

The Role of Building Standards

Building (Scotland) Act 2003

Dangerous Buildings

The Act States:

This section applies where it appears to a Local Authority that a building (a “dangerous building”) constitutes a danger to persons in or about it or to the public generally or to adjacent buildings or places.

The Local Authority must carry out such work (including, if necessary, demolition) as it considers necessary—

(a) to prevent access to the dangerous building and to any adjacent parts of any road or public place which appear to the authority to be dangerous by reason of the state of the building, and

(b) otherwise for the protection of the public and of persons or property in places adjacent to the dangerous building,

and may recover from the owner of the dangerous building any expenses reasonably incurred by it in doing so.

What this means for our Council:

The legislation has limitations in that it allows only for the minimum amount to be spent to make the building safe. It does not allow for work to be carried out that may improve the building and the Local Authority has no power to compel the owner to make the building more appealing. The only power available is to make the building safe by removing the immediate danger and ensuring the safety of the public. The work to be carried out may be in the form of, for example, a temporary measure such as erecting barriers to ensure the public is kept away from the area. Instructing contractors and then invoicing the owner is always the last resort as it is not always possible to ascertain first whether the owner will be able to pay. The Buildings (Recovery of Expenses) Act 2014 amends the Building (Scotland) Act 2003 and allows the Local Authority to place a charging order on the property to recover any outstanding expenses that were reasonably incurred; however, this may only become actionable on the sale of the building which may be a number of years in the future.

The Act States:

Where the Local Authority considers that urgent action is necessary to reduce or remove the danger it may, after giving the owner of the building such notice (if any)

as the circumstances permit, carry out such work (including, if necessary, demolition) as it considers necessary to reduce or remove the danger and may recover from the owner of the dangerous building any expenses reasonably incurred by it in doing so.

What this means for our Council:

This may be in the form of asking Fire and Rescue Services to make the building safe by, for example, removing slates from a roof or removing a dangerous notice on the building.

Except where the danger has been removed by work carried out, the Local Authority must serve on the owner of the dangerous building a notice (a “dangerous building notice”) requiring the owner to carry out such work as the notice may specify.

Building Standards have a list of buildings across our region that are inspected, some on a weekly basis and others every 2 to 3 months. Inspections are made more frequently following adverse weather conditions. If any immediate danger is found this is often dealt with by the Building Standards Inspector if at all possible. This discharges the Council’s statutory requirement to deal with dangerous buildings and ensure the safety of the public.