

**FALKIRK COUNCIL**

**Subject: MIXED TENURE CHARGING ARRANGEMENTS**  
**Meeting: HOUSING AND SOCIAL CARE COMMITTEE**  
**Date: 1 September 2009**  
**Author: DIRECTOR OF CORPORATE & NEIGHBOURHOOD SERVICES**

**1. INTRODUCTION**

- 1.1 The purpose of this report is to inform Members of the outcome of a review of mixed tenure charging arrangements involving owners and to present options for members to consider. Benefits and costs to the Housing Revenue Account of the current discounted pricing structure have been outlined in accordance with discussion regarding this issue at the Special Meeting of Falkirk Council held on 1 December 2008.

**2. MIXED TENURE CHARGING ARRANGMENTS**

- 2.1 In respect of work to common parts, the Council currently operates a discounted pricing structure for owners involved in the Planned Maintenance Programme and for owners within the High Rise flats. These were approved by Committee in May and November 2005 respectively. There are no discounted pricing structures for owners involved in the remainder of the Investment Programme or General Maintenance works.
- 2.2 The Communities Scotland Inspection report of February 2008 and resultant Improvement Plan highlighted the need for the Council to:
- Evaluate the effectiveness of the current flexible pricing and charging policy
  - Introduce mechanisms for incorporating owners' feedback about the effectiveness of arrangements
  - Improve monitoring of cases passed to Finance for invoicing owners
- 2.3 A review of the arrangements involving owners in communal works has recently been completed. This involved:
- Staff workshops
  - Involvement of Finance, Legal and Development Services
  - A literature review of best practice and the legal framework
  - A review of relevant standards set by the Scottish Housing Regulator in relation to owner occupiers

2.4 The outcomes of this review are as follows:

- The costs and benefits of the current pricing structure have been identified with options for members to consider (see Sections 3 and 4).
- Mechanisms have been identified for incorporating owners' feedback about the effectiveness of arrangements; this will entail including owners in regular satisfaction surveys and acting to improve services on the basis of those results.
- A procedure is being drawn up in partnership with Finance Services to enable improved monitoring of cases passed to Finance for invoicing owners.

### **3. PLANNED MAINTENANCE DISCOUNTED PRICING STRUCTURE**

- 3.1 Planned Maintenance work includes the painting of stair closes, communal gutters and down pipes, chimney repairs and other essential cyclical maintenance activities. Owners have a responsibility for their share of common repairs and maintenance work.
- 3.2 The discounted pricing structure for Planned Maintenance work was approved by Members in May 2005 in an attempt to increase the number of owners willing to take part in the programme. The cost of scaffolding is deducted and an additional 15% discount is applied to the total bill. Administration costs of 12.5% to a maximum of £50 are also discounted unless the debt needs to be legally pursued.
- 3.3 The impact of the discounted pricing structure has been evaluated by analysing discount rates and income from owners for the financial years 2005/6 to 2008/9. The main issues for Members to note are outlined below.
- 3.4 On average 328 bills per annum are issued to owners who have agreed to the Council carrying out the work. In addition some owners opt to employ an alternative contractor. In these cases the Council must be satisfied that the contractor is adequately insured, the quote is competitive and that the quality of the work is satisfactory prior to paying its share to the owner. From 2006/7 to 2008/9 there were 46 owners who opted to employ alternative contractors, an average of 16 per annum. In these circumstances owners do not receive an invoice from the Council. Comparable data was not collected prior to the introduction of discounts.
- 3.5 The actual discount rate varies depending on whether scaffolding is involved. On average, the overall percentage discount given to owners is 34% based on a broad sample of bills selected for the purpose of the evaluation. This reduces the average bill by around £80 from £236 to £156.
- 3.6 The discount structure has cost the HRA c£105k over four years, an average of c£26k per annum. The cost of the discounts represents a reduction in the overall Planned Maintenance funding available of around 1.3%. The discounts will also cost progressively more in the long run as the number of owners adjoining Council property rises as a result of Right to Buy sales.

3.7 A survey of owners suggests that the discounts may not have significantly affected take up or use of alternative contractors. In a survey of owners involved in the Planned Maintenance Programme since the discounts were introduced, only a small minority would have considered using an alternative contractor if the discount had not been offered. The majority said that they would not have been any more likely to consider employing an alternative contractor even if the Council had not offered a discount. The most common reason for not considering an alternative contractor was related to convenience. A small minority did not consider it due to a lack of awareness that this was an option and one had considered using an alternative contractor but had been unable to find one. None of the owners had been aware until the point of the survey that a discount had been provided by the Council.

3.8 There are a number of options open to the Council in light of this review. The costs and implications of different options are summarised below.

3.9 **Option A – Suspending or Discontinuing the Planned Maintenance Discounted Pricing Structure would:**

- Remove the cross subsidy of £26k per annum from tenants to owners via the Housing Revenue Account and increase the available expenditure by around 1.3%.
- Standardise the pricing structure for owners involved in Planned Maintenance and Investment Programme work, with the exception of the unique case of the High Rise flats dealt with under Section 4.
- Maximise the annual Planned Maintenance budget, potentially expanding the programme by around 31 more council properties each year.
- Have no impact on participation rates where the Council is a majority owner and a potentially negative impact on participation rates where the Council is a minority or equal share owner. This is because participation is required of all owners if the majority decide to carry out essential maintenance, repairs or replacements to common parts, under the Tenements (Scotland) Act 2004. The survey of owners involved in planned maintenance discounts does not however substantiate whether discounts in practice, had any positive impact on participation rates.
- Increase the average bill per owner by £80 (34%) unless the owner is able to identify a lower cost alternative contractor that is acceptable to the Council.
- Potentially increase the likelihood that owners will not use the Council's in house service provider, in turn allowing more work to be carried out within Council properties. There is no evidence available to suggest that this is likely however.

3.10 **Option B – Retaining the Planned Maintenance Discount would:**

- Cost the HRA c£26k annually based on average costs over the last five years.
- Retain the current inequalities between Planned Maintenance and Investment Programme pricing structures involving owners.

- Continue to reduce the amount of available expenditure on tenanted properties by around 1.3% per annum, equivalent over four years to excluding one hundred and twenty five (125) Council properties from the programme.
- Have no impact on current participation rates of owners in planned maintenance.
- Continue to reduce the average bill per owner by around £80.
- Continue to limit the likelihood of owners opting not to use the Council's in house service provider.
- Cost progressively more in the long run if the number of owners adjoining Council properties increases as the Right to Buy is taken up.

### 3.11 **Option C – Extending Discounts to the Investment Programme would:**

- Cost the HRA c£43k per annum, if all communal work under the Investment Programme involving owners received a 34% discount.
- Standardise the pricing structure for owners involved in Planned Maintenance and Investment Programme work, with the exception of the unique case of the High Rise flats dealt with under Section 4.
- Reduce the available expenditure on Council properties by an estimated c£43k per annum, the equivalent over four years to around 56 gas central heating installations.
- Have no impact on participation rates where the Council is a majority owner and a potentially positive impact on participation rates where the Council is a minority or equal share owner. This is because participation is required of all owners if the majority decide to carry out essential maintenance, repairs or replacement to common parts (as well as installing door entry systems), under the Tenements (Scotland) Act 2004. The survey of owners involved in planned maintenance discounts does not however substantiate whether discounts in practice, had any positive impact on participation rates.
- Potentially have an impact on participation in certain improvements (i.e. those not reasonably incidental to the essential repair, maintenance or replacement of common parts) to meet the Scottish Housing Quality Standard (SHQS). The SHQS is not mandatory for private sector housing therefore it can be generally more difficult to achieve in mixed tenure circumstances.
- Reduce the average bill per owner involved in the Investment Programme by £891.
- Cost progressively more in the long run as the number of owners adjoining Council properties increases as the Right to Buy is taken up.

- 3.12 **General Maintenance** - The cost of extending discounts to owners involved in General Maintenance repairs is unlikely to impact on participation in essential work but would lead to a proportionate reduction in available expenditure from this budget. As outlined in 2.4, measures to improve monitoring arrangements are being introduced which may increase the identifiable income from this source. However on average, income over the last 4 years is c£7k per annum. On this basis extending a 34% discount to owners involved in General Maintenance would cost the HRA around £2k per annum.
- 3.13 **Discount Rate** - Members will also wish to consider that the current discounted pricing structure for Planned Maintenance is not a flat rate 34% discount. It varies according to whether scaffolding is involved, as outlined in paragraph 3.2. It could therefore be an option to replace the current variable pricing structure with a flat rate discount, in the interests of standardisation. The discount rate could be 34% or some other percentage deemed by Members to be appropriate.

#### 4. **HIGH RISE FLATS DISCOUNTED PRICING STRUCTURE**

- 4.1 The discounted pricing structure for the High Rise flats was agreed by Members in November 2005. The cost of improvement work, preliminaries and fees are deducted from owners' bills. This was agreed after taking account of a number of issues including:
- Unique property type and nature of the refurbishment programme
  - High cost of work relative to property values
  - Difficulties associated with raising finance via mortgages for these properties
  - Significant element of improvements included in the programme
  - The legal framework relating to repairs, maintenance and improvements. Owners are not obliged to pay towards the cost of improvements unless they have consented to do so (in general terms where title deeds are silent, under the Tenements (Scotland) Act 2004, owners need to provide permission for most types of improvements, unlike repairs and maintenance which can be authorised by majority decision).
- 4.2 Within existing arrangements the main benefits are in terms of enabling the Council to undertake the programmed improvements within each project; and the financial benefit for owners given the unique construction type, high unit costs and difficulty raising mortgage finance.
- 4.3 **Cost of Discounts** - The cost to the HRA of the discounted pricing structure for the High Rise flats is c£11k per owner (exclusive of VAT) based on previous contracts. The bill per owner after discount was c£23k for Breton Court, c£21k for Corentin Court and c£16k for Belmont Tower (inclusive of VAT). Some owners have reduced their bills further via means tested grant of up to 100% of the re-roofing costs (c£3800). The refurbishment contract at Belmont Tower includes 16 owners recently issued with final bills. Six out of the seven owners at Breton & Corentin Courts have paid their bills in full.

- 4.4 **Impact of the Housing Scotland Act 2006** - It was noted when the current discount arrangements were approved that there may be an opportunity to review arrangements following the enactment of the Housing (Scotland) Act 2006, relevant provisions of which are being implemented on a phased basis over 12 months from 1 April 2009. Legal Services have explored the potential to use Maintenance Orders, Work Notices and Repayment Charges under the 2006 Act; but have concluded that it would not be fully commensurate with the Guidance to do so under these particular circumstances, one of the reasons being that the owners are not being required to organise and carry out the work themselves. Lending options including equity release are continuing to be reviewed by the Scottish Government. All other forms of advice and assistance to owners under this Act will be detailed in the Council's Draft Statement of Assistance.
- 4.5 There are a number of options open to the Council in light of this review. The costs and implications of different options are summarised below.
- **Option A – Retain Discounts for High Rise Flats Refurbishment**  
This option will cost the HRA c£11k per owner. The estimated total cost will be c£913k based on previous costs and the current number of owners (83) within the 6 blocks remaining to be refurbished.
  - **Option B – Remove Discounts for High Rise Flats Refurbishment**  
This option would not necessarily save the HRA the full discount to owners because they are not obliged if they do not agree, to contribute to the type of improvements being carried out to the ground floor areas. The removal of discounts for fees and preliminaries (c£9k per owner) would save the HRA c£747k over the course of refurbishing the remaining blocks.
- 4.6 Members will note that when the Council authorised the pricing structure for the High Rise flats it did so on the basis of a rolling programme. The agreed pricing structure was subsequently communicated via consultation events and leaflets to owners in all blocks.

## 5. CONCLUSION

- 5.1 This report summarises the findings of a review of mixed tenure charging arrangements and discounted pricing structures that has been prompted by the issues raised within the 2008 Communities Scotland Inspection Report for the Housing Service. It invites members to consider the options available to them in light of the findings presented.

## 6. RECOMMENDATIONS

Committee are invited to:

- 6.1 **Note the planned introduction of improved arrangements for incorporating owners' feedback and monitoring cases passed to Finance Services, in respect of mixed tenure work;**
- 6.2 **Consider the options available to the Council regarding recharging owners and the financial implications for the Council, tenants and owners; and**

- 6.3 Refer the report to Policy and Resources Committee to consider the implications of any decisions made by members in relation to discounts to owners.**

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**DIRECTOR OF CORPORATE & NEIGHBOURHOOD SERVICES**

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**LIST OF BACKGROUND PAPERS**

1. Analysis of costs of discounted pricing Structure for Owners.