FINANCE COMMITTEE CALL FOR EVIDENCE

DEFECTIVE AND DANGEROUS BUILDINGS (RECOVERY OF EXPENSES)
SCOTLAND BILL: FINANCIAL MEMORANDUM

SUBMISSION FROM FIFE COUNCIL

Consultation
Did you take part in either of the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?
1. Building Standards Officers on behalf of Fife Council and via LABSS (Local Authority Building Standards Scotland) were involved in The Building Repairs (Scotland) Bill Consultation in 2011.

2. Finance Officers have not been involved previously in any related consultation exercise

Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum (FM)?
3. Not applicable.

Did you have sufficient time to contribute to the consultation exercise?
4. Building Standards Officers as per Q1 were involved before and during the consultation exercise and had sufficient time to contribute.

Costs
If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the FM? If not, please provide details?
5. Re financial risk, Fife Council has experience where statutory demolition works significantly exceeded the value of the land and owners also either sought to avoid these costs or did not have any funds. The Bill will not fully address these circumstances but may improve cost recovery.

Do you consider that the estimated costs and savings set out in the FM and projected over 15 years for each service are reasonable and accurate?
6. There was no reference to projected costs and savings over a 15 year period. The methodology for projecting costs to local authorities of the actual procedure seems reasonable, and the costs are accurate based on the assumptions used. However, it is impossible to comment on the overall accuracy of the projected costs since the memorandum itself makes reference to the uncertainty around the quantity of charging orders and notices which may result from the proposed amendment to the legislation.

7. The reference to “savings” in para 60 is potentially misleading. An improved cost recovery rate would reduce losses but would not achieve savings. In fact, if the view in para. 31 is correct and local authorities do become more proactive in issuing
defective buildings notices and taking action into their own hands, it is more likely that local authorities will incur additional expenditure than make savings. To expand on this, even if charging orders were to raise the level of debt recovery from 50% to 75%, the local authority would still be losing 25% of the costs expended. Based on the information in Para 31, currently local authorities mostly do not do undertake work themselves on defective buildings so the expenditure on fixing them is currently practically zero. If they start incurring this expenditure and get, say, 75% of the costs back, they will still have increased their expenditure over previous years to the equivalent of the shortfall on the debt recovery.

If relevant, are you content with that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

8. Although Fife Council is content regarding being able to fund the on-going revenue costs relating to the charging order administration costs, Fife Council has concerns that relate to the delay between local authority expenditure and the potential 30 year repayment period recognising the large sums of money associated with some dangerous buildings interventions (previous experience of circa £300K for a single dangerous building). Additionally the possible wider use of defective building notices will increase this financial exposure and a mechanism such as a central capital fund allocation should be considered to support local authorities during the cost recovery period.

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

9. Yes

Wider Issues
Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

10. The FM reasonably captures the costs relating to the mechanism of charging orders. However, it does not address the issue of where the initial outlay on repairing the buildings would be found nor the delay between the council incurring the expenditure and the pay back over potentially 30 years.

Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

11. None that we can foresee at this time.

Fife Council Comment:

12. Re Section 46E, there is a risk that building owners may sell their property before the local authority can register the charging order, potentially resulting in the charging order not being enforceable against the new owner. Experience has shown that some owners will actively seek ways to avoid costs resulting from dangerous building interventions. An intermediate mechanism to register a “notice of potential liability for costs” should be considered, which does not require an amount to be
specified at the point of registration (similar to that available under the Tenements (S) Act 2004).