



The challenge of repair in older buildings and shared responsibilities

Mike Heffron
Chief Executive
Under One Roof





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and shared responsibilities**

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Under One Roof

Scotland's only charity providing free,
impartial information on repairs,
maintenance, and retrofit for tenement flat
owner-occupiers, landlords, and housing
professionals in Scotland

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Definition of a Tenement Flat

Section 26 of Tenements (Scotland) Act 2004

'a building or part of a building which comprises two or more related flats, at least two of which are designed to be in separate ownership; and are divided from each other horizontally'

895,000 properties legally defined as tenement flats



Scottish Housing Condition Survey 2024

Key Findings

- 48% of all properties had disrepair to **critical elements**, up from 45% in 2023 (roofs, walls, windows, and external doors)
- 28% of dwellings fell below the Tolerable Standard, a similar proportion to 2023
- Scottish Housing Quality Standard failure rate in the private sector was 58%
- Masonry and fabric falling from buildings can cause danger to life – at least 2000 incidents recorded by local authorities in 2025



Owners' Failure to Tackle Repairs

- Unaware of owners' responsibilities for building repair, maintenance, insurance
- Confusion over rules in titles and legislation
- Difficulty making and enforcing collective decisions
- Unclear on role of factors in maintaining building
- Limited financial resources to pay for works
- Lack of independent, affordable expertise



Issues with Mixed-Tenure Buildings

Majority social housing

- Refusal to engage with social landlord (owners upset with factoring service, absentee landlords)
- Private owners unable to afford repairs (costs can run higher than value of the flat)
- Former right-to-buy flats may have different burdens than other flats in building

Minority social housing – same as above, and ...

- Lack of resources to fully engage in trying to form owners' association
- Mix of different RSLs/councils owning one or two properties leads to lack of co-ordination
- Difficulty serving needs of social housing tenants when issue relates to common areas of tenement

Relevant Legislation

Titles include rules for the management and maintenance of the building

- Which parts of the building are commonly owned
- Owner's rights and responsibilities for common areas
- What elements are classified as mutual responsibilities
- How to make decisions regarding maintenance and divide costs

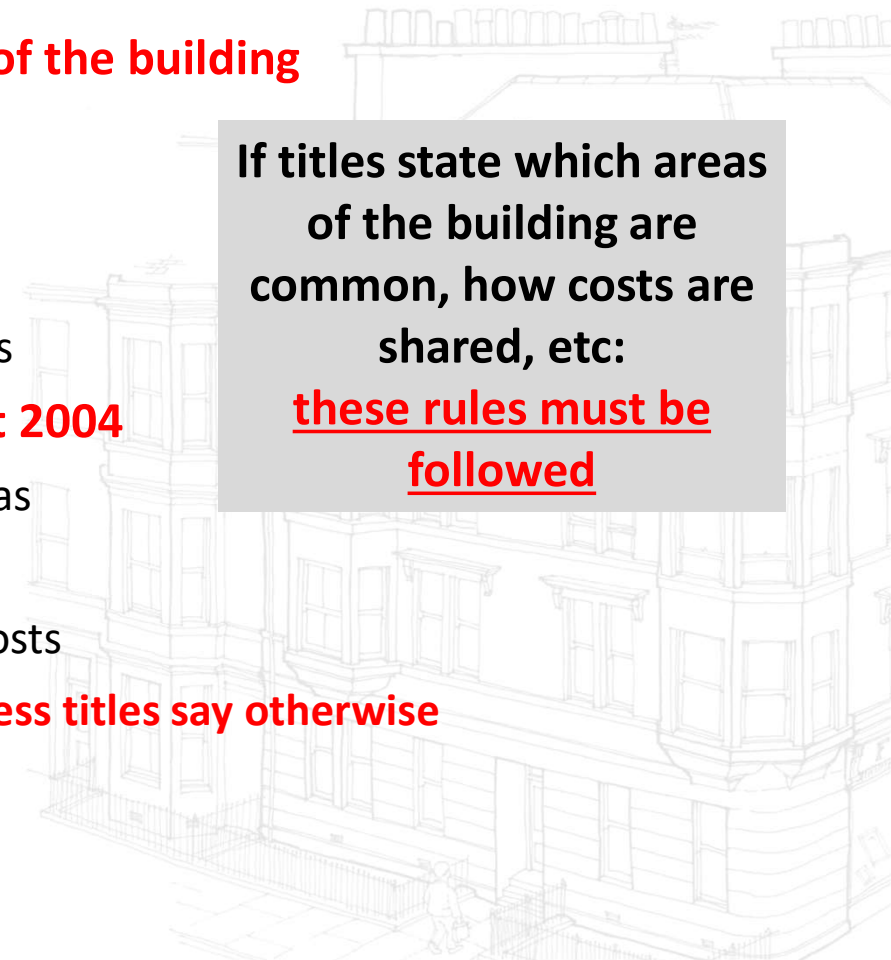
Tenement Management Scheme (Tenements (Scotland) Act 2004

- Default position if titles are silent or unworkable in certain areas
- Lists the parts of the tenement every owner should maintain
- How to come to agreements about maintenance and shared costs
- The 2004 Act states the roof is now a shared responsibility **unless titles say otherwise**

Development Management Scheme

- Legislation used in modern residential developments

If titles state which areas of the building are common, how costs are shared, etc:
these rules must be followed



Decision-making

Tracing owners and landlords

- **Owners – Registers of Scotland** – www.ros.gov.uk
- **Private landlords** – Local Authority or Scottish Landlord Register – www.landlordregistrationsscotland.gov.uk
- **Empty homes** – Local Authority or Scottish Empty Homes Partnership – www.emptyhomespartnership.scot
- **Shop owners** – www.saa.gov.uk

Proper procedures

- Arrange a meeting giving at least 48 hours notice
- Written records – purpose, agenda, minutes and decisions
- Decision agreed, all owners must be informed in writing
- Supporting documentation (photos, quotes from contractors)
- Owners told of next steps in the maintenance process
- **Owners can appeal decisions if these procedures are not followed**

Voting rules

- One vote per flat
- Owner **can** nominate another person to vote on their behalf
- A properly made decision is binding on all owners, and their successors, even if they did not agree
- Majority decision required to progress with maintenance plans **unless titles state otherwise**
- A tied decision (e.g. 4 out of 8 owners agreeing) is not a majority decision

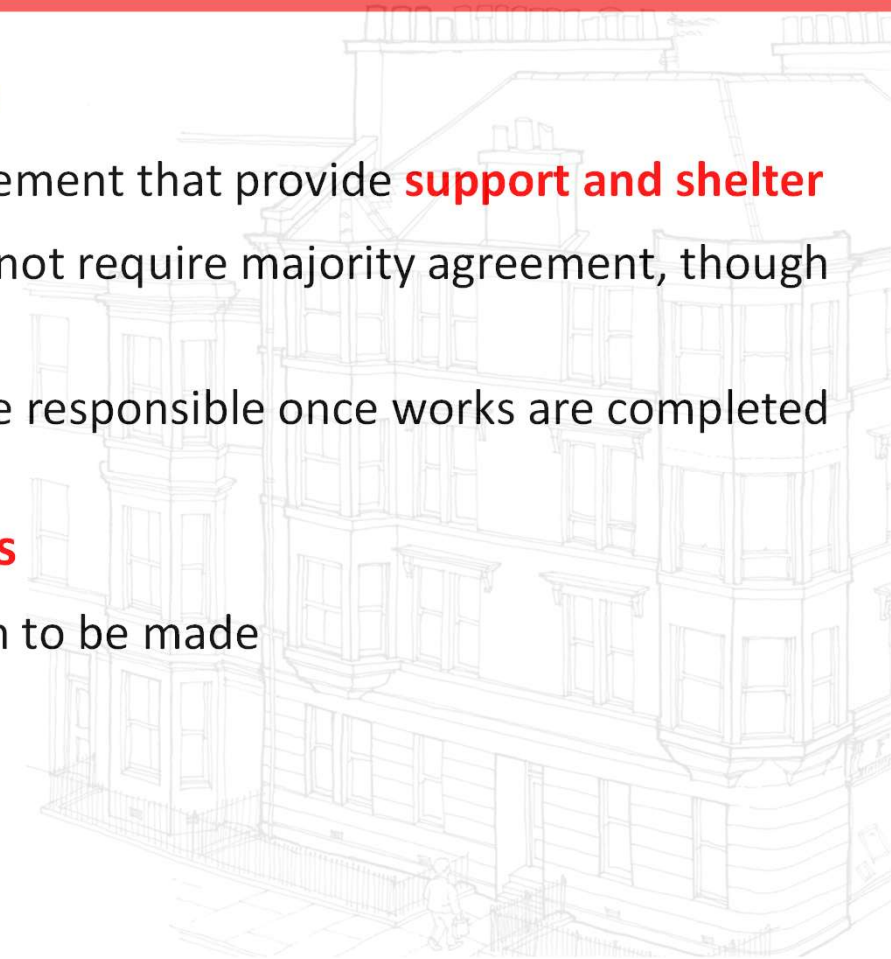
Legal Duties and Emergencies

Duty to Maintain

- Every owner has a duty to maintain the parts of the tenement that provide **support and shelter**
- This duty can be enforced by affected owners and does not require majority agreement, though this should be sought wherever possible
- No obligation on other owners to pay upfront but can be responsible once works are completed

Emergency Repairs

- Repairs which cannot wait for a group (scheme) decision to be made
- Are required to prevent damage to building
- Are in interests of health and safety



Paying for Repairs

Payment options

- Savings – (consider joining credit union)
- Borrowing – commercial loan or equity release (always take financial advice)
- Joint maintenance account
- Building Reserve Fund

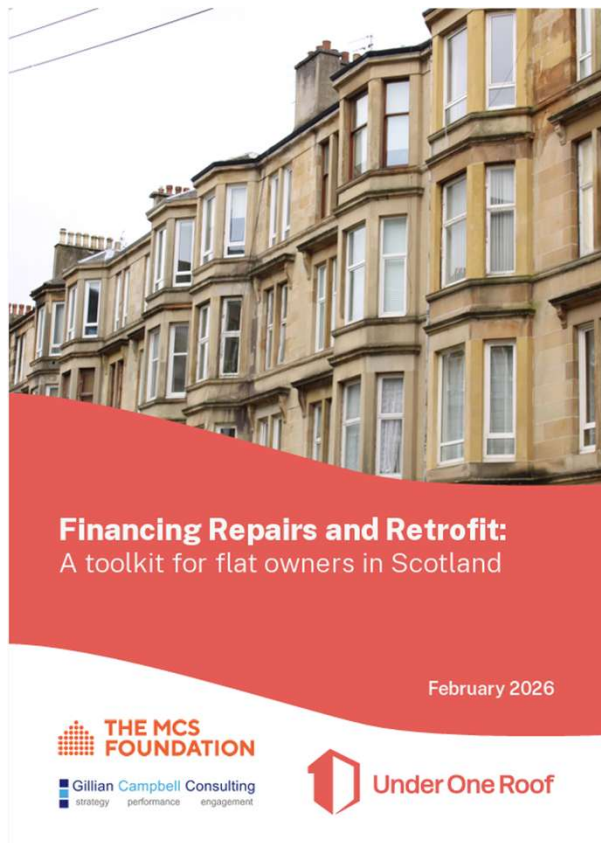
Owner unable to pay

- Contact Citizens Advice and/or Money Advice Centre for financial advice and support

Owner refuses to pay

- Instruct repair, settle bill, and invoice owner
- Raise legal action in the Sheriff Court to recover payment from the owner:
 - **Simple Procedure** – claim below £5000 (cost £22 if less than £300; £123 if over £300)
 - **Ordinary Cause Procedure** – if payments exceed £5000 (usually requires solicitor)
- Split the bill between the owners willing to pay – (i.e. divide by seven rather than eight)
- Notice of Potential Liability
- Missing shares schemes

Financing Repairs and Retrofit



Download the free toolkit



Legislative Reform

Tenement Maintenance Working Group

Proposals sent by cross-party MSPs and sector to Scottish Government in 2019 focused on:

- Owners' associations
- Building reserve funds
- Five-yearly inspections

Manifestos of four parties represented in Parliament committed to tenement law reform

Positive signs new Government is considering reform in this parliament



How can Under One Roof help?

A book's worth of information on the website, including:

- Repair Checker tool to ID and tackle specific issues
- guides to forming owners' associations
- drawings and explanations of building features
- access to the 'Ask the Expert' enquiry service
- schedule of upcoming free webinars and events
- legislative updates on tenement law reform
- information on retrofitting your flat/building

Watch recordings of webinars on insurance, retrofit, factors, and more on the Under One Roof YouTube channel



www.underoneroof.scot

info@underoneroof.scot