

The Building Repairs (Scotland) Bill Consultation

South Lanarkshire Council Response

1. What do you believe are the current problems with the enforcement of dangerous and defective buildings legislation?

Response:

We stand by the content of the SABSM presentation to the Cross Party Group which summarises concisely the problems faced by councils in the enforcement of dangerous and defective buildings legislation namely the incurring of expenditure where owners can't or won't respond compounded by problematic cost recovery processes.

2. In your opinion, what changes should be made to current legislation to allow for a more effective system of identification and enforcement?

Response:

The following changes could make for a more effective system:

- **Greater clarity on the roles and responsibilities of building owners in relation to ongoing maintenance and the general condition of a building.**
- **Greater guidance on the appropriate use of section 28 of the Building (Scotland) Act and its relationship with other legislation.**
- **Increased and ring fenced funding for dealing with defective and dangerous buildings**
- **More effective cost recovery process.**

3. What do you see as the benefits of charging orders in enabling local authorities to recover costs from owners of dangerous and defective buildings?

Response:

Charging order could act as a better 'stick' to encourage owners to undertake repairs before the need for formal enforcement action. Charging orders would also allow for a more certain cost recovery process.

4. What do you see as the disadvantages of charging orders?

Response:

While charging orders may be better than the current system it still means a council will incur expenditure with no certainty of when the debt will be repaid. Debt recovery may need to wait until the property is sold and even then the value will be dependent on the state of the property and market value at that time. Perhaps a better option would be that the Council is given discretion over the means of cost recovery i.e. personal liability or a liability linked to the property.

5. What do you see as the benefits of charging orders to owners of dangerous and defective buildings?

Response:

In the case of a building with multiple owners the threat of a charging order may lead to better cooperation to undertake a programme of joint repair and maintenance.

6. What do you see as the disadvantages of charging orders to owners of dangerous and defective buildings?

Response:

No comments.

7. What would be the benefits or disadvantages of changing the notice period in relation to defective building notices?

Response:

While this council has only limited use of the defective building process, it is our view that increasing the notice period would have little effect. The notice procedure is always a last resort which is reached when there is no cooperation from building owners and on this basis extending timescales would make little difference to encouraging owners to undertake repairs.

8. Do you think this would allow adequate time for owners to carry out repairs to their properties and please give a reason for your response?

Response:

In theory yes but refer to answer to question 7.

9. What do you see as the advantages or disadvantages of the proposal?

Response:

The current process and the revisions tabled within this consultation are both based on the presumption that councils have the funding to carry out, in some cases, substantial work to privately owned buildings. In the current economic climate, while revisions to the legislation provide greater certainty for ultimate cost recovery, the proposals will not result in a complete solution to town centre regeneration and development or to the reduction in the number of dangerous and defective building in general.

10. What do you see as the advantages and disadvantages of an automatic equal shares provision for local authorities in cost recovery for work carried out by them on dangerous and defective buildings?

Response:

If this proposal becomes law it may lead to conflict with other buildings legislation which uses rateable value/title deeds, sometimes for similar work. Therefore, allocation of costs, in the manner proposed, would be best suited to situations where the title deeds are vague.

11. What do you see as the advantages and disadvantages of a certification and inspection regime for buildings?

Response:

While this proposal has merit, careful consideration needs to be given to its administration so as to not overburden councils. Perhaps discussion should be undertaken with the BSD as this proposal which has similarities with the Building Standards Assessment which was proposed under section 6 of the Building (Scotland) Act 2003 but never introduced.

12. Do you have any comments on the financial implications of the proposals?

Response:

A change in the legislation could lead to an increased demand on the limited grant aid currently available and as such the incentive that grant aid offers would be lost.

13. Do you have any comments on enforcement of the proposals?

Response:

No further comments.

14. Are there any equality issues that arise from these proposals?

Response:

No further comments.