

Mutual repairs and shared costs

**Carrying out
and paying
for common
repairs**



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Useful Contacts

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| Repairs Contact Centre | 01875 824311 |
| Gas Emergency Services | 0800 111 999 |

Privacy Notice

East Lothian Council is committed to processing data in accordance with its responsibilities under the General Data Protection Regulations (GDPR).

East Lothian Council will ensure that personal data passed to East Lothian Council approved contractors are adequate, relevant and limited to what is necessary in relation to carrying out works, ensuring information is held only for the duration of the works.

What is a mutual repair?

A mutual (or common) repair is carried out on an element of a building that is shared with other owners, such as; chimney and roof repairs, gutters, down pipes, fences or external roughcast.

The need for the repair must be agreed by other owners, and also recognised by the council. In most cases, the cost of the repair will be shared amongst the other owners. An owner who is unsure about their responsibilities in a shared or common repair should seek legal advice.

How it works

Before any repair work commences we will check the title deeds of the affected property for details of how shared costs should be apportioned. We will then attempt to contact the affected owner(s) to advise them of the nature of the work, health and safety issues, and any other information they might need.

Thereafter we provide an estimate of the cost of the work(s) from our preferred contractor(s) which owners can either accept or, subject to agreement, privately contract.

If no response is received within 28 days we will progress with the works and invoice the private owner(s) accordingly.

There are two options for dealing mutual repairs:

- **Tenements Management Scheme**
- **Private Contractors**

Tenements Management Scheme (TMS)

Where the council has the majority share of a shared block, or is likely to receive the consent of the majority of owners, then a TMS would be used. A TMS is a legally binding process which is specified under the Tenements (Scotland) Act 2004. A TMS gives all owners the opportunity to vote for, or against, the council's proposal. If a majority of owners agree, then the works will proceed after a 28 day period during which any owner has the opportunity to appeal to the courts.

Where a TMS is not suitable, then the owner has the option to get an estimated cost from contractors of their own choice, based on the same specification of works by the council.

Private Contractors

Contractors must have appropriate Employers & Public Liability Insurance compliant with all relevant statutory health and safety regulations. In cases of work involving gas, they must be a member of the Gas Safety Register. In cases of electrical work they must be registered with the National Inspection Council for Electrical Installation Contracting (NICEIC), Scotland's Electrical Trade Association (SELECT) or Electrical Contractors Association (ECA).

If the contractor does not comply with these conditions we will not accept the competitive estimate. In this case we would arrange for the work to be undertaken by East Lothian Council's preferred contractor. If the above conditions are met we will accept the lowest cost quotation. If no other quote is received or the council's preferred contractor quotation is lower we will seek the owner's agreement before work proceeds. The owner will be invoiced for their share of the work once it is complete.

Where the owner's contractor is to carry out the repair, a risk assessment must be carried out before the work starts and submitted to the council.

This should detail:

- **General description of the works and how they propose to undertake them.**
- **Details of time within which the work should be completed.**
- **Details of risks to health and safety of any person carrying out the work.**
- **Any other information considered relevant.**

Where the owner's contractor carries out the work, the council's share of the costs will be paid on production of a receipted copy of the invoice showing the owner has paid the complete cost of the works.

Owners undertaking work themselves

Owners wishing to carry out the work themselves will be considered on a case-by-case basis and must have the relevant public liability insurance or be a member of an appropriate body such as Gas Safe or for electrical work NICEIC or SELECT.

If eligible we will contribute our share of the cost of the materials only, up to a maximum relevant share of the costs of standard materials in the East Lothian Council Property Maintenance quotation. We shall not contribute towards labour costs or be liable for any claim or damage suffered because of such work.

If however the contractor does not comply with these conditions we will not accept the competitive estimate. In this case we would arrange for the work to be undertaken by East Lothian Council's preferred contractor. If the above conditions are met we will accept the lowest cost quotation. If no other quote is received or the council's preferred contractor quotation is lower we will seek the owners agreement before the work can proceed. The owner will be invoiced for their share of the work once it is complete.

Spreading the cost

We recognise that some owners may struggle to meet the significant costs of some mutual repairs. In such cases it may be possible for owners to come to a repayment arrangement. Owners can contact the our finance department on receipt of invoice to discuss this.

Emergency or preventative repairs

In cases of emergency, it will not always be possible to follow normal procedure. In such cases, the council will arrange to remedy any issues that poses a risk to health and safety or requires immediate repair to make a property 'wind and watertight'.

Unless a shared owner has reported the issue, we will attempt to contact them as soon as possible to obtain their agreement to carry out an emergency repair to ensure the safety of the property.

If it is not possible to contact the owner immediately we will carry out immediate and necessary repairs to make the property safe. Costs will be shared with all owners and invoiced accordingly.

In some cases it will be necessary to carry out work that may not immediately pose a risk to health and safety, but if no preventative action is taken it may lead to a potential emergency or significant damage to the structure or fabric (internal or external) of the building. For example, cleaning of blocked downpipes gutters, trip hazards arising from uneven slabs. In such cases the council will attempt to contact all shared owners within 14 days before proceeding with the necessary works. Costs will be subsequently shared between all parties and invoiced accordingly.

Once an emergency or preventative mutual repair has been completed, further contact will be made with the owners to arrange a more permanent repair in accordance with the Mutual Repairs and Shared Cost arrangements as described within this booklet.



Versions of this leaflet can be supplied in Braille, large print, audiotape or in your own language. Please phone Customer Services if you require assistance on 01620 827199

To make a comment, suggestion or complaint about a council service, download a feedback form online at **www.eastlothian.gov.uk** or pick one up at your local office.

Get in touch

Call 01875 824311

East Lothian Council
Property Maintenance
Penston House
Macmerry EH33 1EX

