

From: [Foi Enquiries](#)
To: [REDACTED]
Subject: EIR-17-1921 - Works Notices
Date: 12 January 2018 15:46:45
Attachments: [Further Information - Right to Review & Appeal.pdf](#)

Dear [REDACTED],

Thank you for your information request of 20 December 2017. Aberdeen City Council (ACC) has completed the necessary search for the information requested.

Attached is a report named Proposed Extended Use of Enforcement Funding under Director: Pete Leonord and written by Private Sector Housing Strategy Officer: Andy Pitblado. Regarding Works Notices, Missing Shares Litigation and Agents assigned to Mixed Tenure Housing. This report is also available online.

Questions concerning the report:

Section 5.1 States:

Introduction of this funding was originally targeted at the traditional granite tenement properties but has on occasion included other property types. This has had a very positive effect on the repair and improvement of this part of the stock, with £403,905 of Local Authority funding enabling a total of £2,278,582 worth of repair works to be carried out. An additional £299,253 has been enabled simply by the use of letters advising owners that the Council would enforce works if they failed to take action. This is done by utilising Work Notices or Missing Shares legislation from the Housing (Scotland) Act 2006.

Question: Why does the ACC advise (i.e., threaten) owners that the Council would enforce works if they failed to take action? I.e., why would they not simply use the proper works notice procedure for ensuring buildings meet tolerable standards?

The Council's responsibility is to endeavour to ensure that houses within its area meet the Tolerable Standard. It has several powers under housing legislation to assist it in doing this. The Council works with owners to encourage them to attend to any matters of disrepair under their own endeavours. As part of the encouragement process, where it is evident that owners are unable or unwilling to do this, the Council will advise owners of the powers at its disposal to ensure that action is taken.

By providing all relevant information to all owners, this allows them to make fully informed decisions and in the majority of cases, progress is made without the Council having to take formal action.

Can I have access to the records kept of such threats/advisories against owners issued from 2013 through 2017?

As above, the Council has a responsibility to endeavour to ensure that houses within its area meet the Tolerable Standard. There are a number of powers at its disposal to ensure that action is taken, should owners be unable or unwilling to do so. This information is normally given in person or by telephone conversation.

The Council does not currently keep any formal records of where and when this advice is

provided in a format that can be easily extracted. As the Council pro-actively inspects and communicates with the owners in all of the granite tenements across the city, there are thousands of letters to the owners of tenement properties, of which some may make reference to Enforcement action or Work Notices as an option for progressing works.

ACC is unable to provide you with information on **access to the records kept of such advice given to owners issued from 2013 through 2017** as it is excepted from disclosure. In order to comply with its obligations under the terms of Regulation 13 of the EIRs, ACC hereby gives notice that we are refusing your request under the terms of Regulation 10(4)(b) – Manifestly Unreasonable - of the EIRs.

In making this decision ACC considered the following points:

ACC officers would be required to search through all correspondence files for all houses within its area to identify if and when enforcement action or work notices have been mentioned. The volume of work required to be undertaken is seen as excessive and will cause a detrimental effect on the day to day work of the officers involved in searching, extracting and compiling the information for release. This will mean that other ongoing, time sensitive projects will suffer delay. On this basis, ACC wish to refuse to respond to your request under the terms of Regulation 10(4)(b) – Manifestly Unreasonable – of the EIRs.

ACC would be happy to discuss ways in which you may refine your request, so we can provide some information of interest to you. Please do contact the Information Compliance team, who will be happy to advise you, if this is something you would like to pursue.

Question: Can you please provide information about which agencies/divisions of the ACC have been involved in formulating and passing on these threats/advisories to owners from 2013 through 2017?

Various departments within the Council can and do offer advice to homeowners with regards to repair and maintenance of their homes. This role is primarily performed by the Private Sector Housing Unit, but is not restricted solely to that unit as there is more than one department of the Council involved in assisting homeowners to take care of their property. The services involved are; Private Sector Housing, Environmental Protection, Building Services, Housing Management, Building Standards, Land and Property Assets.

Section 5.1 States:

"In the majority of cases an agent is required, especially where there are a number of owners involved."

a) Why "in the majority of cases" are agents required? I.e., what are the laws or regulations guiding this requirement?

There are no laws or regulations guiding this requirement.

It is considered that owners seek to appoint an agent to provide professional services where the group of owners do not have the knowledge or time. The appointment of an agent is also more likely to occur where the extent of disrepair is significant.

Professional advice on options can also help resolve disagreements between owners to find the most appropriate outcomes.

**b) Why is an Agent required "especially when there are a number of owners involved"?
Again, what is the legal basis of this requirement?**

There is no legal requirement for this. It is up to each tenement to make that decision for themselves.

A private agent typically receives a high percentage of the costs of the total works which the ACC advises to be carried out, and thus the agent has an interest in running up the costs and scope to increase their own fee. This is in conflict with the owners, who have an interest in receiving a fair price.

Question: Does the ACC have any mechanism in place to protect the owners from any price gouging from the Agent? I.e., When the ACC advises owners that 'an agent is required', it seems that this requires that the ACC should also protect owners against the interests of agents. Can you please provide details of any such protection in place?

ACC does advise owners that appointing an Agent is an appropriate option for them to consider particularly where the potential scale and technical nature of the works make this appropriate. ACC however cannot insist on an Agent being appointed, it is up to the majority of owners to make a decision to appoint an agent.

It is therefore up to the owners to ensure that the Agent is working in their best interests. It is common practice for Agents to advise owners of the fee that they will charge prior to being appointed. It is up to the owners to negotiate a fee that they feel is appropriate for the works, although, most Agents will work to a national scale of fees agreed by their professional bodies.

Agents are appointed by Aberdeen City Council only where enforcement action has been served and the owners have not taken appropriate action. The agent is appointed to work on behalf of the owners. Aberdeen City Council will ensure that the works covered by the notice are those which are actioned. Any additional works will have to have been appointed and paid for by the owners as they won't be covered by the enforcement.

We hope this helps with your request.

Yours sincerely,

Grant Webster
Information Compliance Officer

INFORMATION ABOUT THE HANDLING OF YOUR REQUEST

As the information which you requested is environmental information, as defined under Regulation 2(1) of the Environmental Information (Scotland) Regulations 2004 (the EIRs), ACC considered that it was exempt from release through FOISA, and must therefore give you notice that we are refusing your request under Section 39(2) of FOISA (Freedom of Information (Scotland) Act 2002). However, you have a separate right to access the information which you have requested under Regulation 5 of the EIRs, under which ACC has handled your request.

Please refer to the attached PDF for more information about your rights under the EIRs.

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