



Missing Share Service Factsheet

Our Missing Shares Service is there to help flat owners who are having problems getting other owners to pay their share of repair costs to common areas of a tenement or block of flats. This can hold up much needed repairs. Depending on the circumstances, the Council can choose to pay a missing share on behalf of an owner and recover the contribution. This means that owners can get on with their repairs.

This fact sheet guides you on:

- **What's a missing share**
- **How our Missing Share Service works**
- **When you can apply for a missing share**
- **How to apply for a missing share**

What is a missing share?

- Where an owner is not able to fund their share of the cost of common works being carried out to their property, the Housing (Scotland) Act 2006 allows the Council to consider paying a 'missing share'.
- Payment is at the Council's discretion and will be subject to criteria including the extent and scale of disrepair and available resources.
- Missing shares are only paid for common repairs i.e. where title deeds show that the owners of two or more properties are responsible for repairs to the common parts of the block e.g. four in a block of flats or tenement flats.
- A majority of owners must agree to the work being carried out and must show that certain procedures for agreeing to and paying for works have been followed before an application for a 'missing share' can be submitted to the Council.

What does the Missing Share Service do?

The service deals with all applications and payments for the Council's missing share payments. The Council can consider payment of a missing share where:

- an owner is unable to pay in the funds or it is unreasonable to ask them to do so
- an owner cannot be identified or found, by reasonable inquiry or
- an owner is unwilling to pay.



What are the conditions for applying for a missing share payment?

It is important that owners can show that they have followed a set of procedures before the Council will consider their application.

Owners will need to:

- show that the maintenance being carried out is reasonable
- show that each owner is being asked to pay their correct share of the costs
- show that written notice requesting payment has been provided to each owner, where they are traceable
- open a 'maintenance account', that is, a bank account set up to hold owners' funds which are used to pay for any common repair and maintenance costs. The maintenance account should be interest bearing. The account should be set up by either the property manager (factor) or at least two other people to authorise transactions on behalf of the other owners. The account provided to you through the Novoville Shared Repairs app can be used for the purposes of gathering funds from owners and a missing share from the council.
- nominate a person (once the maintenance account is open) to write to all the owners advising them that they have to deposit their share of the cost of work into the maintenance account. This process is referred to as serving a **section 50 notice (s50)**. See more information for other owners below.
- show that an owner hasn't paid their share of repair costs into the maintenance account by the final date for owners to make payment into the maintenance account.
- show that a Scheme decision taken has been notified to all owners.

What to include in your written notice to owners

As mentioned above, the Council can only consider an application for a missing share if it is satisfied that all owners have been provided with a **section 50 notice**. This is a written notice setting out the following information:

- the maintenance which is needed
- when the works are to be started and finished
- when the maintenance was required and/or agreed (including the names of those who agreed it)
- an estimated cost of the work and why this is considered reasonable
- what the full share of the costs are for each owner, with an explanation of how this amount is reached
- evidence of the maintenance account, including details of where it is held
- the last date for owners to pay their share into the maintenance account

An owner or person nominated by the owners must prepare and issue their S50 notice. Try using our Section 50 template to help you prepare yours. The Council cannot carry out this step for owners.



How to apply for a missing share

- Ask for a **Missing Share Application Form** from Edinburgh Shared Repairs Service (see contact details below). Your nominated person should do this.
- Complete the **Missing Share Application Form**, including a copy of each request for payment sent to the owners.
- We will also ask for evidence that the notices have been served on the owners. Return the form and any additional documents to us.
- You will also need to provide a bank statement from the maintenance account showing which owners have made payment into the account and the balance sitting in the account. The Council will only consider an application for missing shares where at least 51% of owners have paid their share of the costs into the maintenance account.
- The Missing Shares Service enables private property owners to undertake works privately therefore applications may not be considered if repair works have already started.
- Please note the minimum share which can be applied for is £500/share and the maximum is £20,000/share.

What happens after you apply?

- Once we receive a missing share application, we will contact any owner who has not paid into the account.
- Owners who have not paid may be asked to provide details of their financial situation before the Council will make a decision on whether to contribute a missing share or not.
- Owners who have not paid will also be advised of how the Council recovers the missing share along with interest and fees that apply.
- If a missing share has to be paid on a property owned by a landlord their status as a fit and proper landlord may be affected.

How do we recover the missing share?

- If the Council chooses to pay a missing share on behalf of an owner the contribution made will be recovered through the Council's debt policy and may result in an inhibition being placed on the title of the property owned by the non-paying owner.
- Any fees incurred by the Council in the process will be recharged and interest may apply.



- The inhibition will remain on the property title and the debt will be recovered on resale or transfer of the property if this is not paid by the owner in full before then.

What if we can't pay a missing share?

- There is no obligation for the Council to pay a missing share and we will only consider applications for missing shares subject to resources and Council priorities.
- If the Council does not contribute a missing share, owners may still want to progress with works by covering the missing share between them and recovering their contribution from the owner.
- Owners can get further advice on how to do this from their local **Citizens Advice Bureau**, or their solicitor.
- Citizens Advice Bureau or a solicitor will also be able to provide more advice on:
 - how to complete the process of issuing a section 50 notice and applying to the Council for any missing share
 - how costs should be split between owners according to the title deeds
 - options such as serving a notice of potential liability, if appropriate, for recovering shares from non-paying owners

Useful Contacts and Resources

Find out more about a **section 50 notice** - www.underoneroof.scot

Download our **section 50 notice** template from **Edinburgh Shared Repairs** - www.edinburgh.gov.uk/sharedrepairs

Call our helpline on **0131 529 6778** or go online www.edinburgh.gov.uk/sharedrepairs for a **Missing Share Application Form**

Get further advice on recovering missing shares - **Citizens Advice Bureau** www.citizensadvice.org.uk

Find a Scottish lawyer - **Law Society of Scotland** www.lawscot.org

Contact Edinburgh Shared Repairs Service for free information and advice to help you get your shared repairs organised. Call **0131 529 6778** or go online - www.edinburgh.gov.uk/sharedrepairs