

**Working Group on Maintenance of Tenement Scheme Property
Minutes of Meeting 5 – Thursday 14 March 2018
5:30pm in The Scottish Parliament, Committee Room 3**

Attendance

Graham Simpson MSP, Daniel Johnson MSP, Maureen Watt MSP, John Mason MSP, Alexandra Herdman, Euan Leitch *Built Environment Forum Scotland*, David Gibbon *Tenement Action Group*, Alison McDiarmid, *Property Managers Association Scotland*, Professor Douglas Robertson, Jocelyn Cunliffe *RIAS Conservation Committee*, Jackie Timmons *City of Edinburgh Council*, Scott Geekie, *Tenement Action Group*, David Bookbinder *Glasgow and West of Scotland Forum of Housing Association*, David Stewart *Scottish Federation of Housing Associations*, Dr Andrew Steven, Neil Watt former President of the *Property Managers Association Scotland*, Luke Macauley *Scottish Government*

Apologies

Andy Wightman MSP, Stuart McMillan MSP, Jeremy Balfour MSP, Gordon Lindhurst MSP, Matthew Leitch, Hew Edgar *RICS Scotland*, Elizabeth Leighton Existing Homes Alliance, Andrew Milne *DM Hall*, Annie Flint *Tenement Action Group*, John Blackwood *Scottish Association of Landlords*

1. Minutes of 13.11.18 Meeting

Agreed

2. Date of Next meeting

Thursday 2nd May

3. Date of Recommendation to Scottish Parliament

Ready for early June.

4. [Summary of consultation responses](#) – agree questions that need addressed

Questions to be agreed by **Graham Simpson, Douglas Robertson and Euan Leitch** Circulated to all 25.03 see APPENDIX 1

Source experience of existing DMS from a Factor - **Alison McDiarmid and Neil Watt.**

5. Working Group Membership

Agreed that Membership remains as is, with the ability of subgroups to include others for additional expertise as necessary.

6. National Infrastructure Commission – [Call for Evidence](#)

Agreed that there should be a submission from the working group proposing tenement maintenance as national infrastructure issue. **Euan Leitch**

7. Tenement Maintenance Conference

Support for continued discussion between Scottish Civic Trust, Under One Roof, and CACHE with September event in mind, tying together policy and practice, professional and owners.

Euan Leitch ONGOING

8. AOCB

Hackitt Review (Chapt 3) and Cole Report to be circulated **Euan Leitch DONE**

Date of next meeting 5.30pm, Thursday 2nd May

APPENDIX 1

SCOTTISH PARLIAMENTARY WORKING GROUP ON TENEMENT MAINTENANCE

Questions for the sub-groups to address in advance of the meeting on Thursday 2nd May.

INSPECTIONS

What would the mechanism be for implementation? How would that be funded?

How would it be enforced? How would that be funded?

Where would the database of these surveys be held? How would this be funded?

Is the inspection fee to be a set rate, and if so is that practical given the variety of structures embraced by the tenement classification?

Should the inspection report require owner approval?

Who would be responsible/liable for log book maintenance?

What are the incentives to undertake survey recommendations?

Use of drones were considered acceptable.

Providing actual costings must be mandatory.

What is the relationship with the homes report survey? There was a feeling people were again being asked to pay twice for a similar service.

Communal drainage should be included.

There needs to be a link in the survey to the wider agendas of energy efficiency and fire safety.

What qualifications should those surveying possess, given there were a variety of views expressed here?

OWNERS ASSOCIATION

If owners' associations are corporate bodies, they could become insolvent so what are the implications of this?

As corporate bodies it is also the case that in not supplying formal annual returns, the entity could be deemed non-functioning, so again what would be the implications?

What are the individual liability implications if the tenement is self-factored by a "lead owner"?

Does high turnover in ownership make self-factoring unsustainable and thus problematic?

Does the increasing lack of resident owners in flatted properties not make having an owners' association a greater challenge?

Do the requirements of the Factoring (Scotland) Act 2011 not place a demand on self-factors to be registered and operate to the code?

The reality of self-factoring was questioned as implying non-factoring, thus in reality 'patch and repair'. Is mandatory professional factoring not more likely to succeed?

In resolving a maintenance matter is it the TMS (B) or Title Deeds, which prevails?

SINKING FUNDS

Is the term sinking fund the best term? Could it not be called a Reserve Fund?

Is the sinking fund technically a debt?

If an owner with an interest in the sinking fund becomes insolvent, does their sinking fund element get included as an owner asset?

Why were RSLs made exempt? What happens if they sell a tenement block, would it be left without a sinking fund?

Are there restrictions on the use of the sinking fund? Maintenance, repair, improvement, cosmetic?

Clarity on mechanism for holding fund and public accessibility? Dangers flagged up of the holding being seen as an investment pot.

Very differing views on how rates are set and whether these funds are to cover inspection, maintenance or just significant repairs. There is a tie back here to the title of the fund.

GENERAL

Evidence proffered that mandatory common building insurance should also be part of this package? What would be the implications of this reform, bearing in mind it was not taken forward in the Tenement (Scotland) Act, 2004.

A statement on ECHR Article 1, Protocol 1 is necessary.

Exemptions: 2 flatted properties were most commonly suggested. Currently the minority of effective owners' associations also suggest exemption, although clearly such status could change as owners change. So is there merit in sticking with the legal definition of a tenement?

Are we clear on the housing market implication of these recommendations? Will they bring about 'blight'?

Phasing: strong support for introducing these requirements for all new build, via an obligation to be included within the title deeds. Retrospective roll-out within older tenement will require much support, both organisational and financial. Is this the best way to proceed?

Providing detailed case studies of other models are highly desirable.

Is the pursuit of three or four quick fixes the best way forward, or should they be seen as key elements within a wider strategic package of reforms?