



Under One Roof

Impartial advice on repairs and maintenance for flat owners in Scotland

Dealing with reluctant owners

8 step programme for dealing with reluctant owners

1

Know your neighbours

8 Step programme

1. Know your neighbours
2. Follow proper procedures
3. Difficult conversations
4. Help from your Council
5. Emergency repairs
6. Duty to maintain
7. Recovering debts

1. Know your neighbours

- Get contact details and addresses of absentee owners or their agents
- Hold regular meetings
- Know your neighbours' problems
- Is the problem **can't** pay or **won't** pay?

2

Always follow proper procedures

Follow proper decision making processes exactly

- Necessary for any further enforcement action
- Keep records, copies and screen shots of letters, emails, facebook messages etc
- More about [proper decision making procedures](#)

Formal notification

- Put things in writing (letters, emails, facebook posts)
- Remind owners of:
 - Duty to Maintain
 - the obligations to maintain contained in your title deeds
- Give reasonable but clear deadlines

3

Difficult conversations

Difficult conversations

- Don't avoid difficult neighbours
- Use these tips on having difficult conversations

Difficult conversations – be prepared

- get your facts in order
- know what options are available to both you and your neighbours
- think what questions or points of view your neighbour will have

Practice what you will say

- use positive words
- suggest ideal solutions that are to everyone's benefit
- rehearse with a friend
- ask what their reaction would be to what you have to say

When you actually meet...

- practice “active listening”
- maintain eye contact
- acknowledge what your neighbour says by nodding your head but don't interrupt
- when they have finished speaking, sum up what they have said in your own words and let the other person agree or disagree that you have got it right
- in explaining the impact of the problem on you, stay calm and avoid using blaming words, name-calling and threats
- If discussion gets heated, take a break – come back to it again when you are both calm.



Avoid being confrontational

"You're dumping stuff on the stairs and it's a fire risk. You are ignorant and it's going to get us all killed if someone sets light to this! I want it moved right now or I'm going to call the council."



Be informative - make useful suggestions

"You may not realise but it's important that the stairs are kept clear as they are our only means of escape in a fire. Do you think you could keep the stuff in your flat until you can get rid of it properly?"



Avoid being threatening

"My flat is getting ruined because you're a bl**dy skinflint and won't pay your share of the roof repair cost. I'm going to take you to court!"



Ask / offer help

"I just wanted to ask if you needed more information about the roof repair or if there was anything that was worrying you about it? It's important that we get it done as soon as possible as it's causing more damage every day."

"I'm sure you are aware that we all need to pay our share of repair costs. In fact, according to the law, we can't any of us say "No". I've seen this website that has got some useful tips about repairing tenements and I wondered if you wanted me to give you the details?"



Avoid being abusive

"Only a Numpty could think....."



Sympathise

"We would all love it if that were the case but sadly...."

4

Help from your Council

Help from your Council

- If you have tried all the above and are getting nowhere, ask your local council for help
- Council staff are willing to help with advice
- Grants are seldom available
- The Council may be able to use compulsory repair powers in limited circumstances
- Some Councils have resources to offer “Missing Shares”

Powers available to Councils

- Work Notices
- Missing Shares
- Repairing Standards for Private Landlords
- Maintenance Orders
- Nuisance / Abatement Notice
- Closing Orders
- Disrepair/ defective building notice

Work Notices

- For “one off” problems
- Replace previous repair notices
- Powers to enforce
- Grants not obligatory

“Missing shares”

- Where
 - owners are obliged to carry out repairs (eg maintenance plan, works order) or
 - majority of owners have agreed to work and
 - an owner is unable/ unwilling to pay or cannot be located
- Council can to step in to pay that owner’s share and recover costs later through a repayment order.

Maintenance orders

- For ongoing / recurring problems
- If lack of maintenance jeopardising previous work
- Maintenance unlikely to be carried out

Nuisance and abatement notices

- Public health nuisance is
 - damage to property which is prejudicial to health
 - intolerable interference with use or enjoyment of your property
- Cannot deal with repairs which only harm property
- Must have an impact on co-owners

IF THE COUNCIL IS UNABLE TO HELP

5

Emergency repairs

Emergency?

- If
 - you cannot contact owners speedily
 - the problem is affecting support and structure of your building
- Carry out repair and bill owners afterwards

6

Duty to maintain

“Duty to maintain”

s8 Tenements Act Scotland 2006

- Owners have a duty to maintain their property so as to provide support and shelter
- One owner can carry out appropriate repairs and recover costs from others, even if no majority agreement.

7

Recovering costs

Recovering costs

- If the Council can't help, you need to:
 - Check you've followed proper procedures
 - Carry out the repair
 - Send the bill for that owner's share
 - Send a reminder with a warning that you are taking action to recover costs
- If the owner still won't pay, take action

Take on non-paying owners

- Don't let decay spread because one owner won't cooperate
- Follow proper procedures and the law is on your side
- You can almost always get blood out of a stone but it can take a long time

Notice of Potential Liability for Costs

- Notice lodged with Title Deeds
- Owner cannot sell until cost of repairs paid
- Needs renewed every 3 years
- Get help from solicitor
- Does not need court order

Don't be afraid of legal action

- Send the bill giving a specific time in which to pay.
- If the owner still won't pay, consider taking legal action.
- If you have followed correct procedures, you should have few difficulties in obtaining the relevant court orders.

Court Action

- Small Claims Procedure
 - For claims under £3,000
 - DIY – does not need legal help
 - Sheriff Court staff are helpful
- Summary Cause or Ordinary Cause Procedures
 - Claims over £3,000
 - Requires legal help
 - Legal expenses are recoverable

Legal action – future changes

- Imminent changes to Small Claims procedure
- Will increase cost limit to £5000
- Mediation based approach
- Less confrontational

Court order allows you to take cost recovery actions

- Can arrest rents if landlord owing
- Can serve charging order on property – owner can't sell until paid. Add interest and costs

More information from UnderOneRoof.scot

You need internet access to follow these links

More about:

[Contacting owners](#)

[Proper procedures](#)

[Help from your council](#)

[Enforcing repairs yourself](#)

[Taking legal action](#)