

Angus Council Below Tolerable Standard Strategy 2019-24

1. Introduction

The Below Tolerable Standard (BTS) Strategy has been devised to ensure that Angus Council meets the requirements of Section 10 of the Housing (Scotland) Act 2006 which specifies that local authorities must set out a strategy to address housing that is BTS, ensuring compliance with the duty to improve, close or demolish houses which do not meet the tolerable standard.

The Strategy will span the period 2019-24 and form part of the wider current Local Housing Strategy (LHS) 2017-22. At present we are reliant on national datasets for recurring measurement of BTS housing in Angus, and supplementing this we have limited internal data that relies on referrals from those affected by BTS housing. Throughout the lifecycle of the Strategy we intend to improve our knowledge and understanding of BTS housing issues in Angus. We envisage that by implementing the Strategy we will:

- raise awareness of BTS housing
- allow sufficient time to gather localised data
- establish comprehensive data relating to BTS housing characteristics

Through these achievements we will be able to adopt a more strategic approach to dealing with BTS housing and help inform our next LHS.

2. Strategic Aims

The Angus LHS 2017-22 sets out the vision to 'create places that people are proud to call home'. Underpinning this vision are three strategic outcomes, including:

- the quality and energy efficiency of all housing stock is improved and we contribute towards targets to reduce CO2 emissions in Angus.

A number of actions have been identified to help achieve the strategic outcome, including the development of a BTS Strategy. The primary aim of the BTS Strategy is to ensure that all housing in Angus meets or exceeds the Tolerable Standard. However it will also serve as a useful tool to raise awareness of BTS housing and align with the basic premise of the Housing (Scotland) Act 2006, that owners are primarily responsible for the repairs and maintenance of their own homes.

The Strategy will broadly cover:

- the extent of BTS housing
- how we will raise awareness of, identify and address BTS housing
- how we will monitor the evidence to inform and update the Strategy

By outlining these positions it is envisaged that the BTS Strategy will help to improve the condition of housing across all tenures and ultimately help:

- reduce the number of houses that are below the Tolerable Standard; and
- prevent more houses from falling below the Tolerable Standard by encouraging homeowners to repair, maintain and improve their homes

The BTS Strategy will also serve beyond the physical improvements to the built environment and heritage. Housing that is below the Tolerable Standard constitutes the poorest level of housing, raising concerns about the impact on the health, mental and physical wellbeing of the occupants and the impact on the local community. Therefore by helping reduce the number of BTS properties, there are wider benefits to communities and strategic outcomes across services.

3. Definition of the Tolerable Standard

The Housing (Scotland) Act 1969 introduced the tolerable standard, which was subsequently revised in 1987 and most recently in 2006. The Tolerable Standard is the basic level of repair a property must meet to make it fit for a person to live in. A house that falls below the Tolerable Standard is not acceptable as living accommodation.

At present a property meets the tolerable standard if it:

- is structurally stable;
- is substantially free from rising or penetrating damp;
- has satisfactory provision for natural and artificial lighting, for ventilation and for heating;
- has satisfactory thermal insulation;
- has an adequate piped supply of wholesome water available within the house;
- has a sink provided with a satisfactory supply of both hot and cold water within the house;
- has a water closet or waterless closet available for the exclusive use of the occupants of the house and suitably located within the house;
- has a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the house;
- has an effective system for the drainage and disposal of foul and surface water;
- in the case of a house having a supply of electricity, complies with the relevant requirements in relation to the electrical installations for the purposes of that supply;
 - "the electrical installation" is the electrical wiring and associated components and fittings, but excludes equipment and appliances;
 - "the relevant requirements" are that the electrical installation is adequate and safe to use
- has satisfactory facilities for the cooking of food within the house; and
- has satisfactory access to all external doors and outbuildings.

Failure against any of the 12 criteria renders a house to be below the Tolerable Standard.

3.1 Revisions to the criteria

The Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019 will come into force on 1 February 2021. This introduces two new elements in the Tolerable Standard Guidance:

- satisfactory equipment for detecting fire and giving warning in the event of fire or suspected fire
 - one smoke alarm installed in the room most frequently used for general daytime living purposes (normally the living room/lounge);
 - one smoke alarm in every circulation space on each storey, such as hallways and landings;
 - one heat alarm installed in every kitchen;
 - all smoke and heat alarms to be ceiling mounted; and
 - all smoke and heat alarms to be interlinked.
- satisfactory equipment for giving warning if carbon monoxide is present in a concentration that is hazardous to health
 - CO detectors to be fitted in all rooms where there is a fixed combustion appliance (excluding an appliance used solely for cooking) or a flue.

The most recent revisions to the definition (2006) were the inclusion of thermal insulation and electrical installations. These led to an increase in the number of properties deemed BTS and it is envisaged that the changes earmarked for 2021 will lead to a further increase in the number of properties not meeting the tolerable standard.

4. Local Context

In Angus there are around 54,800 dwellings and approximately 53,000 of these are occupied. Around 42,000 of these are owned by, and the responsibility of private owners with around 7200 of these registered private rented sector properties. The remaining 11,100 are the responsibility of social landlords.

Area	Owner-occupied	Private Rented	Social	Vacant Private Sector	Total
North HMA	7410	2210	3059	520	13,199
East HMA	7946	1644	3901	411	13,902
South HMA	10,489	1036	1056	259	12,840
West HMA	8874	2295	3117	612	14,898
ANGUS	34,719	7185	11,133	1802	54,839

Source: Angus Council, Housing Market Area Profiles

https://www.angus.gov.uk/housing/information_for_developers/housing_market_area_profiles

The **Scottish House Condition Survey (SHCS)** includes all housing tenure. The table below demonstrates stock condition performance in Angus over the last three SHCS releases and compares the latest data release (2015-17) to the whole of Scotland.

SHCS Criteria	2015-17	2014-16	2013-15	Scotland 2015-17
BTS	1%	3%	3%	1%
Rising or Penetrating Damp	6%	6%	6%	3%
Disrepair	87%	83%	87%	70%
Disrepair to Critical Elements	77%	73%	78%	50%
Urgent Disrepair	34%	34%	38%	30%
Extensive Disrepair	2%	2%	5%	6%

Source: Scottish House Condition Survey (SHCS), <https://www2.gov.scot/Topics/Statistics/SHCS/keyanalyses>

The latest data release shows a reduction in the number of BTS properties, bringing Angus on a par with Scotland. However we should be cautious and assume that there may not have been such considerable improvement at local level, particularly when we consider the size of the sample set and findings from the Angus Private Sector Stock Condition Survey (2016).

The SHCS is a continuous sample survey and measurement only relates to occupied stock. When comparing each of the three data releases we must also be aware that each contains an overlapping year. Survey figures are estimates of the true prevalence within the local housing stock and will therefore contain some error associated with sampling variability. Over the period 2015 to 2017, the sample set was 8,606 surveys across the whole of Scotland, representing an average of 268 surveys in each local authority area therefore less than 0.5% of the total stock in Angus.

We must also be mindful of the data relating to levels of disrepair. The SHCS highlights that levels of disrepair are greater in Angus in comparison to the whole of Scotland.

Data relating to disrepair elements are not direct criteria for identifying BTS properties, however the data can be useful to help forecast the number of properties that should they remain untreated could further deteriorate and impact the tolerable standard. For instance, a property meets the Tolerable Standard if it is 'substantially free from rising or penetrating damp'. In Angus, it is estimated that 6% of properties have 'rising or penetrating damp' however only 1% of properties are BTS. This suggests that there are a number of properties with damp issues, but not significant enough to render them BTS.

The SHCS includes social housing stock within the sample set, and both Angus Council and Registered Social Landlords (RSLs) are required to meet the Scottish Housing Quality Standard (SHQS) which is a higher standard than that of the Tolerable Standard. This means that there is unlikely to be social housing stock that falls below the tolerable standard. However in instances where BTS properties are identified, the Council will take the necessary steps to address them (Section 5.5).

The **Angus Private Sector Stock Condition Survey 2016 (PSSCS)** offers further insight into the standard of private sector dwellings in Angus. It found that:

- 2.3% of properties are BTS (approximately 960 dwellings)
- 0.6% of properties had rising or penetrating damp (approximately 260 dwellings)
- 63.3% of properties are in disrepair

- 6.3% of properties are in urgent disrepair
- 10.4% of properties have extensive disrepair

Further analysis at local level highlighted BTS housing to be more prominent in certain areas:

North HMA	0.7%	East HMA	1.6%	South HMA	6.1%	West HMA	0.5%
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Rates of BTS housing are above average in the South HMA, for properties constructed pre-1945 and for owner-occupied dwellings. The small sample of BTS housing identified prevents any significant analysis however some general conclusions can be drawn such as the key factors influencing BTS:

- dampness
- thermal efficiency
- cooking facilities

There are clear variances between survey results however the PSSCS sample set was 1904, representing around 4.5% of private sector stock. For the purposes of establishing a baseline and monitoring progress to reduce the number of BTS houses, the SHCS findings will be used and supplemented by PSSCS data and data collected by the Council to further identify the characteristics of BTS dwellings.

5. Identifying and Addressing BTS housing

5.1 Referrals

Although some data is available on the number of properties that fall below the Tolerable Standard, data relating to specific properties is sparse. When properties are identified the Council will offer information and advice to home owners, landlords and tenants to help bring the property up to the tolerable standard.

There are a number of triggers for identification of BTS housing:

- complaints/queries to Environmental Health
- complaints/queries to Building Standards
- complaints/queries to the Housing Service
- data compiled by the Housing Service in relation to Empty Homes and Stock Condition
- data compiled by the Housing Service in relation to Applications for Housing where the applicant has cited their current accommodation to be BTS

Many of these triggers include the referral route process where details of specific houses come to the attention of the Council's Environmental Health service.

Over the period 2015 to 2018 there were 245 BTS referrals to Environmental Health, accounting for 58% of all referrals made to the service (426).

Year	Number of BTS referrals	Location	As a percentage of all BTS referrals
2015	64	North HMA	32%
2016	89	East HMA	41%
2017	47	South HMA	9%
2018	45	West HMA	18%

Source: Angus Council, Environmental Health

The data also shows that referrals were most common in the East and North Housing Market Areas (HMAs), with Arbroath (40% of all referrals), Montrose (19%), Forfar (15%) and Brechin (12%) the most common settlements for complaints.

A vast majority of BTS complaints come from tenants in the private rented sector (PRS). In terms of PRS stock, the West is largest (32%), followed by North (31%), then East (23%) and South (14%). Given stock location, complaints appear to be disproportionately prevalent in the East HMA (41% of all complaints, 23% of PRS stock), than compared to West (18% of complaints, 32% of PRS stock). North and South HMA's appear to have a more proportionate complaints-to-stock ratio.

The Angus PSSCS identified dampness as one of the key factors influencing BTS housing. Over the same 4 year period the Environmental Health service received 144 complaints of dampness / condensation.

Year	Number of Dampness referrals	Location	As a percentage of all Dampness referrals
2015	52	North HMA	36%
2016	47	East HMA	27%
2017	29	South HMA	16%
2018	16	West HMA	21%

Source: Angus Council, Environmental Health

Dampness/Condensation complaints were most prevalent in North and East HMAs, with Arbroath (27%), Montrose (23%), Carnoustie (12%), Forfar (12%) and Brechin (12%) the most common settlements for complaints. Coastal towns rank highest in terms of the number of dampness / condensation complaints, underlining the theory that properties exposed to harsher coastal weather elements are more likely to suffer from deterioration.

The Environmental Health service will continue to be the primary contact and will act to inspect properties and record referrals and outcomes. Where applicable other relevant council services will also be notified to assist those affected by housing below the tolerable standard.

5.2 Raising Awareness of BTS

Aside from referrals made to the Council, it is difficult to ascertain the exact scale and location of BTS housing, particularly for owner-occupied properties where occupant referrals are virtually non-existent.

The South HMA has the largest proportion of owner-occupied stock (81% of all housing stock) and the Angus PSSCS (2016) highlighted BTS housing to be more prominent in the area, particularly amongst older pre-1945 owner-occupied housing. It may be that owners are unable to undertake the necessary repairs due to practical or financial constraints, but it would also be pragmatic to assume that some owners may not be fully aware of BTS housing issues. To overcome this hurdle the Council will raise awareness of the issue by:

- using social media and other engagement channels to highlight the criteria of BTS housing
- producing guidance materials to assist homeowners, landlords and tenants

We envisage that by raising awareness of BTS housing, the Council may receive more referrals from homeowners and tenants seeking advice and assistance. This will help create a more comprehensive and robust portrayal of the BTS housing scene in Angus, and inform how we proceed with future engagement.

5.3 Assistance to owner-occupiers

The Council's approach will be proactive to encourage owner-occupants to address the elements that render a property BTS. They will be encouraged to take responsibility for the repairs and maintenance of the property and will be offered:

- advice and information to help facilitate the repairs
- referral for private water supply grants
- referral to Home Energy Scotland (HES) / Save Cash and Reduce Fuel (SCARF) for advice and assistance relating to thermal insulation

Utilising local knowledge and staff expertise, the Council can provide guidance to help owner-occupiers address BTS housing in a practical way that suits their needs, including signposting to Angus Reputable Traders (ART) for local verified tradesmen who can offer a more comprehensive assessment of the property's needs.

Financial assistance can be provided to address the adequacy and wholesomeness of private water supply in the form of private water supply grants. Funded by the Scottish Government and administered by the Council, grants of up to £800 are available to all homeowners and private tenants to improve private water supplies, including the replacement of lead piping on those supplies. Additional grant can be awarded depending upon costs and the applicant's financial circumstances.

In terms of energy efficiency measures, HES and SCARF will advise clients on measures and financial packages that can be accessed to improve the energy efficiency of their homes. There are a number of initiatives that can be accessed by both owner-occupiers and landlords. Angus Council will continue to support all Scottish Government initiatives that allow for thermal insulation to be installed in the private sector.

If the homeowner fails to take the necessary action, then enforcement action through the use of Work Notices or Maintenance Orders may be used (Section 6). Enforcement powers will only be used when all other avenues have been explored.

5.4 Assistance to the private rented sector

The Housing (Scotland) Act 2006 states that private rented properties must meet the 'Repairing Standard' and be maintained in a reasonable state of repair. A house meets the Repairing Standard if:

- it is wind and watertight
- the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order
- the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order
- any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order
- any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed
- it has satisfactory provision for detecting fires and for giving warning of fire or suspected fire
- it has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health
- it meets the Tolerable Standard (*effective 1 March 2019*)

If a rented property does not meet the standard, and the landlord refuses to carry out the necessary repairs, the tenant can apply to the First Tier Tribunal for Scotland (Housing and Property Chamber) for a decision on whether the landlord has failed to comply with that duty. The First Tier Tribunal aims to address poor house conditions in the private rented sector and can order the landlord to carry out the necessary repairs. Various penalties apply if the landlord fails to do so. The First Tier Tribunal will:

- investigate the claims made by the tenant to determine their validity
- suggest the option for the landlord and tenant to enter into mediation, to ensure any necessary repairs/improvements are carried out within a reasonable time period, as an alternative means of resolving the dispute
- issue a Repairing Standard Enforcement Order (RSEO) in instances where a landlord fails to carry out the necessary repairs

When an RSEO is issued, the landlord is prohibited from renting out the property again until such time that the repairs have been carried out. The First Tier Tribunal will also notify the Council's Landlord Registration Service to certify that the property is not fit for occupation.

Angus Council will actively encourage and promote the use of the First Tier Tribunal, as compliance with the Repairing Standard will help reduce the risk of properties falling below the Tolerable

Standard. There are a number of common routes through which private sector tenants make contact with the Council prior to formal application to the First Tier Tribunal. They are:

- contact with the Landlord Registration service seeking information and advice
- referral to the Environmental Health service citing the property to be BTS
- contact with Housing Options staff having applied for social housing citing their current property to be BTS

The Council will ensure that all staff exposed to instances of BTS housing are aware of the referral route processes and options available to private sector tenants and landlords.

5.5 Assistance to social sector tenants

All Angus Council and Registered Social Landlord (RSL) stock is required to meet the Scottish Housing Quality Standard (SHQS). The BTS criteria (Section 3) forms part of the overall SHQS criteria and therefore if a property fails the tolerable standard, it will fail the SHQS.

At present, Council stock is 100% SHQS compliant however there are approximately 10% abeyances, where properties are exempt due to issues out with the Council's control, such as the tenant refusing access. This can be problematic when inspecting the status of a properties thermal insulation (adequate loft insulation) for SHQS compliance. At present there are less than 1% of stock where the tenant is refusing access or the offer of a top-up of loft insulation. The Council continues to communicate with these tenants in an effort to convince them to agree to the necessary works.

There have also been instances where property element data was cloned and therefore although a property may be recorded as SHQS compliant, it may not be a wholly accurate reflection of the property's attributes, particularly in relation to thermal insulation and having sufficient loft insulation.

However the Council is currently undertaking an improvement programme to ensure that all of our stock meets the Energy Efficiency Standard for Social Housing (EESH) by 31 December 2020. The EESH standard supersedes the Energy Efficiency element of the SHQS and is to ensure that all social sector homes are sufficiently thermally insulated, achieving a minimum Energy Performance Certificate (EPC) rating band C. As part of the programme all Council properties will receive an EPC and this will enable the Council to identify any properties that require improvements and a programme to bring them up to standard.

6. Enforcement Powers

There are a range of powers available to Angus Council, aimed mainly at encouraging home owners to rectify the issue themselves. They include:

- Work Notices are available to be used with regard to houses in serious disrepair and / or failing to meet the Tolerable Standard. The Council can serve statutory notices under Housing, Planning, Building or Environmental Health laws, requiring the owners or landlords to take action to remedy the problem. These powers will only be used if there is no other acceptable alternative. Specific circumstances will be taken into account in reaching a decision to take enforcement action.
- Working with private landlords and tenants to ensure they meet their obligations under the Repairing Standard. We may assist the tenant to mediate with their landlord to help remedy repairs, or signpost them to the First Tier Tribunal to help facilitate a solution or serve a statutory notice on the landlord (see Section 5.4).
- The Council can also serve Dangerous and Defective Building Notices if a property needs repair work carried out to prevent significant deterioration or to remove a danger to people in or around it. Resource permitting, the Council may enforce necessary work and recharge costs as a last resort if owners do not comply with statutory notices within a reasonable period.

One of the aims of the Strategy is to prevent houses falling below the Tolerable Standard and to encourage homeowners to take responsibility for the repairs and maintenance of their homes, thereby negating the need to take enforcement action.

7. Data collection and monitoring

In terms of monitoring BTS, the SHCS will provide baseline data as a benchmark and will be reported on annually as part of the LHS 2017-22. A specific target has not been set, instead aspiring for a reduction in the overall number of BTS housing.

One of the reasons a target has not been set is due to the availability of robust data. We are at an early stage of understanding the true nature and scale of BTS housing in Angus. Embarking on an awareness campaign will help us to refine our data and inform how we review this strategy and any future requirements relating to BTS housing.

The Environmental Health service will collect and record BTS referrals using the following attributes:

- date notified
- reason for BTS (*listed elements that render a property BTS*)
- tenure (*owner-occupied/prs/social*)
- type of property (*house/flat*)
- age of property (*by age band, e.g. pre-1945*)
- construction type (*e.g. solid wall*)
- location (*settlement and postcode*)
- assistance provided (*info/advice/signpost to funding*)
- outcome (*still/no longer BTS*)
- date of outcome

The Housing Strategy service will be responsible for interpreting the data to determine any trends and inform future strategic requirements. They will also evaluate and compare the findings to other datasets (such as SIMD and Fuel Poverty maps). By collating this data we envisage that we will also identify:

- spatial issues, such as clusters of BTS housing in particular settlements
- characteristics of BTS housing across tenures and house types
- the social impact of BTS housing

Understanding the true scale, nature and wider impact of BTS housing will enable the Council to identify priority groups and prioritise activities. Whilst this data may not have bearing on the latest SHCS findings, it will provide a useful reporting and measurement tool as to how Council services are working to help reduce BTS housing.

8. Targets, Action Plan and Review

The Angus LHS 2017-22 sets out the strategic outcome aiming to improve the quality and energy efficiency of all housing stock. To do so we are committed to help reduce:

- the number of private sector BTS properties and properties in serious disrepair, and
- the number of private rented properties not meeting the repairing standard

The Action Plan (Appendix 1) outlines the LHS annual update progress report targets against the objectives and actions within it.

We have also identified a number of additional actions and targets specifically related to the BTS Strategy strategic aims. They are:

- Raise awareness of sub-standard housing, helping home owners and landlords to meet their maintenance and repair obligations
- Produce BTS guidance material for front line staff (Housing Options, Health & Social Care practitioners)
- Gather comprehensive localised data related to BTS housing characteristics
- Increase the number of BTS properties brought up to standard as a result of assistance

The overall principles and aims of the BTS Strategy will be reviewed in line with the next LHS process and updated accordingly within the next Strategy.

Appendix 1 - Action Plan

Action	Indicator	Frequency / Source	Baseline	Targets	Timescale
Local Housing Strategy 2017-22: Outcome3, Sustainable Housing - The quality and energy efficiency of all housing stock is improved and we contribute towards targets to reduce CO2 emissions in Angus					
Reduce the number of private sector Below Tolerable Standard properties and properties in serious disrepair, and the number of private rented properties not meeting the repairing standard	Percentage of private sector stock Below Tolerable Standard	Annual, Scottish House Condition Survey (SHCS)	3% (2014-16) 1% (2015-17)	Reduce	2022
	Percentage of private sector stock in serious disrepair	Annual, Scottish House Condition Survey (SHCS)	83% (2014-16) 87% (2015-17)	Reduce	2022
	Number of private rented sector stock repairing standard referrals	Annual, First Tier Tribunal	1 referral (2018/19) – 100% compliance by landlord	Sustain proportion of referrals complied with by landlords	2022
Below Tolerable Standard Strategy					
Raise awareness of sub-standard housing, helping home owners and landlords to meet their maintenance and repair obligations	Number of awareness raising activities undertaken	Annual	Council website and associated links.	Expand the range of information/advice available to the public	2024
	Produce BTS guidance material for front line practitioners	Housing Strategy Team		Expand the range of information/advice available to the public	
Gather comprehensive localised data related to BTS housing characteristics	Number of individuals (cases) contacting the Council with BTS housing issues	Annual, Environmental Health, Housing, Building Standards	45 (2018)	Increase localised data	2024
Increase the number of BTS properties brought up to standard as a result of assistance	Number of BTS properties brought up to standard as a result of assistance	Annual, Environmental Health, Housing, Building Standards	n/a	Increase the proportion complied with	2024