

Discussion Paper on Tenement Law: Compulsory Owners' Associations

01 August 2024

THE TENEMENT MAINTENANCE WORKING GROUP

[The Tenement Maintenance Working Group](#) (the Group) has been meeting since March 2018 with the purpose of establishing solutions to aid, assist and compel owners of tenement properties to maintain their buildings. Membership of the group is made up of individuals and organisations wishing to drive forward policy and legislative change. [BEFS](#) and [Under One Roof](#) provide secretariat.

Statement in response to the Scottish Law Commission Consultation, on behalf of the Tenement Maintenance Working Group:

The Tenement Maintenance Working Group welcomes the Scottish Law Commission (SLC) paper as a significant milestone and output of one of the recommendations made by the Group, towards action to improve the condition of tenement buildings in Scotland through a cohesive Owners Association management structure. Individuals and member organisations will submit their own responses to the consultation; this statement presents a general view and should be read alongside these detailed submissions.

The Group recognises and thanks the SLC for the vast amount of work undertaken in the preparation of the paper and would like to take this opportunity to highlight all three primary recommendations made by the Group for reforming tenement law:

1. a requirement for tenements to be subject to a building condition inspection every five years;
2. the establishment of compulsory owners' associations; and
3. establishment of building reserve funds.

These recommendations are considered important, interconnected, and accompanying vehicles towards delivery. The Group would urge Scottish Government to move forward with a requirement for building condition inspections every five years and the establishment of building reserve funds as a matter of urgency, and to renew its commitment to these, ensuring that Owners' Associations have the tools they need to maintain their buildings.

The proposals outlined and explored in the discussion paper are welcome, however it is considered crucial that that these are viewed within the wider context of a requirement for greater education and understanding of the need for maintenance and repair, and owners' obligations to do this, alongside additional resources dedicated to engaging owners, above and beyond legislation.

Clarity of language, processes and roles and responsibilities, ideally before or at point of purchase must accompany the legislative process. It will also be essential to understand the implications of implementation and enforcement, and where this may burden already stretched Local Authority capacity and resources – and potentially delay required works or have unintended consequences for the quality of repairs undertaken.

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Initial financial obligations may also require support, anticipating a backlog of works deemed likely at an initial formation of Owners' Associations. The Group notes the need for provision of accessible and trusted information, for example around details of works to be undertaken, the decision-making process and how costs are reached.

Further, alignment and cognisance of the wider policy landscape within which the proposals sit, including existing and nascent legislation such as the Heat in Buildings Bill, will be crucial to smoothing the path towards implementation and a wider understanding of the need and means for action.

The details of the paper and legislation are essential, and members of the Group can, and have provided fulsome comment. Primarily however, we consider it of utmost importance that this legislation progresses, to ensure that tenements across Scotland can provide sustainable, safe and warm homes.

The Group looks forward to further engagement and involvement in the preparation of legislation towards Compulsory Owners' Associations and the necessary associated guidance.