LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

20th Meeting, 2019 (Session 5)

Wednesday 4 September 2019

The Committee will meet at 9.45 am in the James Clerk Maxwell Room (CR4).

1. **Decision on taking business in private**: The Committee will decide whether to take item 4 in private.

2. **Empty homes in Scotland**: The Committee will take evidence from—

   Kevin Stewart, Minister for Local Government, Housing and Planning,
   David Cowan, Head of Regeneration Unit, and Fiona Hepburn, Housing
   Markets Policy Officer, Scottish Government.

3. **Subordinate legislation**: The Committee will consider the following negative instruments—

   The Building (Scotland) Amendment Regulations 2019 (SSI 2019/210).

4. **Empty homes in Scotland**: The Committee will consider the evidence heard earlier in the meeting.

Peter McGrath
Clerk to the Local Government and Communities Committee
Room T3.40
The Scottish Parliament
Edinburgh
Tel: 0131 348 5232
Email: peter.mcgrath@parliament.scot
The papers for this meeting are as follows—

**Agenda Item 2**

Note by the Clerk LGC/S5/19/20/1

PRIVATE PAPER LGC/S5/19/20/2 (P)

**Agenda Item 3**

Note by the Clerk LGC/S5/19/20/3
Empty Homes in Scotland

Introduction

1. This paper sets out some background information on the Committee’s inquiry into empty homes in Scotland and today’s evidence session with the Minister for Local Government, Housing and Planning.

Background

2. National Records of Scotland data show that of the 2.60 million dwellings in Scotland in 2017, 105,000 (4%) were unoccupied. These include second homes (25,700, 1% of all dwellings) and vacant properties (79,200, 3% of all dwellings). Vacant properties include new homes which are yet to be occupied and dwellings which are empty and awaiting demolition, amongst others.

3. There are also data on empty properties from council tax records. The council tax data for 2018 show that:

   - 39,100 properties had been empty for six months or more, and of these 24,471 had been empty for 12 months or more.
   - 45,485 properties had an unoccupied exemption. This can be applied, for example when an owner is in long term care. An exemption can also be applied for a time-limited period where renovation work is being undertaken.

4. A SPICe briefing paper indicates that there can be a number of reasons why homes lie empty. For example, properties could be empty for a transitional period when an owner is in hospital or in prison. An owner could also have moved but they may be finding it difficult to sell their property.

5. A common reason for empty homes relates to finance/repair issues. For example, an owner could have bought a home to be renovated, but circumstances, for example a loss of employment, have meant that these works have taken longer than initially anticipated or have had to be placed on hold indefinitely. Another common cause is bereavement and inheritance of properties. Often legal issues can arise and the process of sale in accordance with the deceased wishes can take longer than anticipated.

6. Whilst the reasons are many, there is no doubt that long-term empty homes can impact on available housing supply and the local community.
Committee Inquiry

7. The Committee is nearing completion of a short and focussed inquiry into empty homes, considering:

- The extent of, and reasons for, empty homes in Scotland;
- How effective existing legislation and policy is at addressing the problem of empty homes;
- What more can be done to prevent homes remaining empty and to encourage owners to bring them back into use.

8. The Committee is not looking at second homes as part of its inquiry, as these are seen to raise policy and public interest considerations that are distinct from empty homes.

Evidence gathering

9. The Committee launched a call for views on 4 April which closed on Friday 17 May 2019. The Committee received 28 responses. A list of those who responded, including links to their submissions, is attached at Annexe A.

10. The Committee has been gathering information in a number of ways. Committee Members spoke directly with people with lived experience of dealing with empty homes in an informal session at the Parliament on 22 May. Given that the issues discussed were personal in nature, the meeting was held in private, but an anonymised account of the discussion is available on the inquiry page here.

11. The Committee also visited Kilmarnock and Newmilns to witness first-hand the impact of empty homes on communities. The Committee heard that the causes were multi-faceted. Alongside factors mentioned above, these included declining local industry and high streets and reduced employment opportunities, which in turn has caused depopulation in the area. This in turn might feed a perception that a community was “in decline”, creating a vicious cycle that discouraged inward migration and prevented the local housing market from recovering. You can read more about the Committee’s visit here.

12. The Committee has also undertaken a series of formal evidence sessions with policy experts. The first witnesses on 15 May, were—

- Scottish Empty Homes Partnership;
- Rural Housing Scotland.

14. At its meeting on 5 June, for the second panel of witnesses the Committee heard from—

- Scottish Land and Estates;
- City of Edinburgh Council;
- Falkirk Council;
- South Lanarkshire Council;
- Perth and Kinross Council.

15. You can read the Official Report of the meeting [here](#).

16. At its meeting on 4 September 2019, the Committee will take evidence from—

- Kevin Stewart, Minister for Local Government, Housing and Planning;
- David Cowan, Head of Regeneration Unit;
- Fiona Hepburn, Housing Markets Policy Officer; Scottish Government

17. The Committee wrote the Minister for Local Government, Housing and Planning on [13 June 2019](#), receiving a response on [16 July 2019](#). A copy of this correspondence is attached at Annexe B.

18. The Committee will consider a draft report at a future meeting.
Empty Homes in Scotland Inquiry – List of submissions received as off 10 May 2019

- LGC-S5-19-EHS-01: Alastair Struthers (50KB pdf)
- LGC-S5-19-EHS-02: Fife Council (81KB pdf)
- LGC-S5-19-EHS-03: West Dunbartonshire Council (63KB pdf)
- LGC-S5-19-EHS-04: Association of Scotland's Self-Caterers (137KB pdf)
- LGC-S5-19-EHS-05: VELUX Company Ltd (60KB pdf)
- LGC-S5-19-EHS-06: Anonymous (85KB pdf)
- LGC-S5-19-EHS-07: Glasgow City Council (105KB pdf) (revised 16 May 2019)
- LGC-S5-19-EHS-08: Falkirk Council (90KB pdf)
- LGC-S5-19-EHS-09: Dumfries and Galloway Council (79KB pdf)
- LGC-S5-19-EHS-10: Rural Housing Scotland (81KB pdf)
- LGC-S5-19-EHS-11: Scottish Land and Estates (78KB pdf)
- LGC-S5-19-EHS-12: Scottish Empty Homes Partnership / Shelter Scotland (153KB pdf)
- LGC-S5-19-EHS-13: Angus Council (70KB pdf)
- LGC-S5-19-EHS-14: Perth and Kinross Council (66KB pdf)
- LGC-S5-19-EHS-15: Aberdeen City Council (61KB pdf)
- LGC-S5-19-EHS-16: North Lanarkshire Council (77KB pdf)
- LGC-S5-19-EHS-17: East Lothian Council (75KB pdf)
- LGC-S5-19-EHS-18: Stirling Council (69KB pdf)
- LGC-S5-19-EHS-19: Aberdeenshire Council (94KB pdf)
- LGC-S5-19-EHS-20: Arla Propertymark and Naea Propertymark (125KB pdf)
- LGC-S5-19-EHS-21: South Lanarkshire Council (64KB pdf)
- LGC-S5-19-EHS-22: Built Environment Forum Scotland (71KB pdf)
- LGC-S5-19-EHS-23: Comhairle nan Eilean Siar (84KB pdf)
- LGC-S5-19-EHS-24: Inverclyde Council (91KB pdf)
- LGC-S5-19-EHS-25: Argyll and Bute Council (80KB pdf)
- LGC-S5-19-EHS-26: City of Edinburgh Council (71KB pdf)
- LGC-S5-19-EHS-27: Historic Environment Scotland (66KB pdf)
- LGC-S5-19-EHS-28: Association of Local Authority Chief Housing Officers (80KB pdf)
- LGC-S5-19-EHS-29: Gerry McCann (52KB pdf)
- LGC-S5-19-EHS-30: Anonymous (90KB pdf)
- LGC-S5-19-EHS-31: Anonymous (74KB pdf)
CORRESPONDENCE BETWEEN THE COMMITTEE AND THE MINISTER FOR LOCAL GOVERNMENT, HOUSING AND PLANNING

Correspondence from the Convener to the Minister for Local Government, Housing and Planning of 13 June 2019

The Local Government and Communities Committee is currently holding an inquiry into empty homes. As well as receiving a number of responses to its call for views, it held oral evidence sessions at meetings on 15 May and 5 June. The Committee has also been gathering information by other means of engagement, including hosting a private informal session with people who have empty homes and the professionals who work with them, and, later this month, making a fact-finding visit to East Ayrshire.

Issues that have been raised during the inquiry include the utility of Compulsory Purchase Orders (CPOs) as enforcement tools for bringing empty properties into use. Some councils have said that they had used these only infrequently and as a last resort. For example, Falkirk Council confirmed that it had used CPOs on just two occasions in the past to bring empty homes into use, citing a lack of staff resources and the cost of raising a CPO as impediments. Perth and Kinross Council agreed, stating that they tended only to raise CPOs on large properties, such as hotels in town centres. The City of Edinburgh Council told the Committee that the upfront legal and administrative costs of CPOs could be £20-£30k per case, meaning that they were not often used.

The Committee notes that the Scottish Government has said it intends to bring forward legislation to grant councils Compulsory Sales Order (CSO) powers, in order to help bring empty properties back into use. A number of the Local Authorities we heard from welcomed this proposal, but said that CSOs would only prove useful if they were quicker, less complicated, and less expensive to use than CPOs.

In the light of this evidence, the Committee agreed I should write to you. I would be grateful if you could first provide an update on your plans for CSOs, including the timescale for their introduction, and clarification on what form the introductory legislation would take. The Committee would also welcome your response to councils’ comments on the importance of the CSO process being less complicated and expensive than the CPO process, in order to ensure that it is an effective

https://www.parliament.scot/S5_Local_Gov/Inquiries/LGC_S5_19_EHS_08_FalkirkCouncil.pdf
Local Government and Communities Committee, Official Report, Wednesday 5 June 2019
http://www.parliament.scot/S5ChamberOffice/WA20181008.pdf
measure in practice. Finally, the Committee would welcome clarification on whether the Scottish Government has any plans to review the CPO process in the light of evidence received.

I would be grateful for a response to this letter by close on 12 July. Should you have any questions, then please contact the Clerking Team on the contact details provided above.

Response from the Minister for Local Government, Housing and Planning to the Convener of 16 July 2019

Thank you for your letter of 13 June 2019 about the on-going empty homes inquiry.

I have been following the empty homes inquiry with interest and I am pleased to see so many of our stakeholders actively participating and sharing their views. Your letter provides a useful summary of the evidence gathered from local authorities about their use of Compulsory Purchase Orders (CPO) and the proposed Compulsory Sales Orders (CSO). I can advise that we still propose to introduce a new Compulsory Sales Order power for local authorities, to help them to tackle the blight of abandoned and derelict buildings and small plots of land in our communities. However, we do not have a specific timescale for their introduction and, given other legislative priorities and pressures, it is unlikely that there will be scope to introduce legislation in the current Parliamentary term.

Our intention is that CSOs will be an effective and practicable power that supplements the existing tools that local authorities have to tackle derelict and abandoned buildings and plots of land that are blighting communities. However, given that CSOs would result in the expropriation of private property rights in support of the public interest there will need to be appropriate checks and balances in the process which ensure that owners’ rights are adequately considered, and that the process is compatible with the European Convention on Human Rights.

Our Programme for Government committed us to improving the operation of the CPO system in advance of legislative reform. This commitment followed the review of CPO processes and legislation undertaken by the Scottish Law Commission in 2014-15.

Over the past two and half years we have provided a range of support to authorities who may be considering the use of CPO, including:

- publishing revised guidance for Acquiring Authorities that steers them through the process from beginning to end;
• publishing a register of all CPOs submitted to Ministers since 1st January 2012, enabling authorities to identify colleagues who have promoted a similar type of CPO from whom they may learn;
• meeting with approximately 26 local authorities to discuss their experience of utilising CPO and to provide advice on potential usage;
• publishing a series of case studies on the use of CPO for different purposes; and
• hosting (in partnership with the Compulsory Purchase Association Scotland and RICS) a number of free to attend training, good practice sharing and networking events for local authority staff to allow them to hear from those who have successfully utilised CPO.

Nevertheless, we remain committed to continuing to make improvements to the CPO system and will consider whether a commitment to the reform of CPO legislation (potentially alongside the introduction of CSOs) should form part of our proposals for the next Scottish Parliament.

As we look towards the housing system we want to see in 2040 it is the ideal time to take stock of our current approach on empty homes and consider how we can best support private sector homes owners, local authorities and all those with an interest in the sector to bring more homes back into use. The evidence you are gathering, together with the additional data due to be collected by the Scottish Empty Homes Partnership, will useful feed into our internal review and help shape future thinking.

I hope the Committee find this information useful.
Overview of instrument

1. The following instrument, subject to negative procedure, is being considered at today’s meeting:
   - The Building (Scotland) Amendment Regulations 2019 (SSI 2019/210)

The Building (Scotland) Amendment Regulations 2019

Background

2. These Regulations amend the Building (Scotland) Regulations 2004 (“the 2004 Regulations”), which set out functional standards for buildings. Regulation 2(2) amends schedule 5 of the 2004 Regulations to provide that in terms of standard 2.4, buildings are to be designed and constructed in such a way that in the event of an outbreak of fire within the building the spread of fire and smoke within cavities in the structure and fabric of the building is inhibited. The policy note for the instrument is attached at Annexe A.


4. No motion to annul this instrument has been lodged.

Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform Committee (DPLRC) considered the instrument at its meeting on 25 June 2019 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Committee Consideration

6. The Committee is not required to report on negative instruments, but should it wish to do so, the deadline for reporting on SSI 2019/210 is 23 September 2019.

Procedure

7. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform
Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

8. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.

9. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.

10. Each negative instrument appears on the Local Government and Communities Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not always possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.

11. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.
The above instrument is made in exercise of the powers conferred by sections 1 and 54(2) of, and Schedule 5 to, The Building (Scotland) Act 2003. The instrument is subject to negative procedure.

**Purpose of the Instrument**

These Regulations amend the Building (Scotland) Regulations 2004 which set out functional standards for buildings. The purpose of this instrument is to clarify the application of mandatory functional standard 2.4 which requires buildings to be constructed and designed to prevent and inhibit the spread of fire.

**Background**

Section 1 of the Building (Scotland) Act 2003 allows Ministers to make regulations with respect to the design, construction, demolition and conversion of buildings and the provision of services, fittings and equipment in or in connection with buildings for purposes including securing the health, safety and welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings.

This SSI comes into force on 1 October 2019 and amends Schedule 5 to the Building (Scotland) Regulations 2004 which set out functional standards for buildings. The S.S.I. amends existing standard 2.4 to provide that buildings are to be designed and constructed in such a way that in the event of an outbreak of fire within the building the spread of fire and smoke within cavities in the structure and fabric of the building is inhibited.

**Policy Objectives**

The policy objective of this amendment is to improve fire safety in buildings where building work is undertaken. Amendment of the current paragraph 2.4 to Schedule 5 (building standards applicable to design and construction) of the regulations gives greater clarity on the need to address the spread of fire and smoke in cavities within building construction. This forms part of wider change, led by an expert Review Panel, on how fire safety issues are addressed by the building standards system through updates to the Building Standards Division Technical Handbooks and published guidance on matters within the current scope of paragraphs 2.1 to 2.7, 2.9 & 2.14 of schedule 5.

There have been technical questions over the years on the need for fire resisting cavity barriers behind, for example, ventilated cladding. This was based upon a view by
some developers that if the fire and smoke spread could be ‘seen’ from outside the building then there was no need to provide cavity barriers to control fire spread in the cavity. The Grenfell Tower fire on the 14 June 2017 is a stark reminder of the value and need for cavity barriers even where the fire can be seen from outside the building. The expert Review Panel were of the view that the word ‘unseen’ should be removed from mandatory Standard 2.4 at the earliest opportunity. The Panel were also of the view that the word ‘cavity’ should replace the words ‘concealed space’ for two reasons. Firstly, some cladding systems may not be considered as having a ‘concealed space’ if the cladding panels have gaps around their edges. Secondly, the term ‘cavity’ is widely understood and already clearly defined in introduction text to standard 2.4 within the published Technical Handbooks.

This change and further provisions addressed through published guidance are made in response to enquiries and consultation following the Grenfell Tower tragedy. Changes address provisions for the fire performance of external cladding systems on taller domestic buildings and higher risk non-domestic buildings and the provision for means of escape, evacuation alert systems and floor/dwelling identification signs in high-rise domestic buildings.

Consultation

To comply with section 1(2) of the Building (Scotland) Act 2003 consultation with interested persons has been carried out.

The amendment made by this SSI and related changes to provisions for fire safety were the subject of a public consultation that ran from 4 July 2018 to 26 September 2018. This included four workshop events that took place over the summer in Edinburgh, Glasgow, Stirling and Aberdeen, attended by over 240 stakeholders.

The consultation was promoted on ‘CitizenSpace’, the SG Building Standards website and in the SG Building Standards e-newsletter which is issued to over 8,000 registered recipients. The notifications included a wide range of professional organisations and institutions, interest groups, construction research bodies, designers, house builders, technical specialists and those public bodies responsible for the administration and enforcement of the building standards system, with 222 responses received.


Impact Assessments

A pre-screening notification was undertaken for the Strategic Environmental Assessment. This is published at https://www2.gov.scot/seag/publicsearch.aspx as reference PRE\00967. This established that the policy will result in ‘no or minimum environmental effects’ and that under section 7 of the Environmental Assessment (Scotland) Act 2005, no further assessment is required.
The need for both an Equality Impact Assessment and Children’s Rights and Welfare Impact Assessment was considered. The ‘Equalities Impact Assessment – Results’ report is published on the consultation page noted above.

Financial Effects

The subject of this instrument and amendment of paragraph 2.4 to schedule 5 of The Regulations has no defined financial impact on those who elect to carry out building work.

Scottish Government
Directorate for Local Government and Communities
June 2019