

WEST DUNBARTONSHIRE COUNCIL

Report by the Chief Executive

Council: 17 January 2007

Subject: Communities Scotland Inspection of Housing Management Services

1. Purpose

- 1.1** To inform Members of the decision by Scottish Ministers indicating that they are minded to require West Dunbartonshire Council to provide Communities Scotland with a remedial plan under Section 74 of the Housing (Scotland) Act 2001 concerning housing and related services and to advise Members that the Council has until 30 January 2007 to make comments concerning this matter.

2. Background

- 2.1** The Council had previously agreed to be one of five "Pathfinder" local authorities for Communities Scotland's new inspection regime. The inspection took place in late 2003 and early 2004 resulting in Communities Scotland publishing an inspection report on its website in July 2004. Members were advised of this by the Chief Executive in his letter of 14 July 2004.
- 2.2** The Communities Scotland report provided its view on how the Council manages its landlord and homelessness functions, with a focus on the importance of outcomes for our customers.
- 2.3** As part of this process, two key assessments were made. The first was a grading to reflect the standards achieved by the services and the second reflected the inspectors judgement on the Council's ability to improve its services. The Homeless service was considered to be good (B grade), the Property Management service fair (C grade) and Housing Management services were considered poor (D grade). Communities Scotland also stated that they considered the prospects for the three services improving were promising.

3. Main Issues

- 3.1** Following the inspection noted above, the Council approved an Improvement Plan at its meeting of 27 October 2004 and this was approved by Communities Scotland with effect from 31 December 2004. Since then the Council has complied with the review procedures required by Communities Scotland and in terms of housing management issues the following chronological history outlines actions in the interim period:

- (a) Initial interim report on progress on the improvement plan for housing management submitted on 13 January 2006.
- (b) Further documentary evidence sent to Communities Scotland on 6 March 2006.
- (c) Meeting held in Garshake Road on 23 May 2006 involving officers from WDC and Communities Scotland to discuss progress to date on improvement plan.
- (d) Further documentary evidence sent to Communities Scotland on 3 July 2006.
- (e) Further documentary evidence e-mailed to Communities Scotland on 15 August 2006.

3.2 Feedback from Communities Scotland has now been received via a letter dated 18 December 2006 from the Director of Regulation and Inspection to the Chief Executive advising that Scottish Ministers have decided that they are mindful to require the Council to provide a remedial plan under section 74 of the Housing (Scotland) Act 2001. The remedial plan to be developed by the Council requires the following elements to be included therein:

- a clear strategy setting out the Council's response to housing demand and supply issues underpinned by robust analysis and resulting in a clear action plan with timescales. This should become an important priority in the Council's corporate plan and should form the basis of any future community ownership application as well as the basis for improvement to service delivery.
- an asset management plan for all stock which should include robust plans for meeting the Scottish Housing Quality Standard;
- an associated financial plan setting out the resource gains which can be achieved through the strategic action plan on empty homes and aligned with operational management targets;
- evidence of a performance management framework linked to both the corporate priority and to operational targets to ensure progress is being pursued;
- an associated plan for related services which affect demand and sustainability of tenancies;
- a risk analysis of other services, demonstrating a firm commitment that their performance will not deteriorate given the current risks associated with the Council's management of its other housing activities; and
- a monitoring framework to ensure progress is being achieved at the required rate.

- 3.3** A number of other requirements have been noted by Communities Scotland which they will view as important to the success of the remedial plan including named principal contact officers, the impact of empty houses and how this will relate to any future Community Ownership application, consultation with Registered Tenant Organisations and overall monitoring arrangements of the plan itself by Communities Scotland.
- 3.4** Communities Scotland have further advised that they will consult with both COSLA and the Accounts Commission and that they would intend that the requirements for the remedial plan integrate with the actions the Council requires to put in place to comply with the recommendations of the Accounts Commission. The intention is that the Council should adopt a unified approach in relation to Community Ownership proposals and the Accounts Commissions recommendations when formulating its remedial plan for housing management.
- 3.5** Communities Scotland's letter of 18 December 2006 (Appendix 1), takes the form of a draft notice under Section 74 of the Housing (Scotland) Act 2001 and specifies that the Council must make comments by 30 January 2007. Communities Scotland will consider any comments made by the local authority and the Accounts Commission in response to the draft notice. Following consideration, Communities Scotland may:
- issue a final notice without amendment;
 - issue a final notice based on the draft notice, with amendments; or
 - withdraw the draft notice legislation if the authority makes satisfactory proposals for action and Communities Scotland is satisfied that a production of remedial action plan is no longer necessary.

Communities Scotland's consideration and final notice is due to be issued by 27 February 2007. Communities Scotland presently wish a remedial plan to be submitted to them by 10 April 2007 with their approval to be given by 8 May 2007.

- 3.6** At a meeting held on 10 January 2007, involving senior officials of Communities Scotland, the efforts made by Council staff at all levels within the Housing Service to comply with the requirements of the agreed improvement plan was acknowledged. The principal concern expressed by Officers of Communities Scotland concerned the strategic direction of the Housing Service and a requirement for the Council to make a clear statement as to where it considers the Housing Service and housing stock will be in say 5 years time. The need for a clear demand analysis, particularly as it would impact upon areas of low demand housing, was required and this should form the cornerstone of the Council's proposals in respect of low demand areas and the management of voids. It was agreed that Officers would continue to meet to ensure that progress is made on the issues identified within Communities Scotland's letter.

- 3.7** It must be noted that the Council has already made considerable progress in completing major aspects of the original service improvement plan drawn up by Communities Scotland. Approximately 90% of all recommendations have been actioned and are completed, and it is expected that the remainder will be completed by Summer 2007. In addition, the following items of progress are worthy of note:
- a) the level of rent arrears as a percentage of net debt has fallen from 16.7% in 2003/04 to 14.5%;
 - b) a quality assurance system introduced to improve rent arrears collection and monitoring;
 - c) rent loss due to voids in 2005/06 was £1.770M and this is projected to fall to £1.595m in the current year;
 - d) the number of void houses stood at 1,031 in January 2004 and by December 2006 this had reduced to 618 (this represents a 40% reduction);
 - e) investment rent in void units was £1.207M in 2003/04 and this year it will be around £2M;
 - f) estate audit plans approved by the Social Justice Committee scheduled to be introduced in early 2007;
 - g) a Document Image Processing and Workflow system to be introduced in tenancy services in February 2007;
 - h) wide ranging collaborative work with partners to tackle anti social behaviour which has been commended by the Scottish Executive; and
 - i) a review of our Allocation Policy.
- 3.8** Having regard to the fact that the Council voluntarily entered into the Pathfinder phase of Communities Scotland new inspectionary regime, agreed to the content of an improvement plan and has implemented the vast majority of recommendations set out therein, has made significant other improvements as set out in paragraph 3.7 above and has fully engaged with officials of Communities Scotland in respect of a strategy for attaining the Scottish Housing Quality Standard by 2015, it may be considered that the Council has already fully demonstrated its commitment to securing a quality housing service for its tenants.
- 3.9** In responding to the letter from Communities Scotland, it is considered that the Council has three options.

Option 1

The Council could seek a judicial review and possibly an interdict in respect of the content of the letter from Communities Scotland seeking to challenge the validity of the notice. On the basis of advice from the Head of Legal Services, it is considered that the prospects for success in any judicial review would be doubtful and pursuing this course of action would incur substantial costs and could further damage the Council's reputation.

Option 2

The Council could accept that Communities Scotland will serve the formal notice under Section 74 of the Housing (Scotland) Act 2001 on the Council and agree to implement the preparation of the required remedial plan according to an agreed timescale. While this would meet the requirements of Scottish Ministers and Communities Scotland, it is considered that this option fails to give regard to the commitment which the Council has already shown voluntarily to the improvement process and to Communities Scotland's improvement regime.

Option 3

As indicated above, Communities Scotland's guidance indicates that the formal notice can be withdrawn should Communities Scotland be satisfied that the Council has voluntarily entered into appropriate arrangements and offered sufficient undertakings to ensure that the required improvement plan will be prepared and implemented. It is considered that the required undertaking can be supplied to Communities Scotland and is set out in the attached draft response submitted as Appendix 2 to this report. This option would involve the preparation of the remedial plan suggested by Communities Scotland through a process which involves the co-operation of the Council in a voluntary arrangement. This is the recommended course of action. In the event that the suggested voluntary arrangement is not acceptable to Communities Scotland then the Council would require to revert to Option 2 but this would be reported to and agreed by the Officer/Member Working Group referred to below.

- 3.10** Notwithstanding any comment that the Council agrees to make, it is possible that Communities Scotland will insist on the submission of a remedial plan under the relevant section of the statute. In these circumstances, it is important that the Director of Housing, Regeneration and Environmental Services (Housing and Regeneration Services) be instructed to ensure that the appropriate arrangements are put in place to commence to prepare a draft remedial plan.
- 3.11** In order to meet the requirements for the preparation of a remedial plan, either under the terms of a formal notice or on a voluntary arrangement, it is considered that strong management arrangements are required to facilitate this process. For this reason, it is recommended that a Member Officer Working Group be established to deal with this issue.

- 3.12** It should be borne in mind that should the Council not agree to co-operate with respect to the submission of a remedial plan if it is required, and to implement the measures set out in it, Scottish Ministers have powers under Section 75 of the Housing (Scotland) Act 2001, to appoint a Manager to exercise such functions of the Housing Authority as the Ministers may specify. In these circumstances, the damage to the Council's reputation would be considerable.

4. Personnel Issues

- 4.1** A team of officers requires to be identified with powers and resources necessary to plan and implement improvements to the housing service in conjunction with Communities Scotland staff.

5. Financial Implications

- 5.1** In line with 4.1 above, adequate financial resources will require to be made available to fully implement any identified improvement measures though it is not possible to estimate the level of measures which will be required at this stage.

6. Conclusions

- 6.1** The Council has already largely implemented an improvement plan as agreed with Communities Scotland and will bring forward such further improvement plans as are required.

7. Recommendation

- 7.1** It is recommended that the Council adopt Option 3 as set out in paragraph 3.9 above and respond to Communities Scotland in the terms set out in the letter attached (Appendix 2) to this report, indicating that it is willing to prepare a remedial plan in a voluntary arrangement with Communities Scotland and that it requests that the formal notice under Section 74 of the Housing (Scotland) Act 2001, be withdrawn.
- 7.2** That an Officer Member Working Group be established to facilitate the preparation of the remedial plan and that the Council nominate six members to sit on this Working Group.

David McMillan
Chief Executive
Date: 11 January 2007

Wards Affected: All

Appendices:

1. Letter from Karen Watt, Director of Regulation and Inspection dated 18 December 2006.
2. Draft letter to Karen Watt, Director of Regeneration and Inspection.

Background Papers:

Communities Scotland letter dated 18 December 2006

Persons to Contact:

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