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Subject: Interim recommendations on tenement maintenance- A response on behalf of ALACHO
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ALACHO is pleased to have an opportunity to respond to the recommendations from the Scottish Parliamentary Working Group on Tenement Maintenance and equally pleased that there is a renewed focus on this issue. It is clear that, recent legislative changes and improvements notwithstanding, many owners still face significant problems in ensuring that necessary common and shared repairs are carried out or that owners work together to ensure that tenement buildings are properly maintained in the long term.

These are not new issues, they have been debated regularly over the past 50 years at least and many ALACHO members have memories of previous debates, proposals and false starts in finding a solution. The changes made over the past 20 years including the reform of Feudal Tenure, the Tenements (Scotland) Act 2004, the Housing (Scotland) act 2006 and the associated guidance have all helped to some extent but as the work of the Scottish parliamentary Working Group on Tenement Maintenance has once again demonstrated, these changes have not been fully effective. Many owners still face significant problems in ensuring that the buildings in which they live are properly and regularly maintained and that necessary repairs are carried out when they are required.

In considering the most recent recommendations from the parliamentary group our broad conclusion is that the problem is not a lack of agreement amongst housing and building maintenance professionals as to what is required to improve the situation. There is likely to be general agreement that the three interim recommendations:

that buildings should be inspected every five years by a competent building professional;
that owners should work together in owners associations; and
that each owner should contribute regularly to a “sinking fund” to ensure that necessary repair and maintenance can be funded,

could, if implemented, provide the basis for an improvement in the condition of tenements and flats with common maintenance obligations across Scotland.

However, there is no similar consensus amongst owners as to the value of such measures. Nor is there much confidence in the property factors, the construction industry or building professionals such as architects or surveyors that they will deliver work to a good standard and at value for money. As a result, there is unlikely to be any enthusiasm amongst MSPs or their political parties to impose these measures on a reluctant and sizeable group of constituents.

We would go a little further and suggest that the experience of ALACHO members working in local authorities on both the day to day maintenance of mixed tenure buildings and the use of wider statutory powers in relation to disrepair in private sector homes, is that the culture and expectations that surround the ownership of flats acts against good maintenance practice whilst the financial pressures on many owners mean they would struggle to afford to contribute to a sinking fund or even the cost of regular inspections if they were imposed.

In such circumstances it is no great surprise that politicians have been reluctant to take decisive action on this issue.

The question then is not so much what is to be done? As how can we move on from the current unsatisfactory arrangements?

In this context we would suggest the following:

On the assumption that there is a general consensus that the three interim recommendations do indeed represent best practice they should be made mandatory for all new flatted developments with common repairing obligations. This would serve to demonstrate the effectiveness of the approach and ensure that newer buildings in common and shared ownership are properly maintained in the longer term;

The legislation should include a mechanism for existing properties to migrate to the revised arrangements with the collective agreement of owners;

Owners should be encouraged to move to the new arrangements by demonstrating the advantages of the approach both in terms of improved maintenance of their home and the impact this will have on its value and saleability; and

Significant work will have to be undertaken to improve the reputation of factors, the building maintenance industry and associated professionals including effective redress when things go wrong, perhaps a properly independent industry ombudsman, to give owners the confidence that they will be treated fairly and get value for money.

This is an approach that requires a long term commitment to change and one that is based on winning the confidence and engagement of owners, allowing them time to adjust to the financial and other demands that these changes will bring and supporting a more engaged and active culture in relation to property maintenance. In the end it is owners expectations and behaviour that needs to change. Owners themselves must lead that process, they will only do so if they trust the advice and other services they need, can see the advantages that these changes will bring and have time to adjust to the short and medium term costs.

There will, we are sure, be those that believe that “something should be done now”, given the risks from poorly maintained buildings we have some sympathy with this approach. But powers to respond to immediate risks from poorly maintained buildings already exist and are, in general terms, broadly effective. What is needed is a longer term approach to embedding a more engaged and active maintenance culture amongst flat owners, one that puts a cash value and a marketing advantage on effective maintenance arrangements within a block and provides a clear incentive to owners to agree to participate fully in such arrangements.

There will be other agencies that have a role to play, the insurance industry, local councils, estate agents and property factors, surveyors and valuers to name just some of them. But it is owners themselves that have to change. The key will be creating the conditions for that change in the longer term.

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