



Common Repairs Policy



264607

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What is a common repair?

A common repair is any repair or maintenance needed to parts of your building that are shared with other owners. For example, repairs or maintenance to the roof, stairs, gutters, walls, or shared grounds. If you own a flat in a mixed-tenure block, you must pay your share of the cost of works.

When does the Common Repairs Policy apply?

The policy applies to mixed-tenure blocks where Moray Council owns at least one property and has the same responsibilities as any homeowner.

Why does the Council get involved in common repairs?

We own some flats in mixed-tenure blocks. As an owner, we have the same rights and responsibilities as all other homeowners. Any owner can suggest that work is carried out as long as they follow the correct legal process. We may organise repairs to protect tenants' safety, meet our duties as an owner or deliver our housing investment programme.

What laws relate to common repairs?

Common repairs are governed by the [Housing \(Scotland\) Act 2001](#), the [Title Conditions \(Scotland\) Act 2003](#) and the Tenements (Scotland) Act 2004, which introduced the [Tenement Management Scheme](#) (TMS).

What is a tenement?

A tenement is a building made up of two or more flats that were built to be owned by separate households and are divided from one another horizontally. Tenements include:

- large houses that have been converted into flats;
- high-rise blocks;
- blocks of four flats;
- modern blocks of flats; and
- blocks of flats with businesses in them, such as ground-floor shops, and office buildings, as long as they have two or more flats in them. We call these buildings “flatted properties.”



How will I know which parts of the building I am responsible for?

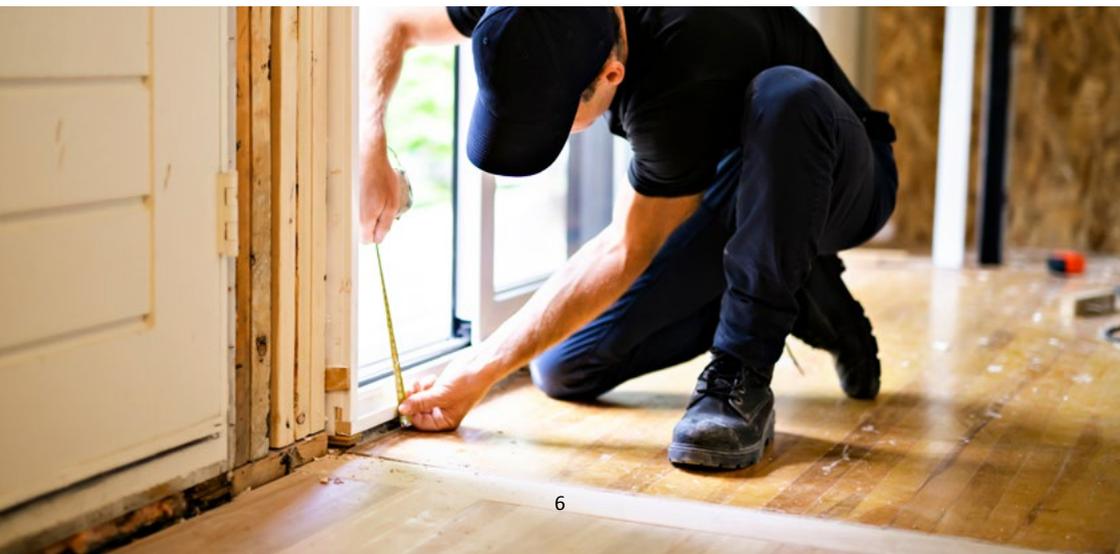
Your title deeds explain your responsibilities. If the deeds are unclear or incomplete, the Tenement Management Scheme (TMS) decides how repairs are agreed and paid for.

What is the Tenement Management Scheme (TMS)?

The TMS:

- is used when title deeds don't explain, or don't clearly explain, who is responsible for repairs;
- makes sure every block of flats has a clear set of rules for looking after and maintaining shared areas;
- only applies to parts of the building that everyone shares, called scheme property;
- sets out what the shared parts are, how joint decisions are made, and how costs are split; and
- allows owners to go ahead with shared repairs if most owners agree, with the cost shared equally among all flats.

If you do not agree with a decision made under the TMS, you can appeal to the Sheriff.



What is scheme property?

Scheme property is the parts of the tenement that every flat owner should maintain. It is:

- any part the title deeds say is common property of two or more owners;
- any part that all flats use, and the title deeds say two or more owners must maintain;
- the ground on which the tenement is built;
- the external walls and foundations;
- the roof, rafters and any structure supporting the roof;
- the part of the gable wall that is part of the tenement building; and
- any load bearing wall, beam, or column.

What is not scheme property?

Some parts of a tenement are not “scheme property.” This means only some owners are responsible.

An individual owner is responsible for the following, if they are for sole use of their flat:

- doors, windows, skylights, vents, or other openings;
- a chimney stack or flue; and
- an extension.

Only the owners who have use of the following are responsible for them:

- drainpipes serving one side of the flat; and
- any part that only some flats use, that the title deeds say two or more owners must maintain.

What are scheme decisions?

Any decisions made under the TMS are known as “scheme decisions” and may be used to make decisions about:

- carrying out maintenance;
- arranging maintenance inspections;
- hiring or dismissing a property manager;
- giving a property manager authority to carry out inspections and maintenance;
- arranging common insurance;
- deciding that an owner doesn't have to pay their share (or part of a share) of scheme costs;
- authorising any maintenance of scheme property already carried out; and
- changing or cancelling any other decision made in the past.

In addition, scheme decisions can be undertaken for:

- first time door entry systems installations; and
- certain energy efficiency works such as cavity/external wall insulation.



What is the difference between maintenance, repairs, and improvements?

Maintenance: is the routine work to keep buildings in good condition and prevent deterioration, cleaning, repairs, replacements. For example, clearing gutters, repainting communal areas or servicing lifts or door entry systems. We need the majority agreement of owners in the building before we do this work.

Repairs: are fixing damage or restoring something to its original condition. For example, fixing a leaking roof, replacing broken guttering, or repairing damage stonework or windows. We need the majority agreement of owners in the building before we do this work.

Improvements: are enhancements or upgrades beyond original condition or standard. For example, installing double glazing where none existed before. We need all owners to agree before we do this work.

How do you work with owners?

We are committed to working with tenants and homeowners, in all of our repair and maintenance programmes. We will work proactively with owners on proposed common repairs and will always try to get their agreement. We will contact owners as early as possible using clear communication, making sure owners can ask questions and get clear answers.

What is the benefit of the Council taking the lead on common repairs?

Owners may pay less than they would if they arranged for the work themselves. Often the Council can get better prices by arranging the work on a large scale through its Housing Investment Plan. If owners agree to the proposed works, we will:

- manage and co-ordinate the work needed.
- keep owners updated on progress.
- make sure that the work is carried out to meet relevant standards.

How are decisions about common repairs made?

If we are proposing work, we will:

- check the relevant title deeds and confirm responsibility for costs;
- write to owners and advise what the work will cover, their legal obligations, estimated costs, a designated officer to contact and signpost owners to TMS information; and
- follow the TMS voting process and timescales as set out above.

If title deeds don't set out a decision-making process, the TMS applies. It sets out the rules owners must follow before any work can be carried out. Under the TMS:

- each flat gets one vote;
- a majority vote is needed;
- we will write and give you detail about the proposed works, costs, and a voting slip;
- owners have 28 days to vote;
- any owner can object to the scheme decision within 28 days, after which the decision becomes legally binding.

For more complicated or larger shared repairs, we may hold a public meeting or meet with owners individually as part of the consultation. We will give owners at least 48 hours' notice before any meeting.

If an owner asks for a formal meeting, we will arrange this.

How does this affect council tenants?

We represent all council-owned flats throughout a project and will fund the respective portion of the costs. Council tenants do not take part in the voting process.

What happens after owners vote?

We will write to all the owners within five working days of the vote closing date and tell them the scheme decision.

Full agreement

We will write and update each owner with:

- the decision outcome;
- their legal obligation in line with the TMS;
- details regarding repairs that need to be carried out;
- the owner's share of the cost; and
- the contractor's name, contact number, and a designated Council contact.

Majority agreement

We will write and update each owner with:

- the scheme decision;
- their legal right to appeal;
- advice that the work will not start until after the 28-days have passed and no appeal applications received.

50% of owners or more disagree

Work will not start. We will:

- write to all owners confirming the outcome;
- regularly review the scheme decisions.

What if the work is an emergency common repair?

Emergency repairs cannot wait. We do not need your permission to carry out emergency common repairs. Any owner of a property can instruct an emergency repair and recharge other owners in the building for their share of the costs.

Due to the urgency and the safety risk to a tenant or member of the public, we will carry out emergency works needed to make the building safe. For example, roof leaks, dangerous stonework, or failed stair lighting.

We will:

- make the defect safe but sometimes we might need to do follow on work.
- write and tell you how much you will have to pay towards the repair.
- try and tell you about the shared repair before we carry it out, if possible. In exceptional circumstances (for example, if the repair involves gas), we may have to force access to your home if we cannot contact you.
- always make sure that we leave your home safe and secure.

What if the works are improvements?

We will consult fully with owners and give them a project overview, including estimated costs, tendering arrangements, and proposed timescales. The consent of all owners is needed for improvements. We cannot make an owner agree to or force them to pay for an improvement.

What happens if I want to arrange for common repairs to be done?

When we contact owners about common repairs, each owner can get two quotes from tradespeople and send them to us within two weeks. We will review all quotes to make sure they offer Best Value and meet Council standards, including health and safety.

If we accept a quote provided by an owner, we will:

- write and authorise the owner to accept the quote, confirming that we will contribute to the cost of the work once it has been done to our standard.
- write and advise each owner of the contractor chosen before the work starts.
- explain that if the common repair does not meet our standards, we will fix it and recharge the owners for the cost involved.

How is my share of the cost calculated?

Once a scheme decision is made, owners become responsible for the cost of carrying out any maintenance or repairs needed, called “scheme costs”). These are usually equally shared unless the repair only benefits some flats or one flat is much larger than the others.

All costs will be subject to any relevant additional costs for VAT, admin and / or legal costs.

When will I have to pay for my share of the cost?

Once the work is done, we will send you an invoice for your share of the cost. If it is less than £100 it is uneconomic to process as an individual payment. For such minor repair work, owners will be invoiced either within six months from the repair being completed or when the cost of the repair amounts to £100 or more.

What if I can't afford to pay my share in full immediately?

We understand that, in some circumstances, owners may struggle to pay the full amount immediately. Please ask us about a reasonable repayment plan that we can agree with you. Where a repayment plan is agreed, we will register a Notice of Potential Liability for Costs until the debt is cleared.

What is a Notice of Potential Liability for Costs?

This is a legal notice recorded with the Registers of Scotland to show that costs relating to common repairs are owed. It:

- sits on your title and is visible during sale or remortgage checks.
- may make selling or borrowing against the property more difficult until the debt is cleared.
- lasts for three years and can be renewed.
- is removed once the debt is fully paid.

What happens if I don't pay the invoice?

If you don't pay it or don't maintain your agreed repayment instalments, we will take debt recovery action under the Council's [Sundry Debt Management Policy](#), using relevant legal remedies available.

What if I disagree with a decision?

If you disagree about the need for repairs or maintenance to common parts, including the choice of materials, contractors, or the timing of the work, you can ask for a review of the decision. The Housing Asset Manager will review your request.

If you are still not satisfied after this stage, you may request a further review by writing to the Service Manager (Property, Estates and Assets). Please set out the reasons for your request and any information you want to be considered.

If the decision relates to the TMS, you may appeal to the Sheriff Court within 28 days of being told of the decision. We would recommend that you get independent Legal advice.

When will the policy be reviewed?

It will be reviewed in 2029 or earlier if legislation changes.

Where can I get more information and advice?

More information is available on our website: www.moray.gov.uk/commonrepairs.

This includes our:

- [Common Repairs Policy](#)
- [Easy to read Common Repairs Policy](#)

The Under One Roof website (www.underoneroof.scot) also provides free and impartial advice to owners.

You can contact us at:

 housing.assetmanagement@moray.gov.uk

 0300 123 4566

