
Report To:	Education & Communities Committee	Date: 9 September 2014
Report By:	Head of Safer & Inclusive Communities	Report No: EDUCOM/58/14/DH
Contact Officer:	Drew Hall	Contact No: 01475 714272
Subject:	Delegated Authority : Service of Closing Orders under the Housing (Scotland) Act 1987	

1.0 PURPOSE

1.1 The purpose of this report is to seek approval for delegated authority to the Corporate Director Education, Communities and Organisational Development to make, serve and revoke Closing Orders in respect of the Housing (Scotland) Act 1987 on properties which fall "below the Tolerable Standard" (hereafter BTS).

2.0 SUMMARY

2.1 Closing Orders provide a legal means to prevent houses which are BTS being used for human habitation, and are normally served following Committee approval.

2.2 The Corporate Director Education, Communities and Organisational Development currently has delegated authority to make Closing Orders in respect of BTS properties in the Clune Park area of Port Glasgow.

2.3 Closing Orders can be a useful tool to support tenants who are living in sub- substandard conditions in BTS properties. However Closing Orders can become more effective if they can be served quickly outwith the Committee reporting cycle.

3.0 RECOMMENDATIONS

3.1 That the Corporate Director Education, Communities & Organisational Development be given delegated authority to make, serve and revoke Closing Orders under the Housing (Scotland) Act 1987 in respect of BTS property.

John Arthur
Head of Safer & Inclusive Communities

4.0 BACKGROUND

- 4.1 Section 114 of the Housing (Scotland) Act 1987 gives the Council powers to make a Closing Order in respect of a house, which is part of a building or is a listed building, that is below the Tolerable Standard and unfit for human habitation. The Order prevents the house from being used for human habitation. The vast majority of homes in Inverclyde meet the Tolerable Standard and, apart from very poor housing at Clune Park, in recent years the use of this power by the Council has been rare.
- 4.2 Currently, Closing Orders are made by Committee following upon a report from the Head of Safer & Inclusive Communities. As this process necessarily follows the Committee cycle, it can take many weeks for Closing Orders to be made and served upon property owners. Conversely, where a property owner undertakes works to a property to bring the property to a level where it meets the tolerable standard, the Committee cycle ensures that there is delay in revoking the Order, thus preventing the use of the property for human habitation for a longer period than would otherwise be necessary.
- 4.3 Regrettably there is a developing situation in a small number of privately let properties where the house fails the tolerable standard due to, typically, lack of hot water supply or heating, or due the electrical system being unsafe.
- 4.4 The Council does have powers to enforce the carrying out of appropriate works, however recovering the costs of this work is resource intensive and can be protracted. Failure to comply with an enforcement notice on the part of the Landlord, could jeopardise their registration, however this is also subject to a protracted process and is open to appeal.

5.0 Proposals

- 5.1 In the interests of protecting the health and safety of the tenants living in sub-tolerable housing where the landlord has failed to respond to reasonable requests to address the defects in the house, it is proposed that Closing Orders be used, in exceptional circumstances, to secure the rehousing of the tenants and prevent the further occupation of the property until it is brought up to the tolerable standard.
- 5.2 In order for this approach to be effective, it is important the Closing Orders can be served timeously. It is proposed that delegated authority be granted to the Corporate Director Education, Communities and Organisational Development, having considered a report made by the Head of Safer & Inclusive Communities, to make, serve and revoke Closing Orders under the Housing (Scotland) Act 1987 in respect of BTS property where this is in the best interests of the tenants and to control further occupation until the property is brought up to the tolerable standard.

6.0 IMPLICATIONS

6.1 Financial

Costs will be contained within existing service provision

6.2 Human Resources

Currently being met within existing staffing.

6.3 Legal

None

6.4 **Equalities**

When delivering services to our customers, full cognisance is taken of equality and diversity processes and procedures.

6.5 **Repopulation**

None

7.0 **CONSULTIONS**

7.1 Legal and Property Services have been consulted on this proposal.

8.0 **LIST OF BACKGROUND PAPERS**

- 8.1
- Delegated Powers: Service of Closing Orders Under Housing (Scotland) Act 1987 Report – SSCC, January 2009. ECP/SCS/DH/09/015