



Common Repairs Policy

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Index

Section 1	Scope of the Policy
Section 2	Strategic Framework
Section 3	Objectives and principles of the policy
Section 4	Legislation and regulatory requirements
Section 5	Equality and diversity
Section 6	Confidentiality and data protection
Section 7	Common repairs
Section 8	Owners' responsibilities
Section 9	Engagement with owners
Section 10	The Tenement Management Scheme
Section 11	Maintenance, repair or improvement
Section 12	Planned maintenance
Section 13	Repairs
Section 14	Emergency repairs
Section 15	Improvements
Section 16	Assistance for owners
Section 17	Recharging owners
Section 18	Appeals
Section 19	Monitoring
Section 20	Policy review
APPENDIX A	Definitions

1. Scope of the Policy

- 1.1 This policy outlines the framework Moray Council will follow in managing common repairs. It aims to ensure that there is a clear and consistent approach to engaging with and recharging responsible owners when such repairs are undertaken by the Council.
- 1.2 A common repair refers to maintenance or repair work in mixed-tenure blocks where homeowners and the Council share responsibility for the costs associated with common areas or parts of the building.
- 1.3 The Common Repairs Policy applies to flats in mixed-tenure blocks where the Council still has a vested interest. The Council has the same legal obligation as other owners concerning the management of common repairs.
- 1.4 For ease of reference, a summary of definitions used within the Policy is provided at [APPENDIX A](#).

2. Strategic Framework

- 2.1 The Common Repairs Policy will assist the Council to meet the aims and priorities of the Local Housing Strategy. Priority 4 – “Improving property condition and achieving affordable warmth is enabled in all homes.”
- 2.2 The Scheme of Assistance aims to support private owners and landlords invest in housing repair and maintenance and includes the provision of advice on common repairs.

3. Objectives and principles of the policy

- 3.1 The specific objectives underlying the Common Repairs Policy are to:
 - explain the rights and responsibilities of the Council and owners;
 - give clear guidance on how the Council will manage and charge for common repairs;
 - outline the process of recharging owners for common repairs;
 - inform owners of payment arrangements;
 - inform owners of the action the Council will take if payment is not made; and
 - comply with legislation, relevant guidance and good practice.
- 3.2 The specific principles of the Common Repairs Policy are that:
 - tenants and stakeholders are consulted on the policy;
 - through monitoring and feedback from customers and staff, the management of common repairs is continuously improved;
 - communication with tenants and owners is always clear, appropriate, easily understood and easily accessible;
 - the common repairs service is supported by appropriate training for operational staff; and
 - policy will be supported by detailed procedures and agreed practices applied uniformly across the service.

4. Legislation and regulatory requirements

- 4.1 Section 27 and Schedule 4 of the Housing (Scotland) Act 2001 and the Scottish Secure Tenants (Right to Repair) Regulations 2002 require the Council to include basic repairing obligations in their Scottish Secure Tenancy Agreements.
- 4.2 The organisation of common repairs, and general property maintenance matters, within any multi-owned property is shared between all owners and based on their shared legal obligations.
- 4.3 In line with the Title Conditions (Scotland) Act 2003, rules detailing owners' specific responsibilities for the upkeep, management and maintenance of the common elements are normally found within the title deeds, which set out ownership rights, responsibilities and boundaries for properties. For communal buildings, they define the various ownership shares, common areas and maintenance obligations of each owner within the tenement.
- 4.4 Although title deeds granted by the Council specify liabilities and the Council can carry out common repairs and recharge in line with the title deeds, the title deeds do not provide a decision-making process for all owners.
- 4.5 The Tenements (Scotland) Act 2004, sets out the Tenement Management Scheme (TMS) and shows the steps that owners need to take when making decisions which affect all owners about maintaining and repairing common parts. These rules can be used if title deeds don't specify how decisions should be made, or if different owners' title deeds are conflicting (see Section 10).
- 4.6 The title deeds are generally silent on improvements. This policy seeks to make provisions for the procedure to be followed for improvement works.

Scottish Social Housing Charter

- 4.7 The Scottish Social Housing Charter sets the standards and outcomes that all social landlords should aim to achieve in performing their housing activities. The relevant Charter Standards/Outcomes for Common Repairs are:

Equalities

Social landlords perform all aspects of their housing services so that: they support the right to adequate housing every tenant and other customer has their individual needs and rights recognised, is treated fairly and with respect, and receives fair access to housing and housing services.

Communication

Social landlords manage their businesses so that: tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.

Repairs, maintenance and improvements

Social landlords manage their businesses so that: tenants' homes are well maintained, with repairs and improvements carried out when required, and tenants are given reasonable choices about when work is done

Value for money

Social landlords manage all aspects of their businesses so that: tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

5. Equality and diversity

- 5.1 Moray Council will comply with the Equality Act 2010, Human Rights Act 1998, Fairer Scotland Duty (socio-economic inequality) and the United Nations Convention on the Rights of the Child (UNCRC) by:
- making reasonable adjustments for disabled persons;
 - understanding and addressing barriers faced by marginalised groups;
 - ensuring that common repairs are managed in a non-discriminatory and inclusive manner; and
 - monitoring actions to avoid disproportionate impacts on protected groups.
- 5.2 The Council is committed to preventing discrimination and promoting equality of opportunity for every person. In accordance with the [Equality Act 2010](#), the Council seeks to ensure that the Common Repairs Policy does not discriminate between individuals with one or more of the following protected characteristics: age, disability, gender reassignment, marital status/civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation.
- 5.3 In delivering the Common Repairs Policy, full consideration will be given to the Council's Public Sector Equality Duty (PSED). This requires public authorities to eliminate discrimination, harassment and victimisation, advance equality of opportunity and to foster good relations between those who share a relevant protected characteristic and those who do not.
- 5.4 The Council will develop and provide information and advice in alternative formats. The Council will provide interpretation and translation services free of charge where these are required.

6. Confidentiality and data protection

- 6.1 The Council will ensure that any information given to it as part of the common repairs process will be used in accordance with the [General Data Protection Regulations \(GDPR\)](#) and [the Data Protection Act 2018](#). Relevant Privacy Notices, available on the Moray Council website, advise customers how personal information may be collected, used, stored, shared and securely disposed of and the legal basis for doing so and what their Data Subject Rights are.

7. Common repairs

7.1 Owners are responsible for repairs and improvements to their individual property. Homeowners who live in mixed-tenure blocks are also responsible for a share of the cost of the maintenance and repair of the common areas or parts of the building. If the common areas of the building need to be repaired, every owner who is entitled to use that common area must pay their share of the cost of the repairs.

7.2 Section 26 of the [Tenement \(Scotland\) Act 2004](#) sets out the meaning of “tenement” as a building comprising two or more related flats which are owned or designed to be owned separately and which are divided horizontally. This includes:

- high-rise blocks;
- modern apartment blocks;
- four-in-a-block or cottage flats;
- blocks of flats with ground floor shops;
- large houses converted into flats; and
- traditional sandstone or granite buildings, usually of three or four storeys.

8. Owners’ responsibilities

8.1 When a flat is sold, a right of common ownership is usually granted along with any other flats sharing common parts of the building. Title deeds normally set out an owner's duty to pay a share towards the cost of common repair and maintenance. In the event of title deeds for a flat being silent or have defects or are unclear, the TMS, introduced by the [Tenement \(Scotland\) Act 2004](#), will prevail (refer to Section 10). For example, the title deeds may not say how decisions should be taken, or may not describe all the common parts, or they may allocate shares of costs that do not add up to 100%.

8.2 In any block of flats, Moray Council, in its role as a landlord and owner of flatted properties, holds the same rights or responsibilities as all other owners regarding the organisation or undertaking of work to the common elements of the block.

8.3 In practice however, to ensure Council tenants remain safe and secure in their homes, or to support its housing investment programmes, Moray Council may approach other responsible owners regarding potential works, offering to undertake them on their behalf. In such circumstances, the owners would pay Moray Council for their proportion of the share of the costs of the works in accordance with the burdens stated within their title deeds or if these are silent, in accordance with the TMS (refer to [Section 10](#)).

8.4 This role by the Council of proposing and/or organising works on behalf of other responsible owners does not extend to closes/blocks in which the Council no longer retains any properties.

8.5 Where the property has been purchased through the now abolished “Right to Buy” scheme, the Council has the right to appoint a manager for 30 years. This manager will be the Council’s Housing Service. This right remains for 30 years or until two-thirds of the properties in a management scheme have been sold by the Council, when the owners can dismiss the management appointed by the Council.

8.6 The title deeds granted by the Council state that not only can owners be recharged, but also that the choice of materials and contractors used will be determined by the Council.

9. Engagement with owners

9.1 The Council is committed to working with tenants and homeowners, in all of its repair and maintenance programmes. The Council must work with owners regarding any common repairs it is proposing and will always try to get their agreement. In mixed-tenure blocks, it is likely that the Council will take the initiative in organising and managing repairs, although any owner can do this.

9.2 When engaging with owners regarding a common repair, the Council will ensure all communication, including phone, letter, email and personal contact from staff, is clear and transparent and owners are provided with every opportunity to ask questions and receive clear answers.

10. The Tenement Management Scheme

10.1 The [Tenement Management Scheme](#) is the default scheme used where title deeds have gaps (such as them not saying how decisions should be taken, or not describing all the common parts) or defects (such as allocating shares of costs that do not add up to 100%). It:

- explains what is considered as maintenance;
- defines scheme property (the parts that everyone is required to maintain);
- sets out how owners will make decisions about repairs and maintenance (called scheme decisions); and
- sets out how costs will be shared.

Scheme property

10.2 Owners are responsible for repairs and improvements to their own property. If they live in a mixed tenure block, they are also responsible for a share of the cost of the maintenance and repair of the common areas or parts of the building, known as “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.

Parts that only some owners maintain:

There are some parts of a tenement that are not scheme property. This means only some owners are responsible. An individual owner is responsible for the following, if they only serve 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.

Scheme decisions

- 10.3 The TMS sets out the process owners must follow when making decisions on maintaining and repairing common parts where the title deeds are silent or have gaps. 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 to carrying out repairs and maintenance to common elements, scheme decisions can be undertaken for:

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

- 10.4 Owners will be advised that if they request a formal meeting, an opportunity will be provided to discuss the repair at an open meeting between the Council and the owners, particularly for larger repairs.

- 10.5 The Council will provide each owner with the opportunity to obtain two competitive quotes from tradesmen. Owners will be required to obtain quotes within two weeks. The Council will evaluate all quotes in accordance with Best Value and will ensure that they comply with Council standards, for example, health and safety.

- 10.6 Where the Council accepts a quotation obtained by an owner which offers Best Value, the Council will:
- write and authorise the owner to accept the quotation, confirming that the Council will contribute to the cost of the work once it has been completed

to the Council standard.

- write and advise each owner of the contractor chosen prior to work commencing.
- advise owners that if the common repair does not meet with Council standards upon completion, the Council will rectify the repair, and owners will be recharged for the cost involved.

Voting process

- 10.7 In line with provisions set out by the TMS, scheme decisions are made using a voting system, with each responsible property representing one vote. For the work to proceed, the majority of the owners in the block, which includes the Council, must be in agreement. Where the Council is proposing to carry out common repairs and maintenance to a block of flats, it will:
- check the relevant title deeds and confirm responsibility for costs;
 - write to owners and advise of the scope of works, their legal obligations, estimated costs, a designated officer to contact and signpost owners to information on the TMS; and
 - follow the TMS voting process and timescales, allowing 28 days for voting slips to be returned. For more complex/larger common repairs, the Council may seek to arrange a public meeting as part of the consultation process and will provide owners with a minimum of 48 hours' notice.

- 10.8 The Council will:

- contact and / or visit any owner who has not returned their voting slip by the closing date and endeavour to obtain their decision.
- confirm the result of the vote in writing to all the owners within five working days of the closing date, informing them about the scheme decision.

- 10.9 The Council will adhere to the voting outcomes as follows:

10.9.1 Full agreement

Where there is 100% agreement each owner will be informed about:

- 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 and contact number, and a designated Council contact.

10.9.2 Majority agreement

Where a majority vote in favour of the repair is returned, the Council will write and update each owner with the scheme decision and advise of the right to appeal. Any owner who is not in favour of a scheme decision or a new owner who was not the owner at the time the decision was made can appeal to the Sheriff Court within 28 days from the date of notification of the decision. The work will not start until after the 28-day period has passed and there have been no appeal applications. If there are no

appeals submitted within the 28-day period, then the work will proceed, and owners will be updated as at 10.6.1. If an appeal is submitted, the Council will act in accordance with the decision of the Sheriff Court.

10.9.3 **50% of owners or more disagree**

Where 50% or more of the owners disagree with the proposed works, then no works can be completed at this time. The Council will write to all owners confirming the outcome. The Council will regularly review the scheme decisions and will act in accordance with the voting outcome.

Access for repairs and maintenance

10.10 Owners, and those authorised by owners, have a right of access to each other's flats, if access is necessary to:

- carry out maintenance that was decided by a scheme decision;
- carry out repairs to a part owned by an individual;
- carry out inspections to decide if maintenance is needed;
- lead through a service pipe, cable or other equipment, as long as it is not wholly within another owner's flat;
- make sure that any part of the building that provides support and shelter is being maintained;
- make sure that none of the owners is doing anything that might damage the parts of the building that provide support and shelter or doing anything to reduce the natural light to the building; and calculate the floor area to decide how costs should be allocated.

10.11 The owner or the occupier must be given reasonable notice that access is required and, within reason, can refuse access at inconvenient or inappropriate times.

Sharing the cost of works

10.12 Once a scheme decision is made, owners become responsible for the cost of carrying out any maintenance or repairs needed ("scheme costs"). Under the TMS, all owners pay an equal share of the costs of maintenance and repairs, except:

- when the work involves a part of the tenement that isn't used by everyone (in which case only the owners of the flats involved should pay); or
- when the floor area of the biggest flat is more than one-and-a-half times the floor area of the smaller flat (in which case repair costs should be split so the owner of the larger flat pays more).

10.13 In line with [Section 11 of the Tenements \(Scotland\) Act 2004](#), an owner becomes liable to pay for relevant costs as soon as a decision has been made that such work should go ahead.

10.14 [Section 10 of the Tenements \(Scotland\) Act 2004](#) provides that where repairs have been completed so as to provide support or shelter, the Council will be able to claim back a share of expenses from other property owners, even if the owners

were not aware that the work was being carried out. For example, emergency repairs.

11. Maintenance, repair or improvement

11.1 Maintenance is preventative, while repairs are reactive. Replacing something obsolete with a modern equivalent may still count as a repair, but adding something new is usually an improvement.

11.2 Many of the legal rights and responsibilities for owners apply only when 'maintenance' is being carried out. Maintenance is legally defined as:

- repairs and replacement;
- the installation of insulation;
- cleaning;
- painting and other routine works;
- gardening;
- the day-to-day running of the tenement;
- the reinstatement of part (but not most) of the tenement building.

It does not include alteration, demolition or improvement, unless the improvement is inherently part of maintenance work. For example, if a main door needs to be replaced, choosing one with a more suitable specification or adding an improved modern lock would be counted as maintenance, rather than improvement. Maintenance also excludes internal decorative repair of areas that are not owned in common, unless they are incidental to the repair of common parts.

11.3 A summary of the different elements to maintain, repair or improve a common part, is detailed below:

	Definition	Example	Legal basis	Consent needed
Maintain	Routine upkeep to keep buildings in good condition and prevent deterioration, cleaning, repairs, replacements	• Clearing gutters • Repainting communal areas • Servicing lifts or door entry systems	• Tenements (Scotland) Act 2004, Schedule 2, 1.5 • TMS allows owners to make decisions about maintenance when title deeds are silent	• Majority (under TMS)
Repair	Fixing damage or restoring original condition	• Fixing a leaking roof • Replacing broken guttering • Repairing damaged	• Housing Scotland Act 2001 • Housing (Scotland) Act 2006, Section	• Majority (under TMS)

	Definition	Example	Legal basis	Consent needed
		stonework or windows	13 • Tenement (Scotland) Act 2004	
Improve	Enhancements or upgrades beyond original condition or standard.	• Installing double glazing where none existed	• Title deeds • Mutual agreement	• Usually unanimous. • Not enforceable unless all owners agree.

- 11.4 Title deeds to properties sold by the Council reserve a right of access to the Council at all reasonable times for inspecting, maintaining, repairing and renewing any adjoining Council property and the common parts, for all necessary purposes. Where the Council requires access to an adjoining property it will always provide owners reasonable notice when requesting access to their properties.

12. Planned maintenance

- 12.1 Planned maintenance is repairs and replacement which the Council is aware of and has planned for. Examples of common areas planned maintenance that can be carried out to communal areas include:
- painting closes;
 - external harling repairs and maintenance;
 - repairs and paint work to fencing.
- 12.2 Where the Council intends to carry out such planned maintenance, it will write and engage with the owner of properties included in the maintenance programme at the earliest opportunity and inform them of the proposed works and how much it will cost them. The cost provided to owners will include a ten per cent tolerance. If this is exceeded the Council will contact the owner and advise of updated costings.
- 12.3 The Council will apply the TMS, using the voting process set out at sections 10.7 – 10.9, to obtain the agreement from owners in the block before carrying out planned maintenance works.
- 12.4 Before repair and improvement works can proceed, the majority of owners within the block must agree with the works going ahead and to pay their equal share of costs.
- 12.5 Improvement works will only proceed, if all owners within the block agree with the works going ahead and to pay their equal share of costs.

13. Repairs

13.1 Where essential repair work is required, for example repairing a roof to prevent rainwater leaking, the Council will:

- write to all responsible property owners of properties inform them of:
 - their legal obligation;
 - details the proposed works;
 - the estimated cost;
 - an estimate of their share of the cost; and
 - a designated officer to contact.
- apply the TMS, using the voting process set out at sections 10.7 – 10.9, to obtain the agreement from owners in the block before carrying out the repair work.
- Complete the repair where the majority of owners agree to the works.

14. Emergency repairs

14.1 Emergency repairs are defined as those that:

- cannot wait for a scheme decision to be made;
- are required to prevent damage to the building; or
- are in the interests of health and safety.

14.2 Examples of an emergency repair include:

- a hole in the roof that is letting in a significant amount of water (could cause further damage to the building)
- loose stonework that might fall on a passer-by (a risk to health and safety)
- internal lights not working and leaving the stairwell in darkness

14.3 In the case of an emergency common repair, the Council has a duty to make the property safe where there is a safety risk to a tenant or member of the public or if there is a potential for further damage. The Council will deliver notification of the emergency repair to the owner and proceed to make the repair safe.

14.4 The Council will write to the owner informing them of the value of the common repair for which they are liable.

14.5 Certain emergency common repairs will also fall under the Right to Repair category. In this case the work will be carried out within the set timescales, however, the tenants and owners will be informed of their rights under the Right to Repair legislation and an appropriate repairs receipt included within the letter.

14.6 The Council will ensure that a robust and accountable audit trail of its actions is maintained to demonstrate that it has acted reasonably and that the emergency repair is justified to the owner(s) involved.

15. Improvements

15.1 In delivering its Housing Investment Plan, the Council may undertake renewal works that may not be immediately necessary but are considered beneficial in the long term due to the age or condition of the building components. The

approach to property maintenance, aims to minimise future repair costs for both the Council and individual owners. For example, the full re-roofing of a block or flats where no current issues are identified beyond age.

- 15.2 Title deeds do not normally impose conditions concerning the improvement of properties. Where common improvements may be required or proposed, the mutual consent of all responsible owners is required. The Council cannot enforce that an owner agrees to or meets the costs of an improvement.
- 15.3 If homeowners agree to the Council carrying out the improvement work, they will be recharged for their share by the Council. Homeowners may benefit from a reduction in cost (when compared to what they would pay had they arranged for the improvement), due to the economy of scale offered by the Housing Investment Plan delivered by the Council.
- 15.4 Prior to any planned improvement project that will involve owners, the Council will consult fully with owners providing them with an overview of the project, including estimated costs, tendering arrangements and proposed timescales.
- 15.5 Where an improvement project is proposed, a consultation meeting will be arranged between owners and the Council, irrespective of the anticipated cost. Where only a small number of owners are to be involved, this consultation will be completed by means of a visit. Every owner will be provided with the opportunity to discuss the proposals and design materials, etc.
- 15.6 The Council will only proceed with the improvement where it has obtained the written consent of every owner to proceed with the project and their agreement to pay their appropriate share of the cost of the improvement and any future maintenance of it.
- 15.7 The Council will advise owners of the decision outcome. Where an owner informs that they would agree to the improvement but that it will cause them financial hardship, the Council will provide them with information and advice regarding options available to them (see Section 17).
- 15.8 Where agreement is reached to proceed with the improvement work, the Council will ensure that it diligently updates owners with progress and notifies them of any changes that may occur.

16. Assistance for owners

Scheme of Assistance

- 16.1 Homeowners have responsibility for ensuring their homes are properly maintained. It is recognised that the main source of finance for common repairs must be a property owner's own savings or loans. The Housing (Scotland) Act 2006 provides broad discretionary powers for local authorities to provide assistance to owners who have difficulties in carrying out work required to ensure properties are kept in a reasonable state of repair. Assistance can

include practical help, advice and guidance. The role of the Council is to provide advice and assistance to help homeowners repair and maintain their properties.

- 16.2 Independent advice and further information is also available from the [Under One Roof website](#).

17. Recharging owners

- 17.1 Following the completion of the common repair, the owner shall be invoiced for their share of the costs. For repairs or maintenance works, this will be in accordance with the criteria stated in their title deeds or the share agreed in accordance with the TMS. In the instance of an improvement, owners will be informed of the amount prior to the commencement of any work. All costs will be subject to any relevant additional costs for VAT, admin on costs and legal costs.
- 17.2 In instances of smaller repair work, it is uneconomic to process individual payments under £100. For such minor repair work, owners will be invoiced either within 6 months from the repair being completed or when the cost of the repair amounts to £100. When the value of repair work is £100 or over, the owner will be recharged at the time the works are invoiced to the Moray Council.
- 17.3 The Council has standard terms for settlement of invoices. However, it recognises that, in some circumstances, owners may experience financial hardship if the full share of the costs of the repair/improvement must be paid immediately following completion of the works. Where owners advise that they will experience financial hardship, should the full cost of common repairs be paid immediately, the Council will discuss and may agree a reasonable and affordable repayment period with the owner. Where a repayment plan is agreed, owners will be required to sign the agreement confirming that they will comply with payments.
- 17.4 Where a repayment plan is agreed, the Council will register a Notice of Potential Liability for Costs against the title of the property owner. Although this will not prevent the property from being sold before the debt to the Council has been repaid, it is likely that a purchaser will insist on settlement of the outstanding amount to discharge the Notice, before proceeding with the purchase.
- 17.5 Legislative provisions apply should a property be put up for sale at the point that repair and maintenance work has been carried out but not yet paid for. A new owner will be jointly liable with the seller for the share of the costs allocated to the property but only where a notice of potential liability for costs has been registered in the property registers. Registration of the notice must occur at least 14 days before the new owner became owner. Where the Council is aware of such a situation, it will register a Notice of Potential Liability for Costs.
- 17.6 If an owner fails to settle an invoice or defaults on any agreed repayment instalment arrangement, recovery will be sought in accordance with the Moray

Council's Debt Management Policy and using relevant legal remedies available to the Council, for example an inhibition order.

18. Appeals

- 18.1 The Council's title deed style does not make any provision for arbitration. The Council shall adopt the policy that, where there is disagreement between the Council and an owner about repairs or maintenance of common parts and in particular the choice or cost of materials, contractors or the timing of works the matter shall be referred in the first instance to the Housing Asset Manager. Thereafter if the person is still not satisfied, they can write to the Service Manager Property, Estates and Assets stating the reason for their request.
- 18.2 When an owner is not satisfied with a decision that is taken in accordance with the TMS, for example if they did not vote for a decision or it was taken before they purchased a property, they can apply to the Sheriff Court to have it cancelled. The sheriff will only cancel a decision made by the majority of owners if it is not in the best interests of the owners as a group, or if it is unfair to one or more of them. Owners must apply to the court within 28 days of being informed of the decision. During that time, the decision cannot be implemented.

19. Monitoring

- 19.1 The Council will monitor the following:
- number of occasions on which the TMS scheme is used;
 - cost of common repairs;
 - repayment agreements reached with owners;
 - any actions such as Notice of Potential Liability for Costs or inhibition orders; and
 - the number of applications to the Sheriff Court to have scheme decisions set aside.

20. Policy review

- 20.1 The Common Repairs Policy will be reviewed in 2029, or earlier if required by legislative or statutory guidance changes.

Definitions

Balustrades	The railing system that encloses one or both sides of a staircase.
Capital Investment Programme	The programme through which the Council funds and organises major improvements and investment in its housing stock.
Common areas or parts	Parts of the tenement or block of flats that are not within the boundaries of individual flats but are owned jointly by two or more owners in the tenement or block.
Common repairs	Repairs to the common parts or areas of a building for which all the owners of the relevant common parts or areas are responsible
Missing shares	Term used to describe an amount which represents an owner's share for repair costs where that owner is unable or unwilling to pay their share or where that owner cannot be found. The amount paid will be recovered from the 'missing' owner by means of a payment plan or Repayment Charge
Repayment charge	If a local authority pays for common repairs when some owners fail to contribute, they can recover these costs through a repayment charge on the property. The local authority will then register the charge in the appropriate Land Register. The repayment charge has priority over all future burdens and debts secured on the house and, with some exceptions, existing burdens and debts. If the property is sold with the charge still in place, the new owner will become responsible for the debt.
Scheme Decision	A decision taken by the owners of a majority of the flats in a tenement or block of flats relating to repairs to the common parts.
Solum	The area of ground that lies inside the walls or foundations of a building.
Tenement	A tenement is a building comprising two or more related flats that are divided from one another horizontally. Large houses that have been converted into flats, high-rise blocks, four-in-a-block and modern apartment blocks are tenements.
Tenement Management Scheme	The Tenement Management Scheme is set out in the Tenement (Scotland) Act 2004 which the Council uses to manage common repairs in mixed-tenure flatted properties where property title deeds are silent or contain gaps.
Title Deed	A legal document, registered in the Register of Sasines or the Land Register, which states who owns a property and sets out the rights and obligations attaching to the property.

