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Preparing and Delivering



April 2008

Implementing the Housing (Scotland) Act 2006

The Consultation

This consultation seeks your views on the guidance that the Scottish Government should give to local authorities about how they implement powers and carry out duties in the Housing (Scotland) Act 2006. These powers and duties have been created to help address living conditions in the privately owned housing stock in Scotland. A high proportion of private housing needs repair work as a result of underlying problems or poor maintenance, and large numbers of disabled people would be able to live more independently if their houses were adapted.

The Act gives local authorities the lead role in addressing these issues. The Scottish Government supports them in this with guidance, funding and the provision of support in various ways.

Ministers have powers to issue guidance. Some of the guidance is statutory, which means that local authorities must, by law, have regard to it (see volume 1 page 13 for a fuller explanation). Ministers also have powers to make regulations for several purposes under the 2006 Act. If they use these powers, the resulting regulations have the force of law. They propose to use some of those powers alongside the guidance. This consultation covers those proposed regulations too.

There have recently been important changes to the way local government and the Scottish Government will work together, and to the way local government is funded. These are set out in sections 8 and 17 of the Scottish Budget Spending Review 2007, and supported by a concordat between the Scottish Government and local government¹.

We have tried here to strike the right balance between national and local policies and between regulations, guidance and support. We are very keen to hear views on whether, in the policy area of private sector housing quality, we have got that balance right for the future and in line with the spirit of the Budget Spending Review and Concordat.

The bulk of this consultation paper is a draft of the proposed guidance and regulations. We have set it out as it is likely to appear in its final form, although of course we expect to make various changes in the light of the comments we receive during the consultation. We have also included comments throughout the paper to help explain what we are proposing, and have included questions on particular issues.

There are certain **core considerations** that we hope you will bear in mind when reading the draft guidance and when commenting on it:

- **the policy objectives (see volume 1 page 6);**

¹ <http://www.scotland.gov.uk/Topics/Economy/Scotlands-Economy>

- **the roles of central and local government in achieving the objectives;**
- **the impact on the individual and the community;**
- **effective and cost-efficient delivery.**

Although we have specified a number of particular questions in the document, we would welcome comment on any aspect of the proposed guidance and regulations – preferably on the form provided, to help us analyse responses.

The draft guidance is written for local authorities and we hope that each authority will make a corporate response. But that does not mean we only want to hear from local authorities. We warmly welcome comments from other organisations and private individuals since the guidance is, ultimately, about the housing conditions of individual owners and their families in Scotland.

We established an advisory group to advise us on the guidance. The group's membership reflected the range of public, voluntary and private sector bodies with an interest in the new powers. We are grateful to group members for their advice throughout the drafting process. The members from external organisations were:

PROJECT ADVISORY GROUP MEMBERS

Gerry Begg, COSLA (Scottish Borders Council)
Gillian Campbell / Gillian Edwards, COSLA (City of Edinburgh Council)
Ian Donald / Alan Maxwell, Property Managers Association Scotland Limited
Nick Fletcher, Chartered Institute of Housing (Scotland)
Kennedy Foster, Council of Mortgage Lenders
Richard Hamer, Ownership Options in Scotland
Lisa Muinonen, Private Rented Housing Forum
David Ogilvie / Debbie Baird, Scottish Federation of Housing Associations
Euan Paige / Chris Oswald, Disability Rights Commission
Annabelle Ridley, Citizens Advice Scotland
Robert Thomson, Care and Repair Scotland
Jennifer Wallace, Scottish Consumer Council

Implementing the Housing (Scotland) Act 2006

Draft guidance for consultation

Volume 1

April 2008

Ministerial Foreword

Housing is at the heart of our communities. But too many people in Scotland live in houses that are in poor condition, or have difficulty living independently because of the design of their houses. Most of these houses are in the private sector. This is an unacceptable situation in 21st century Scotland and it is time for new and concerted action by government on living conditions for house owners and their families.

Our proposals for implementing the Housing (Scotland) Act 2006 represent the most fundamental change for 30 years in national policy on existing private sector housing. They dovetail with our ambitious and radical proposals for housing supply in the *Firm Foundations* discussion document.

Personal responsibility is at the heart of the new approach for houses. Owners are responsible for maintaining their homes, and the new powers in the Act reflect this principle. But not everyone is able to act on their own, and the new approach aims reach many more people in that position than before and to provide the right assistance where it is most needed.

The new policy draws a much clearer distinction between the position of owners who have bought an unsound house or failed to maintain the house, and of households with disabled family members who need their house to be adapted. Our approach complements our community care policies by enabling disabled people to live more independently in their own homes, with all the benefits that brings for their own well-being and that of their families.

Local authorities are central to the new approach. Their powers affect individual owners and should be used in a way that is sensitive to the local situation and individual circumstances. I ask each local authority to make and deliver local strategies that will protect and enhance the built environment and benefit the communities in its area. The guidance gives the national framework of policy and support while allowing local authorities a great deal of flexibility. I believe this is a good example of the new relationship expressed by the Concordat between national and local government.

I would like to thank all those involved - local authorities and a range of voluntary and private sector organisations - for their constructive contributions to this draft guidance. I very much look forward to receiving views from all those who are interested in the condition and suitability of houses in the private sector and in the new approach to partnership working between the Scottish Government and local authorities.

Stewart Maxwell
Minister for Communities and Sport

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Volume 1

Preparing and Delivering

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The accompanying volumes, which form part of this guidance, are:

Volume 2	Housing Renewal Areas and Repair, Improvement and Demolition
Volume 3	Maintenance
Volume 4	The Tolerable Standard
Volume 5	Scheme of Assistance
Volume 6	Proposals for a National Trusted Trader Framework

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Volume 1

Preparing and Delivering

VOLUME 1: PREPARING AND DELIVERING

Chapter 1 Policy

Audience	This chapter of the guidance is mainly for: Councillors Corporate managers, Strategic policy officers
Purpose	This chapter covers the overall approach to dealing with the quality of existing houses in the private sector. It is intended to set out Ministerial priorities and the policy context for authorities' corporate decisions. It encourages corporate leadership on action to improve existing housing conditions in the private sector.

SUMMARY

- Responsibility for the condition of private sector housing lies with owners but some need assistance or enforcement action by local authorities.
- Local authorities have a responsibility to help disabled people so that their housing is suitable for their needs.
- The policy vision is a cultural change in attitudes to private sector house condition and a marked improvement in the quality of the stock, led by local authorities and supported by the Scottish Government. Private owners will become more proactive in investing in the condition of their houses. Government will help disabled people live more independently in their own homes.
- The policy objectives include: planning and action by local authorities to suit their areas, taking account of national and local priorities and recognised good practice; awareness-raising locally and nationally; advice and assistance that facilitates action by owners; enforcement where this is necessary; a reduction in the number of substandard houses; and more disabled people helped to live more independent lives in their own homes.
- This will involve a change of culture; Ministers ask councillors, chief executives and senior officers to take the leadership role.
- The guidance and regulations are a framework that recognises the new relationship between central and local government and the ending of ring-fencing for Private Sector Housing Grant in 2010/2011.
- The local authority powers of assistance and enforcement sit alongside existing powers from other legislation and duties towards disabled people.
- A transition period for the adoption of the new approach by individual authorities is proposed.

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CONSULTATION

We welcome views on all aspects of this chapter from all interests including service users.

In particular we would welcome your answers to the following questions:

Do you agree that the publication of the section 72 statement is the best point of transition from an authority's use of powers under the 1987 Act to its use of powers under the 2006 Act?

Is a transition period of 6 months appropriate?

Chapter 1 Policy

Private sector housing quality – the policy vision

- 1.1. Over 70% of the houses in Scotland are owned by and are the responsibility of private owners. Too many of those houses are of poor standard, are poorly maintained or prevent disabled people who live in them from maximising their independence. The Scottish Government considers that the extent of poor standards and unsuitability justifies intervention by government.
- 1.2. National and local government should work in partnership to improve the standard and suitability of existing houses in the private sector. This is not straightforward as the primary responsibility lies with individual owners. Government does not have the direct role that it plays in social rented housing and it must respect individual owners' property rights. It therefore needs to use a mixture of encouragement and assistance, backed up by enforcement where this is justified by the circumstances and the interests of the wider community.
- 1.3. Getting the blend of encouragement, assistance and enforcement right needs a systematic approach that includes strategic planning and careful judgement on individual cases. The Task Force recognised this and proposed a substantial revision of the approach which had evolved over the 30 years since improvement and repairs grants were introduced into legislation.
- 1.4. The Housing (Scotland) Act 2006 translates the Task Force recommendations into local authority powers and duties. This guidance explains how local authorities should implement the 2006 Act in line with national policy.
- 1.5. The **policy vision** for the future draws on the work of the Task Force and is embodied, through the will of Parliament, in the 2006 Act.
 - There will be a cultural change in attitudes to housing quality in the private housing sector.
 - Local authorities will lead a marked improvement in the quality of private housing in their areas, benefiting owners and the communities they live in.
 - The Scottish Government will support and facilitate their work.
 - Private owners will become more aware of repair and maintenance responsibilities and more proactive in carrying them out.
 - Private owners will invest more to ensure their homes have a sustainable future.
 - Public money will support owners' repairs and maintenance only where that is strictly necessary.

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- Government will help disabled people to live more independently in their own homes.
- 1.6. Other Scottish Government policies work alongside this approach to support this vision, including:
- the **Single Survey** which, as part of the Home Report required for the re-sale of every house from 1 December 2008, will raise awareness of house condition, give sellers an incentive to carry out repairs and alert buyers to the repairs and maintenance for which they will be responsible;
 - continuing developments in the **Building Regulations** that will ensure that house alterations and new houses coming into the market are to high standards of accessibility and environmental sustainability;
 - policies on **private sector letting** to raise the standards to which private landlords must maintain the properties they let, and give tenants and local authorities more effective means of ensuring those standards are achieved;
 - **community care** policy that aims to support vulnerable people to remain in their own home, and recognises that housing and health legislation directly and indirectly affects how local authorities carry out their community care functions.

Contribution to the Scottish Government's Purpose

- 1.7. The policy vision and its development in this guidance support the Scottish Government's Purpose and the Government Economic Strategy (GES) that underpins it². In particular, the guidance supports the targets in the GES in the following ways.

Growth

- 1.8. The Housing Improvement Task Force found a very large backlog in repairs in the private sector. Removing barriers to investment in residential infrastructure will boost the construction and repairs sector, particularly amongst small businesses rather than the large firms involved in new build. The guidance aims to achieve this by encouraging local authorities to stimulate more repairs and maintenance activity by owners and by giving them the tools to do this.
- 1.9. Market failures in the financial sector contribute to the backlog in repairs, through owners finding difficulty in obtaining suitable lending. The guidance addresses these failures in order to further free up demand for repairs and in the longer term to encourage commercial lenders to expand their provision in this part of the market.

² <http://www.scotland.gov.uk/Publications/2007/11/12115041/0>

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- 1.10. Improving the quality of private sector housing not only raises the value of the property itself but the value of surrounding buildings and areas. This can in turn stimulate private sector investment.
- 1.11. Substantial resources of public money and carers' time are used to assist disabled people in coping with everyday life because their houses present barriers to their doing this without assistance or with less assistance. The guidance and regulations propose substantial improvements to support for house adaptations that, by removing or reducing those barriers, should free up community care funding and allow carers to increase their time spent on economically productive activities.

Productivity

- 1.12. Research has shown that around half of recipients of government grant towards house repair costs would have carried out the work anyway if grant had not been available. This is inefficient and removing this 'deadweight activity' through the means shown in the guidance will enable government to focus expenditure on areas where there is a greater economic return.

Population

- 1.13. In-migration is vital to the population target. The availability of housing of acceptable quality at the lower end of the market affects Scotland's attractiveness to potential in-migrants. The guidance is intended to encourage an improvement in the quality of private housing, mainly at the lower end of the market.

Solidarity

- 1.14. Although wealth inequalities are, in general, reduced by the increasing proportion of home ownership, many owners have difficulty with the demands on their income of meeting their repair and maintenance responsibilities. The guidance shows how the powers in the 2006 Act can be used to reduce the risk of poorer owners being marginalised and suffering greater social disadvantage.

Cohesion

- 1.15. There are substantial variations in the quality of the private housing stock across the country. Whilst the draft guidance is unlikely to have a direct effect on participation rates (which is how the cohesion target is defined), the approach in the guidance will primarily address housing quality in Scotland's 'worst' areas. This will help to correct the imbalance in wealth and social disadvantage between the regions in which they lie and other regions.

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Sustainability

- 1.16. The GES entails substantial activity across sectors to increase the quality and supply of housing in Scotland. Where there is a choice, the carbon load from repairing an existing house is generally substantially less than that from replacing it with a new house. The guidance proposes a strategic approach for local authorities to maximise cost-effective activity for existing private sector houses.
- 1.17. The guidance focuses on addressing the quality of the housing that is in the worst physical condition or threatens to deteriorate. There is a broader task to be undertaken to improve the energy efficiency of all existing private housing. The strategic planning and delivery mechanisms in the guidance allow local authorities to act on this task and also create the potential for substantial synergy with the proposals that the Scottish Government is developing for delivery of its energy efficiency agenda.
- 1.18. As carbon accounting tools become available they will be built into revisions of guidance to help inform local authorities' strategic choices.

Policy objectives and key themes

- 1.19. National **policy objectives** for putting the policy vision into effect are:
 - **Local authorities will plan and implement action that suits the needs of their areas.**
 - **National priorities, local priorities and recognised good practice will all inform the action they take.**
 - **Local and national government will work together to raise awareness amongst house owners.**
 - **Local authorities or their partners will deliver advice and assistance that facilitates action by as many house owners as possible.**
 - **Owners will have cost-effective options for financial assistance available to them to maximise their own investment in their properties in a way that they can afford.**
 - **Local authorities will use enforcement powers where advice and assistance does not achieve priority objectives.**
 - **Each local authority's actions will result in a significant reduction in the number of substandard houses in the private housing stock and a significant increase in the proportion of disabled people**

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able to live more independent lives because they have adapted their own home or moved to a more suitable house.

- 1.20. To help achieve these objectives, the **key themes** in this guidance and the accompanying regulations are:
- strategic planning to achieve better quality private housing, linked into the authority's Local Housing Strategy
 - the authority's statement of criteria for providing assistance, under section 72 of the 2006 Act
 - a new and distinct difference between the approach for repairs and maintenance and the approach for adaptations to help disabled occupants
 - for repairs and maintenance:
 - striking the balance between assistance and enforcement
 - moving away from grant dependency
 - flexible and preventative enforcement action
 - detailed advisory guidance for consistency and fairness
 - guidance on the Tolerable Standard for the first time
 - for adaptations to help disabled occupants:
 - close partnership working with health and community care colleagues
 - grant of at least 80% for most adaptations
 - raising awareness
 - personalised service delivery
 - use of delivery partners wherever appropriate
 - lending through a central resource for those who can afford it but cannot access commercial lending
 - good practice, networking and developing the skills base
 - developing good information on private sector house condition
 - monitoring and evaluation to improve policy and delivery nationally and locally.

Leading a change of culture

- 1.21. The powers and duties in the 2006 Act are the biggest change for Scotland in this area of policy since 1974, and replace a regime that has remained essentially the same since then. Social conditions, public expectations and the nature of public service delivery have all changed markedly in that time.
- 1.22. Perhaps the most significant change behind the 2006 Act is to move away from the expectation that government will provide grant. Although grant will be necessary in some circumstances, moving away from a grant-led approach should mean that government intervention is much more active and effective in getting owners to invest their own money in the repair, improvement and maintenance of their houses. This should enable a much

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greater impact on private sector housing conditions than would be possible from public sector resources alone.

- 1.23. Owners need to accept their responsibility to act and to give sufficient priority to the use of their resources for work on their houses. Service delivery needs to focus on a community outlook and a personalised approach as well as on the buildings themselves. Providers of other services need to be alert to the impact of housing conditions on the issues that they deal with. Implementing the Act involves a change of outlook, of culture, and may challenge established views and assumptions – which requires leadership, encouragement and nurturing over an extended period.
- 1.24. The new powers in the 2006 Act give local authorities unprecedented potential to make an important and lasting improvement in housing conditions in Scotland. Imaginative and constructive use of the new powers will encourage, assist and, if necessary, require many more owners than at present to take the right action at the right time. Local authorities need to do this in order to make a serious impact on the state of housing in the private sector.
- 1.25. Ministers ask councillors, chief executives and senior managers responsible for housing to grasp the leadership role firmly and drive change in their areas.

Local and national government working in partnership

- 1.26. The Concordat between the Scottish Government and local government sets out the terms of a new relationship between the Scottish Government and local government, based on mutual respect and partnership. There is a shared commitment by the Scottish Government and local government to achieve national and local priorities. At a local level local authorities with their Community Planning Partners will identify priorities and local outcomes. It is expected that these local outcomes will fit with the national outcomes.
- 1.27. The Scottish Government has established a single 'pot' of local government funding with each authority managing its own allocation to achieve its outcomes. In the case of funding to support activity in the private housing sector (Private Sector Housing Grant), the ring fencing of the grant made by the Scottish Government to individual authorities continues for 2008/09 and 2009/10 to provide funding stability while the arrangements in this guidance are established. In 2010/11 Private Sector Housing Grant will become part of the general 'pot'.
- 1.28. The Housing (Scotland) Act 2006 pre-dated this change of approach. It was developed and passed by Parliament on the assumption that various aspects of national policy would be dealt with by guidance and regulations within the framework provided by the Act. The present guidance and the

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regulations that underpin it aim to take forward the policy in the Act while respecting local authorities' freedom to manage in accordance with the Concordat between the Scottish Government and local government. The statutory guidance (see chapter 2) and the regulations provide the framework for a consistent approach across the country where this is important. The guidance as a whole is intended to help local authorities develop their own approaches without having to re-invent.

- 1.29. The Scottish Government is providing support to local authorities in various ways where this avoids duplication or provides necessary economies of scale. In particular, this applies to a national awareness campaign, the provision of standard information materials to be tailored for local use and the establishment of a national lending unit.
- 1.30. We are also supporting the development and dissemination of good practice to spread the benefit of experience and innovation, together with the development of training and development options. We are keen for local authorities to drive this process collectively, with support from the Scottish Government working in partnership with them (see chapter 4).

Local authority powers and duties – 2006 Act and other legislation

- 1.31. The Housing (Scotland) Act 2006 gives local authorities a range of powers to encourage owners to exercise their responsibility for house condition.
- 1.32. The "Scheme of Assistance" provisions in Part 2 of the 2006 Act give authorities powers to assist owners who find it difficult to meet their responsibility, including those with additional support needs who are least able to deal with the barriers to carrying out works. These powers are dealt with in volume 5, with additional material in volume 6.
- 1.33. Some owners do not respond to assistance and do not meet their responsibilities. Local authorities have powers to take enforcement action in the interests of the household, of the local community or both. These powers are in Part 1 of the 2006 Act. They expand and update previous powers. They are designed to be flexible so that authorities can take the right enforcement action to suit the circumstances. They include new powers for preventative action to deal with maintenance and repair problems before they are too far advanced. These powers are dealt with in volumes 2, 3 and 4.
- 1.34. The 2006 Act includes (in section 10) duties for local authorities to plan strategically for improving the standard of housing in their area, in their Local Housing Strategy. This applies particularly to the use of their powers to deal with houses below the tolerable standard, to create Housing Renewal Areas and to provide or arrange for assistance. There is also a duty in section 72

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to establish and make available their criteria for the use of assistance powers in Part 2 of the Act.

- 1.35. Alongside the powers and duties in the 2006 Act, local authorities continue to have other powers that help them to deal with poor private sector housing conditions. These include:
- statutory nuisance powers;
Environmental Health powers may be a more direct and simpler way to deal with some problems.
 - dangerous building powers;
Immediate action where there is a danger to the public may be best dealt with under the Building Acts.
 - private landlord measures;
Private landlord registration and HMO licensing provide strong levers for dealing with poor management, including building maintenance.
 - property law reform;
Legislation on tenements and title conditions helps to remove barriers to action by clarifying responsibilities between owners.
 - power to advance well-being in the Local Government in Scotland Act 2003;
Local authorities should consider using this power where there is a need that is not covered by other powers.
- 1.36. Local authorities also have a range of powers and duties relating to provision of services for disabled people. Each local authority has a duty under the Chronically Sick and Disabled Persons Act 1970 to arrange for disabled persons' needs to be met, and related powers under community care legislation. This legislation, which has particular relevance to the provision of adaptations, is covered in volume 5, chapter 4 – Section 72 Statement of Assistance.
- 1.37. Other legislation also helps owners and private tenants take action themselves, including:
- the Home Report to be required from 1 December 2008 under Part 3 of the 2006 Act;
 - the revised repairing standard and the Private Rented Housing Panel, introduced under Part 1 Chapter 4 of the 2006 Act in September 2007; and
 - the Tenements (Scotland) Act 2004, which clarifies responsibilities for parts of buildings and areas owned in common.

Change from 1987 Act powers and duties – transition and timing

- 1.38. The powers and duties in the 2006 Act that this guidance covers replace provisions in the Housing (Scotland) Act 1987, and regulations made under that Act. Ministers make a “commencement order” to determine when the

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various provisions in the new legislation come into effect and when the superseded legislation is repealed.

- 1.39. We know from discussion with local authorities that most will need time to make changes to their policies, practices and structures after we have finalised the guidance and regulations. The amount of change needed will differ between authorities according to the arrangements that are currently in place. It would be unfortunate if some authorities had not completed their arrangements by the date in the commencement order or if others had completed their preparations and had to wait unnecessarily.
- 1.40. We are therefore commencing the powers and duties in chapters 1, 2, 3, 5 and 6 of Part 1 of the 2006 Act and the whole of Part 2 as at [provisionally 1 October] 2008 but will not implement the repeal of equivalent sections in the Housing (Scotland) Act 1987 until [provisionally 31 March] 2009. We give more detail in chapter 4. This will allow each authority to take up the new powers at a time (within the first [period as determined by consultation] of commencement) suited to its own state of readiness, and to continue using existing powers until that point.
- 1.41. The clearest point of transition from one regime to the other is when the local authority publishes its criteria for assistance as required by section 72 of the Act. The authority will have to take account of resources, enforcement policies and so on in deciding what criteria will work for its area. This means the section 72 statement will need to reflect the full range of its policies for dealing with private sector housing condition. We therefore expect the publication of the section 72 statement to be the point at which the authority implements the 2006 Act powers and cease to use 1987 Act powers.

Questions:

Do you agree that the publication of the section 72 statement is the best point of transition?

Is a transition period of 6 months appropriate?

- 1.42. Each local authority will also need to incorporate its policies for the private sector in the 2009 Local Housing Strategy. The work done for the development of the section 72 statement should support and feed into the process for the next full Local Housing Strategy scheduled for 2009 (see also chapter 3).
- 1.43. Because the new approach will be fairer and help more people, Ministers encourage authorities to make the transition as soon as possible after the new powers come into effect.

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Volume 1

The Guidance

Chapter 2 The Guidance

Audience	This chapter of the guidance is mainly for: Corporate managers, Strategic policy officers, all other readers
Purpose	This chapter is intended to: Explain the status, purpose and form of the suite of guidance on implementing the Housing (Scotland) Act 2006.

SUMMARY

- The local authority interprets the law that it implements; courts determine disputed interpretation.
- The local authority must have regard to statutory guidance when deciding how to proceed; courts are also likely to refer to it in any court case.
- The guidance for the following is statutory guidance:
 - Tolerable Standard (section 11 of the 2006 Act)
 - 'missing share' powers for maintenance orders (section 50)
 - Part 2 powers (Scheme of Assistance) (section 94)
- Other guidance is advisory and will normally aim to do one or more of the following:
 - explain how policies fit together and are intended to work
 - convey Ministers' priorities
 - disseminate good practice and encourage consistency
 - describe central support
- Ministers can also influence action through regulations and directions.
- This is a new system and guidance will evolve through experience and good practice.
- We will work with CoSLA to develop a network to spread good practice.

CONSULTATION

We welcome views on all aspects of this chapter from all interests including service users.

In particular we would welcome your answers to the following question:

After considering the statutory and advisory parts of this suite of guidance, do you agree with the balance between national consistency and local flexibility?

Chapter 2 The Guidance

The suite of guidance: format and structure

- 2.1. This guidance covers a wide range of activity that a variety of different people may carry out. To make it easier to use it is divided into volumes so that, for example, a member of staff dealing with properties below the tolerable standard has a self-contained body of relevant guidance for day-to-day use. The contents page shows how the guidance is structured.
- 2.2. Staff dealing with particular areas of work need to know the context for their work. The sections in this volume of the guidance provide this context. There is also contextual material within the volumes dealing with the delivery of enforcement and assistance. There is some duplication of this material in the interests of providing self-contained volumes.

Status of guidance

- 2.3. This guidance is about powers and duties that the Housing (Scotland) Act 2006 gives to local authorities. The law is as stated in the statute. Should its meaning need to be interpreted, that is for the local authority to do, as the body that implements the law in its area. If the local authority's interpretation is disputed, the courts will deal with the dispute and determine how the statute should be interpreted.
- 2.4. This means that the Scottish Government has no role in either interpreting statute or arbitrating on disputes about interpretation. Neither has the Scottish Public Services Ombudsman. The Scottish Government may be able to explain what thinking lay behind the statute, by reference to the Housing Improvement Task Force, discussions in the Scottish Parliament or other material. But this is only additional information for the local authority or the courts to consider, since what matters is the meaning of the statute as written.
- 2.5. Against this background, there are two types of guidance. The first is statutory guidance, which is specifically provided for in the statute. The second is advisory guidance, which has no formal legal status. There are both types of guidance within this suite of guidance and it is important that anyone using this guidance is aware of the difference. **The header for each page shows the type of guidance.**

Statutory guidance

- 2.6. The guidance for the following aspects of the 2006 Act is **statutory guidance**:

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- construing references to a failure to meet the Tolerable Standard or to bringing up to the Tolerable Standard (see section 11 of the Act and volume 4);
 - the 'missing share' powers in connection with maintenance orders (see section 50 and volume 3); and
 - the whole of Part 2, which covers the Scheme of Assistance (see section 94 and volume 5).
- 2.7. The 2006 Act states that a local authority must “have regard to” statutory guidance. When deciding how to use powers and duties covered by statutory guidance it should consider that guidance but is not obliged to adhere to it. A local authority must, of course, always act reasonably and responsibly. This implies that, if the authority chooses not to follow statutory guidance, it should have a good reason for departing from it. If the authority’s actions are challenged, then a court is likely to look at the statutory guidance and ask itself whether it was reasonable for the authority to depart from it.
- 2.8. The fact that guidance is statutory does not mean that it has to be prescriptive. For example, Part 2 of the Act gives authorities a range of powers and the flexibility to choose between them according to circumstances. The guidance does not undermine this flexibility by prescribing exactly what powers a local authority should use in which circumstances, but it does set ground rules for how the authority should decide on its use of those powers. This should mean that the general approach authorities adopt will reflect consistent principles, but it is likely that the details will vary considerably according to local circumstances and priorities.

Advisory guidance

- 2.9. The remaining elements of this suite of guidance are **advisory guidance**. This includes guidance on how to implement powers and carry out duties in relation to:
- Housing Renewal Areas;
 - changes to the Local Housing Strategy;
 - other aspects of guidance on the Tolerable Standard (for example on action to take on housing that fails the Tolerable Standard);
 - work notices and demolition notices; and
 - maintenance orders
- and also includes guidance on planning for and managing implementation.
- 2.10. Advisory guidance helps authorities with their implementation task. It should reduce duplication of effort between authorities and encourage a degree of consistency across Scotland that allows the policy intentions behind the legislation to be achieved. In particular, the advisory guidance:
- explains how policies fit together and are intended to work;
 - conveys Ministers’ priorities;

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- disseminates good practice and encourages consistency; and
- describes central support.

Developing guidance and good practice

- 2.11. Both types of guidance reflect consultation with local authority officers, as nominated by CoSLA. In many areas it is clear that local authority officers are keen to have national guidance that collates good practice and provides a basis for development of more detailed policies and processes. For example, the advisory guidance on maintenance orders gives officers a valuable understanding of the policy thinking that led to the legislation. It also reflects the fruits of a series of workshops in which officers likely to implement the provisions exchanged ideas and explored the opportunities and dangers that implementing this new power is likely to bring.
- 2.12. This guidance reflects an evolving policy background. It relates to a legislative framework that replaces one that lasted for 30 years. We want the implementation of the new framework to evolve through experience and innovation, as a collaborative effort with local government. We would expect to relax aspects of the guidance as local government becomes more confident and experienced in the effective use of the new powers.
- 2.13. The guidance is heavily based on what is currently regarded as good practice. Good practice evolves and the guidance should ideally evolve to keep pace. This is particularly important for new areas of activity such as maintenance orders and the use of lending. We therefore plan to update the electronic version of the guidance as developments warrant a change of guidance and to incorporate or make links to additional good practice material.
- 2.14. Networking between local authorities, with support from the Scottish Government, will help to disseminate innovation and good practice and to alert practitioners when that leads to a change in guidance. This also feeds into building the skills base for work on the private sector, alongside new opportunities in training and development for relevant staff. We give further details in chapter 4.

Question: After considering the statutory and advisory parts of this suite of guidance, do you agree with the way the guidance balances national consistency and local flexibility?

Regulations, orders and directions

- 2.15. The 2006 Act also contains powers for Ministers to make regulations, orders and directions. **Regulations** are part of the law and modify or add detail to the content of the Act, and apply to all authorities in the same way as the wording in the Act itself. They are made by Ministers. Some require to be

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approved by the Scottish Parliament; others do not but may be annulled by Parliament.

2.16. For example:

- There are powers to make regulations prescribing the forms local authorities should use for certain enforcement processes. Ministers do not intend to use these powers at present despite previous practice, as they feel that a suitable standard of application form will be achieved without regulation.
- There are powers to prescribe a test of resources in regulations for access to assistance by way of grant or subsidised loan (section 77(1)). Ministers wish to use these powers only in connection with adaptations to suit the needs of disabled occupants, rather than for all applicants as in the past (see vol. 5; 3.227). This will provide a simple and positive arrangement with flexibility for the authority to recognise greater necessity.
- There are powers to use regulations to make further provision about giving assistance (section 71(6)). Ministers feel that guidance should be sufficient at present. But should circumstances change or should the degree of variation in local practice become unacceptably high it will be open to them to regulate in future.

2.17. **Orders** are more limited in scope but still modify the statute as it applies to all authorities. For example, section 73(7) allows Ministers to alter the definition of standard amenities in a very limited way. Such an order requires to be laid before the Scottish Parliament, which may annul it.

2.18. The Act also gives Ministers powers to make **directions** about the designation of Housing Renewal Areas (section 6) and generally about the provision of assistance under Part 2 of the Act (section 94). Directions may be specific to individual local authorities or have more general effect. A local authority affected by a direction is obliged to comply with it – a failure to do so would be unlawful and subject to challenge.

2.19. Given the scope to make regulations about the provision of assistance it is likely that if Ministers were to use the power in section 94 to make directions, this would be in relation to individual authorities rather than on a general basis. This could be when an authority appeared to be significantly out of line with policy or guidance to the extent that there was perceived unfairness between different parts of the country. Ministers currently have no intention to use powers of direction and it is not a step they would take lightly, but local authorities should recognise that these powers exist.

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Chapter 3 Setting the Local Strategy

Audience	This chapter of the guidance is mainly for: Councillors Corporate managers; Strategic policy officers
Purpose	This chapter is intended to: Support authorities' strategic decision-making by highlighting factors that need to be taken into account in building a balanced strategy. Encourage monitoring and evaluation to ensure policies and strategies remain effective and relevant at national and local level.

SUMMARY

- The local strategy for private housing is part of the Local Housing Strategy
- Too many houses in Scotland are in poor condition, with a variety of local situations needing local action
- There are many disabled people who need help to adapt their house
- The actions required should suit the needs of individuals and local communities and, by being cost-effective, reach many more owners than in the past
- The guidance shows how local outcomes can contribute to Ministers' objectives
- Privately owned housing affects wider strategies and should fit with community planning and other policies include public service reform
- Strategies should be built on evidence and take account of the practical impact of resource availability
- A broad view should be taken including changes in pressures and options over different timescales, the scope to use external resources and the secondary effects of options
- Consider and decide the balance of enforcement and assistance for repair works, for the short and longer term
- In general, persuade and encourage rather than enforce – but enforcement should be a real option
- The SHQS cannot be enforced using these powers. Use of assistance to achieve it should be in the context that strategies should prioritise the poorest quality housing
- Arrangements should include consultation and involvement, and monitoring and evaluation.

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CONSULTATION

We welcome views on all aspects of this chapter from all interests including service users.

In particular we would welcome your answers to the following questions

What exceptions are there to the general rule that assistance is preferable to enforcement and how would you propose to handle them?

Do you agree with the position taken on the SHQS?

Do you agree with the principle that Scottish Government should continue to collect data on the local use of the new powers?

Have we suggested the most appropriate areas, or are there others that you think we should cover?

Chapter 3 Setting the Local Strategy

Introduction

- 3.1. At the heart of preparations for implementing the powers and duties in the Housing (Scotland) Act 2006 is the process of setting local strategies for the private sector. This chapter of the guidance sits alongside, but does not supplant, guidance on Local Housing Strategies. It focuses on some of the particular issues that apply to the private housing sector.
- 3.2. The Act does not require the production of a separate document, though some authorities may choose to do so. The authority's strategic intentions should be set out in the Local Housing Strategy, as required by section 10 of the Act, and reflected in the statement of criteria for assistance required by section 72 of the 2006 Act. This chapter is about developing the strategic intentions, however they may be incorporated in documents published by the authority. It should be read in the context of guidance on Local Housing Strategies³. It does not supplant that guidance.

The national context

- 3.3. National policy is driven by the evidence on the nature of private sector housing across Scotland. Each local authority should be aware of the national picture, to understand Ministers' priorities and how local priorities fit with and alongside national priorities.
- 3.4. Too many houses in Scotland are in poor condition. Most of these are in the private sector.
- around 33% of Scotland's 1.64 million private sector houses require urgent repairs⁴
- This means that too many private owners are not doing what they should to maintain and repair their houses. The result is large numbers of run-down houses and under-investment in maintaining the fabric of the nation's homes.
- the cost of addressing comprehensive repairs costs in private sector housing is around £5 billion
- The results are poor living conditions and declining communities. This builds up bigger problems for the future.
- 3.5. The situation varies widely across the country, both in scale and nature. The cities have high numbers of tenements a century or more old that are at the core of the community and its character. Many of these tenements have major problems of disrepair. Rural cottages are too often crumbling for lack

³ Local Housing Strategy guidance is currently being updated and will be available in due course.

⁴ Statistics in this section are from the report of the Housing Improvement Task Force, the Scottish House Condition Surveys 1996 and 2002, and more recent Housing Statistics published by the Scottish Government.

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of investment. Many non-traditional houses have treatable but significant problems.

- disrepair is worst in pre-1919 houses, 48% of which require urgent repairs, and in private rented housing, 46% of which requires urgent repairs
- tenements, where multiple ownership complicates repair work, have particular problems – 36% of the 400,000 private sector homes of all ages in tenements are in critical disrepair - 150,000 houses

Owners' incomes vary widely; house condition problems tend to be worse in low-income areas and in privately-rented property. So there is a great variety of situations needing a range of actions.

- 3.6. There are pressures in the housing system that tend to increase problems of disrepair. The private sector has risen from under half the houses in Scotland in 1980 to three-quarters currently, increasing ownership in lower income groups. Many owners who bought under the Right to Buy are on relatively low incomes. Many owners have increasing difficulty with repairs as they and their houses age. The rising cost of house purchase is taking a bigger proportion of new owners' income, creating a pressure to spend less on repairs.
- around 40,000 new owners take on responsibility for a house each year.
- 3.7. Many owners live in good houses that are unsuitable for someone in the household who is disabled or frail through age.
- at a national level, around 90,000 owners report that their homes require adaptation to help them live independently
- If a disabled person seeks help and the local authority is satisfied that the person has a need and it is necessary for the local authority to meet that need, then it has a duty to make arrangements for various services⁵, whether to help adapt the house or for other purposes. Helping people in this situation needs actions that take account of individual needs and the range of options available.
- 3.8. If current problems with private sector housing conditions are to be overtaken actions are required to suit the needs of individuals and local communities and they need to reach many more owners than at present.
- the previous approach, despite substantially increasing the resources that local authorities were applying in 2003/04, reached around 25,000 owners per year by providing grant, compared with the 540,000 private houses requiring urgent repair
 - the approach introduced by the 2006 Act aims to be more cost-effective in stimulating action by owners, and to reach many more owners than in the past.

⁵ Social Work (Scotland) Act section 12A and Chronically Sick and Disabled Persons Act 1970 section 2

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The local strategic approach

- 3.9. The local authority already has an established process of strategic planning to achieve housing outcomes, in its Local Housing Strategy (LHS). The LHS covers all sectors, but the requirements in section 10 of the 2006 Act reinforce its application to the private sector. The LHS must show how the authority's policies on enforcement and assistance will improve private housing conditions. Some authorities may also choose to prepare a separate document as a Private Sector Strategy, although there is no obligation to do so. The statutory guidance in volume 5 emphasises the need for consistency between the statement of criteria required by section 72 of the Act and the LHS, especially at its next review due to be submitted in 2009.

Outcomes

- 3.10. Ministers wish to achieve the following across Scotland:
- a significant reduction in the proportion of private sector houses that are sub-standard; and
 - a significant increase in the number of disabled people who are able to live independently in the private sector as a result of house adaptations.

This guidance suggests ways in which local authorities can contribute to these objectives. Authorities should consider how these objectives can support broader strategic goals in their own areas. Indeed, they may wish to include these as targets built into local indicators, which support National Outcomes including those which state "We value and enjoy our natural and built environment and protect it and enhance it for future generations" and "We live in well-designed, sustainable places where we are able to access the amenities and services we need".

- 3.11. The local role and significance of the private housing sector varies considerably across the country. It reflects the differing histories of communities, for example in relation to the extent and timing of industrial growth and decline, agricultural change, patterns of wealth and poverty, transport links, council house building and sale and so on. As a result, private sector housing conditions vary in a complex way. The detail behind the appropriate local objectives is likely to vary between local authorities and often within local authority areas.

Policy fit

- 3.12. The authority's strategic approach for private housing should fit with wider strategies including the Community Plan and community care strategy, because of the impact that housing conditions have on the well-being of occupants and the wider community. Relevant partner organisations should have the opportunity to have an effective input.

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- 3.13. For example, assistance with adaptations or the purchase of a more suitable house may reduce or remove the need for a disabled person to receive community care or medical care, while giving that person the benefits of greater independence in their own home. This area of activity is therefore relevant to at least housing, social work and health interests.
- 3.14. The authority's strategy should link to its disability, gender and race equality schemes, as the new powers and duties will be relevant to them. It should also refer to the broader equality strategy if the authority has one. The authority should bear in mind the equality requirements in section 106 of the Housing (Scotland) Act 2001 and section 185 of the 2006 Act.
- 3.15. The approach should take account of economic and regeneration policies, and policies to handle the expected impact of demographic change, from ageing, migration and other factors. It should tie in with policies on sustainability, recognising on the one hand that the retention of houses is generally a more sustainable option than demolition and replacement, but on the other that older housing is generally less energy efficient.
- 3.16. The approach should in particular fit with the authority's wider approach to public service reform, including planning for how services are delivered. In particular the authority should aim to simplify and streamline service delivery wherever possible, taking account of corporate policies and outcomes and specific rural dimensions of service priorities and delivery, where relevant. A more personalised approach to service delivery increases the level of contact with individuals. This can support income maximisation strategies that aim to increase the take-up of benefits, and help to identify the need for action on wider social problems such as social exclusion, frailty and so on.
- 3.17. The authority should explore the potential for efficiencies and economies through joint or coordinated delivery, management or funding within the authority or with delivery partners including other authorities.
- 3.18. Of course, house owners, other members of the public and other interested parties should have an opportunity to influence priorities and strategies. We deal with this further below (paragraph 3.50).

Evidence

- 3.19. The Local Housing Strategy process is intended to provide a full cross-sector analysis of strategic housing needs and priorities. To develop the next LHS, including those parts which are now required by section 10 of the 2006 Act, and to prepare the separate statement of assistance required under section 72 of the 2006 Act, each authority should look closely at the evidence that is relevant to its area. It may well need to enhance that

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evidence for the future (see chapter 5), since our research⁶ shows that most authorities have poor evidence about their private housing sector. Building the evidence base takes time and in the meantime authorities will need to work on the best evidence available. This may mean using other surrogate evidence that gives an indication of the position without directly measuring it.

- 3.20. The evidence sought should give a picture of housing conditions. But the impact of poor housing conditions – and the reason for local authority intervention – goes beyond the fact of the physical condition of buildings. In order to determine priorities for action it is also important to have evidence of the socio-economic factors that determine the significance of private housing condition for the people living in the houses, and their ability to do something about it.
- 3.21. Similar considerations apply to disabled people, with the difference that priority for action is often not a function of poor housing condition, but of particular needs that a house of otherwise acceptable standard cannot support without adaptation. So the evidence to inform priorities is primarily about the incidence and nature of disability, but it needs to be linked to the nature of the houses. For example, the practical issues for a community with a high proportion of frail elderly people are likely to be different in a rural area compared with an urban tenement area.
- 3.22. It is also important to have a combined view of houses in poor condition and houses that should be adapted to the needs of disabled people since evidence of overlapping problems may indicate particular priorities for action.
- 3.23. Evidence should look to the medium and long term as well as the current position, taking account, for example, of demographic trends towards an ageing population and the effect such trends are likely to have in different areas.
- 3.24. Evidence on these matters can be more difficult to obtain in the private sector than in the social sector because neither the authority nor a social landlord with which the authority could work has a direct relationship with the owner or a direct record of the property and its maintenance.

Resources

- 3.25. The strategy and the resources to support it are interdependent, and resource plans should be matched to plans for delivering the strategy. More detail is given in chapter 4.

⁶ Implementation of the 2006 Housing (Scotland) Act: Skills & Resource Audit for Local Authorities, Arneil Johnston, July 2007. Available at

http://www.communitiesscotland.gov.uk/stellent/groups/public/documents/webpages/otcs_019773.pdf

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- 3.26. The authority should have a well developed plan for services in the short, medium and longer term, to provide a time frame in which the condition of private sector housing will to be addressed. This should allow resources to be planned over a similar timescale rather than on a reactive basis. Clearly, plans will become less definite the longer the timescale but a view of the future for, say, the next 5 to 10 years is necessary to inform the detailed planning for the next 1 to 3 years.
- 3.27. Coping with the different phases and demands of initial implementation and delivery will need flexibility in resourcing and the mix of capital and revenue use of available funds. Arrangements should take into account changes in the resourcing framework, such as the new arrangements for Private Sector Housing Grant (paragraph 4.23) and the expectation that authorities will be able to call on new loan vehicles which have funding support at a national level (see volume 5).
- 3.28. The task of resourcing the implementation of the new powers and duties should be considered as a whole. The most effective implementation may mean working across traditional corporate boundaries. It may also mean reviewing the application of corporate policies such as those for staff recruitment in order to allow the package of changes to be introduced in a timely, managed and cost-effective way.
- 3.29. The scope for delivering the strategy may be increased by organising and managing the use of external resources, such as commercial or voluntary sector contractors or shared service arrangements with other authorities, perhaps with the support of The Improvement Service. For smaller authorities in particular this may be the best way of providing for new skills and activities.

Building the strategy

- 3.30. The evidence gives a basis on which to consider priorities. Analysing the evidence should show the most severe problems and the most acute ones. But priorities for action must also be influenced by what can be done. So it is important to consider the options for action, what their impact would be and how practicable they are in terms of resources and timing. The choice of actions and their relative priority should be derived from the evidence and driven by the desired outcomes but thoroughly informed by a clear understanding of what they can achieve and when.
- 3.31. It is important to think laterally about the options available, particularly to see if an option suggested by one problem can, if suitably pursued, have wider benefits. For example, advice and assistance on moving to another house could resolve a problem of independence for a disabled person but could also extend to resolving difficulties for older people in handling outstanding repairs and to the release of family housing by down-sizing.

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- 3.32. It is also important to consider the time frame for the various options. Some actions will deal with urgent priorities but other actions may need to be taken at the same time to begin to have an effect on longer-term priorities.
- 3.33. Many options for action will have secondary impacts and these should be considered, whether their effect is positive or negative. The combined effect of options should also be considered – where, for example, it is sensible to encourage low-priority work to be carried out where this is in conjunction with high-priority work.
- 3.34. The priorities and options for action should together build into a strategy, which must be clear and complete enough to allow the authority to define its criteria for assistance in a statement under section 72 of the 2006 Act (vol. 5 ch. 4).
- 3.35. The process of building a strategy is complex and inevitably involves a degree of subjective judgement. The judgement will reflect underlying assumptions and influences from the area's history, the impact of social and political traditions and outlook and the views of the local community. It is helpful if the authority reflects on and expresses the issues and values that it thinks are important and relevant to the judgements that are being made. This should help mutual understanding and the exchange of views with organisations and individuals outside the council. The key judgements made should be clear and transparent because they are at the heart of accountability in the democratic process.

Enforcement / assistance balance

- 3.36. The powers for dealing with housing conditions in the private sector divide into powers to enforce the carrying out of works and powers to assist owners to carry out works. The authority should not use these two sets of powers in isolation from each other. They are two routes to the same end result and should be considered together when the authority decides how to deliver the strategic outcomes. Similarly, the authority should avoid, if at all possible, locating the assistance and enforcement functions in different parts of the organisation as this is likely to create barriers to an integrated operational approach.
- 3.37. The authority should decide the balance between assistance and enforcement and include this in its statement of assistance under section 72 and in the strategies it develops for the Local Housing Strategy.
- 3.38. Local authorities have had assistance and enforcement powers for many years. However, the 2006 Act changes the nature of each of those sets of powers and the authority should consider the balance between them afresh in this changed context. In particular:

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- wider, more flexible powers of assistance allow the authority to target appropriate assistance to deal with the difficulty an owner faces
 - serving a work notice no longer results in an obligation to pay grant
 - maintenance orders and Housing Renewal Areas allow the authority to require preventative works.
- 3.39. These changes mean that there is greater scope to assist a willing owner effectively. There is also more opportunity to take effective and preventative enforcement action against unwilling owners in a way that will not reward them for inaction.
- 3.40. In general, the authority should therefore look initially to deal with poor housing condition by persuasion and encouragement backed up by assistance that the owner will find to be effective. It should resort to enforcement action only where that is necessary to achieve the action required. However, the state of private housing in Scotland justifies a greater willingness than in the past to resort to enforcement action where necessary. Removing the automatic link between statutory action and grant signals this intention in national policy. The authority's actions should make it clear that in appropriate cases the potential for enforcement is real and effective.

Applying the balance

- 3.41. Staff or partners delivering assistance and staff dealing with enforcement should work together so that they know where action on house condition is needed and know when matters progress to the point where enforcement is needed.
- 3.42. Some of the assistance tools – such as equity based loans – may not be fully available at the point that the authority moves to the use of 2006 Act powers. The authority's capacity to use enforcement powers such as maintenance orders may also not be fully developed at that stage. The strategy for the use of powers and the balance between them should take this into account by establishing the long term approach and the way in which the authority will work towards it as capacity develops.
- 3.43. There will always be exceptions to the general rule that assistance is preferable to enforcement. To the extent that they are predictable – for example, where moving direct to enforcement action against an absent owner enables a neighbour to gain access to do works - the authority should identify exceptions. It should also establish a process for handling the unpredictable in an open and fair way, and include it in the section 72 statement.

Q. What exceptions are there to the general rule that assistance is preferable to enforcement and how would you propose to handle them?

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Disabled people

- 3.44. Enforcement should not generally be an issue where the authority is addressing the needs of a disabled person. However, it could be that the house is in poor condition as well as needing adaptation to suit that person's needs. In such a case it will be particularly important to seek a solution through the provision of assistance rather than through enforcement, although that will not always be possible. Where this happens, the adaptations works must be distinguished from the other works in the approval process even if they are carried out together, as different legal provisions apply to them.

The SHQS

- 3.45. The Scottish Housing Quality Standard (SHQS) is a particular issue for many local authorities, affecting the way they approach private sector housing condition. This is especially true in relation to houses previously purchased under the Right to Buy.
- 3.46. The SHQS is a standard that all social landlords are required to work towards for their own houses, and a standard that is appropriate to housing in the 21st century. It may be that an authority wishes as a matter of policy to promote the achievement of that standard in some or all houses in the existing private sector, particularly where they share common parts with social rented housing. If so, this should be explicit in its strategies and its section 72 statement.
- 3.47. The SHQS is not a statutory requirement for owners. So where an authority uses its powers under the 2006 Act to require an owner to carry out work, the notice should specify what work the owner needs to do to stop the house being sub-standard in terms of the definition in the 2006 Act (see vol. 2). The outcome should be that the house is no longer sub-standard on that definition.
- 3.48. If an authority wants to go further and use its 2006 Act powers to ensure that a privately owned house is brought up to the SHQS it should make clear to the owner the distinction between the statutory nature of essential work and the voluntary nature of any additional work. The authority may provide assistance (whether financial or non-financial) to owners to help bring the house up to the SHQS – subject to owners' willingness to participate. But authorities must be clear that their strategies, and their financial support for owners, focus on prioritising the poorest quality housing.
- 3.49. There may be circumstances where it is desirable for a local authority to help an owner achieve the SHQS standard, for example where a RSL is carrying out common works in a mixed tenure building. To avoid such works becoming blocked by owners who are unwilling or unable to take part,

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authorities should consider what, if any, assistance to offer owners, and reflect this in their section 72 statement. There should be an emphasis on advice, information, practical assistance and lending (where financial assistance is required). Assistance should support the owner in the exercise of his or her responsibilities, whether to deal with a house that is sub-standard or to comply with obligations in the title deeds. The authority would need sound justification for the use of funds in these circumstances, especially when it has powers as the former landlord. Where another landlord is involved it should consider seeking co-funding from that landlord, particularly if the works are not an obligation on the individual owner.

Q. Do you agree with this position?

Consulting on the strategic approach

- 3.50. The local authority should ensure that it consults and involves people widely on its strategies for addressing living conditions in the private sector, including the balance between enforcement and assistance, the approach to adaptations and the criteria contained in the section 72 statement of assistance. It may be possible to combine this activity with processes for the LHS. The authority may instead prefer to have a process focussed specifically on private sector condition. It may indeed be necessary to have a specific private sector process in order to establish a section 72 statement of assistance that will inform the LHS (see paragraph 3.9).
- 3.51. The authority will want to consult with those with a policy interest, such as Community Planning partners and organisations with a particular interest such as those representing disabled people or property managers. It should also aim to reach home owners, including those who are disabled or have disabled family members. The requirement to involve disabled people, which goes beyond mere consultation, is now embedded in equalities legislation. There are also legal requirements on consultation in relation to race and gender equality as the strategy is developed. There may be other hard to reach groups in the authority's area that it should also consider.
- 3.52. Home owners generally are not well organised as a group and the authority may need to be imaginative in tapping into suitable networks. This is an issue that is also relevant in other contexts and the authority may have existing structures such as citizens' juries or 'planning for real' practices that it can use or learn from. Standards for community engagement and supplementary 'How to Guides' are available⁷ and may be useful.
- 3.53. The consultation and involvement process can itself contribute to strategic objectives by raising awareness and helping to generate a greater feeling of responsibility and a greater willingness to take action on house condition.

⁷See http://www.communitiesscotland.gov.uk/stellent/groups/public/documents/webpages/cs_008418.hcsp

Monitoring and evaluation

- 3.54. It is of course good practice to monitor and evaluate implementation. Doing so checks that the authority is achieving or will achieve intended outcomes. It also allows the authority to adjust policies and processes if this is not the case or if the desired outcomes have to change. This applies at local level as it does at national level. Because action on private housing is a function of national and local policies and priorities, it is important that monitoring and evaluation should take place at both levels in a way that is compatible. Only then can future developments in policy and practice at one level take proper account of what is happening at the other level.

Local authorities' internal arrangements

- 3.55. Each authority will want to develop a framework for monitoring the day to day operation of its scheme of assistance and its use of enforcement powers. This will allow the authority to check it is using the new powers efficiently and effectively, and will allow it to assess performance and plan for continuous improvement.
- 3.56. In particular, the 2006 Act allows the authority the flexibility to revise its section 72 statement of assistance whenever appropriate, in the light of changing circumstances or the authority's evaluation of its effectiveness. Authorities should design monitoring and evaluation processes in a way that allows them to identify how the Scheme of Assistance is contributing to the repair and improvement of private sector housing.
- 3.57. Authorities will be starting from different positions. Some will have in place comprehensive monitoring arrangements for their use of existing powers under the Housing (Scotland) Act 1987 and may need only to fine-tune and update these. Others may need to review their existing arrangements more fundamentally.
- 3.58. It is for each authority to develop a monitoring framework that suits its own circumstances, taking into account the importance of compatibility with national monitoring. There is a large body of good practice material on effective performance monitoring, both in itself and as an integral part of a best value approach⁸, and so we do not intend to provide detailed guidance here. But we have summarised below some broad principles that authorities might find helpful.
- 3.59. *Start early.* Each authority will have a range of work connected with the introduction of the new powers, such as developing operational policies and procedures. It should consider at the early design stage how it will monitor

⁸ See for example <http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/14838> or <http://www.improvementservice.org.uk/>

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service delivery, rather than wait until everything is up and running. This will help to embed monitoring as a core part of service delivery.

- 3.60. *Routine management information:* The authority's monitoring framework should allow it to examine key aspects of service delivery on a regular basis through routine data collection. There may occasionally be a need to carry out one-off exercises, such as for a specific evaluation exercise. But collecting routine, standard information should be at the core of the monitoring framework.
- 3.61. *Processes and outcomes:* The authority will need to think about the right mix of information to collect. This should reflect how it manages the key processes that underpin its use of the new powers. This will be particularly important as new ways of working bed in and the resource implications of working with the new powers become clear. Equally, the information will need to show the effects of the authority's actions, at both operational and strategic levels. It will also be important to capture the impact on equalities groups.
- 3.62. The elements monitored should allow the authority to assess whether it is meeting its policy aims for private housing. These would include objectives and targets set out in the Local Housing Strategy and the Section 72 statement.
- 3.63. *Service standards:* The Act generally does not specify timescales for the use of local powers. So, for example, there is no requirement for an authority to decide within a specific period whether to make assistance available or to issue a work notice after an initial enquiry. But it would be good practice to develop internal service standards and other performance standards for carrying out key processes. These should form part of the overall performance monitoring framework. Where relevant, details of service standards should be included in the information given to owners.

National monitoring

- 3.64. Just as each authority will be responsible for monitoring the impact of its policies at a local level, the Scottish Government needs to understand the national picture. So we are developing a monitoring and evaluation framework that will allow us to examine how well the legislation is working and what difference it is making. The national framework will have a number of different elements and will draw on a range of techniques. It is likely to combine ongoing monitoring and specific evaluation exercises, supported by data collection.
- 3.65. Collecting data nationally will help us to check how well the new legislation is working and to understand how authorities are using the new powers at a local level. It should also help to promote consistency across authorities' own local monitoring frameworks.

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- 3.66. Local authorities currently supply a range of data on private sector housing activity through Private Sector Housing Grant (PSHG) monitoring and housing statistical returns to the Scottish Government. The Concordat between The Scottish Government and local government notes that existing statistical data collections will continue. Part of the current data collection process involves reviewing the detail of what is collected with those it is collected from, to make sure it remains appropriate. Such a review is to be carried out in 2008 by the Scottish Government's Analytical Services Division (ASD) and this will be an opportunity to take stock of the private housing data we collect, in the light of the 2006 Act and changes to PSHG.
- 3.67. The forthcoming ASD review will be conducted jointly with local authorities. Bearing in mind the existing statistics that are collected, we propose that the reviewed arrangements should cover:
- the scale of use of each enforcement power;
 - the types of work carried out as a result of enforcement action;
 - the number of adaptations to make a house suitable for a disabled person; and
 - the scale of assistance provided under the Scheme of Assistance.

Question:

- **Have we suggested the most appropriate areas for the collection of statistics in the future?**

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Chapter 4 Making it Happen

Audience	This chapter of the guidance is mainly for: Corporate managers; Strategic policy officers; Service managers; Central support services
Purpose	This chapter is intended to explain transitional arrangements and alert authorities to key issues in resource planning.

SUMMARY

- The transition process means repealing existing duties at the start where these conflict with new duties. There may be a case for starting to use some powers earlier than others, if there is a wish to do so.
- Arrangements are proposed for
 - central support for training and development of staff for the longer term as well as the short term;
 - a local authority network to disseminate information and good practice; and
 - a structure for moderating good practice through peer review.
- The new approach makes new demands on information management, which may affect the scope for delivery.
- The new funding arrangements mean that a case for financial resources will need to be made within the local authority, taking account of the broader benefits and economies from intervention and assistance using the new powers.

CONSULTATION

We welcome views on all aspects of this chapter from all interests including service users.

In particular we would welcome your answers to the following questions

Do you think it would be helpful to use maintenance order powers before other aspects of the new powers are ready to be introduced locally?

Do you foresee any problems if we repeal conflicting duties in the 1987 Act at the start of the transition period?

Should non-local authority interests be involved in training and if so, how?

Would you be in favour of the development of a recognised qualification focusing on private sector housing issues?

Are there examples of processes for identifying, validating and disseminating good practice that you think would be useful?

Chapter 4 Making it Happen

Introduction

- 4.1. Each local authority will need to develop and carry through plans to implement its strategies for action on private housing. This is likely to be an iterative process. The demands of implementation may affect the feasibility of the planned approach, particularly in the short term, and may mean that the authority has to amend its strategic proposals accordingly. It is for each local authority to decide how to implement the new arrangements within the framework provided by this suite of guidance.
- 4.2. The preparations for implementation that an authority makes may well differ from those made by other local authorities because circumstances vary so widely. However, there is likely to be value in exchanging ideas and experience through informal or more formal contact. We aim to facilitate this (see proposals for a network at paragraph 4.14) and encourage the use of such opportunities.

The transition

- 4.3. The transitional arrangements that we propose are described from paragraph 1.38. These arrangements are intended to help with local planning while, at the broader level, avoiding the situation where local authorities that are ready to make use of the new powers have to wait until all other authorities have made the necessary preparations. The following paragraphs expand on some of the considerations that could have an impact on the detail of implementation.
- 4.4. The first aspect of the transitional arrangements is that the various powers in the 2006 Act will commence [at a date in] 2008, but the repeal of powers in the 1987 Act will not be activated until a later date. The two sets of powers will run in parallel and each authority will be able to decide when to move from one set of powers to the other. Ministers wish that to be when the authority publishes its statement of assistance under section 72 [subject to the outcome of consultation – see 1.41].
- 4.5. In general, each of the two Acts (1987 and 2006) provides a framework of powers which is internally linked but externally separate from the framework provided by the other Act. For example, there is a general power to make grants in the 1987 Act which becomes a requirement to make grant when the authority makes an improvement order under the 1987 Act and the owner applies for grant. But making an order under the 1987 Act does not trigger action under the 2006 Act.
- 4.6. For this reason, and to avoid confusion, it is in general better to make a wholesale change at a given point. Nonetheless, it is open to each authority

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to make use of elements of either set of powers where its legal advisers confirm that there is not a specific legal conflict.

- 4.7. The one significant exception to this generality of which we are aware is maintenance orders. The provisions in Chapter 6 of Part 1 of the 2006 Act are new and have no parallel in the 1987 Act. An authority could implement them before a more general transition from 1987 Act powers to 2006 Act powers as a self-standing initiative, presenting them locally in a way that did not create confusion. However, we feel that unless there are strong arguments for taking this course in particular authority areas it is preferable to present and introduce maintenance orders as an integral part of the suite of new powers.

Question: Do you think it would be helpful to use maintenance order powers before other aspects of the new powers are ready to be introduced locally?

- 4.8. The second aspect of the transitional arrangements is that the various duties in the 2006 Act will be brought into effect from a given date. In some cases the new duties will conflict with existing duties under the 1987 Act. Because it is not tenable for a local authority to have two conflicting duties at the same time, we will repeal some of the 1987 Act duties at the same time as we commence the conflicting duty in the 2006 Act.
- 4.9. An example of this is s73 of the 2006 Act which places a duty on a local authority to provide grant when it receives an application for assistance with certain types of adaptation to a house to help a disabled person. A similar duty also exists in s244 of the 1987 Act, linked to the making of improvement grant. An improvement grant is specifically defined by and made under the 1987 Act. If we did not repeal s244 at the same time as commencing s73, a confusing situation would arise with an application triggering a slightly different duty under each of the Acts. Repealing the 1987 Act duty would avoid this confusion and would not disadvantage the applicant because the authority would still have a duty under the 2006 Act to provide grant. Since that duty does not define the nature of the grant, the authority could make whichever type of grant was appropriate to the assistance regime it was operating (under the 1987 Act or the 2006 Act) at the time.

Question: Do you foresee any problems if we repeal conflicting duties in the 1987 Act at the start of the transition period?

Resource planning

- 4.10. The scale and pace of implementation and the use of the new powers once an authority has made the switch will be largely influenced by the scale and

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timing of the internal and external resources available, as discussed in chapter 3. This makes effective resource planning vital.

- 4.11. An authority may well have commenced resource planning some time ago in response to the publication of the Act and of initial guidance in March 2007⁹. The following guidance is intended to assist the authority's internal processes by pointing to some particular issues in the present context.

People and skills

- 4.12. In planning for the people who will deliver services internally and externally, each authority should consider the people and skills already available, and the gap that needs to be filled. The main options for filling that gap include:
- joint working within the authority – what scope is there, for example, for joint service delivery to streamline delivery or bring in suitable expertise?
 - recruiting staff – what is the nature of the employment market, what will be the effect of corporate policies and what is the case for recruitment?
 - developing existing and new staff – what provision can be made for training and development and how can external support help?
 - delivery partnerships with external providers – is there scope to agree delivery arrangements with other authorities or Community Planning partners, or to establish shared service or simple contracted delivery with commercial or third sector organisations?
- 4.13. Our research has shown that local authorities believe there is a significant training need for staff working with the new powers. To augment what authorities are able to call on locally, we propose to initiate support centrally. We also believe there is a case for developing a clearer and better recognised discipline within the housing professions for dealing with the range of issues that arise in the private sector. This could extend beyond local authorities to their partners and other property professionals.
- 4.14. We are in discussion with the Chartered Institute of Housing (CIH) and the Scottish Housing Best Value Network (SHBVN) about developing a framework to help practitioners develop skills and share knowledge and experience of private sector issues. The main proposed elements are:
- a network for communicating ideas, experience and knowledge between practitioners, using electronic communication and with administrative support for meetings and events;
 - a structure for moderating key examples of good practice through a process of peer review; and
 - possible training modules for work related to private sector housing conditions.

⁹ http://www.comunitiesscotland.gov.uk/stellent/groups/public/documents/webpages/cs_019744.hcsp

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- 4.15. We are also discussing with the Chartered Institute of Housing the practicalities of developing a qualification to complement training. One possibility is that the training modules could be available as stand-alone training tools. Modules could potentially aggregate to a recognised qualification if individuals wished to do that.
- 4.16. Experience with existing networks (for example, for HMO licensing) shows that there can be considerable benefits from a network of personal contacts ‘owned’ by the practitioners, particularly if there is support for the administration of meetings and events, and our aim is that the network should be ‘owned’ by local government rather than run directly by the Scottish Government. Not all practice is good practice, and there is always the risk that disseminating examples of practice could have the reverse of the intended effect of improving practice across the country. Our discussions have highlighted the need to develop a mechanism for validating good practice.

Questions:

Should non-local authority interests be involved in training and if so, how?

Would you be in favour of the development of a recognised qualification focusing on private sector housing issues?

Are there examples of processes for identifying, validating and disseminating good practice that you think would be useful?

- 4.17. The Scottish Government has a part to play in generating and contributing to discussions around training, and has a short-term role in delivering an initial phase of training linked with the powers going live. But we do not see an ongoing role for the Scottish Government in delivering training once the new powers roll out. We believe that practitioners are best placed to identify their own training needs and to decide the shape of training, and that structures and activity will develop over time in the same way as they have done for the social rented sector.

Information management

- 4.18. The new powers and approach to service delivery will make new demands on information management. For example:
- A “one stop shop” (see vol. 5 ch. 1) approach will need effective systems for tracking the handling of cases, to make sure that they are completed, to be able to analyse and improve how the arrangements work, and to be able to report on performance.
 - Maintenance orders have a five-year life and so need a systematic method for collecting, storing and using data for monitoring over the rolling five-year periods.

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- 4.19. Each local authority will need to assess information needs and flows to meet short and long term objectives, and assess the extent to which existing IT and paper systems can handle them. Having identified the gaps, a technical analysis should show the scope for filling them. Cost and timing issues will influence how best to deal with those gaps. If necessary, they will feed back into implementation strategies as a constraint on the scale, pace or timing of what the authority intends to do.
- 4.20. The City of Edinburgh Council has carried out an exercise with consultants to assess the information needs that a large programme of maintenance orders would generate. The existing variety of IT systems in different authorities means that there is no simple solution to data management that can be applied nationally. There may well be benefit in local authorities that use the same existing IT products exploring options for the adaptation of those products through the relevant user groups.

Money

- 4.21. Each authority will need to plan for the funding of activities using the new powers. The various shifts in emphasis on the nature and delivery of services may require a review of budget structures and control systems so that they reflect the changed arrangements. It is likely to include a review of the balance between the costs of running services and the cost of directly provided financial assistance, and how the authority deals with them in its accounts.
- 4.22. Authorities may also have to adjust their budgets to recognise new joint working arrangements, and should give serious consideration to the potential for shared or pooled budgets to benefit the delivery of joined-up housing and community care services, particularly for disabled people. This would be in line with Joint Future principles.
- 4.23. Our letter of 21 December outlined the arrangements for central funding of local authority activity in the private sector in the three financial years commencing with 2008/09, reflecting the Budget announcement on 14 November 2007. It is for the local authority to determine and manage the funding it applies to private sector activity, subject to the continuation of ring fencing in the first two of those years. Ring fencing has been retained for this period to give financial stability in the initial implementation phase, although on a more flexible basis than before. It is open to the authority to enhance the ring fenced funding from its general fund.
- 4.24. These new arrangements challenge practitioners to make the case within their authority for suitable investment in private sector activity. The case can build on the national case provided by the Housing Improvement Task Force and referred to in the "Policy" section of this guidance. This reinforces the importance of building the local evidence base (see ch. 5) and planning

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strategically. The case should show the good outcomes that can be achieved for the area and its communities over the short, medium and long term. The case will be easier to make if the authority grasps the opportunities that the new powers in the 2006 Act offer for a cost-effective approach to encouraging owners to invest their own resources in their homes.

- 4.25. In financial planning for action in the private sector, authorities should take full account of the potential for lending to create future flows of income from repayments. They should consider the potential build-up of more expensive problems that would result from inaction. They should also factor in the secondary benefits of intervention in the private sector, such as:
- savings on community care and social work budgets from assisting disabled people to adapt their houses or move;
 - maximising individual income from benefits as a by-product of a personalised approach;
 - avoiding the homelessness or reduction in disposable income that can result if major works are required through a lack of repairs and maintenance; and
 - benefits to the local economy from an increase in house repair and maintenance.
- 4.26. A further factor in financial planning will be the impact of lending on the funding available. Assuming the National Lending Unit proposal proceeds (see vol. 5 ch. 3), we will give further guidance on likely timescales, which will depend on the preferred delivery model and other factors. In the early stages, there is likely to be some impact from the need to fund national lending, on the funds available by direct allocation from the Scottish Government funding. But as the Unit borrows from other sources and as its activities build to receive income from loan repayments, this call on public funding should reduce substantially. Should an authority decide to subsidise individual loans made by the Unit, there will also be a call on local funding to provide annual subsidy towards the interest on each loan.
- 4.27. We will provide planning assumptions on these effects as proposals for the Unit develop and as implementation proceeds. In the meantime, you should be aware of this prospect for planning purposes and should make working assumptions as necessary.

Proceeding with implementation

- 4.28. This chapter of the guidance has covered overall aspects of the preparation for implementation. Volumes 2 to 5 of the guidance cover the detailed implementation of the various powers and duties in the 2006 Act.

Chapter 5 Gathering the Evidence

Audience	This chapter of the guidance is mainly for: local authority strategic policy officers; and data and survey managers.
Purpose	This chapter is intended to: Promote good practice on sourcing information, Encourage consistent and compatible national data and a sound approach to local surveys

SUMMARY

- Authorities need a good evidence base to understand and deal with poor house condition at a local level.
- Survey data on the private sector is generally poor at the local level.
- Local survey data should if possible be compatible with national data, for mutual benefit.
- Data from national surveys may give you useful information to feed into local strategies.
- Organising a local survey needs careful planning, and the Scottish Government can offer advice.
- Authorities also need good specific information on individual houses to deliver improvements.
- Each authority is likely to hold a range of information that could help identify individual houses in poor condition. Organising this information can help identify houses and target delivery.

CONSULTATION

We welcome views on all aspects of this chapter from all interests including service users.

Chapter 5 Gathering the Evidence

Introduction

- 5.1. Good strategies for dealing with poor housing conditions and sound delivery depend on a good evidence base. The research we have done shows that most local authorities feel they have poor information about private sector house condition, at least at local level¹⁰.
- 5.2. Local authorities need good data on both house condition and related social and economic factors to inform their strategies for the private sector (see chapter 3).
- 5.3. This guidance provides practical advice for local authority staff who are involved in developing local strategies or deciding how to prioritise action. It is important to manage carefully the process of collecting house condition, and relevant socio-economic data, because it is easy to waste time and money by doing too much or doing the wrong thing.
- 5.4. There are two basic approaches to collecting such information, which are usually separate:
 - conducting sample surveys, to understand the type and scale of local problems; and
 - gathering information on individual houses, to help target action on specific houses and households.
- 5.5. We consider each approach below.

Sample surveys

- 5.6. A sample survey helps identify the scale of house condition and social issues and can help an authority to plan and prioritise action to deal with specific problems. The larger a sample the more accurate the picture. Where services are responsive and involve reacting to people approaching the local authority, sample data should help decisions about the capacity that the service should have.
- 5.7. The first step in planning a survey is to find out what information the authority needs and is likely to need in the future. All the information required may be available from a national survey; or the authority may need to commission its own survey to provide reliable data at a local level.

¹⁰ ¹⁰Implementation of the 2006 Housing (Scotland) Act: Skills & Resource Audit for Local Authorities, Arneil Johnston, July 2007. Available at

http://www.communitiesscotland.gov.uk/stellent/groups/public/documents/webpages/otcs_019773.pdf

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National surveys

- 5.8. The Scottish House Condition Survey (SHCS) is the national survey that looks at the physical condition of Scotland's homes as well as the experiences of householders. The Scottish Household Survey (SHS), the Census and Scottish Neighbourhood Statistics also provide a range of socio-economic information at a national level and local level that can feed into local strategies. Websites for the main data sources are:
- 2001 Census: www.scrol.gov.uk/scrol/common/home.jsp
 - Neighbourhood Statistics: www.sns.gov.uk/
 - Scottish House Condition Survey: www.shcs.gov.uk/
 - Scottish Household Survey: www.scotland.gov.uk/Topics/Statistics/16002
 - General Register Office for Scotland: www.gro-scotland.gov.uk/
- 5.9. Since 2003 the SHCS has been a continuous survey. The SHCS team plans to produce findings at individual local authority level – generally from three years of survey data. The survey team can also carry out localised analysis where sample sizes are sufficiently large. Sub-national analysis, where available, can provide an informative overview of housing conditions. Interpreting this type of data requires care, particularly when looking at sub-categories of information at a local level. The smaller the number of houses in a group within the national survey results, the less certainty surrounds the findings.
- 5.10. The SHCS team in the Scottish Government intends, during 2008, to review how it reports on disrepair, with a view to aligning the terms used in the SHCS analysis with those which the 2006 Act introduces as triggers for enforcement action. For more information on these terms, see Volume 2 paragraphs 2.9 to 2.30.
- 5.11. When an authority wants data for a particular group of houses or owners (e.g. house type A in area B) the first step is to consider whether the national surveys give good enough information. Do they include the information that you need, and, if not, do they include other information that is a good substitute?
- 5.12. If the national surveys collect the right information, the authority should consider whether the sample size is big enough to give useful results. This is a technical question about statistical sampling and confidence intervals. The SHCS, SHS and Census websites provide guidance and contacts for further advice.

Local surveys

- 5.13. If the national surveys do not provide the data required, the authority may want to commission survey work. Designing a survey is specialised work. If

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it is not done well, the results can have gaps or be misleading, which can be costly to put right. If the survey could be designed to build on information from national surveys but does not, an opportunity may be lost. The survey may be more expensive than it needs to be and the information collected may be less useful because it is not fully comparable with national and other local authority sources. So an authority thinking of commissioning survey work may wish to discuss this with the Scottish Government SHCS team as well as with other specialists.

- 5.14. Whichever route an authority takes to commissioning a local survey, some of the main points to bear in mind are:
- What exactly does the authority need to know?
This means thinking carefully through the ways the survey data will be used, including new demands that are likely to arise as circumstances or priorities change.
 - What is the smallest area for which the information is needed?
This will affect the size of the sample. It may also raise confidentiality issues if reporting on a small area means that there is a risk of being able to identify individuals.
 - How will the survey information be processed?
The raw data needs to be processed to give useful information. The survey provider normally does this. The provider may also supply a report. But the authority as client should always leave itself in a position to carry out further data analysis. It should make sure that it owns the raw data, in a format that it can use. Advice from IT specialists should be obtained because data issues can be highly technical.
 - Should the survey be repeated at intervals?
It is often important to collect information at regular intervals, so that the survey shows trends over time and allows the authority to assess the effectiveness of its actions. The authority should think carefully about its future information needs. If it is important to know how things change over time, the authority should consider either repeat surveys at regular intervals or a rolling survey. It should also decide whether to commit to a particular survey provider into the future. If it decides not to do this, the authority needs to be very clear that it owns the data from the initial survey.
 - Is the local survey compatible with national surveys?
Where this is possible it strengthens both the local survey and the national survey by making, in effect, a larger combined sample. It also allows national government to make fairer comparisons

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between local authorities – for example when deciding how to distribute funds.

- What are the constraints of time and money?
The timetable and budget affect what can be achieved.
 - Does the authority have the skills needed to manage the process? And does it have provision for staff time and cost?
As client, the authority will need to specify various aspects of the work. It may need to provide technical or staffing support, which can be intensive at times. If the staff responsible have not managed such a survey before they should get advice about what can be involved. It might be a good idea to use existing local authority networks and contacts to discuss ideas with colleagues who have direct experience of this type of work.
- 5.15. The Scottish Government's SHCS and SHS team is keen to help local authorities with their survey work. The team can offer ad-hoc practical advice on local survey issues, including:
- sample design and sampling;
 - definitions and standards;
 - question design;
 - time series and periodicity;
 - cost comparisons;
 - quality assurance;
 - training;
 - data validation; and
 - software options.
- 5.16. The SHCS team also offers the use of its contract with Ipsos-Mori to encourage and support local surveys by authorities. Fieldwork, quality assurance and database production is available on a commercial basis. This gives authorities the opportunity to commission a physical and social survey which is compatible with the national SHCS.
- 5.17. The team can be contacted for more information on any of these issues at shcs@scotland.gsi.gov.uk.
- 5.18. We want to make sure that local authorities have access to in-house or external technical expertise that allows them to scope, plan and manage local surveys. One way to do this would be to expand the current ad-hoc SHCS advice service by providing a national specialist advisor who could assist local authorities that are considering carrying out local surveys. We would welcome views on this proposal.

Gathering information on individual houses

- 5.19. Sampling is not the way to identify individual houses or clusters of houses and their owners that need action. Expanding a normal survey to a 100% sample is rarely a sensible approach. Where the authority wants to find specific houses that need action – for example to deal with houses in serious disrepair or below the tolerable standard or to ensure that needed adaptations are provided – it will need to take a different approach.
- 5.20. The best way of finding specific information about a house will depend partly on what information is needed. Things to consider include:
- Does the authority hold other information that will help identify the houses concerned?
 - Will the outside of the house give some or all of the information needed?
 - Will the interior of the house require to be inspected at some point?
 - Is the owner or tenant likely to object to an inspection?
 - Will the authority need information from the owner (such as who is the factor or what do the title deeds say about common repairs)?
 - Will a specialist (such as a structural engineer) need to make a judgement?
- 5.21. Similar considerations apply to social information, such as the nature of a disability and how it links to the nature of the house so that there is a need for action.

Internal information

- 5.22. Authorities hold a range of valuable information that could help to show where they need to take action. Examples include:
- complaints from private tenants or neighbours to the landlord registration team and information received from the Private Rented Housing Panel;
 - enquiries from owners or tenants about how to deal with problems about their house condition;
 - records from previous housing grants and statutory action;
 - observations from officers carrying out other duties in the field, such as environmental health, building control or planning officers, the antisocial behaviour team and so on; and
 - welfare concerns from staff dealing with individuals, such as community care and social work staff, whether about poor housing conditions or the need for adaptations.
- 5.23. Information of this type can be very valuable, and can be the basis of evidence for action. In most local authorities this type of information will come from sources that cut across service and departmental boundaries. This means that getting the most from it will require careful co-ordination

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and management as well as good communications within an authority. Depending on how the authority currently manages this process, the survey manager may want to:

- examine whether current methods and systems for retaining and sharing information - including IT systems such as databases - make the most of the potential;
- investigate with colleagues what might be available;
- consider whether a specific service and individual(s) should take the lead role in co-ordinating this activity; and
- work out whether it is feasible to collect such information more effectively by altering internal routines.

- 5.24. The survey manager will also want to check with legal advisers whether the range of information sources can be used without breaching data protection requirements. Each local authority has to make its own decisions about the interpretation of the law. But it may be helpful to find out (perhaps through local authority networks) what arrangements other authorities have made to collect information internally, especially where they have had external advice, for example from the Information Commissioner.

Inspection

- 5.25. Detailed physical inspection of houses to decide whether action is needed can be time-consuming and expensive. This may be time and money well spent where the result is that a housing need is dealt with. But it may be wasteful if many inspections prove to be unnecessary.
- 5.26. Some authorities have found that a methodical, street-by-street 'drive-by' inspection by experienced building surveyors provides a large body of useful information. Staff can use this to decide where to focus attention for more detailed inspection work. It can also lead directly to action in some cases. This may be a service that one authority could provide to another.

हाउजिंग (स्कॉटलंड) एक्ट २००६: आधुनिक कर्तृपक्षेण जन्य निर्देशिका
आलाचनामूलक परामर्शेण जन्य खसड़ा
प्रस्तुत करा ओ सेटि सरबराह करा

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住宅更新区及维修、装修与拆除

दी हाउसिंग (स्कॉटलैंड) ऐक्ट २००६ : लोकल अथारिटीज के लीए रिन्माई - मशावुरत के लीए अब्तदाई मसूदे .
तीारी और फ्राबमी

قانون الإسكان (اسكوتلنده) لعام ٢٠٠٦ : إرشادات للسلطات المحلية - مسودة
للتشاور
الإعداد والتسليم

Ustawa o Zakwaterowaniu dla Szkocji z 2006 r.: Wskazówki dla władz lokalnych.
Projekt porozumienia
Przygotowanie i dostawa

ਦੇ ਹਾਊਸਿੰਗ (ਸਕॉਟਲੈਂਡ) ਐਕਟ 2006: ਸਥਾਨਕ ਸਰਕਾਰਾਂ ਲਈ ਰਹਿਨੁਮਾਈ। ਸਲਾਹ-ਮਸ਼ਵਰੇ ਲਈ ਡ੍ਰਾਫਟ
(ਕੱਚਾ ਦਸਤਾਵੇਜ਼)
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