

Briefing for the Public Petitions Committee

Petition Number: [PE1749](#)

Main Petitioner: Ronald Morrison

Subject: Financial Viability of Listed Buildings

Calls on the Scottish Parliament to urge the Scottish Government to ensure that—

- financial viability studies are conducted on listed buildings requiring restoration and/or maintenance,
- responsibility of ownership is established for this work and;
- financial assistance is provided where listed buildings are at risk of falling into disrepair.

Background

Listed buildings: Historic Environment Scotland (HES), working on behalf of Scottish Ministers, maintains a list of historic buildings which are deemed worthy of statutory protection from unauthorised alteration, extension or demolition which would affect the building's character as a building of special architectural or historic interest under the provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 ("the 1997 Act").

The criteria for determining whether a building is of "special architectural or historic interest" are set out in Annex 2 of [the HES Designation Policy and Selection Guidance](#).

The term "building" is very broadly defined in the 1997 Act and can include structures as diverse as bridges, walls, pillar boxes, chimneys, statues, war memorials and mile posts. To be listed, a building need not be functioning for the purpose for which it was originally intended: for example, a disused church may be listed even though it has continued its life as a block of flats or a pub. Similarly, a building's state of repair is not normally a relevant factor in HES's consideration of its architectural interest or historical association. It only becomes a factor when the building's condition has devalued the architectural or historic interest to the degree that it can no longer be regarded as special.

Repair of listed buildings: Responsibility for the repair and maintenance of a listed building lies solely with its owner. However, HES operate a [Historic](#)

[Environment Repair Grant Scheme](#) that can support the cost of conservation-standard repair projects for listed buildings that meet certain eligibility criteria..

Chapter V of the Planning 1997 Act provides planning authorities with powers to issue urgent works/repairs notices to owners of listed buildings, to undertake urgent works to preserve unoccupied listed buildings and recover costs from the owners, to acquire listed buildings in need of repair either through agreement or compulsorily and to only pay a minimum amount to the owners if a listed building subject to compulsory purchase has been deliberately left derelict.

In addition, the Building (Scotland) Act 2003 grants local authorities' powers to deal with dangerous and defective buildings, either themselves or through the issue of notices requiring works to be undertaken by the owners of the building.

Local authorities can have problems in establishing who ultimately owns a building or in recovering costs incurred in exercising its statutory repair functions from a property owner based overseas. Concerns about not recovering costs can act as a disincentive to local authorities using all available statutory powers. However, local authorities will always act to ensure that residents, and those in the surrounding area, are not placed in any danger by a defective or dangerous building.

Scottish Government Action

The Scottish Government has not considered the specific issues raised by the petitioner.

Scottish Parliament Action

The Scottish Parliament has not considered the specific issues raised by the petitioner. During 2013/2014, the Parliament considered a [members' Bill](#), promoted by David Stewart MSP, which would allow local authorities to use charging orders as a means of recovering costs incurred in undertaking works to dangerous buildings. This Bill was passed on 20 June 2014 and became the Building (Recovery of Expenses) (Scotland) Act 2014.

Alan Rehfish
Senior Researcher
4 September 2019

SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However if you have any comments on any petition briefing you can email us at spice@parliament.scot

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these

briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP