

REPORT TO: COMMUNITY SERVICES COMMITTEE ON 9 APRIL 2003

SUBJECT: COMMUNITIES SCOTLAND INTERVENTION POWERS

BY: DIRECTOR OF COMMUNITY SERVICES

1. Reason for Report

1.1 This report proposes comments on the Consultation paper issued by Communities Scotland on intervention powers.

2. Background

2.1 The Housing (Scotland) Act 2001 introduced a new regulatory framework for social housing in Scotland. Communities Scotland will exercise regulatory powers through a single regulatory framework, applied to all social housing. The Committee has considered reports on the regulatory framework in December 2001 (paragraph 22 of the Minute refers).

2.2 One of the features of the new regulatory framework is that Communities Scotland will have powers to intervene where it is felt that there are performance issues within a Council's housing functions (including those functions carried out by other Services). Communities Scotland has published a more detailed Consultation Paper on its proposals for the exercise of these intervention powers. The deadline for submitting written responses is 9 April 2003.

2.3 A full copy of the consultation paper can be accessed from the Communities Scotland website at www.communitiesscotland.gov.uk. A copy of the Paper has been placed in the Members' library.

2.4 While the power of intervention in local authorities is new, Communities Scotland currently has intervention powers in relation to Registered Social Landlords (RSLs). The consultation paper sets out slightly different powers that apply to RSLs and local authorities. In relation to local authorities, there are two possible methods of intervention:-

- (i) requiring a local authority to produce a remedial plan following an inspection of its housing, homelessness and factoring services, to demonstrate how it will address any aspects of the services that were found to be unsatisfactory during the inspection;
- (ii) appointing a manager where Ministers are not satisfied with the authority's performance in implementing the remedial plan.

2.5 A Memorandum of Understanding has been developed between Communities Scotland and the Accounts Commission regarding their respective statutory duties.

2.6 The aim of the proposed intervention strategy is to use the power of intervention only where performance problems are serious and where the service provider is not willing

to take action, or its actions have failed or will not succeed without external intervention. Throughout the paper, it is made clear that statutory intervention will only be considered as the final stage in the regulation and inspection process.

2.7 The consultation paper outlines the circumstances most likely to result in statutory intervention. The examples given relate to failures in corporate governance or financial management arrangements, as well as poor service outcomes or performance.

2.8 The Consultation Paper invites comments on a number of specific areas, considered below.

3. The Proposals

3.1 It is proposed that the comments submitted by the Council should cover the following points –

General

The powers detailed in the consultation paper appear to be appropriate, balanced and reasonable.

Clarity of Information

The information on the intervention provisions in the Housing (Scotland) Act 2001 is given clearly.

Appropriateness of objectives of the strategy

The objectives detailed in the consultation paper are appropriate.

Improvement areas within the Strategy and Information Notes

The Information Notes are clearly laid out. However, it might be useful to provide information about the Regulation Board of Communities Scotland.

Clarity and appropriateness of the proposed criteria and procedures for exercising statutory powers

The different arrangements for RSLs and local authorities is set out clearly. It would appear that there is a potential anomaly between the approach to RSLs and local authorities as the Regulation Board appears to have no role in instructing the submission of a remedial plan from a RSL.

Clarity of the graduated process leading to statutory intervention

This is clear within the document.

Balance between service providers' own improvement work and intervention

It is more difficult to comment on this aspect of the paper as to a large extent, it will depend upon the approach taken in practice. However, the tone of the consultation paper indicates a recognition that the balance needs to be reasonable.

Interests of stakeholders

No mention is made of how the interests of tenants will be safeguarded. This is an area where improvement could be sought in the finalised strategy.

Proposals for joint working with the Accounts Commission

This is difficult to comment upon until practical experience is gained. The intention to avoid duplication of regulation is reassuring and welcomed.

Appointment of a Manager

The consultation paper clearly outlines the circumstances in which a Manager may be appointed. The process and criteria for the selection of managers needs further clarity.

- 3.2 Subject to the agreement of the Committee, it is proposed that the above comments be passed to Communities Scotland.

4. Financial, Staffing and Environmental Implications

- 4.1 There are no immediate financial, staffing or environmental implications arising from this report.

5. Corporate Plan

- 5.1 The proposals within this report will assist the Council in the achievement of its corporate objectives.

6. Consultations

- 6.1 Consultation on this report has been carried out with the Director of Community Services and senior managers within the Housing Service. All agree the contents of the report.

7. Recommendations

- 7.1 It is recommended that the Community Services Committee agree the proposed response to Communities Scotland, as detailed in section 3 of this report.**

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Background Papers: Held by CHO
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