



Conference Report

Overview

Tenements Today | Tenements Tomorrow was a joint conference organised by the Scottish Civic Trust, Built Environment Forum Scotland and Under One Roof. Its aim was to highlight and discuss the complex issues related to tenement maintenance in Scotland, in light of the Recommendations published by the Scottish Government's Tenement Maintenance Working Group in June 2019. The conference formed part of the Scottish Civic Trust's thirtieth anniversary celebrations for Doors Open Days, and formed the centrepiece of a tenements maintenance theme that saw local workshops on tenement maintenance take place in each of Scotland's cities.

The conference was held in the Lighthouse, Glasgow, on Wednesday 18th September 2019 and attracted 114 attendees. Speakers invited included a mixture of academics, practitioners and experts in the field to provide a balance between theoretical discussions and practical advice. The event was structured with a series of presentations across the morning and early afternoon, followed by the delegates' choice of two out of three options for interactive break-out sessions.

In all, 56 representatives of local tenants' associations from all over the country attended, highlighting the importance of the issue across Scotland. Others attending included commercial factors, surveyors, housing association officers, local authority staff and teams from City Heritage Trusts.

Feedback from participants was uniformly positive:

"Great tenement event with important discussion and a good range of speakers"

"Excellent and well-organised event. Good speakers and workshops and loads of info! V. Enjoyable!"

"Fantastic content and mix of speakers, perspectives and current relevance."

"Thoroughly enjoyed today's speakers – very informative"

"Excellent and really relevant as the Secretary of an Owners Association. Much to share with our committee."

Tenements Today | Tenements Tomorrow was funded by the Glasgow City Heritage Trust, the Scottish Government and the Royal Institution of Chartered Surveyors.

Conference Proceedings

The event began with a **short film** commissioned by the organisers to highlight the intensely personal nature of tenement maintenance. *Voices from Scottish Tenements* detailed the issues owners had had in having works completed to their properties, including problems relating to consensus-forming, personal liability, apportionment of costs and the effects on mental and physical well-being. The film is now available to view here:

<https://vimeo.com/365520796>

The **conference introduction was given by Kevin Stewart**, MSP and Minister for Local Government, Housing and Planning. The Minister noted that tenement maintenance was an issue that had cross-party support and noted the main recommendations of the Tenement Maintenance Working Group, as follows:

1. *Building Inspections*: The “scheme property” of all tenements should be inspected every five years and a report prepared that will be publicly available to existing or prospective owners and tenants, neighbours and policy makers.
2. *Compulsory Owners’ Associations*: Every tenement building in Scotland should have a legally-constituted Owners’ Association, with a designated manager to make decisions about annual repairs and the ability to pursue non-paying owners.
3. *Establishment of Building Reserve Funds*: Compulsory Building Reserve Funds (BRF) for each tenement should be held in a specially established national or regional level fund, in the form of a social investment fund.

The Minister noted that a delegation of his staff would be present throughout the day and would report back to him on the proceedings. He committed to a substantive response to Recommendations of the Working Group and the outcome of the conference itself.

Annie Flint followed up on the issues raised by the short film in the Community of the Tenement. She noted that there are 444,000 privately-owned tenement flats in Scotland, and most of these are the older accommodation dating to pre-1919. The overwhelming majority of those consulted on the three main recommendations of the Working Group were in favour of them. She said that although the issues surrounding tenements could sometimes appear insurmountable, the best approach to resolving them would be to pick off the problems one by one:

1. Create legislation to make Owners Associations compulsory
2. Support setting up of Building Reserve Funds
3. Make quinquennial inspections compulsory
4. Ensure that Home Reports are more thorough
5. Create the framework for easy access to owner information for co-owners
6. Create a fund for repair loans
7. Replace share of repair costs by Rateable Value with equal shares or shares by floor area as set out in the Tenements (Scotland) Act 2004

8. Make a tied vote on repair issues one in favour of work proceeding rather than an impasse.

Niall Murphy's talk on the History of the Tenement began by drawing on his own early experiences of tenement life in Berlin. He then gave a brief summary of the history of the tenement from a Glasgow perspective.

He noted the impact of the Glasgow Police Acts of 1800, 1807, 1821, 1843, 1846, 1850, 1862, 1866 and 1892 and the increasing codification of Glasgow's tenements in the interest of promoting good urban health and wellbeing. The Glasgow Improvement Act of 1866 was particularly important for the shape of the city. It was drafted by City Architect John Carrick after returning from a visit to Haussmann's Paris, as well as Brussels and Amsterdam, with Provost Blackie, Bailie Raeburn and Glasgow's Medical Officer of Health, Dr William Tennant Gairdner. He gave the following illuminating quote from Ian Nairn in the Listener magazine, published October 1960:

"With the 18th century Glasgow's story stops being a matter of individual buildings and becomes a kind of topographical epic with the buildings as incidents, good though they are. Until the breakdown of classical traditions (which in Glasgow was not until the 1880s) the whole sum of building is the struggle to get a style which matches the Glaswegian spirit at the same time money is available to build it. (This, I suppose, in a feckless way is a kind of universal truth.) It is like a Beethoven symphony played over 150 years, and this working out in time has a power that superimposes itself on the topography. At every street corner you know where you are in time as well as space – not as an antiquarian exercise, but through the living pattern of the city. Where Newcastle is superimposition, and the pattern is the shock of contrast, Glasgow is one organic growth like a vast forest tree. And lucky accidents caused it to grow, tree-like, up and out in one direction, to the west."

Dr Conny Wollbradt presented on Applying behavioural science to improve tenement maintenance. His focus was on two main areas:

1. How do we communicate the value of maintenance?
2. How do we encourage a tenement culture of financial contribution to maintenance?

Based on a previous project to increase energy efficiency, he suggested that the value of maintenance might be suggested by creating a comparative tool that displayed neighbourhood tenement expenditure. Each tenement would be able to see how much their neighbours had spent on maintenance, as would prospective buyers. Such a system would create much-needed transparency and an element of one-upmanship that could be useful in driving and sustaining a culture of upkeep.

He used examples from the financial sector to suggest that it would be more successful to arrange for financial contributions to Building Reserve Funds to be both tapered (increasing slowly over time) and tied to the payday of the contributor. With regard to the latter, if the payment was made before the contributor made decisions regarding discretionary expenditure for the month, it was less likely to be cancelled as an inconvenience. He

suggested there may be value to having the BRF contribution made as part of the Council Tax bill, which was already viewed as compulsory.

Douglas Robertson spoke about Strategic vs Incremental Change: Tenements and the Wider Context. He began by tracing the history of social housing over the last 50-60 years and made the point that new housing, and older housing owned by social landlords, was held to a much higher standard of maintenance and repair than housing in private ownership – whether rented or owner-occupied.

His view was that there was a proven detrimental connection between collective rights and the effects of acts of individual owners, and suggested that we should move to protect the rights of the majority over those of the individual.

He suggested the following steps for addressing the failure to deal with common repairs in tenements:

- **Agree the key objective**
- **Operationalise that objective**
 - universal housing standard for all residential property
 - five-yearly property survey, results a public record
 - compulsory owners' association, with requirement to ensure mandatory block insurance
 - reserve fund
 - professional factoring, via revised Code of Conduct
- **Publicly accessible property database**
 - Owners details
 - five yearly survey
 - Home report
 - EPC rating
- **Default arrangements**
 - Public 'community' interest takes precedence, compulsion must apply
 - Public lending facilities – old National Lending Unit ideas picked up by Scottish National Investment Bank
 - Back-up public monies from SG for interventions
- **Refine small debt arrangements**
- **Wider legal challenge**
 - Should the owner rights of one party really be allowed to be to the detriment of other owners / residents?
 - EHRC protocol on Protection of Property

Douglas' report on tenement maintenance will be available shortly from [BEFS website](#).

Graham Simpson took questions relating to the process of the Scottish Government's Working Group on Tenement Maintenance, of which he is the Chair. He noted that the group was highly unusual for its genuinely collegiate approach, and he urged those attending to ask their local representatives about tenement maintenance whenever possible, as a means of keeping it at the forefront of government's mind. He added that he

did not believe that the remit of the Working Group had been fully completed and he looked forward to further instruction from the Minister in that regard.

Frankie McCarthy delivered a talk on **Human rights issues in tenement law reform**. She noted that reform may be challenged by the Article 1 of the First Protocol to the European Convention on Human Rights - the Right to peaceful enjoyment of possessions (known as A1P1). She noted there were three tests for any state action to be justifiable in the context of protecting A1P1:

- Lawful
- In the public interest
- Proportionate

She suggested that in reforming tenement law, legislators should be aware, but not scared. She acknowledged there was a risk it might be viewed as impossible, and that it was likely there would be an inaccurate media narrative. However, as had already been touched on by Annie, solutions could be found in a piecemeal approach that could eventually lead to resolution of the issue. She finished with a reminder to recall other human rights, and not just A1P1 when considering tenement law reform.

Three break-out sessions were held, of which all delegates attended two.

1. Carrots and Sticks with Dr. Conny Wollbradt and Jim Bauld:

- Enforcement may happen in time – but much of compliance is voluntary!
- Behaviours can be changed within existing structures to balance legislation/behaviour to best effect, eg – seatbelts, smoking cessation, MOTs
- Both sessions: importance of Education, we have to sit a theory test and learn to drive, we need to learn nothing in order to buy a property. This could be built into the secondary school curriculum as part of Modern Studies. Both responsibilities and legal structures need to be taught.
- Swedish example – ‘mortgage’ affordability check includes not just the purchase price of a building, but also the affordability of upkeep/maintenance payments too.
- Individual process – but collective benefit – herd inoculation is a good example of this in practise.
- Those doing well want good practice acknowledged, perhaps would prefer a stepped process – mandatory quinquennials, and then sinking funds if reports haven’t worked.
- Potential for these cooperative behaviours to benefit climate change adaptations too, which are becoming increasingly necessary
- High emotional value as we care about our homes and our places.

2. Communal Action workshop with Graham Boyack and Soraya Din

- Getting involved builds community and can improve quality of life for a community
- Make full use of the resources available within the group (skills) and via local authorities, charities, city trusts (funding, support, advice)
- Utilise the levers in place and contact your local elected representatives

- Soft skills are key to building trust, engagement and preventing conflict: communication, active listening, do not make assumptions, identify common ground and mutual interests (even with Airbnb landlords), persuasion and bring CAKE!
- HAVE TO BRING PEOPLE ALONG WITH YOU
- People who refuse to engage or contribute is the biggest challenge
- Further regulations and enforcement needed
- Need for directive support from local authorities – the threat of intervention or sanctions would help
- Consensus that owners should have to organise – compulsory owners' associations received less support from those already successfully organising
- Factors find owners' associations very useful

3. Quality Maintenance – heritage and beyond with John McKinney and Euan Leitch

- Five yearly survey is necessary
- Balance of risks vs health & safety requirements
- There is a challenge in identifying suitable professionals and a bigger challenge identifying suitable contractors
- Home reports do not provide enough detail on condition therefore the survey must feed in to Home Report
- How do you deal with adjoining property issues?
- Support for homeowners required in commissioning works
- Who checks the quality of the work undertaken? Is membership of a trade body enough of a guarantee or is further accreditation required?
- How do you identify a good factor?
- Housing associations already undertake repair and maintenance to a higher standard and therefore have the right skills – could these be utilised more widely?
- Is this an additional expense if you are already self-factoring well? But can continued good self-factoring be guaranteed with changes in ownership? Is succession planning realistic?
- Photography with drones is acceptable.

Our last speaker of the day, **Mitch Miller spoke on Tenements as a Cultural Resource**. He drew on his own experience of working as an artist/ethnographer at the Red Road flats and in Piershill, Edinburgh, to note there was a strong sense of communal responsibility in both. Residents took turns in basic cleaning tasks and supported one another. He asked the question if the end result of improved tenement maintenance might be an enhanced sense of community and a return of collective responsibility.

Euan Leitch provided a summary of the day in closing.

Good tenement maintenance is not a building need it is a human need. The film at the start of the day, and comments from the floor throughout, emphasised the challenges homeowners face in communal decision making, some with stressful and distressing outcomes. A culture change is necessary.

While acknowledging the complexities of communal ownership the speakers all recognised that there were answers that can move us collectively towards that change. Legislation is required but as part of a coherent approach to ownership and maintenance. Support will be required, not all owners have the same resource or agency.

If Scotland is to address the climate emergency and reduce greenhouse gas emissions, then our existing housing stock plays a crucial role in achieving that. Maintaining and repairing our tenements must be a prerequisite to retrofitting them with energy efficiency measures. Neglect, demolition and rebuild should not be an option.

But for it to move forward it must remain high on the political agenda and that depends on owners talking to their elected representatives, sharing their challenges and pointing politicians towards the solutions currently being discussed. Tenement maintenance needs to be in all political party manifestoes for the 2021 Holyrood elections.

BEFS provides advice on how to approach your elected representatives [here](#) and you can point them to the recommendations of the [Tenement Maintenance Working Group](#).

Tenements Today | Tenements Tomorrow was delivered by:



Funding partners:

