

Housing, Homelessness and Fair Work Committee

10.00am, Tuesday, 14 May 2024

Review of Missing Share Scheme and Emergency Building Safety Fees

Executive/routine
Wards

1. Recommendations

- 1.1 It is recommended that Housing, Homelessness and Fair Work Committee consider:
 - 1.1.1 Whether the current threshold for missing shares of £20,000, set in 2017, is still appropriate;
 - 1.1.2 Whether the 10% fee applied to emergency building safety works, as set in the Council's 2024/25 budget cycle, is still appropriate; and
 - 1.1.3 If it considers either to be inappropriate, proposes a new threshold be set and instructs officers to amend relevant policies and submit to the appropriate Council Committee(s) for approval.

Paul Lawrence

Executive Director of Place

Contact: Jackie Timmons, Shared Repairs Senior Manager

E-mail: jackie.timmons@edinburgh.gov.uk | Tel: 0131 529 6778

Review of Missing Share Scheme and Emergency Building Safety Fees

2. Executive Summary

- 2.1 This report requests that Committee consider the appropriateness of both the upper threshold of £20,000 for Missing Share applications to the Council where a Dangerous Building Notice has been served on the property, and of the 10% fee applied to emergency make safe building works costs.

3. Background

- 3.1 On 5 September 2017, Finance and Resources Committee approved the implementation of the use of the [missing share power](#) under section 50 of the Housing (Scotland) Act 2006.
- 3.2 The Council recover all payments made in relation to missing shares, including associated administrative expenses, in accordance with the Council's Corporate Debt policy.
- 3.3 At the Council budget meeting on 22 February 2024, the administrative expenses rate was set at 10% of the emergency make safe building costs.

4. Main report

- 4.1 The Council's Scheme of Assistance promotes the principle that homeowners have the primary responsibility for maintaining and repairing their own homes.
- 4.2 However, responsible homeowners with shared responsibility for common repairs are often unable to progress essential repairs and maintenance due to other owners being unwilling or unable to contribute their share of the costs. This often leads to lengthy delays to repair works being undertaken resulting in further deterioration of the property.
- 4.3 In circumstances where the Council has served a Dangerous Building Notice under the Section 29 of the Building (Scotland) Act 2003, permanent repairs required, following works to temporarily secure the building, are often substantial in scope,

complex and required urgently (unlike the common repairs taken forward by owners regularly in tenements as part of their maintenance responsibilities).

- 4.4 To prevent a minority of owners delaying essential repairs and maintenance work, Section 50 of the Housing (Scotland) Act 2006 allows local authorities to pay missing shares when it is satisfied that:
 - 4.4.1 The maintenance proposed, having regard to the state of repair of the premises, is reasonable;
 - 4.4.2 The share of the estimated cost is correct, in terms of the title deeds or agreed Tenement Management Scheme (TMS) under the Tenements (Scotland) Act 2004;
 - 4.4.3 The owner/s who have not complied with the requirement is unable or unwilling to do so;
 - 4.4.4 The majority of owners have agreed to carry out the work; and
 - 4.4.5 The owners have set up a joint maintenance account.
- 4.5 Since the introduction of this policy, the payment of missing shares has been a successful tool in actively encouraging owners to organise repairs themselves without having to progress to enforcement of repairs by the Council in default of owners.
- 4.6 The recommendation to consider the appropriateness of both the upper threshold of payments made for each successful missing shares application, and the 10% administrative fee applied, recognises the complexity of repairs and the urgency of permanent repair works required following serving of a Dangerous Building Notice.

5. Next Steps

- 5.1 Should Committee wish to revise the current threshold for missing shares, officers will take the appropriate steps to update the relevant operating procedures to reflect the decision and accept applications up to a higher threshold, as decided, on verification of a Dangerous Building Notice served by Building Standards on the owners of the tenement in the application.
- 5.2 If Committee decides that the administration fee of 10% applied to emergency make safe building works costs should be amended, officers will take the appropriate steps to update policy and procedure.
- 5.3 Any amendments to these figures will be reported to Finance and Resource Committee for approval.

6. Financial impact

- 6.1 The costs incurred by the Council on payment of a missing share are recoverable from the owner, who's share is paid, in accordance with the Corporate Debt policy.

- 6.2 Missing Shares paid since the implementation of the scheme amounts to £223k. The value of works facilitated through applications to the scheme amounts to £5.956m of privately arranged common repair projects, this demonstrates the value of the scheme for private owners. Only 39% of applications result in payment by the Council due to owners who previously did not pay, then making payment as a result of applications submitted.

7. Equality and Poverty Impact

- 7.1 Emergency building repair work can be required on any building, and therefore poverty and equality issues are not material in setting or reviewing a policy as the income or characteristic of building occupants cannot be predicted. It is clear though that emergency works are by their nature unexpected and expensive and the missing shares scheme is designed to cover occasions including when occupants are unable to meet the cost. This may include occasions when occupants are unable to meet the cost due to experiencing poverty, and it is known that people with some protected characteristics are also more likely to experience poverty.
- 7.2 It is important therefore that any review of policy includes consideration of wider poverty issues in the city.

8. Climate and Nature Emergency Implications

- 8.1 None.

9. Risk, policy, compliance, governance and community impact

- 9.1 Risks to the Council in relation to reputational risk, finance risk, bad debt risk, construction industry scope risk, procurement risk and resourcing risk will be reduced by the use of the missing share legislation when compared to the Councils use of enforcement powers to carry out works in default of owners. A higher threshold, if set, will reduce the risks to the Council of carrying out urgent and complex repairs on private property where the Council have no ownership responsibilities.
- 9.2 All Missing Share applications are considered by a Project Panel in Edinburgh Shared Repairs Service.
- 9.3 If the Council reject an application for a missing share the owners may still progress with the works by covering the missing share between them and recovering their contribution from the owner through the process under the Tenements (Scotland) Act 2004.

10. Background reading/external references

10.1 None.

11. Appendices

11.1 None.