

**A Response to the DSD Consultation Paper:
Reviewing Support for Repair and Improvement
in the Private Housing Sector**

January 2013

1. Housing Rights Service

Housing Rights Service was established in 1964 and is the leading provider of independent specialist housing advice services in Northern Ireland. We work to achieve positive change by protecting and promoting the rights of people who are in housing need in Northern Ireland. Our policy work is based on the experience of our clients. Our services are delivered throughout Northern Ireland and focus on the key areas of preventing homelessness; accessing accommodation; and tackling affordability and poor housing conditions.

2. Introduction

Housing Rights Service welcomes the opportunity of responding to this initial review of the current means of support for addressing repair and improvement in the private housing sector. In this response, we will detail our views on why the current scheme is failing to adequately support repair and renewal, particularly in the private rented sector (PRS), and respond to the questions contained in the preliminary consultation paper.

Much of our work involves advising on repair issues, particularly in the PRS. In 2011/12, Housing Rights Service recorded over 10,000 issues relating to the PRS. Issues relating to tenancy management were the most common problem received by our advice service (36%); followed by security of tenure (23%); fitness and disrepair (20%); and affordability (20%).

This picture is confirmed by survey evidence, commissioned in 2009, by the Northern Ireland Housing Executive (NIHE) which shows nearly one quarter of sampled tenants in the PRS (24%) were dissatisfied with the way the landlord/agent dealt with repairs and maintenance issues. The most common reasons for dissatisfaction were that the landlord is slow to getting work done (50%) and the landlord did not respond to repairs and maintenance requests (39%).¹

In recent times the number of queries to our advice service about the Home Improvement Grants Scheme has been minimal. This is largely due to the better public awareness of the lack of public finance available to support delivery of the scheme and not because of the lack of need. In fact, our work with homeowners and tenants in debt shows that there is in fact more need for support with financing home repairs. Increased level of negative equity in Northern Ireland has meant the option for equity release to finance repairs is no longer available for many of our clients. Likewise many landlords are advising us of the financial difficulties they are facing which is resulting in less investment in property repairs or improvements.

We are therefore encouraged that the Department is reviewing the current system which has become largely ineffective due to the discretionary nature of the scheme and lack of investment. Any new scheme will have to take into account the financial difficulties many owners are facing and the problems many experience in accessing and servicing loans.

¹ NIHE. Living in the Private Rented Sector: The Experiences of Tenants, Report Four. (August 2009)

3. Context

This review is opportune as, for the first time, the rate of unfitness in Northern Ireland's housing stock has increased from 2.4 % in 2009 to 4.6 % in 2011,² reflecting the lower levels of disposable income available to owners and occupiers for improvements and repairs and, we would argue, the dramatic reduction in grant aid, particularly discretionary grants, made available by government in the private housing sector. In the context of stringent financial constraints, grants expenditure has focussed increasingly on mandatory Disabled Facilities Grants and Repair Grants rather than Renovation, Home Repair and Replacement Grants. NIHE has drawn attention to this first increase in the rate of unfitness in owner-occupied stock ever recorded by House Condition Surveys in Northern Ireland and has warned:

*"There can be little doubt that part of the explanation for this is the very considerable reduction in the availability of grants designed to address unfitness and major disrepair since 2008/09."*³

As the consultation paper alludes to, four-fifths (80%) of all unfit properties are vacant and this issue will be hopefully considered by the forthcoming DSD empty homes strategy. NIHE estimates that around 2,500 homes become unfit every year (even at previous investment levels) and believes that on-going investment in housing maintenance and improvement has to be supported and continued.

HRS therefore welcomes the policy attention now being given to repairs and improvement in the private housing market. The private housing sector is important to the smooth functioning of the housing market as a whole and the rented sector, in particular, is becoming a greater source of accommodation for those unable to access or sustain tenancies in the social housing sector. However, as the consultation paper makes clear, there has been a drastic reduction of 56% in grant expenditure since 2009 (from £45m to £19.6m in 2011/12)⁴ which the Department warns "may worsen over the short to medium term".⁵

We believe it is important to highlight the very real problems that exist in regard to the condition and quality of housing in the private housing sector because of this cutback in funding. In our view, needs to allocate adequate resources to assist people on low incomes with repairs, adaptations and improvements to their homes and restore the value of grants expenditure to at least the 2009 level (£45m). Without the provision of such additional resources, levels of disrepair and unfitness will increase with negative consequences for the health and well-being of occupiers as well the condition of the overall housing stock. As the consultation paper states "...even minor disrepair, if left, can eventually lead to unfitness. It is therefore important that a new approach is proactive in tackling disrepair before it deteriorates into unfitness."⁶ It is not clear how such a new approach can effectively tackle disrepair unless the existing budget of approximately £20m is substantially increased and ring-fenced for use by the administering authority for repairs, improvements and adaptations.

²NIHE Northern Ireland Housing Market Review & Perspectives 2012-2015, Pg 47

³ Ibid. Pg66

⁴ DSD Consultation on Reviewing Support for Repair and Improvement in the Private Housing sector. (October 2012). Pg6

⁵ Ibid Pg6

⁶ Ibid. Pg6

The 2009 Audit Commission report *Building Better Lives* recognised that repair and improvement work is at least as valuable as building new homes. The report found that: “Well-targeted spending on the existing housing stock can also yield financial benefits. Every £1 spent on providing housing support for vulnerable people can save nearly £2 in reduced costs of health services, tenancy failure, crime and residential care. Spending between £2,000 and £20,000 on adaptations that enable an elderly person to remain in their own home can save £6,000 per year in care costs”.⁷

In addition we believe it is important to translate the government’s carbon reduction and fuel poverty targets into targets for the repair and improvement of private housing and to establish a robust baseline against which progress can be measured. We would have welcomed a consideration in the consultation paper of the main repair and improvement measures needed in the sector, the key priority areas, obstacles likely to be faced, and the technical assistance required together with an assessment of the investment required over an appropriate timescale. There is an absence of considerations in the consultation paper relating to thermal comfort and the financial incentives available for landlords in certain circumstances where they install energy efficiency measures. We note for example in the private sector, the DSD’s Warm Homes Scheme, which supports both owner occupiers and private landlords in the provision of insulation and heating measures to improve energy efficiency, invested more than £10m during 2010/11.

Successive House Condition Surveys have confirmed the positive role that home improvement grants have played in improving the condition of Northern Ireland’s owner occupied stock – particularly in rural areas. However, the consultation paper pays scant reference to the particular needs of the rural private housing sector. According to the 2011 House Condition Survey 49.1% of PRS properties are in fuel poverty compared to 39.7% in social housing and 40.6% in owner occupation. Unfitness levels in rural housing are much higher than for urban locations with isolated rural areas recording unfitness levels of 14.4% compared an average of 2.7% in urban areas.⁸

We also believe it is vital that greater powers should be given to public authorities to intervene and make good repairs that otherwise would go undone. We welcome the Department’s intention to consult on the future direction of a new scheme of assistance “to help homeowners and tenants with a repairing obligation” however we would have welcomed a discussion in the consultation paper of what constitutes a ‘repairing obligation’ for owners, private landlords and tenants as these differ for each of these constituencies and are not always clearly defined in legislation or practice – an issue we will consider later in relation to the PRS.

There is also a need to differentiate between what constitutes a repair, an improvement and an adaptation. In regard to the latter, we are surprised there is no reference in the consultation paper to the deliberations of the DSD/DHSSPS Inter-Departmental Review of Housing Adaptations which we understand will shortly make recommendations on the future funding of private sector housing adaptations and the demand for such services. It is important to recognise the demographic factors that will impact on the demand for adaptations given the greater projected needs of older people and disabled children and the legacy of the conflict in NI (with over 50,000 people injured as a

⁷ Audit Commission. *Building Better Lives*. Getting the best from strategic housing. (August 2009).Pg3

⁸ Source NIHE (December 2012).

consequence). We believe there are nearly 1,000 more wheelchair users in NI compared to 5 years ago and 50,000 requests from OTs per annum for adaptations.⁹

It is also important to factor into this review the impact of continuing disrepair issues – both internally and externally – which not only affect housing conditions for occupiers but also the quality of the external environment within the local community. It is therefore essential that any review of repair and improvement schemes in the private housing sector takes into account potential impacts on local communities, including health and other public expenditure considerations.

Private sector grants have proven in the past to be effective tools in tackling housing unfitness. Without these grants, we risk a further deterioration in housing conditions. Housing Rights Service believes that DSD should consider a wider range of measures, supported by increased public expenditure, to ensure that conditions in the PRS are not allowed to deteriorate. If we do not tackle conditions through providing an adequate budget for private sector grants, the consequences are likely to result in increased pressure for social housing and increased housing unfitness. Although the default repairing obligations for landlords and tenants are set out in Articles 6-12 of the Private Tenancies (NI) Order 2006, much confusion would appear to exist in regard to how these are interpreted, particularly for example in regard to common areas in shared accommodation; the maintenance of gardens, hedges and boundary walls/fences; and the removal of graffiti.

One issue which is not referred to in the consultation paper is the dramatic reduction in the number of grants provided for Houses in Multiple Occupation (HMOs). Only 3 were approved in 2011/12, compared to 146 in 2006/07 (a reduction of 98%)¹⁰ and this issue could be considered by the Department in its consideration of the consultation exercise *Fundamental Review of the Regulation of Houses in Multiple Occupation*, launched in June 2012. For example, the Department has specifically consulted on whether there should be a provision providing for a reasonable standard of external decorative condition in a HMO. The Department will be aware that, under Article 7 of the Private Tenancies (NI) Order 2006 (landlords' duties to repair), there is a responsibility on landlords to repair the structure and exterior of their properties, including maintaining the exterior paintwork in a reasonable condition. Difficulties have been encountered in enforcing these provisions and the Department, in our view, should consider how to support such a provision as part of this review.

4. Responses to Consultation Questions

In this section we detail our responses to the questions contained in the consultation paper.

Question 1: Do you agree the current system of support for repair and improvement in the private housing sector should be deregulated and provision made for a more general power which would include grants and other forms of assistance?

Housing Rights Service is in general agreement with the proposition to simplify support arrangements for repair and improvement and to provide for more flexible forms of assistance which meet the particular needs of applicants. The current scheme is overly complex involving at least seven different grants with their own rules and procedures, making it expensive to administer.

⁹ Information supplied by NIHE (November 2012)

¹⁰ Ibid

The consultation paper helpfully summarises the position in other jurisdictions including England and Wales, where in 2002 central government deregulated grants and allowed for greater autonomy by local authorities in tackling repair and renewal in the private housing sector.

The Joseph Rowntree Foundation has published research on the impact of this regime, *'Implementing new powers for private sector housing renewal'* which revealed a number of issues which are pertinent for this consultation.¹¹ The key findings from this research were:

- There is a major contrast between the expectations of the policy reforms of central government and the capacity of local authorities to deliver renewal programmes.
- The initial policy changes made by local housing authorities were characterised by the introduction of a variety of new types of grant aid which more effectively address local housing problems.
- Engaging with private lenders to attract private finance and develop a portfolio of affordable loan products has been extremely difficult to achieve.
- The major thrust in private sector housing renewal has been in the area of energy-efficiency.
- There are demonstrable advantages arising from efforts to achieve greater co-ordination between energy-efficiency/fuel poverty programmes and housing renewal programmes. Energy-efficiency and fuel poverty programmes also need to be more effectively targeted on vulnerable households than they have in the past.
- A firmer commitment is required from central Government to private sector housing renewal in order to improve the housing conditions of vulnerable households in 'non-decent' homes in the private sector and to prevent the further deterioration of the older private sector housing stock more generally.
- More effective engagement between the private rented sector and both local and central government and a concerted effort to improve the quality of management practice and the maintenance and repair of the private rented stock.

We believe the Department should carefully consider the above findings, particularly in regards to improving the quality of landlord management of repair practices and targeting related energy-efficiency and fuel poverty programmes on vulnerable households. The DCLG ended funding for private sector renewal work with effect from March 2011 and this is not a position which we believe the Department should adopt in Northern Ireland.

Question 2: Is the list of types of help that might be made available sufficient, or are there any other forms of assistance that should be included?

We note that the types of help, as envisaged by the Department in the consultation paper, could be provided in the form of:

- a grant
- a loan
- a loan guarantee or indemnity
- providing materials or labour
- incurring expenditure in other ways (such as paying a contractor to carry out work); or

¹¹ <http://www.jrf.org.uk/publications/implementing-new-powers-private-sector-housing-renewal>

- any combination of these.

Housing Rights Service is keen to support the development of innovative, new approaches that bring about tangible improvements for repair and improvement programmes.

Question 3: Do you agree the Disabled Facilities Grant should be retained as a mandatory grant?

HRS believes that the mandatory scheme should be retained, modernised and better publicised. We believe there should be a clear statement of values in relation to meeting the needs of disabled people and their carers in the grants scheme.

Question 4: Do you agree the administering authority should be required to publish a scheme of assistance that has to be approved by the department?

Question 5: Do you agree with the proposed requirements in the scheme of assistance, outlined above? Are there any other requirements you think should be in the scheme?

Our response to both of these questions is as follows:

We believe the publication of a scheme of assistance by the administering authority would be a useful initiative. The proposed scheme should detail the administering authority's strategy for carrying out repair and improvement and how it will link with other strategies such as regeneration, health care, thermal comfort and energy efficiency, for example. We welcome the Department's intention to consult on the future direction of a new scheme of assistance "to help homeowners and tenants with a repairing obligation". We would also welcome further discussion on what constitutes a 'repairing obligation' for owners, private landlords and tenants. We would also welcome clarification on where the responsibility rests if faults are uncovered in regard to a scheme of works. We believe the administering authority should intervene in such disputes and work to ensure that contractors rectify faults. Tenants and homeowners should also be entitled to compensation when the contractor fails to complete qualifying repairs within the prescribed period (as in the case under the Right to Repair scheme).

Question 6: Do you agree that the test of resources should be reviewed with a view to simplification?

Housing Rights Service is supportive of the need to simplify the calculation of resources but will reserve detailed commentary on this proposal until the Department publishes its review of the Housing Renewal Grants (Reduction of Grant) Regulations 2004. The current application of the resources test is based on Housing Benefit which will be replaced (along with other means-tested benefits) by Universal Credit arrangements in 2013. We would refer the Department to the DCLG publication of the BRE report¹² which considered means testing arrangements for DFGs. The report found that the current system is complex and costly to administer, penalising those with higher housing costs and creating work disincentives. BRE considered options for modifying the assessment including the removal of means testing for all works costing less than £6,000 and the use of actual housing costs.

¹² DCLG. Disabled Facilities Grant allocation methodology and means test (2011)

5. Equality considerations

Housing Survey data shows that women, older people and people from an ethnic and minority background are over-represented in non-decent private sector homes¹³, so it is reasonable to assume that a similar situation pertains in Northern Ireland. Any decision to reduce or change existing repair and improvement grant schemes in this sector could mean that these groups would be disproportionately affected and should be examined in an EQIA.

6. Conclusion

In conclusion, we look forward to reviewing the detailed proposals for a new scheme of support for repair and improvement in the private housing sector. We will be pleased to provide additional information in support of this response.

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¹³DCLG. Spending Review 2010. Equality Impact Assessment: Funding for Private Sector Renewal (2010)