

Scottish Parliamentary Working Group on Tenements: Inspections Sub-Group

Summary of Recommendations

- Inspections can only be undertaken by qualified property professionals; specifically, an architect or chartered building surveyor.
 - These professionals should: have appropriate training and experience; be regulated by a professional body with appropriate professional indemnity insurance (PII); abide by a code of ethics or conduct; and have access to redress/ombudsman.
 - For listed buildings, the use of an individual who has achieved a recognised level in competence in building conservation and who is a member of a recognised conservation accreditation scheme is recommended.
- The professional, once instructed, should arrange a pre-site visit to allow them to advise on the inspection requirements and recommend a scope of necessary works.
- The appointed property professional should inspect the tenement in accordance with the British Standard Survey (BS 7913:2013, B.5 Inspection reports). The roof (as defined in the Tenements (Scotland) Act) has to be inspected physically or in clear sight; drones, at present, are not appropriate.
- The inspection should follow a set format, and the property professional should indicate the condition of all shared parts (as defined in the Tenements (Scotland) Act) using the following categories: Immediate, Urgent; Necessary; Desirable; “No reportable defects”.
- The draft inspection reports need to be reviewed and agreed by the stairwell community (as defined in the Tenements (Scotland) Act); then agreed by the professional. Following approval, all home owners (as defined in the Property Factors (Scotland) Act 2011) will receive a copy of the report – either hard or electronic copy.
- The report will cover the inspection; not costings for works – though these can be added on appointment by the stairwell community. The professional should never recommend specific contractors to undertake recommended or advised works.
- The report will be a live document, updated on a regular basis by the homeowners (acting as a log book), and will be held centrally online, and accessible, for free, by the public
- The inspection report will sit separately from the home report, though it would be referenced.
- The production of an updated inspection report should take place at minimum intervals of five years.

Details for recommendations

The purpose of the subgroup is to examine the inspections aspect of any future scheme property tenement maintenance regime. In short, how would inspections work and be carried.

1. Definition of “Tenement”

This must be simple!

As such, there was agreement that the definition of communal parts, as detailed in the [Tenements \(Scotland\) Act 2004](#), was adequate. This definition covers anything over two units divided horizontally, in more than two ownerships, and can include commercial units too

2. Report

The report, and compilation can be broken down into four parts: undertaking the inspection; compilation of the inspection report; use and storage of the inspection report; and introduction of the scheme.

2.1 Undertaking of Inspection

a. Who?

Given the detailed nature of the inspection i.e. what needs to be examined, explored etc, it was agreed that only qualified professionals can undertake the maintenance inspection

As such, it was agreed that the following qualified property professionals, in the main, were deemed adequate:

- Architect,
- Chartered Building Surveyor

These professionals should:

- Have appropriate training and experience;
- Be regulated by professional body with appropriate professional indemnity insurance (PII)
- Abide by a code of ethics or conduct (reference to no offer of advice on contractors)
- Have access to redress/ombudsman

For listed buildings, the use of an individual who has achieved a recognized level in competence in building conservation and who is a member of a recognised conservation accreditation scheme is recommended.

b. How?

i. Pre-site visit

The professional, once instructed, should arrange a pre-site visit.

This will allow them to advise on the inspection requirements and recommend/identify what is required. For example, access to roof through a hatch, cherry picker, ladder, when/where inspection will take place.

Homeowners should inform the professional of any known ailments or areas of concern in the tenement and common parts as defined in the title deeds. Whilst the inspection will not routinely include the interiors of individual flats etc., there should be an obligation on owners to provide access for the professional to inspect known or suspected defects.

Likewise, during this site visit, the professional should mention any areas of concern.

ii. **What should be inspected?**

The survey inspection should cover scheme property only

“Scheme Property”, as defined in Tenements (Scotland) Act 2004 covers all bases that need inspected.

In addition, the British Standard Survey (BS 7913:2013, B.5 Inspection reports) was deemed as adequate in covering all points.

Specifics:

Roofs

The roof (as **has to be inspected** through physical/clear sight of full roof. Drones, at present, are problematical.

Access and inspection of the roof may be inhibited during home report inspections; thus arranging safe access to the roof for a maintenance inspection should be agreed at the pre-visit stage.

It was suggested that Ministerial regulations in any future policy or legislation should allow for use of drones in the future as technology advances.

Accessibility could cause problems with the inspection of the roof and roof space, but this should be raised at the pre-visit stage and bypassed.

Chimneys

Mutual structures, such as chimneys, can be very difficult to inspect. It could be that an entire inspection is required for these; but this can be established during the pre-visit.

Lifts

Some are becoming decommissioned because owners don't want to pay their maintenance costs, but some modern tenements have them – this could be a sticking point.

iii. **Categories:**

The property professional should indicate the condition of all shared parts using the following categories.

- Priority 1: Immediate - work that should commence without delay for public safety or health and safety reasons
- Priority 2: Urgent - work that should be carried out within weeks or months and within 18 months at most
- Priority 3: Necessary - work that should be carried out before the next inspection and which is necessary to keep the building in a state of good repair
- Priority 4: Desirable - work that is desirable but not strictly necessary
- “No reportable defects”

These categories are advisory. Owners will not be obliged to follow recommendations or advice in the early stages.

2.2 Compilation of Inspection Report

The report has to be professional and instructive, but there is an absolute necessity for simplicity i.e. no jargon.

Reports should also follow a standard format – this would allow ease to reference and comparison.

Once the draft report is completed, it is sent to the stairwell community for review and sign off (a similar protocol for home reports)

The professional **must** sign off on report; only then can the inspection report be “official”.

There are three stages of the inspection:

Stage 1: Pre-visit

Stage 2: Inspection

Stage 3: Costings (where the professional provides ballpark figures on expected costs of recommended/required works)

Stages 1 and 2 are mandatory; stage 3 is optional as this may incur additional costs

With regard to stage 3 - the report should include budget costs for recommended works.

If major works can be anticipated that are beyond the five-year horizon of the report for which the owners need to start making provisions, the report should highlight this.

2.3 Use and storage of Report

Once signed off, all property owners should receive a copy of the report – either hard or electronic copy

The professional should offer to meet the homeowners to talk through report (or tenants if the owner is willing). If stage 3 costings report is requested, the professional will talk this element through at this time.

A digital copy of the Inspection Survey Report should be held centrally online, and publicly accessible, for free.

This would also raise awareness for tenants.

Log Book

The Inspection Survey Report would take the form of a log book – to be updated on a regular basis. (See British Standard BS 7913:2013, B3 on logbooks)

This updating should include any additional/subsequent checks (outwith the five-year time frame), and details of works undertaken (with appropriate documentation such as certificates of completion). For example:

- 20/8/2020: Gutters checked by Holyrood Gutter Co.
- 27/8/2020: Gutters cleaned by Holyrood Gutter Co. (Certificate of completion and VAT receipt attached)

It is the responsibility of the professional, with agreement from the stairwell community, to upload the Inspection Survey Report following sign off from the professional. This responsibility could also be allocated to the property factor (if one is in place) by the homeowners

The professional should **never** recommend specific contractors to undertake recommendation / advised work.

However, the professional can provide forethought in report. For example, s/he could suggest or recommend a work order i.e. roof repair and fitting of insulation installation at same time.

Relationship with the Home Report

There was discussion around linking the Building Condition Survey report to the Home report

There are two options:

i. Linking/Referencing:

One option would be to reference the Building Condition Survey (if one has been undertaken) within the Home Report in the “Communal Areas” section of the Single Survey.

As the inspection report would be held centrally, instead of a category 1-3 being noted by the chartered surveyor, the home report could reference the centrally held Building Condition Survey Report.

The user could either click on the link (if it is electronic), or search for the report on a Government-held database to source the report.

If an inspection survey has not been undertaken, this can be identified when a single survey is undertaken for a property that will shortly enter the selling market.

This method could entice sellers to start the inspection process as a Home Report could not be undertaken

ii. Keeping separate:

The Home Report and Inspection Survey report should remain two separate entities, as their purposes are different, but both should be readily available to potential purchasers.

It is important to note that the Home Report is a “prescribed document” and is produced for a stated purpose, at a specific moment in time and should be seen within the context of the terms and conditions of engagement that are part of the inspection.

The Inspection Report will be for a different purpose, and as such the linking of the two could cause unnecessary conflict, misunderstandings, confusion and potential for litigation.

Any purchaser will have sight of the Inspection Report and if there is something within that then they are entitled to take their own advice.

A Home Report surveyor would not be allowed to offer any comment or opinion on Inspection Report – particularly on a report that is prepared by someone they may not know, on parts of a building they have not been able to access.

2.4 How Brought in?

Two approaches:

i. Immediate:

Compelling owners from the forthcoming 1 April following the legislation receiving Royal Assent (for example) to have a inspection undertaken and logged.

ii. Phased:

Introducing mandatory checks through a phased timeline; for example:

1. Lead in time (1-2 years after legislation)
 - Raising awareness of tenement owners of impending policy introduction and responsibilities
2. Assist and urge owners to undertake inspection and works (3-4 years after phase 1)
 - Partial funding for inspection and works from Government – essentially, rewarding best practice (carrot)
3. Compel (five years after phase 2)
 - After a set period of time, fines may be introduced (at Ministerial discretion) if urgent/immediate category works are not carried out.

For new builds, a planned maintenance scheme should be a legislative requirement following certificate of completion.

Alternatively, a certificate of completion can only be issued if there is a planned maintenance scheme in place.

Experiences from other practice and examples

There are numerous examples of maintenance regimes across the world, which Scotland can emulate, in parts, to ensure the development of or framework is fit for purpose:

USA: there are numerous schemes that vary from state to state.

USA [façade ordinances](#) were introduced for safety reasons following deaths from falling masonry.

They have introduced five-year surveys to be carried out by licensed and trained professionals. In Detroit, this – “competent person” with documented experience

In St Louis, their five yearly survey regime has measures for non-compliance, ranging from \$100 – \$1000 per day

The system across the USA is also very transparent. The name of report, who carried out, what report states, what report recommends is all publicly available.

There are, however, variations in height some states oblige that buildings less than 100ft require a survey, others are less than 80ft

Similarly, the Multi-Unit Developments Act 2011 (Ireland), and Building Amendment Act 2012 (which amends the Building Act 2004) (New Zealand) ensure maintenance is carried out