

SCOTTISH PARLIAMENT TENEMENT MAINTENANCE WORKING GROUP: MINUTE OF MEETING 12

6-8pm, 18 December 2025 | Scottish Parliament and online

Members in attendance: Graham Simpson MSP (chair), Paul Sweeney MSP.

Parliament staff in attendance: Stuart McLuckie.

Secretariat representatives in attendance: Mike Heffron, Hazel Johnson, Derek Rankine.

Participants in attendance (in person or online): Nina Abbot-Barish, Lynsey Barrow, David Bookbinder, Callum Bruce, Stephen Crilly, Cassandra Dove, Dr Iain Cairns, Gillian Campbell, Jocelyn Cunliffe, Annie Flint, David Gibbon, Stuart Hay, Graeme Hartley, Gabrielle Hayes, Josh Jackson, Euan Leitch, Prof. Frankie McCarthy, Ben Macdui, Louise Scott, Silke Schneider, Duncan Thomson, Jackie Timmons, Sheila Trachsler, Neil Watt, Lisa (surname not provided).

CONTENTS

1. Welcome and introduction	1
2. Approval of previous minutes	2
3. Review of Working group progress and aims.....	2
4. Building Reserve Funds Research Findings	3
5. Mandatory Owners' Associations.....	5
6. Five-Year Inspections	11
7. Milestones and timelines – building consensus and what next?	11
8. Any Other Business.....	13
Action Points	14

1. WELCOME AND INTRODUCTION

Graham Simpson MSP welcomed participants and thanked attendees for joining the meeting, which he noted follows on from the previous 17 June meeting. He noted Daniel Johnson MSP had confirmed his attendance but had not yet joined the meeting.

2. APPROVAL OF PREVIOUS MINUTES

Euan Leitch of SURF – Scotland’s Regeneration Forum proposed the draft minutes and they were approved [**Action Point 1**: action points are listed at the end of the minute]. Hazel Johnson of Built Environment Forum Scotland confirmed there were no matters arising.

3. REVIEW OF WORKING GROUP PROGRESS AND AIMS

On invitation from the chair, Hazel Johnson provided a reminder of the work undertaken to date by the Tenement Maintenance Working Group and related sub-group activity, and reflection on where it sits within the wider context and the current policy landscape. Hazel said the pre-circulated ‘Tenements in Context’ briefing paper provided an overview of the story so far, with the Working Group having agreed on three recommendations, and three sub-groups being established to explore how these will work in practice. Hazel said attendees will hear updates on all three recommendations during the meeting.

Hazel shared some headline statistics to paint a backdrop and frame the tenement maintenance conversation in the current policy context. She noted that climate and housing emergencies have been declared by national and local governments in Scotland since the Tenement Maintenance Working Group was formed in March 2018. She outlined that a 2020 Building Research Establishment report noted 52.9% of Scottish housing was built pre-1946; the comparator figure for the UK is 38%, and 22% in the European Union, which indicates the scale of potential climate and socioeconomic outcomes that could arise from tenement maintenance policy action in Scotland.

Hazel added that the latest 2023 Scottish House Condition Survey reported that 45% of dwellings had some disrepair to critical elements, and 28% of pre-1919 dwellings had urgent disrepair. Of the 895k tenements in Scotland, 60% are rated D and E for energy efficiency, and 11% are even worse, rated F or G. Hazel said this presented a major challenge, given Working Group consensus that the fabric of tenement buildings must be in a good condition before appropriate retrofit work can be taken forward.

Hazel shared a policy landscape map and highlighted thematic 2026 Built Environment Forum Scotland Manifesto recommendations to illustrate the cross-policy relevance of Working Group issues. She noted there is a much wider conversation, including around indoor air quality, warmer homes and the potential impact of upcoming elections, which will inform and shape the further development and implementation of recommendations. Hazel said training and skills, repair, maintenance, retrofit, net zero, the climate emergency, culture, heritage, planning and place-making are all interconnected, demonstrating the need for cross-portfolio working and for full recognition of the work and recommendations of the Working Group in many different areas of public policy.

Hazel said the overlap across and between Scottish Government departments wasn’t necessarily a barrier, as different departments speak to each other and work together frequently, including on Minimum Energy Efficiency Standards, the Heat and Energy Efficiency Technical Suitability Assessment, the Fourth National Planning Framework, the Housing (Scotland) Bill, cladding remediation, and the Heat in Buildings (Scotland) Bill. These actions and strategies straddle climate, housing, historic environment, skills, planning and more, and show none of the issues the Working Group focuses on sit in isolation.

Hazel concluded that a lot has changed since the Tenement Maintenance Working Group was formed and that there is a wider national context that is supportive of further progress. She invited any Working Group Members that wish to discuss the policy context further, to contact the Built Environment Forum Scotland to do so [Action Point 2].

Graham Simpson MSP thanked Hazel for her input, and said he would park questions and discussion until all presentations had been delivered.

4. BUILDING RESERVE FUNDS RESEARCH FINDINGS

The chair asked Mike Heffron of Under One Roof to introduce the next presentation. Mike said that at the previous June meeting, he had reported that Under One Roof had made a funding bid for new research into building reserve funds. This funding, from the MCF Foundation, was subsequently confirmed and Under One Roof appointed Gillian Campbell to commence the work in August.

Mike said Gillian, who is currently Director of the Existing Homes Alliance, brought a wealth of research experience and expertise to the assignment. Mike reported that Gillian's pre-circulated paper was delivered two weeks ago and previewed at a national Scottish Federation of Housing Association Conference. He said this was a valuable opportunity for the Working Group to hear about the findings direct from the source, and he expressed thanks to Gillian for a high-quality research paper.

The final report, entitled *Building Reserve Funds – a workable model for Scotland*, is available on the Under One Roof website at the following link:

<https://underoneroof.scot/a-workable-model-for-building-reserve-funds-new-report-out-now/>

Gillian shared slides to complement her presentation, and noted that as it had been pre-circulated with the other meeting papers, she will decline from reiterating the context and background of the work, beyond highlighting its critical timing. She said that in tandem with sub-group activity on owners' associations and five-year inspections, the report is intended to kick-start progress on the third recommendation, to establish building reserve funds, which hadn't received the same level of attention and engagement from the Working Group in recent years.

Gillian reported that she had investigated cross-UK and international approaches to building reserve funds. The report also looks into practicalities of implementation, protections for vulnerable owners, minimum contributions, and the challenge of significant backlog issues. As 47% of European Union residents live in apartments, and energy efficiency is a priority for many European governments, Gillian said continental experience was an important source of learning opportunities, and to that end she had looked at legislation in Spain, Germany, the Netherlands and elsewhere.

While different approaches had been taken in different parts of Europe, in general, Gillian found that the countries investigated have deeper and longer-standing property management processes compared to Scotland. Gillian said full detail is available in the report, but common building reserve fund features in Europe including mandatory contributions, dedicated bank accounts, and persistent challenges with underfunding despite frameworks designed to prevent this.

Gillian reported that European experience suggests clear guidance on contributions is desirable, and that the state should have limited involvement in enforcement, which is more typically led by owners and property managers. The research also showed that a lack of communication on building reserve funds, and a lack of information on building conditions, makes owners less likely to engage and contribute. This provides a good opportunity for Scotland to learn how to approach repairs and future-proofing.

The core principles for a scheme that could be adopted in Scotland are suggested in options analyses in the paper, which also explores questions like, 'should contributions be mandatory or voluntary?', and, 'what is the best approach to enforcement?'. Gillian clarified that wide engagement with stakeholders formed a strong component of the research, and that this outreach indicated widespread support for mandatory contributions and for legislative drivers.

Gillian said the research looked into three options for handling contributions and participation, and that European experience suggests minimum contributions are needed to avoid serious underfunding problems emerging. The Netherlands changed their legislation to set an appropriate minimum, for example. Gillian cautioned that it is not possible to simply copy and paste legislation from abroad. She stated that we are starting from a low base in Scotland with regard to property management across the board, that there is no regime yet for inspections, and that there will also be major political challenges emerging from any abrupt introduction. Gillian added the report therefore recommends reasonable contributions informed by five-yearly inspections, which need to be phased in, and which could usefully be supported by non-statutory guidance from the Scottish Government.

Gillian reported that on future-proofing building reserve funds, Scottish Ministers should have powers to review effectiveness and to develop secondary legislation if necessary. She said building reserve funds ought not to be used for day-to-day jobs like stair cleaning, but for works arising from long-term maintenance and retrofit plans. The market should drive enforcement and utilise home reports and property valuations. Gillian added that further mechanisms will be needed, and that as she is mindful of limited public sector capacity, this could possibly come from buildings insurance and the First-tier Tribunal. As lenders and insurers are unwilling to get into regulation, a European style approach of Owners' Association managers enforcing reserve funds through the First-tier Tribunal may be the best way forward.

Gillian said there is a reality that owners' associations need to manage and hold building reserve funds, and there isn't an established model for implementing this in Scotland. In Netherlands, major banks offer dedicated provisions integrated with property management software, but research suggests this is an outlier and that there is a shortage of appropriate bank account types in the European Union in general. Barriers identified in Scotland include lack of clear demand, but any legislative requirement would create a market for specialised accounts.

Banking industry interviews suggest building reserve funds will be welcomed and new products will be developed accordingly. Gillian noted that some banks had expressed concern about the complexities of handling multiple account holders and addressees, but this could potentially be resolved through technology and European learning. The mechanisms of traditional banks and digital platforms could be combined for tailored services.

Gillian's report highlights that one area of clarity that is needed for banks, which is whether Owners Associations are to be considered taxable entities, given associated implications for calculating interest payments. It is possible specialist banks may form; this happened in Germany, for example, with TEN31 Bank. Not everyone can access mainstream financial products, so government intervention or a backstop may be needed for this group. Inspiration may be available in rent deposit schemes, and in public body partnerships with credit unions or high street banks. The opportunity for using interest on financial products to provide support for low-income households is not practical as administrative costs are likely to be high and the impact of scheme failure is immense. Public body partnerships with lenders may therefore be preferable, and would likely provide the best outcome for offering consumer choice.

Gillian said that with regard to maintenance repair backlog, current issues will take years if not decades to resolve, before building reserve funds can come into play for ongoing maintenance. Consideration should therefore be given to accelerating the build-up of funds through approaches like seller contribution, buyer contribution, ring-fencing reserves, or providing Scottish Government grants. Gillian said the latter is highly unlikely in the current public finance context.

Noting the limited time available for a busy agenda, the chair asked Gillian to move towards a conclusion. Gillian agreed, and said that any new legal and financial frameworks and mechanisms need to be accompanied with awareness-raising and a culture change campaign for the public, and in collaboration with the property industry.

Gillian shared slides with a recap on the report's recommendations, which also include formation of a short-term working group, and support for the growth and professionalisation of property services. She reiterated that the building reserve fund research is intended to act as a catalyst for discussion, and that while they will not act as a silver bullet, they have massive potential if delivered and integrated as part of a series of wider reforms to tenement maintenance in Scotland.

Graham Simpson MSP expressed gratitude to Gillian for her research, report and presentation. He noted strong overlap with the next presentation from the Scottish Law Commission.

5. MANDATORY OWNERS' ASSOCIATIONS

Professor Frankie McCarthy of the Scottish Law Commission was invited to present on a recent set of publications regarding Owners' Associations. Frankie shared slides and began by noting that as she can't summarise the entirety of the report, she has [recorded a video which goes through the report in more depth](#).

She said her presentation to the Working Group has reduced [draft legislation recommended by the Scottish Law Commission](#) to the Scottish Government to a small number of key points. Frankie said she had been asked by Under One Roof to tell the Working Group if there were any changes to the recommendations as compared to the content of an earlier discussion paper. Frankie said there weren't any significant changes, beyond going into much more detail and depth on how owners' associations could be set up and made operational.

Frankie said the key effect of the draft legislation, is that every tenement building will automatically have an Owners' Association. There would be no need for a registration process or an action from owners to

set it up. One outstanding question is, what would the date of birth be for a new Owners' Association? There is an easy answer for tenements that exist just now, but for those constructed in future, it will need to be decided upon the precise date at which a building is considered complete.

Frankie reported that owners' associations have broad capacity in the draft legislation. The legislation includes examples of what they might do, but these examples are not exhaustive. It sets out that owners' associations can't do for-profit trade and can't own heritable property, like a flat in the building, but it can own other things, like equipment. Owners Associations' need to decide to exercise capacity, it is controlled in the same way a private company is controlled by its directors.

Frankie said the rule is, owners' associations can only do things if the owners make a clear decision to do them. There is no flexibility in joining or leaving an Association beyond buying and selling a flat. Frankie clarified that default rules are set out, but owners' associations will have some freedom to tailor them. There was a major legal challenge in working this through, but the Scottish Law Commission is confident it has arrived at a workable solution.

Key duties placed on owners' associations include appointing a manager; anyone can be a manager if owners vote for them, and if the manager then agrees to take on the role. Managers will need to abide by, and comply with, the [Code of Conduct for Property Factors and the 2011 Property Factors \(Scotland\) Act](#), unless you are the owner of a flat in the tenement building. Solicitors, surveyors etc. will all need to comply with the 2011 Act.

Frankie shared that annual owners' associations meetings is a second key duty, and that these can be held in person, online, or in a hybrid format. Owners' associations also have to approve an annual budget and to have information recorded on the land register. Currently, flats are registered, but not tenement buildings, so further action is needed to have the whole building identifiable in the register.

With regard to enforcing duties, Frankie said that the First-tier Tribunal can appoint a manager if owners' associations don't do this. The person still needs to agree to become the manager, but individuals like owners and tenants that are keen to see repairs take place, can ask the Tribunal that they be appointed, or suggest a specific appointee to them. Owners' association managers have some powers to act without a vote being needed, but they can't instruct maintenance works if there is no vote in favour of it. Managers can call meetings and must prepare an annual budget. Frankie said Section 8 of the [2004 Tenement \(Scotland\) Act](#) – the duty to ensure continued provision of support and shelter – is relevant here.

Frankie stated that owners' associations have an obligation to approve an annual budget. If owners don't vote on this, the Tribunal can approve a budget in the absence of an Owners' Association decision. At that point, managers can send bills to owners and instruct tradespeople. The mechanism is not fool-proof, for example owners could collude to avoid maintenance, but it seems unlikely this will emerge as it will ultimately be against their interests to purposefully degrade the building they own.

Frankie said a more likely problem is that it may not be possible to find someone interested in taking on a manager role, especially in a dysfunctional tenement, so the draft legislation states that local authorities can act as managers of last resort. She added that local authorities will hate this, as they pushed back

strongly in consultation process, and reported being anxious and distressed about adding to their already heavy remits and obligations. Frankie explained that nonetheless, this is included in the draft Bill against express local government wishes, as the private sector can't be forced to act if they don't want to.

Frankie said the Scottish Government is likely to thank the Scottish Law Commission for their work and commit to reviewing it. There is, however, no obligation for the Scottish Government to come back to Scottish Law Commission to discuss next steps, or to explain a decision not to take it forward.

The Scottish Law Commission have concerns about legislative competence. It is not fully clear if the Scottish Parliament can legislate for this, which means legal challenges could emerge if it is passed. Frankie said legislative competence challenges in court happened with regulation of short-term lets, from people who didn't want to be subject to legislation. The Scottish and UK Governments could investigate and clarify legislative competence to avoid this risk. The Law Commission can't make any predictions on timing of this investigation, which would depend on how big a priority progressing the Bill would be for the Scottish Government, and how well Scottish and UK Governments are working together at Ministerial and civil service levels.

Public consultation on owners' associations is likely to be needed if the draft legislation is to be seriously considered. Frankie said that it is clear not everyone thinks owners' associations is the best solution to tenement maintenance problems. Some consultees felt tenement maintenance doesn't need further intervention from government, or that owners' associations would work best as a delinquency measure if a tenement not up to scratch, or that local authorities, or a new public body tenement authority, should lead on this. South Africa and a state in Canada have dedicated public bodies, which provide support, advice and regulation, but it seems unlikely the Scottish Government will have the resource to create a similar agency.

The Scottish Law Commission heard that it may be possible to have different rules in place for Registered Social Landlords, as it is possible that a building may not need an Owners' Association if it is being well-maintained by a Registered Social Landlord. Frankie said other non-legislative measures, similar to the culture change recommendations from Gillian's report, may be needed or there is a risk the legislation passes and sinks like a stone. Frankie added that the Bill could also collapse in practice without supportive infrastructure, including capacity and leadership in local government.

Frankie said some owners will need help with capacity building, as not everyone knows about and understands how to deal with meetings, minutes and budgets. Changing the culture so people are taught that this is part and parcel of owning a flat, would be an important part of implementation. Frankie said buy-in from the financial sector would also be required to provide owners' associations with the tools and support they need. She said there is a worry that lenders make positive noises in consultations about this, but don't follow through with action.

6. QUESTIONS AND COMMENTS ON PRESENTATIONS

Graham Simpson MSP expressed thanks to Frankie and the Scottish Law Commission for their work, and invited comment and discussion.

Dr Iain Cairns, Strathclyde Institute for Sustainable Communities – We have been working with Under One Roof in looking at governance arrangements in different countries. Regarding the uncertainty on legislative competence – if the Scottish Parliament is not competent, do we ask Westminster to help? I am concerned about timidity in the draft legislation. For example, on decision-making rules, in Germany and France, these are mandatory. They are both signatories to the European Convention on Human Rights. Westminster support may ultimately help the Bill to do more, and I think it should do more.

Prof. Frankie McCarthy – The Scottish Law Commission are confident that Westminster isn't the best Parliament to legislate for the Bill. The Scottish Government has the freedom to amend the Bill to do more beyond what is in the current draft.

Dr Iain Cairns – In Germany, they looked at minimum quorums for voting, but I don't see it in the draft legislation. There is also a missing human rights connection.

Stuart Hay, Royal Incorporation of Architects in Scotland – I am interested in the reference to section 8 powers of the 2004 Act, and in bringing properties up to standard to be compliant with the Heat in Buildings Bill. Would this Bill help to facilitate that?

Prof. Frankie McCarthy – The Heat in Buildings Bill could be brought into the Owners' Association Bill later. At the moment, this isn't possible, because the Heat in Buildings Bill doesn't exist. But there is nothing to stop it being added at a later date, in the same way section 8 has been added. If retrofit costs a fortune, that may be difficult for government, but this is not a legislative problem.

Annie Flint – The 2004 Act needed approval from Westminster. Why is this Bill not the same?

Prof. Frankie McCarthy – We are introducing a new type of legal person, which may be in the competence of Westminster. We may be able to give this bit of the legislation to Westminster, but a Bill needs Owners' Association to work straight away, so it can't do that and then have them become a legal person later. I have limited knowledge on legislative consent issues across the two Parliaments.

Graham Simpson MSP – I am aware of examples where Westminster has said, "this isn't in the Scottish Parliament's competence". Could the Scottish Law Commission have explored this before producing the draft Bill?

Prof. Frankie McCarthy – Ultimately, the law isn't fully clear on this, so the Scottish Law Commission can't assume what the law will decide, it is a question for the Scottish Government.

Graham Simpson MSP – I would have expected the Scottish Law Commission to have looked into the law on this. A question I have is, if a property has a factor at present, would that factor become the property manager?

Prof. Frankie McCarthy – Not automatically, but an owners' associations novation process may be able to do this. Simply copying it over under statute will not be automatic, but the Scottish Government may tell factors to write to owners to recommend that they become appointed as the property manager.

Graham Simpson MSP – It can be difficult to remove or change a factor in practice. Will this make it easier?

Prof. Frankie McCarthy – Yes. Owners’ associations can decide to dismiss a factor, so can the Tribunal.

Paul Sweeney MSP – I served in both Parliaments, and I know that the Secretary of State for Scotland can sign a Bill through to ensure there will be no competent legal challenge later. Early engagement with the Scotland Office would be a good idea, but I don’t see any problem, UK Ministers will be supportive, it is just about tidying up. I have a question on high absentee ownership levels. How do you compel them to engage and comply? Is it through fines? Can they instruct missing share settlements? Can registered social landlords, like Glasgow’s 60 community-based housing associations, act as manager on behalf of say 40 owners’ associations in their local area?

Prof. Frankie McCarthy – Criminal penalties are unusual internationally, and there was limited appetite in stakeholder consultations, but Parliament could look at this. On registered social landlords, yes it should make it easier for cross-building coordination. For example, they might in future be dealing with a group of 10 owners’ associations instead of 100+ individual owners. If the will is there, this will make it easier.

Mike Heffron, Under One Roof – Can you provide some voting threshold clarity around tied votes, and around organising maintenance outside owners’ associations, and whether this all means we are repealing the Tenement Management Scheme?

Prof. Frankie McCarthy – The current threshold is a simple majority, and 50% will be enough. Tenement Management Schemes will be repealed. The difference is, when it was owners who contracted repairs and have debts, now this will be owners’ associations.

David Bookbinder, Glasgow and West of Scotland Forum of Housing Associations – I welcome the reports and presentations and general momentum. On Housing Associations, a common sense approach could be worked out with them, they will be no barrier to the Bill. I can’t speak for local authorities but I see why they are worried, the same may be true of the First-tier Tribunal. They will need time to take on more staff, I know they are already struggling with capacity, and are implicated in multiple processes.

Euan Leitch, SURF – Scotland’s Regeneration Forum – I will echo praise, these are fantastic reports, dealing with meaty content. It is a big leap forward. I agree with speakers’ points that stand-alone actions are pointless, everything works in conjunction across the three recommendations, but what is the order of owners’ associations and building reserve funds? Will it be a staged approach given the low baseline?

Gillian Campbell – For me, awareness-raising is starting point, then owners’ associations, then building reserve funds phased in over time, with five-yearly inspections to come later. That is my thinking.

Duncan Thomson, Glasgow City Council – Local authorities will feel they have a raw deal from the Bill, but Glasgow City Council is very proactive on tenement maintenance, and would do their best to get the Bill to work. I welcome both reports. I have a question about title deeds, will they still have jurisdiction?

Prof. Frankie McCarthy – In a transitional period, yes. Ultimately, no.

Duncan Thomson – We work with obsolete title deeds, and sometimes ground floor shops pay 90% of building maintenance contracts. If their shares are reduced, owners will face a much higher share, so I foresee challenges there. What happens if the Tribunal can’t appoint a manager?

Prof. Frankie McCarthy – The local authority becomes the manager of last resort.

Duncan Thomson – I know this isn't a silver bullet, that there is a major cultural challenge. In Glasgow, 73% of our stock is tenemental, it's a big challenge for the city. When we were asked about the [revised Code of Conduct for Factors](#), Glasgow City Council sought to add a maintenance plan obligation, but Scottish Government said it would only be noted as good practice, which was a lost opportunity. On building reserve funds, arbitrary figures don't work, disrepair costs are huge in Glasgow. Most older tenements have some level of disrepair, some have considerable costs to pay, you can see a problem coming when owners are asked to make contributions. Building reserve funds will have to come later on down the road. Maintenance plans, which we could do now, could have annual building inspections. Common buildings insurance is a necessity, maintenance plans should be as well. Could we have maintenance plans coming in first, then inspections, then building reserve funds, so we understand the scale and impact? I agree these are huge challenges and a lot more discussion is needed, but I think most of this could be achievable.

David Gibbon – This is amazing progress, but it is very complicated legislation, and a complicated message to get across. What do we do next? We are up against vested interests, people with stupid points, the politics of this will become really difficult. How can those who believe in this in general terms, like most people in this room, get this across to a public who will knee-jerk against it because no-one likes change?

Graham Simpson MSP – We have a process to go through. The Scottish Government will look at the Scottish Law Commission report. The next Parliament will need to decide how to proceed after that. There will be consultation ahead by the Scottish Government, then further consultation in Parliament with scrutiny from a lead Committee and the Stage 1, 2 and 3 considerations. There is a long way to go here. What is proposed today, in the draft legislation, is undoubtedly not how it will end up. There will be amendments. There are controversial aspects of Bill, which the Working Group have known from the start, which will weigh heavily on Scottish Government minds. They know there will be pushback. If I was in the next Scottish Government, I would do this early on, not later in Parliament, when you might lose votes close to the next election. Thank you to Frankie for doing the work. The Scottish Law Commission are under no illusions about the bumpy road ahead. We have to face up to these issues. We have been looking at this for eight years, and now we have a legislative proposal. This is good progress.

Jocelyn Cunliffe, Architectural Heritage Society of Scotland – Thank you for all of the hard work. I have a VAT question. Are owners' associations VAT registered? Private shop owners generally can't reclaim VAT. People should bear this in mind, as it can make the maths of repair works very complicated.

Prof. Frankie McCarthy – VAT is not in the draft Bill but is in our accompanying report, where we pointed out this is a reserved issue for Westminster.

Nina Abbot-Barish, Edinburgh World Heritage – I am a grants officer at Edinburgh World Heritage. We provide grants for repair to historic buildings. I have a few questions. What is the ease with which this process can be followed for long-term projects with recalcitrant owners, cost and paperwork issues? Legally, what in the Bill will deter non-compliance? What is to stop a seller simply passing e.g. a major roof repair on to a new owner? We are asking a cash-strapped younger generation to make up for their

forebears. With climate change and world events affecting market prices, is this about screwing one generation over for a long-term problem not of their making?

Prof. Frankie McCarthy – I would encourage you to look at enforcement in chapter 11. We covered it there.

Gillian Campbell – We need to develop fair finance mechanisms that don't punish or overburden one generation. Property linked finance, where debt passes on with sale, recognises the benefit to future owners from investment now. A lot of people haven't been investing in their properties, this is the problem we have to deal with. It will be complicated and some people will lose out, but we have to change things or we will end up in the same place saying the same things twenty years from now.

Annie Flint – The key moment is point of sale. That's where we can enforce payment, when capital gets released, where money must be taken out and put into building. Legislation needs to coalesce around this key point. Several solutions can be tried, as it may be one or two don't work in practice. We can't give up politically. Let's look to future owners. The second big issue is triaging. There will always be tenements where people overcome all obstacles to get repairs done. And there are others that are in such a state that it will be impossible to deal with them without public investment or demolition. The big group in the middle is the one we need to aim for and work towards, so they don't end up moving into the facing-demolition group. We have three strong building blocks for the future. Now we need to shape this into one big piece of legislation enacted at different times. It is like that picture on the wall, a dolmen with three stone supports. We need the Working Group to be the big flat-stone in the middle to connect the three support strands, in the next couple of months, to have one thing to take forward into the next Parliament.

7. FIVE-YEARLY INSPECTIONS

The chair concluded open questions and asked for an update on the third sub-group, which is looking at five-yearly inspections. Mike Heffron said Robbie Toomey at the Royal Institution of Chartered Surveyors, and Jo McLelland and Aythan Lewes at Eala Impacts, regret they couldn't make the meeting but provided a brief report. Mike said the main takeaway from last meeting is a desire to bring all three things together, exactly as Annie has just proposed.

8. MILESTONES AND TIMELINES – BUILDING CONSENSUS AND WHAT NEXT?

Hazel said it is now up to the Tenement Maintenance Working Group to decide next steps. She said this could involve looking to the timelines set out in Eala Impacts pre-circulated 'Tenements in Context' infographic and in Gillian Campbell's building reserve funds report, to focus on culture change engagement, and on discussing how best to bring the three recommendations together.

Hazel asked the group to consider: what do we need to get to the next meeting in February with an agreed clear path forward before Parliament shuts down in March?

Graham Simpson MSP - The Scottish Law Commission were only tasked with looking at owner's associations. They have done what they were asked to do. The Scottish Government didn't ask them to look at anything else. This Working Group can't challenge that, but it could suggest to the Scottish Government that when it considers the Scottish Law Commission's draft Bill, they may want to consider other additional things at the same time. Ultimately, the Scottish Government will look at what the Scottish Land Commission has put in front of them.

Mike Heffron – How were the three asks of Scottish Government made by the Tenement Maintenance Working Group originally? Should what we decide to ask of them now, be structured in a similar way?

Graham Simpson MSP – I was disappointed when the Scottish Government decided to only take forward one of the three recommendations.

Frankie McCarthy – The Scottish Government have said they would take forward all three recommendations. They can take forward work on the others, but they haven't done so yet.

Mike Heffron – Do we know why only one has been taken forward by the Law Commission? Is it because the Scottish Government only needed the Scottish Law Commission for this recommendation because of its legal components?

Frankie McCarthy – When the Scottish Law Commission was asked to do this piece of work, we understood we were contributing to one part of a wider activity on the three recommendations, but this was before Covid.

Euan Leitch – The 2021 Scottish Government workplan reference suggested the Scottish Law Commission was only needed by them to help with looking into owners' associations .

Frankie McCarthy - There may still be complications with taking other recommendations forward, but my understanding is, they are strategic rather than legislative questions for the Scottish Government.

Gillian Campbell – Is it feasible for this group to recommend the next Scottish Government takes forward this Bill and amends it to fit in with taking forward all three recommendations?

Annie Flint – We have experts in the room who could help support that transitional next step.

Jocelyn Cunliffe – Can the Tenement Maintenance Working Group suggest amendments to clauses in the Bill? I have had good experience from involvement in suggesting amendments for planning legislation early on.

Frankie McCarthy – The Working Group can do as it wishes. The Scottish Law Commission has done its job in drafting a Bill for the Scottish Government.

Graham Simpson MSP – Any Working Group suggestions would be intended for the Scottish Government, not the Scottish Law Commission. It is the Scottish Government that will take the Bill forward.

Euan Leitch – The Tenement Maintenance Working Group can offer commentary to augment how the Scottish Government takes this forward. Legislative competence issues, the Bill, and the softer side could

all be developed in tandem to help prepare the public. This may not appear in party manifestos for the 2026 election as it is controversial. It could be unpopular but necessary. It affects the property market.

Frankie McCarthy – Guidance could be produced as to how owners’ associations would handle building reserve funds and five-yearly inspections. This doesn’t need to be legislative. What could also help is, more functional owners’ associations taking pilot approaches before developing legislation. This would be a ‘here is how you could do it’ introduction to the public, not ‘you must do this’.

Dr Iain Cairns – Do we need to have a new law in place? Could we simply do some pilots with funding? We may not need to change titles to go ahead.

Frankie McCarthy – Five-yearly inspection reports could go ahead now, yes. Building reserve funds may be more challenging, as this need special bank accounts that don’t exist.

Duncan Thomson – Building reserve funds is a direct cost to the owner, hence the Scottish Government not taking it forward. Owners can’t afford to pay for repairs. It would be chaotic, to say the least, if not done in a sensible way. Owners’ associations and maintenance plans is a good starting point. The Scottish Government will run away if there are too many demands at once. I sense the impatience in the room but we need to be realistic, this is a huge change for people living in tenemental properties. My staff regularly get hassled about the affordability problems people living in tenements already have.

Graham Simpson MSP – I hear the frustrations. We’ve been working on this for eight years, and we have got to where we are. We could suggest to the Scottish Government that it could consider the other things we have talked about. Parliament is going to be very busy post-recess. I’m hearing events in February and March may be cancelled because of all the late sittings that will be needed, so I can’t guarantee we are able to meet in Parliament in February. Perhaps you can work online to come up with a form of words, which you can put to me, to write to the Scottish Government.

Hazel Johnson – To keep this moving, what we have now is an evidence base, a power of work and justification for taking recommendations forward. It is not difficult to move forward from here, we don’t need everyone to agree on everything. What we do need is an indication of who can help us take forward an ask to the Scottish Government [**Action Point 3**].

Graham Simpson MSP – All I need is a form of words to put into a letter.

Mike Heffron – is there value to sending something to the current Scottish Government now, or do we wait until after the election when there might be a new Scottish Government in place?

Graham Simpson MSP – We should do both. It would be better not to assume anything regarding the outcomes of the election.

Euan Leitch – I am grateful to everyone involved for their work in reaching this stage, and to Graham Simpson as chair.

9. ANY OTHER BUSINESS

No items were raised. The meeting was closed at 7:57pm.

ACTION POINTS

1. The Built Environment Forum Scotland will publish the approved minutes of the 11th Working Group Meeting on 17 June 2025.
2. Working Group participants interested in further discussing the wider policy landscape for Tenement Maintenance Working Group recommendations, are to contact Hazel Johnson at Built Environment Forum Scotland (contact information is below).
3. The Working Group will draft and agree a formal letter for the chair to send to the Scottish Government, highlighting a renewed ask to take forward the three recommendations in the next Parliament. Participants interested in helping to develop the draft are to get in touch with the Co-secretariat contacts (contact information is below). The letter is to be sent before the Scottish Parliament's March recess.

Minute by Derek Rankine of Built Environment Forum Scotland (derekr@befs.org.uk), 20 June 2025

Tenement Maintenance Working Group Co-Secretariat contacts:

- *Mike Heffron, Chief Executive Officer, Under One Roof: mike@underoneroof.scot*
- *Hazel Johnson, Director, Built Environment Forum Scotland: hjohnson@befs.org.uk*

For more information on the Tenement Maintenance Working Group, please visit:

<https://www.befs.org.uk/policy-topics/buildings-maintenance-2/>