

**THE BUILDING REPAIRS (SCOTLAND) BILL CONSULTATION  
EAST RENFREWSHIRE COUNCIL**

**RESPONSE TO CONSULTATION QUESTIONS**

I refer to the above-mentioned consultation document and would respond as follows:-

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

In relation to defective buildings Section 28 requires that a defective building notice must specify –

- (a) a date of not less than 7 days after the date of service of the notice by which the owner must have begun works and
- (b) a date of not less than 21 days after the date at (a) to complete that work.

In most cases that local authorities are involved in, they know that works will not be carried out by the owner(s) as there may have been previous unsuccessful attempts by owners to arrange works, particularly in communal property or where there are non-resident owners, but, as a minimum of 28 days has to be given for compliance, enforcement procedures can be commenced until at least 28 days after service of notice(s).

Difficulty in recovering costs is a major obstacle to carrying out enforcement works particularly in the current economic climate and results in a considerable burden on local authority budgets.

The current situation where local authorities spend considerable resources invoicing owners responsible for carrying out repairs, following this up and in many cases eventually writing off debts for direct costs is unacceptable.

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

The Building (Scotland) Act 2003 should be amended to enable local authorities to recover costs by allowing the use of mechanisms to enable owners who do not have the resources required to enter into payment arrangements with local authorities or utilise charging orders.

However, local authorities should be given powers to recover the additional costs involved in setting these up on top of the original costs owners have been invoiced for or they will still be left with debts for carrying out enforcement works.

**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?**

Charging orders would give local authorities a mechanism to recover at least the direct costs that they have to pay Contractors involved in enforcing repairs instructed by them.

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

The cost of registering a charging order at the Land Registry makes it uneconomic in many cases when a defective building notice has been served and subsequently enforced. This is often the case when dealing with tenemental property where costs are often split amongst up to twelve owners.

Another disadvantage for local authorities is the amount of time that they may have to wait to recover monies due.

I would also be concerned that owners will not pay invoices send to them but prefer to leave the authority to set up charging orders.

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

Where owners do not have the resources to carry out necessary works they are able to defer payment.

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

Costs will not be written off where charging orders in place.

The costs will be taken off any property sale.

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

I can only speak for East Renfrewshire Council and we are happy to extend the time given on the notice for works to be carried out if there is a likelihood that an owner(s) will carry these out voluntarily.

I would be concerned about this proposal to extend the notice period for owners to commence works to 12 weeks as it is often the case in communal properties that the owners directly affected by e.g. rainwater penetration have already tried to get other owners to carry out works or asked their Property Factor to do this, where there is one, but owners/non-resident owners may be difficult to contact/have not agreed and works cannot go ahead.

This could mean that affected owners who experience repair problems could end up having to do so for lengthy periods and are likely to be unhappy about the length of time that they are having to wait to get repairs carried out.

However, I do feel that the current system giving a starting date and completion date is confusing and should be reviewed.

**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?**

For the reasons given above I do not agree with the proposal for a 12 week time limit.

I think local authorities should be allowed to determine an appropriate timescale.

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

The advantages of this proposal is that it will give local authorities the same powers of recovery as they have in terms of the Housing (Scotland) Acts 1987 and 2006 as opposed to the present situation where notices served in terms of the Building (Scotland) Act 2003 often result in local authorities having to spend considerable sums attempting to recover monies due and in many cases having to write off the se debts. Particularly in the current economic climate the poor recovery powers are discouraging many local authorities from utilising powers under this Act, to deal with defective buildings.

The disadvantages of this proposal are that unless local authorities are empowered to recover all costs associated with charging orders they will still be subject to significant expenses in setting up and administering charging orders particularly in communal properties where repairs may be split amongst a number of property owners.

They should be permitted to recover costs to record a charge on the Land Register plus costs for administering this if this means is used to recover monies.

If authorities are not permitted to do this where costs are divided a number of ways it could costs as much or more to recover costs as to administer the system for relatively small repairs.

In my opinion it would also be a disadvantage to set a timescale for compliance of twelve weeks for the reasons that I have previously given. It has to be understood that any reasons are not due to over-zealousness but due to experience of residents having to live in very poor conditions where other property owners will not agree to repairs.

**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 or dangerous and defective buildings?**

The advantages of an automatic equal share provision is that it makes it simpler for local authorities to administer.

The disadvantage of an automatic equal share provision is that, eg where there are commercial properties within communal properties they are nearly always liable for a higher proportion of charges.

This proposal would be advantageous to them but householders would be disadvantaged.

Also if this was taken as a cost per property it is often the case in tenemental property that there are merged flats or during renovations a mid-flat has been divided approximately half each to adjacent flats.

If in terms of this proposal it would need to be made clear what is anticipated in such cases.

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

I am not clear what is envisaged by this and cannot comment without further details of how this would affect property owners and local authorities.

**12. Do you have any comments other than those I have already mentioned.**

I have no other comments other than those I have already mentioned.

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

I have no other comments other than those I have already mentioned.

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

Not that I am aware of.