

SAL Factsheet: Common Repairs

Common repairs to buildings can be a source of misunderstanding and potential problems between landlords, co-owners (both resident and other landlords) and tenants.

If you own a property in a shared block you are responsible, alongside your neighbours, for the upkeep of the common or shared areas in and around the building. Some examples of shared areas are the roof, stairs, paths and entrances, back greens, boundary walls and door entry systems.

Some information on managing common repairs and maintenance are listed below.

Your Title Deeds

For shared repairs first consult your title deeds and any deed of conditions. They should explain who is responsible for what and how many owners need to agree to work being carried out. If you don't already have them your solicitor or lender may supply them or you can pay for the Registers of Scotland to supply copies (see <https://www.ros.gov.uk/services/copy-deeds>).

The Tenements (Scotland) Act 2004

The Tenements (Scotland) Act 2004 aims to make sure that shared 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 and replace unworkable clauses.

If title deeds are not clear on how decisions should be made about common repairs, owners can use the Tenements (Scotland) Act 2004 to make a majority decision on repairs or maintenance work in a communal block. It is important that owners follow the rules of the Tenement Management Scheme laid down in the Act in reaching a majority decision. Co-owners can take legal action to recover any unpaid shares from their neighbouring owners. The Scottish Government have a guide to common repairs which gives information about Tenement Management Scheme rules – see <http://www.gov.scot/Topics/Justice/law/17975/CommonRepair-CommonSense>

Stair meetings

In some blocks, owners are able to have an occasional stair meeting, make decisions about repairs and get the work carried out. If arranging a stair meeting you must try to involve everyone who owns a flat in the building whether they are an owner-occupier or a landlord. Even during an informal meeting it can help to keep the meeting focused and on track to have a chair and someone to take minutes. Everyone should be able to air their views and discuss what steps should be taken. Reaching agreement on the level of repair to carry out may not be an easy process. Sometimes a more formal owners' association can be set up.

Owners' Associations

An owners' association is a formal arrangement between owners in a block of flats to meet regularly to discuss maintenance and repair work to communal areas of the building. This can increase communication between owners, making it easier to make decisions and reach agreement. Owners' associations can mean repair and maintenance is planned and not just carried out when it becomes an emergency or necessity. An owners' association sometimes has a constitution and will allocate roles and responsibilities to its members. Some local authorities provide information on owners' associations including examples of constitutions.

Factors/Property Managers

Some blocks have factoring arrangements in place where a property management company is responsible for maintenance and repair. Traditionally this has been the case in the West of Scotland and less common in the East but most new developments countrywide do oblige owners to use a specific factor. For further information on factors see our separate factsheet on the Property Factors Act [here](#).

Property Management Association Scotland promotes best practice amongst factoring companies. For a list of members see www.pmas.org.uk.

Property Factors Act

Anyone who, in the course of their business, manages the common parts of land owned by two or more other persons and used to any extent for residential purposes is likely to fall within the definition of a "property factor". The full definition of a property factor can be [read here](#). Property factors have to register with the Scottish Government and comply with a statutory code of conduct. For more information on this see our separate factsheet on the Property Factors Act [here](#).

Statutory Notice

In general local authorities have scant resources nowadays for carrying out repairs on behalf of owners and local authority grants are a distant memory in most places. Some authorities do still carry out "statutory notice" repairs where the situation is judged to be an emergency (i.e. a threat to public health). A statutory notice serves to alert and inform owners that a problem has been identified and that action is required to rectify it. Owners are then given the opportunity to arrange a repair themselves (although if the work is an emergency the local authority may proceed without giving the owners time to arrange it). If carrying out a repair under a statutory notice the local authority will split costs equally between all owners.

Tracing owners

There are various methods that can be used to track down absentee owners. For more information see the guidance on absentee owners on the Under One Roof website [here](#).

Missing Shares

Local authorities have statutory powers to pay shares of repair bills on behalf of an owner who is unable/unwilling to pay or who can't be contacted. Not all local authorities utilize this power but it is worth speaking to your local authority if you are struggling to get someone to contribute. You should speak to them before arranging the repair as most won't pay out unless an application is made before work starts.

Other resources

Detailed information on all aspects of common repairs can be found on the [Under One Roof](#) website.

**SAL members receive free advice from the SAL helpline
via 0131 564 0100 or by email advice@scottishlandlords.com**

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