



THE BUILDING REPAIRS (SCOTLAND) BILL CONSULTATION

Response to Consultation Questions

Aberdeenshire Council welcomes the opportunity to respond to the private member's consultation paper on The Building Repairs (Scotland) Bill and would respond as follows.

Question 1

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

- The main issue is cost recovery. With the current legislation difficulty is experienced recovering costs of operations carried out by councils under the Building (Scotland) Act 2003. In some instances costs are written off which results in the tax payer footing the bill. This may be as a result of difficulties in establishing ownership of the building or the cost involved in carrying out the work is so minimal it would cost more to try and recover the costs involved.
- The lack of financial resource nationally to implement effective enforcement.

Question 2

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

- The option to place a Charging Order on a property would provide greater comfort/guarantee for Local Authorities for cost recovery when carrying out works to dangerous and defective buildings. This guarantee, albeit, potentially long term would in a proactive approach to dealing with such buildings.
- Aberdeenshire Council would welcome the introduction of Charging Orders to the Building (Scotland) Act 2003

Question 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?

- Local Authorities would be more active in dealing with such buildings at little or no cost to the public purse.
- There would be a visual preservation/improvement to the built environment.
- There would be an increase in public safety which is of ultimate importance.
- Remedial works to dangerous/defective buildings would not be funded by public money which should/could be channelled into essential public services.

Question 4

What do you see as the disadvantages of charging orders?

- The period of time for the council to recover the costs may be excessive.
- The cost to carry out the work may actually be greater than the value of the site resulting in the site having a negative value. This would probably result in reducing the pool of potential purchasers.
- Even with Charging Orders in place the council may still be 'out of pocket' for long periods of time. If this is the case the money available to carry out such works may not be available and would result in large financial burdens on the council.
- The 'pros' do however outweigh the 'cons'.

Question 5

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

- Essential works can be made to the building making it more marketable/valuable. The owner can effectively use the council as a means of borrowing which only needs to be repaid on the sale of the property.
- If the property is never sold the debt is never repaid.

Question 6

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

- The burden of the debt on the property may possibly result in the property being of nil value. This could result in the property continuing to deteriorate resulting in the requirement for additional works and more cost to the council.

Question 7

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

- The only disadvantage would be that the building would potentially be defective for a longer period of time. This however may not be of great significance given that it appears that the legislation is not being extensively utilised at present.
- The benefits would be that building owners would be given a greater opportunity to arrange for essential remedial works to be carried out.
- Owners may also require additional time to arrange financial resources to be agreed.
- May encourage owners to pay for the repair rather than have interest accruing on the debt.

Question 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?

- Yes
- As above, there may be a need to source funding to enable the works to be carried out.
- Additional time would allow for a specification of works to be put together and the works to be tendered for. This would allow owners to find the best price and best contractor to carry out the work rather than being pressurised into making hasty decisions.

Question 9

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

Advantages

- The simplification of the legislation would be a good thing resulting in a greater appreciation of what the legislation requires.
- There would be a general comfort in the fact that at some point in time the council would recover the costs.
- The extended period to 12 weeks would afford the building owner a greater opportunity to make the necessary repairs by more economic means.
- It may encourage councils to serve Notices on defective and dangerous buildings which would increase the quality of private housing across Scotland.

Disadvantages

- Where the costs of works exceed the value of the property/site the council would suffer financially, however, this is an improvement on the current legislation. The council should still have the opportunity to recover the remaining outstanding costs through their normal debt recovery procedures.

- The amount of 'outstanding' debt within local authorities for such works may actually increase if the legislation is actively utilised for defective buildings if building owners decide not pay for the cost of works and accept the burden on the property until point of sale through the Charging Order.
- The 're-introduction' of the charging order may result in public pressure on the council to carry out works on defective buildings, which in turn will result in the requirement of a financial resource, where at present there is not.

Question 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?

Advantages

- The council will not become embroiled in splitting of costs as per title deeds, rateable value etc thus being much simpler, easier and less involved for the council.
- The owners would be jointly responsible for establishing liability for costs.

Disadvantages

- This may be seen as unfair to the building owner who, at present, legally has a small share of current responsibilities.
- This may lead to major complications in future resulting in civil disputes between building owners to recover costs.

Question 11

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

Advantages

- Maintenance of building should be improved resulting in a safer and better built environment coupled with an improvement in conservation.
- There would be a clear responsibility for owners to repair and maintain their buildings
- Long term this would reduce the requirement of local authorities to issue dangerous/defective Notices which in turn reduces a financial burden on councils.

Disadvantages

- Implementation and enforcement of such a scheme will prove to be difficult. Would there be need for additional enforcement legislation where the scheme is not being implemented, or is it envisaged that this can be enforced using the powers within the Housing (Scotland) Act 2006?
- Property owners that currently allow their building to deteriorate will continue to do so.
- At present there may not be the capacity within councils to administer that additional duties expected.

Question 12

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

- Any change that improves/increases the ability for councils to recover is very welcomed.
- The resourcing of the additional expectation involved in delivering/administering a scheme for a 'certificate of building repair' requires careful and detailed thought and calculation. It may be difficult, at this point in time, to achieve this under the current financial constraints.

Question 13

Do you have any comments on enforcement of the proposals?

- As above – There are concerns on the ability to deliver such a scheme given the current financial complexion of local authorities.

Question 14

Are there any equality issues that arise from these proposals?

- None that we are aware of.