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Dear

The Merchant City Community Council welcomes the publication of this proposed Bill. As residents in an area of almost exclusively common hold properties, some listed, many very old and some badly factored, we welcome the opportunity to respond to a consultation that aims to improve the appearance and safety of our built environment.

We agree that one of the major impediments to maintaining our buildings in good state of repair is the difficulty in getting all proprietors to contribute to the shared cost of maintenance and repairs. Sometimes it is a single owner who repeatedly refuses to pay up. But commercial occupiers in mixed use buildings may also drag their feet. The Bill makes no mention of the latter and we feel this is a significant omission.

However, before the question of who pays is even raised, there are numerous examples of failure by property factors to act on instructions of a majority of residents to manage timely repairs. Despite maintenance requirements in Deeds of Conditions, some factors do not monitor and review the condition of buildings and propose necessary works to their clients. It is then left to residents' committees or even individual residents to request work which then has to be agreed by all and managed by the factor. This can take years.

In relation to the proposal for certification and regular inspection requirement for buildings, we do not disagree in principle, but this would need to take account of requirements in existing Deeds and the role of property factors. In fact, the Bill makes no mention of the role of property factors even where they have been asked to progress works but have not done so.

In addition, we seriously doubt the capacity and resources of local councils to take action in the last resort to carry out repairs on all the evidence that could be revealed by regular inspections! And we wonder to whom would regular inspection reports be sent?

Once the seriousness of disrepair or safety risk has dictated local authority involvement, we support the proposal to extend the circumstances in which charging orders can be used to recover costs.

At a stage prior to that however we would add a proposal that a factor should be able to apply - with supporting evidence - to the local authority to serve a charging order against an individual proprietor who has refused to pay for building repairs works carried out on the instruction of a majority of proprietors. This would provide a useful remedy at a stage before a local authority would have to carry out repairs and perhaps reduce the burden on the public purse.

The other major comment we have is in relation to the proposal to automatically apportion the cost of repairs in equal shares. Most Deeds of Conditions are already likely to apportion costs of building repairs amongst residential owners on the basis of equal shares and that's fine; however where the building is shared with commercial occupiers, costs should be apportioned on the basis of rateable value. Commercial occupiers very often occupy considerably more space than individual residents and take on more risk in relation to public liability; their share should not be subsidised by residential occupiers.

So in conclusion, the proposals should

- recognise the role of property factors and residents' committees and consider providing them with a route to apply for a charging order

- recognise the presence and role of commercial occupiers in mixed residential/commercial properties and therefore set out a fairer apportionment of costs to be recovered through charging orders

Yours sincerely

Sarah Jones

Merchant City Community Council, Secretary