

about your

Statutory notice

an advisory guide



有關我的法定通知書

আমার 'স্ট্যাটিউটরি নোটিশ' (সরকারী বিজ্ঞপ্তি) সম্বন্ধে

حول إشعاري القانوني

میرے قانونی نوٹس کے متعلق

ABOUT YOUR STATUTORY NOTICE

As a property owner it is in your best interests to keep your building in a good state of repair. Your building is a valuable asset, which if not repaired, will gradually deteriorate during the course of time, as it is exposed to all types of weather and city pollution.

This process is very slow and may not be noticeable. Often parts of buildings are shared by others who may notice deterioration in the building but, for a variety of reasons, find it difficult to reach agreement to have repairs done at mutual cost.



Failure to repair the building may turn a simple and relatively inexpensive job into a very costly one. This possibility can be very worrying for you or your co-owners.

A Statutory Notice issued by the City of Edinburgh Council is a means of alerting and informing owners that a problem has been identified relating to their building and that action is required of them to carry out repairs.

NB: Statutory Notices are served under the terms of the City of Edinburgh District Council Order Confirmation Act 1991.

WHAT TYPE OF WORK IS COVERED BY A STATUTORY NOTICE?

The most common problems which may require a Statutory Notice to be served are:

- Leaking roofs
- Blocked/defective rainwater pipes and gutters
- Blocked/defective soil/waste pipework
- Defective masonry to outside walls of the building
- Defective chimney stacks
- Eradication of wet/dry rot within the building
- Defective boundary walls, railings and fencing
- Defective common stair treads/stair balustrading and glazed cupolas
- Defective plaster work within common stairwell
- Defective communal door entry phone systems

WHY HAVE I BEEN SENT THIS NOTICE? I AM NOT AFFECTED BY THE WORKS!

As well as owning your flat, you have a legal common interest in the tenement/property as a whole. For example, if a defect is discovered in the roof or outside walls all the owners of the "Building" are sent a copy of the Notice in accordance with the terms of the Act. This also applies to wet/dry rot attacks within individual parts of the building. Where a defect is in a mutual part of the fabric of adjacent buildings a Notice may be served on both buildings. It is important to note that a Statutory Notice is enforced by the Council under the Act and does not take into account what individual titles state.

APPEALING AGAINST THE NOTICE

You can appeal against a notice, but only within a 14 day period after the serving of the Notice. An appeal would be on the grounds of liability or the extent of the works as stated in the Notice.

NB: You can not appeal against emergency works.

Appeals should be made to the Sheriff Clerk's Office at 27 Chambers Street, Edinburgh, EH1 1LB. In the event of an appeal we recommend that you obtain legal advice from your solicitor.

If you do not have a solicitor and you are unsure what to do next, the Citizens Advice Bureau will advise on 0131 557 1500.

Can I appeal against the need for the works or my liability after authorisation has been granted for the Council to carry out the works?

No, the legislation is quite clear that if you have not appealed the original Notice within 14 days of it being served, you have no right to appeal at a later date.

NB: You can not appeal against emergency works.

ASKING THE COUNCIL FOR ASSISTANCE

If a problem has been identified with your building, you should firstly attempt to contact your co-owners. If they share responsibility for upkeep of the property, you should try to discuss and agree how repairs can be carried out (see Homeworks leaflet 'Organising Common Repairs'). If agreement cannot be reached, you may ask for assistance from the Council in the form of a Statutory Notice. A Notice may be served regarding fabric of the building where, in the opinion of the Council, a defect or defects can be identified.

A Conservation Officer from the Council will visit the property at the request of an owner and may serve a Statutory Notice to all affected owners bringing to their attention the defects. The Statutory Notice will allow you up to 28 days to commence the carrying out of the necessary works. The only exception is in the case of an Emergency Notice. (Please refer to Emergency Repairs on page 5.)

CONTACTING YOUR CO-OWNERS

You are recommended to arrange a stair meeting with those co-owners who share responsibility for upkeep of the property, and invite estimates from at least three reputable contactors. If you need to find out who the other owners are this information may be obtained from Registers of Scotland (for address see end of this leaflet) for which a charge will be made.

If you are unsure how to proceed, you should consider the appointment of an Architect, Surveyor, Engineer or other person of skill to advise you. That professional should be made responsible for ensuring that works called

for in the Notice have been satisfactorily completed.

You are advised to set up a joint account for all the owners, to enable everyone to pay monies in to a central fund. This fund will ensure your contractor (and any Consultant appointed) is paid on time. It is normal for the contractor to be paid in monthly instalments when the project's duration is in excess of 4-5 weeks. It is important that all owners agree in writing to accept the contractor's estimate prior to him carrying out any works, a quote should not be agreed until all the owners agree. If the estimate is accepted by only one or two individual

owners, and the remaining owners refuse or are unable to pay their share, then the accepting owners may find that they are liable for the full amount. A signed mandate from all the owners in terms of agreement to pay is recommended and this written agreement should be put in place prior to arranging any works.

For further help and advice for homeowners, please contact the Homeworks department on 0131 529 7240.

IF AGREEMENT CANNOT BE REACHED

If you are unable to arrange for the necessary repair works to be carried out between your co-owners, it is important that you write to the Property Conservation Section advising that agreement has not been reached and requesting that the Department take over the organisation of the repair works. This will then trigger the enforcement stage of the statutory process.

The Department must apply for authority to carry out the repairs and your case will be presented at the next available Repairs Panel. The Repairs Panel meets every fortnight to consider individual cases and to make recommendations. A letter will be sent informing owners that because of their inability to carry out the works, works will be executed under delegated authority by the Council. Owners will have the ability to be heard by the Regulatory Committee if they are aggrieved at the decision to carry out the works and will be directed to the Council Secretary to lodge their objection in writing within a 14 day period of being notified of the Council's intent.

If you require your case to be heard by the Regulatory Committee, please write to The Council Secretary, City Chambers, High Street, Edinburgh, EH1 1YJ within 14 days giving the Statutory Notice reference and as much detail as possible concerning your grievance. For guidance, in the past, the Committee has taken the view that the following types of issue are not relevant and will not be taken into consideration; individual liabilities, concerns about payment of bills, the necessity for the work, the content of the Notice, the costs of the works, the duration of the works, whether any grants are available, appeals against service of the original Notice, input into selection of contractors, works previously carried out, security concerns, stair lighting, stair cleaning and painting, and private disputes between owners. The Council Secretary will let you know the arrangements for the meeting at which your case will be considered.

HOW THE WORK IS CARRIED OUT

14 days after the Repairs Panel has given the decision that the Council will carry out the works in default of the owners, the case will be allocated to a Property Conservation Officer to administer the contract.

An officer will survey the property and confirm the scope of the work as outlined in the Statutory Notice and a contractor will be appointed to carry out the works. All of our Contractors have been through a vetting procedure and best value audit; we also monitor their performance.

EMERGENCY REPAIRS/WORKS

Emergency repairs/works may be carried out in exceptional circumstances. The Council is the sole judge of whether an emergency repair is appropriate. Emergency repairs will normally only be carried out in exceptional circumstances where danger or risk of injury is a concern or public health is compromised. In this instance the Council will take immediate action and will issue the Notice in retrospect.

WHY HAVE I GOT A NOTICE/BILL FOR AN EMERGENCY REPAIR WHICH I KNOW NOTHING ABOUT?

One of your neighbours may have had a problem or the Council may have been notified to inspect the building. The Council can take immediate action to remove any danger to public health. This could involve unblocking drains, stopping falling debris or preventing immediate damage to the fabric of a building. In these cases we are not required, nor would it be practical, to notify owners before removing the danger. An Emergency Notice and bill will be sent out as soon as possible after action has been taken.

In the case of a drain blockage the Council will clear the blockage problem at that time, but is not responsible for further blockages and cannot guarantee a trouble-free system.

NB: The Council is not responsible for any drains (except within Council property). Drains in the street and main sewers are maintained by Scottish Water, all other drains are owned privately by the owners of the 'building' which they serve.

**Scottish Water contact details;
Customer Service Helpline –
0845 601 8855 or
Emergency Helpline –
0845 600 8855**

In the case of repeated drain blockages the Council may authorise a special camera survey of the drainage (at owner's cost). Clearance of simple blockages by jetting will usually incur a standard charge from all owners.

HAS EVERY OWNER IN THE PROPERTY BEEN SENT A NOTICE?

The Council is required under the legislation 'as far as reasonably practicable' to serve the Notice upon all owners. It is sometimes difficult to trace the current owner as they are not required to inform the Council when buying or selling property. The Council will use current records at its disposal when serving the Notice. For this reason Notices may be addressed to owner/occupier. Often updated ownership information is supplied by tenants or neighbours – we are always grateful for any help!

NB: Once work is complete, accounts are sent out and monies recovered by the Finance Department, whose responsibility it is to trace all persons liable for payment, you will not be asked by the Council to pay any more than your equal share.



WHAT TO DO IF YOU HAVE A COMPLAINT

If something happens during the works that you are unhappy about, please contact the officer who is handling the contract either by phone, letter or e-mail in the first instance. Your complaint will be investigated by the officer involved or by a senior member of staff if necessary.

If you do not want to contact the department directly you can contact the Customer Care Unit on 0131 529 4295.

After you have gone through our complaint process, if you are still not happy, you have the right to take your complaint to the Scottish Public Services Ombudsman.

**The Ombudsman is at
4 Melville Street,
Edinburgh, EH3 7NS.
Phone 0800 377 7330 or
e-mail ask@spso.org.uk
web www.spso.org.uk**

Generally, if you want to do this, you must contact the Ombudsman within one year.

OWNERS' RESPONSIBILITIES

Unfortunately where works are being carried out, owners' property will resemble a building site with noise and dust, this cannot be avoided but all measures will be taken by the contractor to ensure this is reduced to a minimum. Owners have a responsibility to ensure that any items of value are removed from the site prior to the works commencing. The Council will not be liable for any damage to owners' property due to scaffolding or workmen on site. All the necessary precautions should be taken by owners to remove anything of value from garden areas etc which may include temporarily removing plants.

If owners require access to any of the equipment used by the contractor, for example scaffolding perhaps to clean windows, then this must be organised with the contractor, you must not access the scaffold without contacting the contractor beforehand.

Owners are advised to notify their insurance company where a scaffolding is erected for long periods, where there may be higher than normal security risks.

GUARANTEES FOR WORKS

Yes, all works (except emergency drainage works and emergency temporary repairs) are guaranteed by the Council's Contractors for two years from the date of completion of the works. Renewal of entire flat roof coverings (ie 3-layer felt proprietary system) is guaranteed for 20 years. This guarantee covers both materials and workmanship.

The eradication of wet/dry rot is guaranteed for 20 years. This guarantee covers the area of work carried out by the specialist contractor. The guarantee is only valid however if the treatment area is properly maintained to prevent future water ingress to the treated area.

The Council keeps the original flat roof and rot eradication guarantees on file for future reference. The guarantee is on the property and is not assigned to individual owners; therefore if there is any change of owners, this does not affect the guarantee.

Copies of the above guarantees can be obtained by contacting the Property Conservation Section of the Council. (Please refer to contact point section on the back of this leaflet).

"It should be noted that the Council has full control of the work and individual owners will not have the opportunity to influence the works."

HOW MUCH WILL IT COST?

When a tender or estimate is accepted from the approved contractor you will be advised by Property Conservation Staff by letter (excluding emergency works/above ground drainage contracts). This letter will detail the name and address of the successful contractor, tender/estimated amount including your individual share of the works, proposed start date and estimated duration of the works. This is not a fixed price and will be subject to adjustment by measurement at the completion of the works.

In addition the letter will provide contact details for both the contractor and the Council Conservation Officer dealing with the project.

A Conservation Officer/Clerk of Works from the Council will visit the property as necessary

to ensure the work is being carried out in accordance with the approved specifications and conditions of contract. It should be noted that the Council has full control of the work and individual owners will not have the opportunity to influence the works.

Owners should be aware that due to the age and location of the buildings it is not always possible to gain close access without erecting a scaffold to carry out an initial survey, consequently if, during the course of the works stated, additional work is found to be necessary, owners will be informed. Smaller contracts are remeasured using rates from competitive, tendered schedules of rates. Larger contracts may be competitively tendered.

HOW IS THE MONEY RECOVERED?

When the Council is satisfied that the work has been satisfactorily completed, the costs will be apportioned amongst the owners **on an equal share basis** according to the number of individual premises within the building. This method of recovery by the Council is stated within the Act of Parliament under which the Notice is served. The Council **does not apportion costs amongst the owners according to title deeds**, unless a signed mandate from all of the owners agreeing to this method of apportioning the costs is received.

The Courts have decided that the provisions of title deeds are binding only among the owners of the building and are not binding on a third party, such as The City of Edinburgh Council. The Council is therefore not obliged to consider provision in the title deeds regarding liabilities among proprietors for mutual costs. The legislation is quite specific in that "Every owner of every such part of such building shall be liable in equal shares to the Council..."

(City of Edinburgh District Council Order Confirmation Act 1991)

The Council adds an administration charge of 15% to the final invoice from the Contractor, this level of charge was set by the Council on 10 April 1996. This charge is to recover costs the Council incurs in serving the Statutory Notice, surveying the property including preparation of tender documents, supervising the works on site, checking and agreeing the contractor's final invoice, funding the works until final recovery from the owners.

NB: The Council is also responsible for pursuing final payment from the individual owners. Please note that VAT is only applicable to the administration charge and is not added to the contractor's invoice for carrying out the works. Revenue and Customs have confirmed that construction costs are VAT exempt when the Council carries out work in default of the owners. (I.e. Enforcement Works).

WHY AM I BEING HELD LIABLE FOR REPAIRS CARRIED OUT BEFORE I BOUGHT THE PROPERTY?

When recovering the cost of works, the Council will hold the owner in possession of the property at the date the bill is issued as liable including owners under the right to buy scheme.

This principle has been established by the courts because it can take a considerable time after the service of the original Notice to complete the work. Individual properties may have new owners by the time the Statutory Notice work has been completed and charged out.

NB: Your solicitor, when dealing with the purchase of your property, should have checked and made you aware of any outstanding Statutory Notices. If you are selling property it is usual to reach an agreement to pay, or for a retention to be held against future bills, if a Notice is outstanding.

If you are at all concerned you should contact your solicitor for advice.

HOW AND WHEN DO I PAY THE ACCOUNT?

An invoice for payment based on the agreed final account will be sent out to the individual owners after completion of the works.

If you think you may have difficulty paying, please contact the Finance Department as soon as possible to discuss methods of payment. (Please refer to contact point section on the back of this leaflet)

The notice will remain on the building until all accounts have been paid by all individual owners.

The Homeworks department of the Council can give advice and also have a Scheme of Assistance available when the share per flat is likely to be more than £5000. For details contact Homeworks on 0131 529 7240.

GRANT ASSISTANCE

This will depend on the policy of the Government at the time. The Council has no funds available for general repairs to private property.

If however your property is within the World Heritage Site (including the Old Town and New Town Conservation Areas) you may be eligible for a loan. Please contact Edinburgh World Heritage Trust on 0131 220 1120 or if your property is outside the Edinburgh World Heritage area please contact Historic Scotland on 0131 668 8801.

BUYING OR SELLING A PROPERTY

The Council provides a Property Enquiry Certificate (for a fee) detailing the existence of Statutory and other Notices. As a buyer it is in your best interest to establish if a Notice is outstanding on a particular property and your solicitor should advise you accordingly.



WHERE CAN I GET MORE HELP OR INFORMATION?

If you have received a Statutory Notice or think you may need to request one contact:

Property Conservation
The City Of Edinburgh Council
329 High Street
Edinburgh EH1 1PN
Tel 0131 529 4902/4632/4594

For information about paying for repairs

Finance Department
(Service Accounts)
The City of Edinburgh Council
Chesser House
500 Gorgie Road
PO box 12332
Edinburgh EH11 3YE
Tel 0131 469 5205

For information about improving, repairing and maintaining your property:

Homeworks
The City of Edinburgh Council
4 Queen Street
Edinburgh EH2 1JE
Tel 0131 529 7240
www.edinburgh.gov.uk/homeworks

For information about buildings of special architectural or historical interest

City Development
(Planning and Strategy)
The City of Edinburgh Council
1 Cockburn Street
Edinburgh EH1 1ZJ
Tel 0131 529 4403

For information on grant assistance

Edinburgh World Heritage Trust
5 Charlotte Square
Edinburgh EH2 4DR
Tel 0131 220 7720
Email info@ewht.org.uk
www.ewht.org.uk

Historic Scotland
Longmore House,
Salisbury Place,
Edinburgh EH9 1SH
Tel 0131 668 8600
www.historic-scotland.gov.uk

For contact details of Surveyors or Architects

Royal Institution of Chartered Surveyors
9 Manor Place
Edinburgh EH3 7DN
Tel 0131 225 7078
www.rics.org

RIBA Headquarters

Royal Institute of British Architects
66 Portland Place
London W1B 1AD

For information on ownership details

Registers of Scotland
Customer Service Centre
Erskine House
68 Queen Street
Edinburgh EH2 4NF
Tel 0845 607 0161
www.ros.gov.uk

homeworks

help and advice for homeowners in Edinburgh

Homeworks is a Council service offering a range of impartial advice and practical assistance to homeowners on improving, repairing or maintaining their property.

Homeworks

The City of Edinburgh Council
4 Queen Street
Edinburgh EH2 1JE
TEL NO 0131 529 7240

www.edinburgh.gov.uk/homeworks

Property Conservation

Property Conservation helps property owners to carry out repairs to keep their building in a safe condition.

Property Conservation

The City of Edinburgh Council
329 High Street
Edinburgh EH1 1PN
TEL NO 0131 529 4902

You can get this document on tape, in Braille, large print and various computer formats if you ask us. Please contact ITS on 0131 242 8181 and quote reference number 06189. ITS can also give information on community language translations. You can get more copies of this document by calling 0131 529 4902.

法定通知書的建議性指引詳盡介紹有關文件的法律含義，並告訴業主在收到法定通知書後應該怎樣做。欲查詢本文件的翻譯資料，請致電愛丁堡市議會傳譯及翻譯服務部 (ITS)，電話 0131 242 8181 並說明檔案編號 06189。

یہ قانونی نوٹس کے متعلق بطور صلاح ایک ہائڈ ہے جس میں ان کے قانونی نتائج اور اس بات کی تفصیل دی ہوئی ہے کہ مکان مالکان کو ایسا نوٹس ملنے پر کیا کرنا چاہیے۔ اس دستاویز کا اپنی کیونٹی زبان میں ترجمہ کرانے کے لیے ہر ماہی انٹر پرائیٹن اینڈ ٹرانسلیٹن سروسز (ITS) کو اس نمبر پر 0131 242 8181 کو اس نمبر پر 0131 242 8181 اور اس نمبر کا حوالہ دیں۔

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