

Tenement toolkit

Your step by step guide to organising shared repairs to your property



Your DIY guide to getting your repairs sorted.

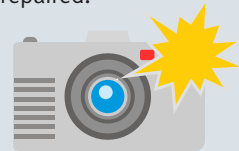
STEP 1

Identify shared areas and who's liable.



STEP 2

Find out what needs repaired.



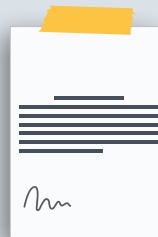
STEP 3

Let other owners know about the repair.



STEP 4

Organise a stair meeting.



STEP 5

Vote on your repair options.



STEP 6

Let all owners know the decision.



STEP 7

Organise your repair money.



STEP 8

Get your repairs done.



Contact us for free information and advice:

Helpline: **0131 529 6778**

www.edinburgh.gov.uk/sharedrepairs



Edinburgh Shared Repairs Service

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Identify shared areas and who's liable

The first step in getting your repairs organised is to find out which areas of your building are shared and who is responsible for their upkeep. Tracing owners can seem complicated when flats in your building are unoccupied or owned by a landlord.

This fact sheet will help you to find out:

- what the common or shared areas of your property are
- who's responsible for maintaining what
- who the other owners are in your block (if you are unsure)

Useful Hints and Tips

- ✓ **Check your title deeds to find out about your shared areas**
Your deeds should give details of your shared areas and how to work out your share of a bill.
- ✓ **Don't know how to get your title deeds?**
Contact your property manager, solicitor or lender for a copy. You can also get a copy (for a fee) from [Registers of Scotland](#).
- ✓ **What do your title deeds tell you?**
Listed in your title deeds you will usually find details of:
 - who pays for maintenance and repairs
 - your neighbours' responsibilities, including whether they must give you access for repairs.
- ✓ **Missing or lack of information about shared areas in your title deeds - what do you do now?**
The Tenements (Scotland) Act 2004 could help. You can use the rules set out in the [Tenements Management Scheme](#). It can fill gaps in your title deeds. The Tenement Management Scheme:
 - aims to make it easier for owners to carry out repairs and maintenance to common areas of their property
 - applies to any building divided into two or more flats on different floors

- sets out rules to follow and procedures for dividing up repair and maintenance responsibilities, making decisions about the upkeep of common areas and paying for repair and maintenance work
- applies only if information isn't included in your title deeds e.g.
 - if your deeds say you and the other owners are jointly responsible for maintaining common areas but don't say how you should make decisions about this or how costs should be divided
- determines that each property gets one vote on any decisions about repairs
- is legally binding and can be enforced. (See [Step 5: Vote on you repair options.](#))

✓ Can't identify the owner of a flat owned by a landlord?

If the tenant can't give you their landlord's contact details, you can check the [Scottish Landlord Register](#) website. This will give you the details of their landlord or agent.

✓ What if a landlord doesn't want to be involved with shared repairs or is unregistered?

You can contact the [Council's Private Rented Services](#) for help and advice.

✓ Can't find the owner of an unoccupied flat?

Even if a flat is unoccupied, the owner is still responsible for shared repairs. You can check with the [Registers of Scotland](#) to find out who owns the flat and get in touch with them. [Scottish Assessors](#) can help you identify flat numbers. You should also report any empty homes to the Council's Private Rented Services.

Contacts and Resources

Find out who owns flats in your block - [Registers of Scotland](#)
www.ros.gov.uk

Find out about your shared areas - [The Tenements \(Scotland\) Act 2004](#)
www.edinburgh.gov.uk/downloads/file/199/organising_shared_repairs_using_the_tenements_scotland_act_2004

Track down absent landlords is the official register of landlords of private rental properties in Scotland - [Scottish Landlord Register](#)
www.landlordregistrationscotland.gov.uk

Step 1 Tenement toolkit

Identify shared areas and who's liable p3

Get advice if landlords don't want to be involved with shared repairs or are unregistered - **Edinburgh Council Private rented Services**, email: landlordregistration@edinburgh.gov.uk

Find out your neighbours' flat numbers - **Scottish Assessors**
www.saa.gov.uk



Edinburgh Shared Repairs Service

Step 2

Find out what needs repaired

Carrying out regular inspections and maintenance of your property's shared areas can avoid more costly repairs in the future. It's a good idea to get a professional surveyor, architect or structural engineer to assess the condition of your building at least every five years. However, you and your neighbours can easily check more frequently for routine repairs.

This fact sheet guides you on:

- how to find out what work needs done to your property
- finding and appointing reputable suppliers
- getting quotes for your repair

Useful Hints and Tips

- ✓ **Get evidence of any repairs needing done**
 - Take photographs of the repair area.
 - Use Edinburgh Shared Repairs Service's handy [building inspection checklist](#) to guide you through inspecting areas of your property.
 - You can also hire someone like a surveyor or building contractor to carry out checks.
- ✓ **Decide how you will tackle your repair**
 - You may have a factor for your building who will carry out routine inspections and maintenance work. Check [Scottish Property Factors Register](#) to see if your building has a factor.
 - Meet with the other owners to agree a way forward. ([See Step 7: Organise a stair meeting.](#))
 - If the problem is straightforward you can go directly to a tradesperson.
 - For large or more complicated repairs it's often better to use an architect, surveyor or engineer to manage the work. Although it may cost more, they can organise the whole project from finding tradespeople to arranging payment. The [Royal Incorporation of Architects in Scotland \(RIAS\)](#), [Royal Institute of British Architects \(RIBA\)](#) and [Royal Institution of Chartered Surveyors \(RICS\)](#) can give you details of architects and surveyors.
- ✓ **How to choose tradespeople**

It's important to do your research when finding tradespeople.

- Have they done this type of work before?
- Do they belong to a trade body?
- Do they have a guarantee or a complaints service?
- Do they have proof of indemnity insurance?
- Can they provide references from past clients and can you speak to them about the work they had done?
- Are they VAT registered and will their quote include VAT (this will affect your final bill)?
- Ask friends and neighbours if they know someone they trust. Be wary of people who phone or knock on the door, especially if they want you to sign up on the spot.
- Find any supplier lists from trade bodies or organisations that can help you find honest and reliable traders e.g. the [Trusted Traders](#) website of suppliers vetted by Edinburgh Trading Standards

✓ How to get quotes

- Draw up a list of repairs. The person managing the repair can draw this up for you.
- Get at least two, ideally three, comparable quotes from contractors.

Contacts and Resources

Building inspection checklist - www.edinburgh.gov.uk/sharedrepairs

Find a Scottish architect - [Royal Incorporation of Architects in Scotland \(RIAS\)](http://Royal Incorporation of Architects in Scotland (RIAS) www.rias.org.uk)
www.rias.org.uk

Find an Architect – Royal Institute of British Architects (RIBA)
www.architect.com

Find a chartered surveyor - [Royal Institution of Chartered Surveyors \(RICS\)](http://Royal Institution of Chartered Surveyors (RICS) www.rics.org/)
www.rics.org/

Find a reputable tradesperson - [Trusted Traders](http://Trusted Traders www.trustedtrader.scot) www.trustedtrader.scot

Find out if your building has a factor - [Scottish Property Factors Register](http://Scottish Property Factors Register www.sedsh119.sedsh.gov.uk/propertyfactorregister/)
www.sedsh119.sedsh.gov.uk/propertyfactorregister/

Step 3

Let the other owners know about the repair

It is important that one of the owners takes the lead in organising shared repairs to a tenement property. The other owners must be made aware of the repair, including owners of neighbouring tenements if it affects their building. It is challenging to get neighbours together and to agree on a course of action. However it is important to do this as an owner can refuse to pay their share if they've not been properly informed of decisions made about shared repairs.

This fact sheet guides you on:

- communicating with other property owners when work needs done to your property
- procedures you need to follow when organising your repairs

Useful Hints and Tips

- ✓ **How to begin the conversation about your shared repairs**
 - Try to speak to neighbours informally, for example, when you pass them on the stair, to broach the subject of the repair.
 - You can answer any questions and then back up what has been said with a written note or letter.
 - Don't be put off by initial reactions - shared repairs make sense. They keep your property wind and watertight and help you keep your property's value
 - You can also put up a poster on the back of the main door to your stair saying what the repair is that you want to tackle.
 - You can also hold stair meetings to discuss your repairs (See [Step 4: Organise a stair meeting](#))
- ✓ **Notifying owners about the repair issue**
 - All owners must be made aware of the repair issue including owners of neighbouring tenements if their property is affected
 - You can use our [notification of defects template letter](#). This is a standard notice that you can customise with your information.

- ✓ **Make sure you follow the correct procedures when organising shared repairs in case any disputes arise**
 - You can use a **tenement management scheme**. This sets out the procedures flat owners need to follow when making decisions about maintaining and repairing common parts. It includes rules for contacting owners, setting up and running meetings and making decisions.
 - Any decisions made under the TMS are known as '**scheme decisions**'.
 - Decisions are made through majority voting, which means that over 50 per cent of the votes need to be in favour of a decision in order for it to be confirmed
 - It is important to record meetings and decisions owners have made.
 - Any Notices must be written and can be posted, faxed or emailed to the owner or their agent.
 - If you can't contact an owner or you don't know who the owner is, then the notice can be posted through the door of the flat, addressed to "The Owner" or "Proprietor". A Notice starts from the day of posting or sending.
 - If you have to leave a notice for an owner who is not otherwise contactable, get the delivery witnessed, send by Sheriff Officers or recorded delivery
 - In an emergency situation, any owner can carry out repairs to a property without having to go through the voting process first.

Contacts and Resources

Find out more about the Tenement Management Scheme –

www.mygov.scot/common-area-repairs/tenement-management-scheme/

Let owners know about your repair - [Notification of Defects letter template](#)

www.edinburgh.gov.uk/sharedrepairs

Step 4

Organise a stair meeting

Where owners are jointly responsible for the maintenance or repair of shared areas of their property, they need to get together to agree and arrange the work. This can seem complicated where there are a large number of owners involved and when a major repair needs to be organised. Organising a stair meeting is a good way of getting owners together to work towards agreeing a course of action to tackle major repairs

This factsheet guides you on:

- how to set up a stair meeting
- running a stair meeting
- keeping everyone informed about decisions at stair meetings

Useful Hints and Tips

✓ Who organises stair meetings?

Stair meetings are usually organised by one owner who voluntarily takes on the lead role in organising the repairs for a block

✓ How do you tell the other owners about a stair meeting?

It is important to make everyone in your stair aware of any stair meetings
You can let people know about any planned meetings by:

- calling round and personally inviting owners
- putting up a poster in your stairwell
- dropping a note in all the owners letterboxes
- using our [meeting invite template](#)

✓ How much notice do you need to give of a stair meeting

Give owners enough warning so that they are able to attend. At least 48 hours' notice is needed.

✓ What happens at a stair meeting?

At the meeting you can discuss:

- why the repairs need to be done

- how they should be carried out
- any objections to getting the work done

✓ **Make sure the meeting is well organised**

Well organised meetings help to keep everyone focused and involved e.g.

- Appoint a meeting chairperson
- It's helpful to take minutes and note the names of people attending.
- It is important to record meetings and decisions owners have made. Use our 'Meeting minutes' template to record everything.

✓ **What happens if owners can't attend a stair meeting?**

Where owners were not at the meeting, or no meeting was held, notifications of any decisions must be given quickly.

✓ **What if owners can't be traced or are unwilling to pay their share of the repair?**

- If you are having problems finding owners. (See **Step 1: Identify shared areas and who's responsible** or use our checklist for tracing owners.
- Our **Missing Share Service** could help. Find out more by calling our helpline.

✓ **Keep all the owners informed about meeting decisions**

- Where owners were not at the meeting, or no meeting was held, notifications of any decisions must be given quickly. Do this in writing as soon as possible.
- An owner can refuse to pay their share if they've not been properly informed of decisions made about shared repairs. In this situation all other owners would need to cover their share of the costs between them.
- Make sure you get written confirmation that someone has agreed to a decision and keep a copy. Use our **Notice of Tenement Meeting Decision** template.
- See **Step 6: Let other owners know the decision.**

Contacts and Resources

Use our **Meeting Invite**, **Meeting Minutes** and **Notice of Tenement Meeting Decision** templates to help organise your stair meeting - www.edinburgh.gov.uk/sharedrepairs

Find out more about our **Missing Share Service** by calling our helpline on **0131 529 6778**.

Step 5

Vote on your repair options

Once you have investigated your repair and discussed your options with the other owners, you need to decide on a course of action to tackle your repair. If there's nothing in your Title Deeds about making decisions on shared repairs, the Tenement Management Scheme sets out rules you need to follow. This includes voting on your repair options. Decisions are made through majority voting. This means that over 50 per cent of the votes need to be in favour of a decision in order for it to be confirmed.

This factsheet guides you on:

- **how voting works**
- **how to organise a vote**
- **what happens if you don't vote or are unhappy with a decision**

Useful Hints and Tips

✓ Who can vote?

The rule is one property, one vote. This means:

- each property (flat or commercial) has one vote
- all decisions are made on an overall majority basis
- if you own your flat jointly and you can't agree between you on which way to vote, you won't be able to vote at all, unless one of you owns a larger share of the property. If so, this person's vote will go forward.
- votes can be cast either by the owner, or by someone else nominated by the owner, for example, a letting agent or tenant
- if you are not responsible for paying a share of any cost, your vote is not counted.

✓ What are the rules for voting?

Votes can be cast either by the owner, or by someone else nominated by the owner, for example, a letting agent or tenant.

- All votes must be recorded.
- Any decisions you make are binding, and can be enforced through the courts.
- Use our [tenement voting form](#) template for voting.

✓ **How do you organise a vote?**

Ideally you should organise a stair meeting to carry out the vote. (See **Step 4: Organise a stair meeting.**)

✓ **What if you don't have a meeting to vote?**

If you can't arrange a meeting, one person will need to collect all the votes.

- You can do this by going from door to door, or by asking people to return their vote by post or email.
- If you can't get hold of everyone, you can still go ahead with the vote.
- You must make sure that anyone who wasn't involved is notified in writing about the outcome of the vote as soon as possible.

✓ **What happens if an owner doesn't vote?**

If an owner can't take part in a vote (for example, because they were away from home when the vote was taken):

- This won't make the decision invalid. However, they should be told about the decision as soon as possible.
- If the owner is liable to pay more than 75 per cent of the cost of repair work decided on in their absence, they're entitled to cancel the decision.

✓ **What if you're not happy with the outcome of the vote**

Owners can challenge a decision made by the Tenement Management Scheme or in accordance with the title deeds. You can make an application to the Sheriff Court for an annulment within 28 days of the date the original decision was made, or the date you were told about it if:

- you weren't in favour of the decision made, or
- you weren't an owner at the time the decision was made (for example, if you've just bought your flat).

✓ **Keep all the owners informed about the outcome of the vote**

- See **Step 3: Let owners know the decision.**

Contacts and Resources

Use the **Tenement Voting Sheet** template to record the votes – don't forget to obtain signatures of those who vote – www.edinburgh.gov.uk/sharedrepairs

Find a solicitor for advice about Tenement Management Scheme decisions. **Law Society of Scotland** www.lawscot.org

Step 6

Let other owners know the decision

The decision that owners make about how to tackle their repair is called a '**scheme decision**' under the Tenement Management Scheme. Often owners will make their decision about how their repair will be carried out at a stair meeting when they will vote on their preferred repair option. It is important that all owners are informed of any decisions as soon as possible after a vote.

This factsheet guides you on:

- **how to inform owners of the repair decision**

Useful Hints and Tips

- ✓ **How are owners informed of a repair decision?**
Once a decision is made at an owners' meeting the lead owner must send all owners a written note of the agreed decision. Use our [Notice of Meeting Decision](#) template
- ✓ **Is there a time limit for sending the note out to the other owners?**
Owners can appeal a decision but they must appeal to the Sheriff Court within 28 working days from the date the note was issued. So, it is important for the lead owner to send out the decision note as soon as possible after the meeting and to note the date of the decision.
- ✓ **What information is in the note?**
The note should include the following information:
 - how much the owner has to pay into the repair maintenance account (See [Step 7: Organising your repair money.](#))
 - by when (this date must be at least 28 days away)
 - the account details for making the payment
 - an estimate for the work needed with itemised costs
 - how much the other owners have to pay
 - what the work involves and why it's necessary
 - when the decision to carry out the work was made, and who made it
 - contact details for the people in charge of the maintenance account
 - a refund date if the work isn't carried out

Step 6 Tenement toolkit

Let owners know the decision p2

✓ How is the note sent out to owners?

The note can be posted, faxed or emailed to the owner or their agent.

Contacts and Resources

Use our **Notice of Meeting Decision** template to let owners know what you've decided about your repair.

How to write a decision note - **Law Society of Scotland** [ww.lawscot.org.uk](http://www.lawscot.org.uk)

Step 7

Organise your repair money

As soon as you and the other owners make a decision about your repair work you become liable to pay the money into a joint maintenance bank account. In some cases, the contractor or tradesperson may insist that all the money is collected before they begin. This means that you may need to pay your share of the entire estimated cost of the work in advance.

This factsheet guides you on:

- getting together the money for your repair
- keeping control of repair costs
- ways of spreading the cost and financing your repairs
- what to do if someone doesn't pay

Useful Hints and Tips

- ✓ **Set up a maintenance account**
If the cost of your repairs comes to more than £100 for one repair or £200 per owner over 12 months, then you need to set up an interest bearing maintenance account. The account will need two signatures (or the signature of a property manager).
- ✓ **Appoint a treasurer for your maintenance account**
This will help keep control of your repair money.
- ✓ **Get together the money for the repair**
When asking owners to put money into the maintenance account to pay for repair work, the person in charge of the account needs to send owners a written notice with full details, outlining the agreed repair work and detailed costs. (See Step 6: **Let other owners know the decision.**) Money is usually collected in advance of a major repair.
- ✓ **Make sure that your repair work and costs have been agreed in detail**
If you and your neighbours are employing the contractor or tradesperson, you will need to set out arrangements in writing.
 - Agree on a price in advance.
 - Ask for a list of works and detailed, written quotations including VAT. A quotation is a price that the builder must stick to unless you ask for

additional work. Agree a fixed price, only to be increased if agreed beforehand in writing.

- Agree that you will retain five per cent of the cost for six months to pay for defects in case the builder does not return to fix them.
- Everything should be set out in your agreed list of repairs.

✓ **Ways of funding your repairs**

Repairs and improvements can be costly so you should have the money in place before work is started. There are a number of ways you can get funding and spread the cost of your repairs. Payment options include:

- **Insurance**
You may be able to claim against your buildings insurance for damage caused by storm, fire, floods or a third party. Your policy won't cover routine repairs or damage caused by the lack of maintenance.
- **Fixed term loans**
Loans secured against your property are usually cheaper. However, your property could be at risk if you cannot meet repayments.
- **Savings and investments**
Using savings may be cheaper than taking out a loan.
- **Extending your mortgage**
For larger repairs, you can borrow more money against your mortgage. Your house must be worth more than the current value of your mortgage to do this. You may also get a better deal by re-mortgaging, although this could involve penalty charges. Contact your lender for more information.
- **Spreading the cost**
You could spread the cost by carrying out the work in stages. Ask your builder, surveyor, or property factor. Advice should always be sought from an independent financial adviser.

✓ **What if someone does not pay?**

- Ideally, you and other owners should have the money in place before work begins.
- If someone does not pay, the other owners must make up the shortfall. It is then up to them to decide whether to pursue the owner for the money.
- The non-paying owner is still liable to repay their share to other owners, even if they have moved on.
- **If an owner is bankrupt, costs will be shared equally amongst other owners.**
- You may be able to apply for missing shares of your bill from the Council. Call our helpline to speak to one of our case officers about our **Missing Share Service**.

✓ **Can you make someone pay?**

- If the debt is under £5000 you can use the Simple Procedure court.
 - For larger sums, you need to use the Sheriff Court to obtain a decree raising an action for payment against the person owing the money.
 - You can obtain free advice from the **Citizen's Advice Bureau** or the Sheriff Court. However, for more complex issues you should use a solicitor.
- ✓ **What if an owner sells their flat without paying their share?**
- If an owner sells their property, they are still liable for the costs of repairs carried out before the sale.
 - Ideally, they should sort this out with the new owner, who may agree to pay in return for a reduced selling price.
- ✓ **What if the owner leaves without paying?**
- If the owner leaves without paying, you and other owners may have to cover their share of the bill. You can then take them to court to get the money back.
- ✓ **Can I get the money from the new owner?**
- You'll only be able to pursue the new owner if the previous owner, or any of the other owners in the building, register a 'notice of potential liability of costs' in the Land Register or Register of Sasines.
 - This must be done at least 14 days before the sale is finalised. In this case, the new owner will be jointly liable for the costs with the previous owner.
 - A solicitor can help you register a notice of potential liability of costs.

Contacts and Resources

Call our helpline and speak to one of our case officers about our **Missing Share Service** on **0131 529 6778** or go online for details:
www.edinburgh.gov.uk/sharedrepairs

For advice on money issues contact the **Citizen's Advice Bureau** -
www.citizensadviceedinburgh.org.uk

Find a Scottish lawyer - **Law Society of Scotland** www.lawscot.org.uk

Step 8

Get your repairs done

Getting to the point where you are organised and ready to go with your repairs is a major achievement. However, there are a number of practical considerations that you need to be aware of that could affect you and your neighbours when work begins. You can reduce the risk of disputes with tradesmen, contractors or other owners by making sure that everyone is clear at the outset about what will happen once the repair project begins.

This factsheet guides you on making sure you are prepared for issues that can arise during your repair work:

- arrangements for the repair work
- regulations and legal issues
- home security
- inform insurance companies

Useful Hints and Tips

- ✓ **Make sure you have the details of your repair work agreed**
To help your repair work run smoothly, make sure you have all the arrangements agreed with your tradesman or contractor and set out in writing before work starts.
This includes:
 - a start and finish date
 - the main site supervisor
 - who from your side will give instructions
 - who you can make complaints to
 - they will only use the materials specified in the quotation
- ✓ **Do you have all the legal aspects agreed?**
 - Check that the contractor will get the necessary consents such as scaffold permits and road occupation permits.

- ✓ **Have you agreed access with the builder?**
 - Which areas of the site are not to be used for building works or storage
 - Whether they will need access to water, toilets or electricity
 - You should make sure anyone whose property needs to be accessed has given permission.

- ✓ **Have you agreed any site management issues with the builder?**

This includes practical issues relating to repair such as:

 - site hours when the work will be carried out
 - levels of cleanliness
 - arrangements for reinstating damage

- ✓ **Remember to think about security**
 - If workers need to access your home, you should consider putting valuables in a locked room or having a trusted person present during the work.
 - Remember a scaffold can allow access to upper floors. Make sure your windows are locked and contact your insurer to check your cover.
 - Make sure you inform your insurance company of any planned works as this may affect your insurance cover.

Contacts and Resources

Download our shared repairs templates and checklists which we've designed for use with the step-by-step guide to help you organise your repair project – www.edinburgh.gov.uk/sharedrepairs

Contact Edinburgh Shared Repairs Service for free information and advice to help you get your shared repairs organised. Call our helpline on **0131 529 6778** or go online www.edinburgh.gov.uk/sharedrepairs