

# A GUIDE TO **Common Repairs**



It's important to keep shared common areas in flats, apartments or tenements in good repair. This can help prevent larger expensive repairs at a later date.

The parts of the building that you will share with neighbours include:

- The roof
- The stairs and stairwell
- Gutters and downpipes
- Gardens and drying areas
- Entrances and paths
- Foundations
- External walls

Flat owners are usually jointly responsible for the upkeep of common areas. Before owners can start organising common repairs it's important that they check their Title Deeds. They will say who owns the property, how the property should be managed and maintained,

who is responsible for repairs to areas of shared responsibility and how decisions are made.

If you need further advice about your Title Deeds contact a solicitor. In some cases Title Deeds do not mention common repairs. If this is the case the Tenements (Scotland) Act 2004 will apply. The Tenements (Scotland) Act was introduced in November 2004. It aims to make sure that communal parts of the building are kept in good repair and applies to any building that is divided into two or more flats on different floors. The Act does not override Title Deeds but is intended to fill any gaps or unworkable clauses. It is important that the correct process is used when organising common repairs in case any disputes arise. The following information sets out the process and good practice that should be followed.



## How to keep shared areas in good condition.

It is useful for owners to meet regularly to discuss the maintenance of the building to identify problems with common areas to sort them out before they become a larger problem.

Some neighbours who live in the building will own their property, other neighbours will rent their home from a landlord. You can check what landlord owns a property through the Scottish Landlord Register.

There are some important steps to help owners keep shared areas in good condition:

- Agree a maintenance programme: For example cleaning out gutters and keeping gardens in good condition.
- Agree responsibility for maintenance: Whether you as owners do work yourselves or pay someone else to do it.
- Hire a factor: They will take care of maintenance and repairs.
- Agree additional repairs: If they are required.
- Work out costs: How much can people afford to pay and who would be responsible for collecting money and paying bills?

Registers of Scotland, Erskine House, 68 Queen Street, Edinburgh, EH2 4NF

Tel: 0800 169 9391

Textphone Users: 0131 528 3836

[www.ros.gov.uk](http://www.ros.gov.uk) or

Where a landlord is concerned check the

Scottish Landlords Register at:

[www.landlordregistrationscotland.gov.uk](http://www.landlordregistrationscotland.gov.uk)

## Setting up owners meetings

If you as an owner or owners wish to set up meetings there are a few things to consider. Check to see if an Owners Group has been set up. If not then it may be that you as an owner wish to set up an owners meeting. Write to owners to say that you want to set up a meeting to talk about maintenance and repairs to common areas of the building. Explain in the letter that regular repairs and maintenance helps unexpected and expensive future repairs. The Tenement Act says that at least 48 hours' notice should be given for any meeting.

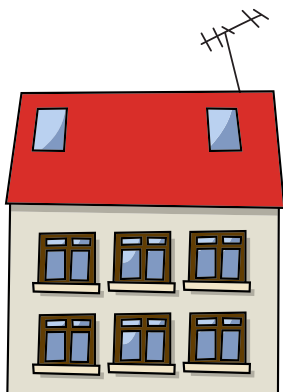
## Running owners meetings

Owners meetings can be formal, with agendas or an informal discussion.

When making decisions on common repairs and maintenance majority decision-making should be followed by the Owners Group unless title deeds say otherwise. Make sure you know whether the Owners Group is taking decisions about mutual or common repairs as this could affect whose approval you need. You also need to know if maintenance or improvements work is being carried out. An example of an improvement would be to redecorate a hallway. If you're making improvements, then the decision of 100% of owners is required.

Where owners were not at the meeting or no meeting was held, notification of any decisions on common repairs, maintenance or improvements must be given quickly in writing.

If 100% of owners don't agree to a decision it is good practice to wait 28 days to allow for an appeal from owners who don't want the work to go ahead.



## How to pay for maintenance work

A system for paying for common repairs and maintenance work should be set up by the Owners Group.

Costs for repairs and maintenance can include the following:

- A Factoring Service
- Contractors to carry out day-to-day maintenance such as clearing out gutters
- Contractors to carry out repair work

Factoring: Dumfries & Galloway Housing Partnership are funded by Dumfries & Galloway Council to provide a factoring service in our region. They currently manage the common parts of approximately 1500 properties on behalf of owners. The factoring service provides a simple, cost-effective way of agreeing to, and organising common repairs and maintenance to areas of shared responsibility.

Tel: 0800 011 3447

[www.dghp.org.uk/investment/factoring](http://www.dghp.org.uk/investment/factoring)



Costs for common repairs and maintenance work should be divided equally among owners who use the common areas, however title deeds should always be referred to in the first instance.

Owners may want to nominate one owner to collect money regularly. However, owners may want to set up a joint maintenance account which regular payments can be made into. If this is the case at least two owners will need to be nominated to manage the account.

Where owners make advance payment of more than £100 for one repair or £200 over 12 months, a written receipt and the money must be put into the maintenance account. Full details of the work and refund arrangements should be supplied:

- Estimated cost of work.
- Why the estimate is considered reasonable.
- How all the owners shares have been calculated.
- What all the owners shares are.
- Date of decision and who made it.
- Timetable for the proposed works.
- Details of maintenance account, location and signatories.

If there are any changes, owners must be

notified again. Owners are entitled to see the other quotes or estimates. When getting quotes or estimates it is advisable to get more than one to compare.

Dumfries & Galloway Council's Trusted Trader Scheme. Helps people to choose reputable traders from customer feedback. The scheme is aimed mainly at home improvement traders. The traders are reviewed by customers as well as checked and monitored by us to make sure they're trading legally.

Tel: 030 33 33 3000

[www.dumgal.gov.uk/trustedtrader](http://www.dumgal.gov.uk/trustedtrader)

The nominated person should keep evidence of all expenses incurred and give all owners a complete note of the accounts.

The maintenance account managed by the nominated owners must be interest bearing and requires two signatures. It is good practice for the owners group to appoint a treasurer.

## Returning money

Money may need to be returned to owners if work on common repairs or maintenance to the building are not commenced within 28 days of the official start date or any other date you have agreed. Any sums left in the maintenance account after work has been paid for will be shared amongst those who have paid into the account - this includes interest.

## Disagreements

An owner can refuse to pay their share if they've not been properly informed of decisions made about common repairs. If this happens all other owners would need to cover their share of the costs between them.

If an owner raises an objection with the Owners Group to the work being carried out, and intends to refuse to pay their share on the grounds that they were not properly notified, they must inform the other owners in writing immediately. If someone owns 75% or more of the property concerned and did not vote they can reverse the decision. However, they must tell all other owners in writing. When a vote is arranged by the Owners Group, owners who did not vote or disagree with a decision can appeal to the Sheriff Court if they feel the decision is not in the best interests of the owners as a group is unfairly prejudicial to one owner.

## What if an owner does not pay?

If an owner does not pay their share of costs for common repairs or maintenance, the other owners can decide to make up the shortfall. In some cases owners may choose to accept this extra cost rather than taking legal action to recover the money due which can be expensive and time consuming.

If an owner is bankrupt or can't be found by the Owners Group or a nominated person then the costs will also be shared equally amongst the other owners (or by floor area if relevant). The non-paying owner is still liable to repay their share of the cost to the other owners, even if those owners have since moved on.

## Can the owners group make someone pay?

If the Owners Group decides to pursue the debt owed then there are a number of things that they can do:

- If the debt is under £750, then the group can use the small claims court. This procedure is designed to be cheap and easy to use.

The Citizen's Advice Bureau and the Sheriff Court can also help.

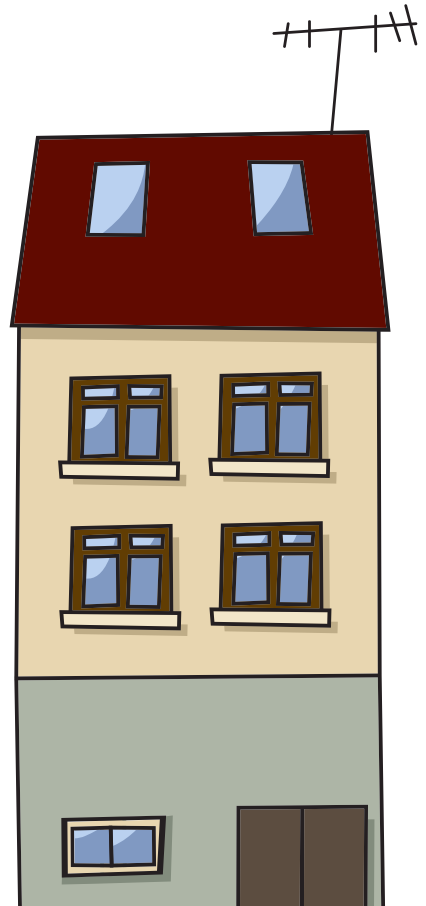
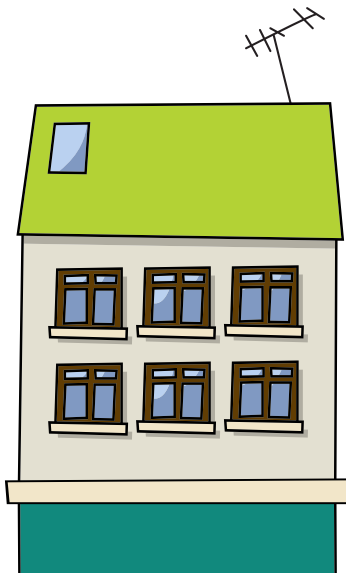
Dumfries & Galloway Citizens Advice Service provide free, confidential and independent advice to help people overcome their problems.

Tel: 0300 303 4321

[www.dagcas.org](http://www.dagcas.org)

For larger sums or a more complex problem, then seek expert advice from a solicitor and obtain a decree from the Sheriff Court by raising an action for payment against the person owing the money. The decree is then given to Sheriff Officers who are asked to serve a document called a “charge” giving 14 days to make payment. If the debtor still refuses to pay, the Sheriff Officer can then be instructed to recover the sums due under the decree (and the legal expenses and expenses of debt recovery).

There are then various ways in which the debt can be recovered, ranging from taking the money from earnings to taking control of the property and using the rent to pay off debts. In addition, if the debt is more than £1,500, bankruptcy proceedings can be considered. Very often, people will pay up on the threat of using these procedures. If agreement cannot be reached on how repairs should be carried out and paid for, Dumfries & Galloway Council may serve a Statutory Notice. A Statutory Notice may be issued if defects can be identified in the fabric of the building.



## Useful Contact Numbers

- Dumfries & Galloway Council Planning Services provide information and advice on planning including applying for planning permission.

Tel: 030 33 33 3000

[www.dumgal.gov.uk/planning](http://www.dumgal.gov.uk/planning)

- Dumfries & Galloway Council Building Standards Service provides information and advice on building standards including applying for a building warrant.

Tel: 030 33 33 3000

[www.dumgal.gov.uk/building](http://www.dumgal.gov.uk/building)

- Dumfries & Galloway Council Trading Standards Service runs the Trusted Trader Scheme, an approved trader scheme to provide details of reliable local traders to carry out work around your home and garden.

Tel: 030 33 33 3000

[www.dumgal.gov.uk/trustedtrader](http://www.dumgal.gov.uk/trustedtrader)

- Dumfries & Galloway Housing Partnership provide a factoring service in our region. The service provides a simple, cost-effective way of agreeing to, and organising common repairs and maintenance to areas of shared responsibility.

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## Contact Us

We have a range of leaflets on different topics available on request. If you would like further information or advice on the types of assistance available to homeowners please contact:

**Dumfries & Galloway Council**

**Strategic Housing**

**Kirkbank House**

**English Street**

**Dumfries**

**DG1 2HS**

Tel: 030 33 33 3000

Email: [strategichousing@dumgal.gov.uk](mailto:strategichousing@dumgal.gov.uk)

[www.dumgal.gov.uk/article/15101/Housing](http://www.dumgal.gov.uk/article/15101/Housing)

Housing

