of a house having a supply of electricity, complies with the relevant requirements in relation to the electrical installations for the purposes of that supply (added to TS criteria in Housing (Scotland) Act 2006)
 - a. the 'electrical installation' is the electrical wiring and associated components and fittings, but excludes equipment and appliances
 - b. the 'relevant requirements' are that the electrical installation is adequate and safe to use
11. has satisfactory facilities for the cooking of food within the house (this does not mean a Landlord has to provide tenants with a cooker, but there must be somewhere suitable for tenants to install their own cooking facilities)
12. has satisfactory access to all external doors and outbuildings.