

Organising Repairs to Your Building

Where to start?



East Lothian
Council

Where to start

If you have identified that repairs need to be carried out to your building, either from your own observation or as the result of a survey, you should get a professional opinion on the work involved and the likely cost.

If the problem is straightforward, you can go directly to a tradesman. If you are unsure of the cause of the problem, or you believe that a significant amount of work is required you may want to employ someone to manage the work.

Part 1 of this leaflet describes the main steps involved in organising repair works. This advice applies to all repair works, including to a sole residency or to common parts of a building.

Part 2 of this leaflet gives more information about common repairs, setting out important things to consider when organising a repair involving two or more owners.

1. STEPS FOR ORGANISING A REPAIR

Getting professional help

If a significant amount of work is necessary an architect, surveyor or engineer can assess the problem and advise you of work which requires to be carried out. They can also organise and scrutinise quotes for you and supervise the work.

The Royal Incorporation of Architects in Scotland and Royal Institution of Chartered Surveyors can provide details of local architects and surveyors. To find the one that suits you best, approach two or three and ask:

- What experience they have of doing similar work?
- Who will manage the work?
- What is the cost and what does it include?
- When can they start?

Using an architect, surveyor or engineer may cost more, but you could get better value for money in the long term.

Drawing up a schedule of work and specifications of the materials and methods to be used

If you are employing someone to manage the work, they will draw up a schedule of works and specification of the materials and methods to be used. If you are organising the work you will need to draw up details of the schedule and specifications yourself.

Finding someone to carry out the repair

You should get two or three quotes based on your schedule of work and specifications. Ask for a list of works and detailed written quotations, rather than estimates. A quotation is a fixed price that cannot be changed (unless there is additional work required which you agree to). If a quotation is detailed, you can compare it with the other quotes. Check if the price includes VAT.

There are some important questions to ask of contractors when obtaining quotes:

- Do they have experience of this type of work?
- Do they belong to a reputable trade organisation, and do they offer any guarantee for the work and/or a complaints service if something goes wrong?
- Do they have proof of indemnity insurance?
- Can they provide references/details of past clients who you can contact to discuss the contractors performance?
- Are they VAT registered? They could be a small business and may not be able to handle big contracts.



The **Trusted Trader Scheme** helps consumers in East Lothian find reliable and trust worthy tradespeople. Member businesses are required to sign up to a *Code of Practice* which covers complaint resolution processes, transparent procedures for quoting and carrying out work and staff training. This helps give members of the public confidence when choosing companies to carry out work for them.

The dedicated website provides details of traders and publishes feedback from previous customers – good or bad.

Details of the Trusted Trader Scheme and member business can be found at www.eastlothian.gov.uk/trustedtrader .

More information can also be obtained by telephoning 01620 827365 or emailing ehs@eastlothian.gov.uk

Agreeing on a price

Agree how payments will be made before the job starts. For large contracts, it is likely that the contractor will require payment in instalments. The first invoice will usually be due immediately work has started on site. A second invoice will usually be issued half way through the job and the balance due once the work is completed. For smaller jobs the contractor may be happy to invoice once the work has been completed. **Whatever the agreement only ever pay for work that is completed, do not pay in advance or give any deposit for materials.**

Getting it in writing

If you are employing a tradesman yourself you will need to set out the working arrangements in writing. Agree in advance:

- The price is fixed. It can only be increased if agreed with you in writing beforehand
- You will hold back 5% of the cost for six months after completion, to be used to pay for defects if the builder does not return to address them. If there are no defects, or the builder fixes any defects, the remaining balance will be paid in full



- A start and finish date. These can only be exceeded for reasons beyond the builder's control
- Who will be their main site supervisor
- Who will give instructions on your part
- Who you can make complaints to
- Tradesmen will respect health and safety regulations and only use the materials specified in the quotation
- Who will organise consents (e.g. building warrants, consent to put a skip in the road, scaffolding permits etc)
- Any areas of the site which are not to be used for building works or storage (these can be marked off with tape)
- Agreement for access to water, toilets or electricity
- Levels of cleanliness expected and arrangements for reinstatement of any damage caused during the work.

Before the work starts

Access – You should make sure that anyone whose property will be accessed during the work is aware of this and they have given permission, for example a neighbouring flat in a shared block or the garden of an adjacent property.

Security – You or your neighbours may need to give tradesmen access to your home to carry out work. You should consider putting valuables in a locked room to which access is not required. When a scaffold is erected access to upper floors will become possible. Are your windows locked? You should also advise your insurance company that scaffolding is being erected.

Architects and surveyors:

Royal Incorporation of Architects in Scotland (RIAS): 0131 229 7545
www.rias.org.uk

Royal Institution of Chartered Surveyors (RICS): 0870 333 1600
www.rics.org

2. ORGANISING COMMON REPAIRS

Before you start organising a common repair it is important that you check your title deeds. The deeds will tell you who owns the property, how the property should be managed and maintained, who is responsible for repairs and outline the decision making process.

The Private Sector Housing Team provides an information sheet on 'Reading your Title Deeds'. This can help you to understand what can often be a complex document. If you need further advice about your title deeds, contact your solicitor.

In some cases, title deeds do not mention common repairs. If this is the case, the Tenements (Scotland) Act 2004 will apply. The Act aims to make sure that communal parts of buildings are kept in good repair and it applies to any building which 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. For example, your title deeds may not say how decisions should be taken, or may not describe all the common parts. Or they may allocate shares which do not add up to 100%. You and your fellow owners can use the different sections of the Act to make up for gaps or defects, but otherwise you must follow your title deeds.

It is important that the correct procedures are used when organising common repairs, in case any disputes arise. The Private Sector Housing Team can offer further information and advice about the process.



The following table sets out the activities involved in a common repair and good practice that should be followed:

Activity	What the Tenement Act says	Good practice
Contacting owners	<p>Notices must be written and can be posted, faxed or emailed to the owner or their agent. If you cannot contact an owner, or you do not know who owns the property, then the notice can be posted through the door of the flat, addressed to 'The Owner'.</p> <p>At least 48 hours notice of a meeting must be given, this starts from the day the letter was posted or sent.</p>	<p>Speak to people about the work first so that you can answer any questions. Back up what has been said with a written note or letter.</p> <p>If you have to leave a notice for an owner who is not otherwise contactable, have the delivery witnessed or send the notice by registered post.</p> <p>To find out the owner of a property contact: Register of Scotland 0845 6070161.</p>
Setting up meetings	<p>Give at least 48 hours notice.</p> <p>A meeting is not necessary if all owners (as far as practical) are consulted individually.</p>	<p>If it is not possible to hold the meeting in someone's flat consider organising a room in your local community centre or village hall – it is usually not recommended to hold meetings in a pub.</p>

Activity	What the Tenement Act says	Good practice
Running meetings	If owners were not at the meeting or no meeting was held, notification of any decisions must be given quickly.	
Taking decisions	<p>You need to know if maintenance or improvement work is being carried out. Majority decision-making is now the rule for maintenance unless your title deeds say otherwise. Each flat gets one vote and the vote of the majority is binding.</p> <p>If you are making improvements, then the decision of 100% of owners is required.</p>	<p>Make sure you get written confirmation that someone has agreed to a decision. Make sure they keep a copy of the letter.</p> <p>If you do not get 100% of owners to agree, wait 28 days before starting any work to allow for an appeal.</p>
Getting estimates		Get more than one comparable estimate (see section 1 - Steps for Organising a Repair).
Before work begins	<p>You should supply full details of the work and any refund arrangements including:</p> <ul style="list-style-type: none"> • Estimated cost of work • Why the estimate is considered reasonable • How all the owners' shares have been calculated 	

Activity	What the Tenement Act says	Good practice
Before work begins <i>continued</i>	<ul style="list-style-type: none"> • What all the owners' shares are • Date of decision and who made it • Timetable for work • Details of maintenance account, location and signatories. <p>If there are any changes, owners must be notified again. Owners are entitled to see the other quotes or estimates.</p>	
Bank accounts	The maintenance account (often called the stair account) must be interest bearing and requires two signatures (or that of the property manager).	Appoint a treasurer
Payments	Where owners make advance payment of more than £100 for one repair or £200 over 12 months, you must give written receipt and the money must be put into a maintenance account.	Keep evidence of all expenses incurred and payments made into the account, give owners a complete note of the accounts.

What is the difference between maintenance and improvements?

Maintenance includes cleaning and painting as well as repairs. This can include 'incidental improvements' e.g. replacing an item that is broken with something that is of a higher standard.

Improvements are providing something that was not there before.

Activity	What the Tenement Act says	Good practice
Returning money	<p>You need to refund money if the work does not start either within 28 days, on the official start date or on any other date you have agreed.</p> <p>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 any interest.</p>	

What happens if one or more owners disagree with the decisions made?

An owner can refuse to pay their share if they have not been properly informed of decisions made about common repairs. If this should happen, all other owners need to cover the unpaid share between them. If an owner objects 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 they did not vote they can reverse the decision. However, they must tell all other owners in writing.

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, or
- is unfairly prejudicial to one owner.

What happens if someone does not pay?

If someone refuses to pay, the other owners must make up the shortfall. In some cases, owners may choose to accept this rather than taking legal action to recover the money due as this can be expensive and time consuming. If you decide to pursue the debt there are a number of things that you can do.

- If the debt is under £3,000, you can use the small claims court. This procedure is designed to be cheap and easy to use. You should contact the Citizen's Advice Bureau or Sheriff Court for more advice on the small claims court.
- Reclaiming larger sums is a more complex process and you should seek advice from a solicitor. You will be required to 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. The decree can include costs incurred by the pursuer and expenses associated with the debt recovery. If the debtor still refuses to pay, the Sheriff Officer can then be instructed to recover the sums due under the decree. There are various ways the debt can be recovered, including taking money from earnings or taking control of the property and using the rent to pay off debts. If the debt is more than £15,000 sequestration (bankruptcy) proceedings can be considered. Very often, people will pay the debt rather than face these proceedings.



Versions of this leaflet are available on request on audiotape, in Braille, large print or your own language.
☎ Phone 01620 827199

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