



Housing Services 2011



PRIVATE SECTOR HOUSING



A GUIDE TO SETTING UP AND RUNNING AN OWNERS' ASSOCIATION



*Realising the potential of communities by
ensuring that people have access to
affordable, sufficient & suitable housing
in Argyll & Bute*

This leaflet gives you informed advice to set up and run an owners' association, to provide the framework for communication and provide a mutually advantageous approach to upkeep, maintenance and repairs.

Working with owners to establish the framework for common repairs and maintenance to be planned effectively forms a key part of Argyll & Bute Council's strategy for private sector housing.

The Housing (Scotland) Act 2006 means previously available grants to help fund common repairs are more limited and this is likely to remain the case for the foreseeable future. The present local government financial situation may lead to further restrictions or reduction in grant availability.

This guide looks at the reasons for setting up an owners' association, how an association can be set up and how it can be run effectively. It also provides an example constitution that owners can use as a template for developing their own constitution.

Private housing has always been the responsibility of private owners, but now more than ever owners of flats will have to co-operate with their neighbours as the only way to achieve maintenance and repair results.

Well maintained buildings provide a better quality of home and keep their value better than those in disrepair.

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INTRODUCTION

What is an owners' association?

An owners' association is simply a group of homeowners in a tenement who have decided to work together to tackle issues of shared concern, such as common repairs.

In Scotland, owners' associations are frequently found in new developments where they help flat owners make decisions on common repairs, maintenance issues and which property manager to employ. Research has shown that where owners associations do exist, owners are more satisfied with the way their blocks of flats are managed.

Improving tenement living

30% of Argyll & Bute households live in tenements or other flatted property and approximately 10% of those flats fail the tolerable standard for housing. A key objective of the Council's private housing strategy is to improve the management of common repairs and maintenance in blocks of flats. The strategy views owners associations as an integral part of this approach.

Why do you need an owners association?

If you live in a flat or a tenement, and you own your property, you have a shared responsibility to maintain and repair the common parts of the building. However, organising repairs and getting people to pay their share on an ad-hoc basis can be difficult and time consuming.

Some tenements may employ a property manager (sometimes known as a factor) who organises repairs on behalf of all owners, although this isn't the case in most parts of Argyll & Bute. Here, owners either organise repairs themselves or, all too often, don't carry out the repair at all.

To ensure common repairs are planned and carried out, we encourage homeowners in tenements to set up owners associations.

An owners association will help you organise common repairs, such as replacing tiles on the roof, or a simple job like painting the rear door. If you have had problems with security in your stair, you may want to fit a new secure door-entry system. Perhaps you want to improve the environment around the building (bin areas, back greens, etc). Setting up an owners association can help you achieve all of these things and is essential if you hope to apply for grant assistance.

Owners associations also help you to get to know your neighbours better and create a sense of community in your stair.

How many flats do you need to form an association?

Most owners' associations are likely to be in buildings (or groups of buildings) with between 6 and 30 flats but an association can be formed between 2 flats or more, with no upper limit.

Why not just meet informally?

In some tenements, owners are able to have an occasional meeting, make decisions about repairs and get the work carried out. They may question the need for an association.

In many buildings however it is not as simple as that, sometimes owners cannot be traced or are unwilling to pay their share of repair costs.

Reaching agreement on the level of repair to carry out may not be an easy process; there may be statutory notices to respond to or there may be too many owners and tenants for simple decision making.

In these and other circumstances, it is a good idea to get all the owners together in a more formal setting. Important issues can then be fully discussed, decisions taken and recorded accurately.

What's involved?

To set up an association the owners should meet together, discuss what their needs are and agree on a constitution. A constitution is the agreed set of rules adopted by the association to make it run effectively. There is more information on developing a constitution on page 14. To make it as effective as possible you should consider electing a chair, a secretary and a treasurer. There is more information on these roles on pages 10 and 11.

The association can decide how often it meets. It does not have to meet every fortnight or every month. All you have to do is meet once a year; additional meetings can be organised as and when needed. In the early days, monthly meetings may be advisable.

Should you appoint a property manager?

What is a Statutory Notice?

Housing Services can issue Statutory Notices as a means of alerting and informing owners that a problem has been identified relating to their building and that action is required by them to carry out repairs.

Further information on notices is available from the Housing Service

You may want to appoint a property manager to look after your building for you. This means someone else will organise the maintenance and repairs on your behalf. Appointing a property manager will not remove the need to set up an owners association, as you will need to agree who to employ (or dismiss) depending on the quality of service they provide. Property managers will be more likely to look after your building for you when they can see you are well organised.

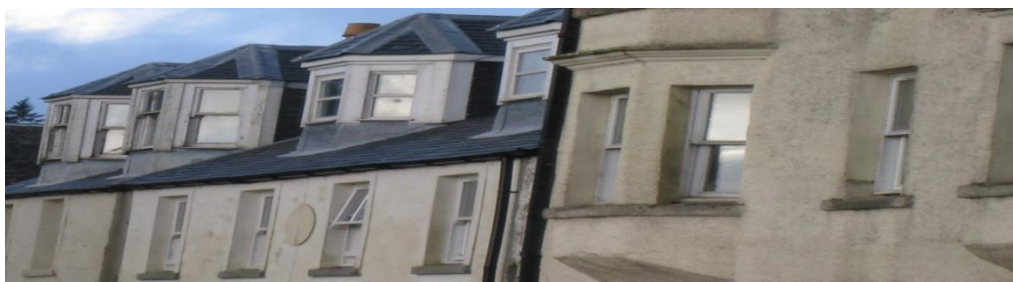
By employing a qualified property manager to regularly inspect your building you are much less likely to incur the cost of a larger repair. Failing to attend to a small repair when identified (for instance a missing slate) could lead to:

- a larger, more expensive repair in the future
- all owners being issued with a Statutory Notice to rectify a defect in the building
- problems when you come to sell your property.

Appointing a qualified property manager to look after your building will minimise the risk of one or more of these happening to your building. The Property Managers

Association Scotland Ltd can help you find a property manager in your area. They also publish their code of standards that their members must adhere to – see Useful Contacts on page 39.

With the Single Survey coming into effect as part of the Housing (Scotland) Act 2006, all owners must declare the true condition of their property.



What are the benefits of an owners' association?

An owners association has a number of benefits. It means that;

- All owners have a common identity and a unified voice
- The structure and rules are clear on how decisions are made and how bills are paid
- Your property manager and contractors are more likely to respond positively if you are well organised.
- You are more likely to repair and maintain you building, and plan future maintenance more effectively.

FIRST STEPS

Taking the initiative

Anybody can start the process of setting up an owners' association. It could be one owner or a group of owners; it could be a landlord or even a tenant who is fed up because the landlord is not carrying out repairs.



Who should be involved?

You must try to involve everyone who owns a flat in the building whether they are an owner-occupier or a landlord. If any of the flats are rented you should treat the landlord, whether they are a Housing Association or a private landlord, like any other owner and invite them to meetings. If you are unsure of how to contact a landlord or a missing owner see Finding Missing Owners on page 7.

Owners and tenants working together

It is important to ensure that everyone who is interested in maintaining and repairing the building is involved in the association, whether they are an owner or a tenant. In some buildings, particularly in Council-built tenements where ACHA still owns some houses, people may not want to differentiate between owners and tenants. All residents are involved in the tenement community, so wider participation should be encouraged.

However, it should be emphasised, it is the owners who will be liable to pay for any repairs or maintenance.

The tenant can be the landlord's representative (be it private or housing association) but this would need to be agreed beforehand.

Furthermore, the final decision will rest with the owners and landlords for any decisions that carry a cost implication as they are the ones who will pay for any works.

More than one tenement?

The easiest form of owners' association is one based on a single building. This is because a single tenement is a legal entity and repair bills will normally be shared between the owners in that building (although they won't necessarily be shared equally). In some circumstances it may be better to set up an owners association covering a number of tenements.

One building too small?

If there are a relatively small number of flats in your tenement there may not be enough interest in setting up an association. However, if you bring together owners from a number of tenements or blocks, you may have the level of interest needed to justify setting up an association. You could for instance, join with other buildings and employ a property manager to provide a service to the whole development.

Non financial decisions

Where decisions of the association have no financial implications in terms of the costs of repairs, maintenance and paying bills, owners and tenants can have equal rights in relation to voting on any proposal. The landlord can either actively participate in the decision making process or delegate responsibility to the tenant.

Financial decisions

Where decisions of the association do have financial implications, it is only the owners in the association that have the right to vote. If tenants wish to influence decisions they should contact their landlord and ask them to get involved (as an owner).

There are important issues for landlords wishing to play an effective part in decision making in an owners association. They should establish a means of communication enabling them to consult their tenants in advance of any decisions being made by the association. It has to be remembered however, that any owner has the right at any time to require decisions to be made by the owners alone. These rights must be written into the constitution.

Shared burdens

Your tenement may share burdens with the neighbouring building(s). This means you may have joint responsibility for certain areas, a chimney stack or the roof for example. You can find this out by checking your title deeds. In this case it would be wise to join together since decisions will need to be taken across tenements.

Common problems

There may be concerns shared by several tenements even if the burdens are not shared. In these cases it would be cost effective to join together to share the cost of erecting scaffolding and carrying out the work in one job instead of two or three.

A group of buildings

A group of buildings may have been built at the same time in one place and share common concerns, for example, a street of 4-in-a-blocks. Joining together will give you a unified voice.

SETTING UP YOUR OWNERS' ASSOCIATION

Making Contact

When you are thinking about setting up an initial meeting there are a number of steps to take.

The first step is to talk to your neighbours to discover whether people are concerned about the same issues as you. This will let you assess whether there is sufficient interest in setting up an owners' association.

When you start out you will not necessarily know who are owners and who are tenants. Don't worry, you can find this out later. If tenants come to your meetings you will be able to find out the contact details for their landlord (if you do not know already).

It's always easier if you can team up with someone else to do the initial work contacting and talking to people. Many associations have started life with just one person taking the initiative so do not be discouraged if you have to start out on your own.

The best way of talking to people is simply by knocking on their door and mentioning your concerns and thoughts. Sometimes it can be a good idea to put a note around the doors in advance so that people have some warning that you are coming and know the reason for your visit.

Do not put off by people's initial reactions or comments. Although some people will be enthusiastic, some might be non-committed or not interested. Some owners may have reasons why they do not want to get involved but if you continue to provide everyone with opportunities to participate, more will respond.

If you want to contact someone about getting your owners association off the ground Housing Services will be able to help.

Finding missing owners

You may sometimes find that a flat is empty and you don't know where the owner lives. Alternatively you may find that the flat has been rented out but the tenants are unable to give you the owner's contact details.

For a small fee you can find the name of the owner of a flat from Registers of Scotland at www.ros.gov.uk.

Under part 8 of the Antisocial Behaviour Act 2004 almost all private landlords must apply to be registered with the local authority. This will allow owners and tenants to identify and contact the landlord(s). Further information at www.landlordregistrationscotland.gov.uk.

Other sources of information include the phone book, yellow pages and people search websites.

Planning the first meeting

Once you have talked to everyone and have a firm commitment from enough people, you can arrange the first meeting. This might be held in someone's house, a local community centre, library, church hall or even a pub.

This initial meeting is intended to get agreement to set up an owners' association. However the meeting should also allow people to:

- air their views about what the problems are and what needs to be done
- discuss whether an owners' association is the right way forward
- consider forming a steering group with the view of developing a formal owners' association

Even if a meeting is informal, someone will need to act as 'chair', to make sure that people keep to the point and you get through the business. You should also ensure that you have an agenda (see pages 24&29) People will feel that the meeting has been worthwhile if ideas have been discussed and decisions are made. The person chairing the meeting should make sure everyone has a chance to contribute.

Someone else needs to take notes of the main decisions made at the meeting and who has agreed to do what. It is also useful to keep an attendance sheet with peoples' contact details.

If the meeting is well attended and you reach agreement to go ahead and set up an owners' association, the first thing to do is to draft a constitution. This can then be adopted at the next steering group meeting to form your owners' association.

However, if there are not enough people in attendance, you should hold another meeting before you move things forward. It is better to have a representative turnout before you launch the association. Aim to get a majority of owners to the meeting so you can achieve a consensus. The section on Making Meetings Effective (page 21) provides further information on planning and running meetings.

First owners' association meeting

Once, as a group, you have chosen and amended a constitution, (pages 14& 25), it can be adopted at the first official owners association meeting.

Make sure everybody gets plenty of notice of the meeting as well as all the information they need (including an agenda and a copy of the finalised constitution). It is useful to advertise the meeting, perhaps by going round or putting a note through people's doors again.

It is at the inaugural meeting that you elect your office bearers (there is more information on the roles on pages 10 & 11). Make sure you get the most willing and able people for the job. If they have not fulfilled this particular role before, see if they would be willing to get some training or advice on specific roles. Contact Argyll CVS (www.argyllcommunities.org) if you require further information.

Application form for membership

Once the association has been set up, get all owners to complete an application form for membership. There is a sample form on page 31.

Tell people you exist!

Don't forget to inform any owners, landlords and tenants who have not attended meetings that you have set up an association. Give them the name of the group and a contact person's name. You should advise your property manager, if you have one. Please also inform Housing Services

Headed notepaper

Make some headed notepaper for the association. It's easy if you can get access to a computer and a printer. It gives you an identity and status. You could design a logo. You should also use the Secretary or Chair's details as a contact. See page 34 for an example

Roles within an owners' association

At the first official meeting you will have to make some decisions about how to organise the association to ensure it works effectively and fairly.

The Committee

In a small tenement there may be no need for a committee – all owners will be members, but if there are more than a dozen members you may need to elect a committee to move things forward between meetings.

The Committee should be elected by the owners to make decisions on their behalf and to carry out the work of the association. The Committee organises general meetings of all the members and the association's Annual General Meeting (AGM). The Committee must carry out any actions agreed at these meetings. An AGM is important for giving members of the association information about work carried out over the previous year. It also allows the members to elect the officers of the association. Even if the same officers are re-elected each year, it is important that members have had the opportunity to nominate and vote for them.

The Committee can also make decisions where general members are not present. In this case these decisions must be reported back to the members

There is no set way of organising a Committee, but there are ways of working that are more common and more useful than others. Try to make sure the Committee is representative of all the people in your association and is well balanced. Does it represent the interests of all age groups in your stair? Ensure all persons, irrelevant of their race or religion are represented. Does anyone in your stair have a disability? If so, have you considered their requirements?

By representing everyone's interest in your block, your owners association will be much more effective and should reach well-informed decisions.

The office bearers

The officers of a Committee are the Chair, the Secretary and the Treasurer plus any other posts that you think are appropriate.

The Chair

The Chair is the person elected to guide the association to achieving its aims, as well as chairing meetings of the association. Your constitution should outline how the Chair is elected but normally the Chair (and all the other officers) is elected at an AGM. Sometimes Chairs are elected by the committee members alone. A good Chair needs to have;

- Patience and tact in dealing with other people
- The ability to command respect
- The ability to keep people under control during meetings
- The ability to be as impartial as possible when discussing topics, even if they have a particular interest in what is being discussed.

The Chair has to make sure that decisions at meetings are made in a proper manner. They also normally act as spokesperson or leader of the association, so need the skills to do that (however this role can be spread around the Committee if you wish). Outside of meetings the Chair should;

- Be aware of all the activities carried out by the associations
- Ensure other officers are carrying out their tasks
- Prepare agendas for meetings (with the Secretary)

In meetings the Chair should;

- Make sure each item on the agenda is discussed and a decision made and recorded
- Make sure everyone gets an opportunity to contribute to the discussion.

The Chair is the person who makes sure things get done – not the person who does everything or does all the talking. Above all the chair is responsible for the smooth and fair running of the organisation. It may also be useful to elect a vice-chair for when the Chair is not available.

The Secretary

The Secretary's main duties include;

- Taking minutes of meetings (i.e. taking a written record of decisions made).
- Letting people know when and where the next meeting is and what will be discussed (the agenda).
- Helping the Chair to prepare the agenda
- Writing and receiving letters on behalf of the association
- Keeping members informed of what correspondence has been sent out and received
- Keeping a record of membership and important phone numbers.

Some of these jobs may be divided amongst other people if preferred. The Secretary's main job is to keep people informed. This ensures that they feel involved and able to join in with what the association does.

The Secretary should also give adequate notice of a meeting and make sure agendas, minutes and other relevant papers are sent out prior to any meetings. What is included on the agenda and the order of the meeting needs to be decided with the Chair. The Secretary should also try to think what people may ask at the meeting and bring any relevant papers that might be useful (e.g. minutes of previous meetings).

Taking minutes is one of the most important aspects of the job, and often the most daunting. Take notes during the meeting, draft the minutes soon after, check them with the Chair and finalise before circulating them to everyone. The minutes should not be a record of everything said at the meeting – just the main points and decisions. A sample agenda and set of minutes are discussed in more detail and provided for reference on pages 29 and 30.

The Treasurer

The Treasurer is the person with overall responsibility for the association's finances. The amount of work involved will vary according to the size of the association and the amount of money you receive, but the principles and duties are the same.

- Open bank account(s) (see page 20)
- Be one of the dual signatories on any account (minimum of two recommended)
 - Pay money received into the bank
 - Keep a record of money received and issue receipts
 - Pay bills and keep a record of money spent
- Keep an account book of all money going in and out of the organisation
- Prepare statements to the committee and for the Annual General Meeting.

The Treasurer manages the accounts and keeps members informed of the association's financial situation. However, it is the owner's association that makes decisions about any decisions to spend the money.

Usually the Treasurer is one of several members who can sign cheques for the association. They should never be the only person who signs the cheques.



Training

Training, advice and support is available for people who has never been an office bearer before. Ask Argyll CVS (Council of Voluntary service) for information. See Contacts on page 39.

HOW YOUR TITLE DEEDS CAN AFFECT AN OWNERS' ASSOCIATION

The title deeds' contents for each of the properties within the tenement will affect what decisions the owners association can and cannot make. It's important each owner knows what the title deeds say about their rights and responsibilities for their individual flat, as well as for the common areas of the tenement.

Title deeds will always take precedence over any constitution adopted by the owners association. It is however possible to change conditions of the title deeds. See below

Title deeds may also describe;

- who owns the common parts
- the owners' obligations to manage and maintain the common parts
- how decisions should be taken;
- how costs are to be allocated between owners;
- the arrangements for paying for maintenance works and services.

Are your title deeds clear?

Your Land Certificate, title deeds or deed of conditions may tell you all about your responsibilities for the common parts of the tenement. However, older title deeds do not always have a clear description of common parts or clear statements about how decisions should be made or costs divided up. If there are gaps or defects in your title deeds you should refer to the default Tenement Management Scheme outlined in the Tenements (Scotland) Act 2004. For further information see page 15

In almost all cases, your title deeds will also take precedence over any legislation relating to repairs and maintenance (if they are clear and workable).

Registers of Scotland

Your title deeds will be recorded in the Register of Sasines. They might also have been registered in the Land Register of Scotland but not all properties have yet been included in the Land Register. To find out which register your property is in, contact the Registers of Scotland Executive Agency (see Useful Contacts page 39).

The Register of Sasines records the deeds as they were originally drawn up. The Land Register contains a Land Certificate providing property details such as a description of the property, the rights that go with it, details of the current owner and details of the obligations affecting the property.

You may be charged a fee for a copy of your title deeds. If you are buying a flat, you should ask for a copy of your title deeds or Land Certificate at the time.

Changing title deeds

The conditions in your title deeds are obligations – known as burdens – that go along with the ownership of your flat. They are put in the title deeds to control the use of the flats in the tenement, for example, by banning letting or business use, or to ensure that the owners maintain or contribute to the maintenance of the common parts.

The conditions in your title deeds should also be in the title deeds of your neighbouring owners. While you may see a condition on shares of repair costs as unfair, your fellow owners may see it as a benefit to them. Similarly, your neighbour may see a condition banning business use as an unwanted burden, while you see it as a benefit. Therefore, if you want to remove or change a condition, you have to consider the effects on your fellow owners.

Although none of the three example constitutions summarised on page 14 requires owners to change their title deeds, title deeds can be changed by majority agreement. For instance, this could include;

- requiring all owners to be a member of an owners' association
- agreeing to a different way of dividing responsibility for repair costs between owners.

Changing your title deeds will depend on what proportion of owners in the tenement agree to the proposed change;

All owners agree	No problem. Get your solicitor to make the changes
Majority of owners agree	Send changed deeds to Land Tribunal; If no owner objects Lands Tribunal certifies change. If an owner objects, Lands Tribunal decides.
Minority of owners agree	Send changed deeds to Land Tribunal; Lands Tribunal decides.

The procedures for changing title deeds are contained in sections 32 to 34 of the Title Conditions (Scotland) Act 2003. Before embarking on such a process you must seek legal advice and assistance.

If you wish to make changes to your title deeds you must;

- get information and advice from a solicitor, legal advice centre or Registers of Scotland Executive Agency
- use a solicitor (who will charge a fee for this service)
- register changes with the Land Register or the Register of Sasines (there is a charge).

More detailed information on changing title deeds is available in Homepoint's report Common Repair, Common Sense (Further Reading page 39).

DEVELOPING A CONSTITUTION

An introduction to constitutions

A constitution, (or set of rules running the association), provides your group with a set of regulations to guide how it is run and how it makes decisions. A constitution gives your group an identity, continuity, credibility and a means of establishing common objectives.

A effective owners' association needs a robust constitution. One of the main purposes of this handbook is to provide owners with a simple example constitution in order to quickly set up their own association. Thereafter owners can develop their associate is appropriate to their circumstance.

Even if your association is currently run informally a constitution would still be advantageous and necessary if applying for grant assistance from Argyll & Bute Council.

Associations need some structure to help them make decisions and operate successfully. We would recommend using a constitution – it will make your owners' association much more effective.

The Council can accept no responsibility for decisions taken by owners to adopt or adapt any of these examples. If in doubt please seek professional advice.

Summary of constitutions

The key characteristics of three potential constitutions are summarised below.

Example 1 : Simplified Tenement Management Scheme

This is a simple constitution designed around getting works done to address maintenance and repair issues.

An example of this is reproduced on page 25 - 28

Example 2 : Full Tenement Management Scheme

This would provide a constitution and a scheme for the management & maintenance of the tenement which is based on the full and detailed terms of the tenement management scheme

Example 3 : Company limited by guarantee –

This example might be appropriate where an owners association represents a significant number of owners and/or is responsible for a large repairs contract. Establishing a company is a more serious option for owners and with a registration and financial regime set by Companies House.

Tenement management scheme

Title deeds always take precedence, however they may be unclear on some aspects, such as not saying how decisions on repairing and maintaining common parts should be made, or who is responsible for them. If there are such gaps in your title deeds, the Tenement Management Scheme (TMS) will apply. This scheme is part of the Tenements (Scotland) Act 2004 and provides owners with a default management scheme to help owners look after their property.

The Tenement Management Scheme;

- allows owners to decide on and instruct repairs based on majority agreement (known as a scheme decision)
- allows owners to appoint a property manager based on majority agreement
- requires all owners to pay their share of repairs and maintenance in advance, based on a reasonable estimate (assuming a scheme decision has been made)
- steps in where parts of the title deeds are unworkable (i.e. allocating costs equally if the shares suggested by the title deeds don't add up to 100%)

You may find your title deeds do provide for procedures covered by the TMS but are less comprehensive. In that case, you must follow your title deeds but you and your fellow owners could improve the procedures in your title deeds by changing the conditions in them.

Developing the appropriate constitution

The first step in developing the most appropriate constitution is to find out what your title deeds say about repairs and maintenance. Sometimes they make no reference to repairs and maintenance. But often they will describe who is responsible for maintenance and repair, how costs are divided up, whether a factor is to be appointed, how decisions are made, etc.

If the title deeds deal adequately with all these issues, then they should be followed and the appropriate text incorporated into the text of the proposed constitution for the owners' association.

It is possible to change the title deeds (this is explained in more detail on page 13). If your title deeds are unclear in relation to maintenance and repair, you can either;

- reach a unanimous decision to do things in a specific way (all owners need to agree); or
- use the Tenement Management Scheme (TMS) in the Tenements (Scotland) Act 2004 (the majority of owners need to agree.)

The Tenement Management Scheme (TMS) is the legal 'default' scheme for managing maintenance in tenements when these issues are not covered in the title deeds. This includes organising repairs, making decision and paying costs. The TMS allows for majority decision making in many areas.

Making decisions about repairs & maintenance (scheme decisions)

Ideally, all the owners in the block should be members of the association. If they are, and the correct procedures have been followed, decisions made by the association are binding on all owners.

If every owner does not become a member, decisions made by the association relating to repairs and maintenance would not be binding on the non-members. This is because non-member owners have rights under the 2003 and 2004 Acts which will be unaffected by decisions of the association.

In order for a decision to be binding on all owners, there would have to be a further process involving the non-member owners. They would need to use either the procedure in the title deeds (if any exists) or the Tenement Management Scheme (TMS).

The TMS allows owners to decide what repairs and maintenance to instruct based on a simple majority. In other words, not every owner needs to agree to the work in order to carry it out. Only the majority need agree. This is known as a scheme decision.

Are other types of organisation appropriate?

The Council has been advised that other types of organisation such as a Trust, a Friendly Society and an Industrial & Provident Society are not considered appropriate structures for an owners association.

It is also unlikely that the owners association would qualify for charitable status. This is because under the Charities and Trustee Investment (Scotland) Act 2005, a charity must provide a public benefit. It is unlikely that carrying out repairs and maintenance to one's own tenement building would be for the public benefit.

Tenements that include non-residential properties

The example constitutions are provided primarily for tenements for residential use only. Where shops, restaurants, offices or other non-residential properties form part of a tenement, it is a little more complicated to draft the constitution of an owners association and determine how the tenement will be managed.

However, given that owners will still need to cooperate to maintain the tenement an association remains the best structure to organise works.

The situation is more complicated because the interests of the non-residential property owners may be different to those of the flat owners. The title deeds may also have different approaches to ascribing liability for repair costs to the non-residential property and to the flats.

There may also be practical difficulties if the non-residential property owners do not occupy but instead let it out on a fully repairing and insuring commercial lease.

Before agreeing a constitution, there should be a detailed examination of the title deeds and discussion with the non-residential owners (and possibly their tenants).

It would be advisable to seek appropriate professional advice where there is any doubt as to the effect any proposed constitution would have.

It is important to consider the inter-relationship between the constitution, the existing rights and obligations contained in your title deeds and what the legislation states.

No guarantee can be given that the example constitution given here will necessarily be appropriate for your situation.

Adapting your constitution

You will not find an off-the-peg constitution for an owners association that immediately meets all your needs. You and your neighbours will have to consider how much the example available best reflects and responds to the situation in your tenement and then adapt it to meet your specific requirements.

You will need to think about what roles you want the association to fulfil and whether these are reflected in the example constitution provided. Are any changes necessary to suit local circumstances?

For example, the tenement may have land (such as gardens or a back green) which may or may not be communal. The constitution or scheme for management should make clear whether this land is subject to decisions by the owners association or not.

If changes are made, they should be done carefully so that the constitution as a whole still makes sense, is workable and lawful (see below).

Adapting Constitutions

The example constitution provided on page 25 - 28 should be changed to suit your block's specific circumstances (also known as local conditions).

The relevant pieces of legislation regarding the example are the Title Conditions (Scotland) Act 2003 and the Tenements (Scotland) Act 2004 (later referred to as the 2003 & 2004 Acts).

You will need to check all title deeds to see whether they say anything about responsibilities for repairs, decision making or owners' associations. In almost all cases the title conditions will take precedence.

While it is possible to develop and agree a constitution without legal advice it is recommended that independent legal advice be sought, particularly if you set up a company limited by guarantee.

Before changing your title deeds you **MUST** seek legal advice and assistance.

Owners in buildings that include non-residential property should examine the title deeds and discuss proposed consultation with the non-residential owners and possible tenants.



Professional advice: do you need it?

In many cases owners' associations are able to set themselves up and manage their tenements without any significant input from professionals such as solicitors, surveyors, property managers, architects, consultants, etc.

The need to consult experts is also likely to be less, for example, where there are only a few owners, the repairs are relatively inexpensive and simple, or the owners have the necessary expertise amongst themselves. In some cases however, expert advice and assistance is advisable, for example:

- where the deeds are old or difficult to interpret, it may be advisable to take advice from a solicitor or property manager
- if the owners want to implement the Tenements (Scotland) Act 2004 or the Title Conditions (Scotland) Act 2003, it may be advisable to take advice from a solicitor
- where maintenance work is likely to be costly, it may be advisable to take advice from a property manager, a surveyor or an architect.



ONCE YOUR ASSOCIATION IS UP AND RUNNING

Running an association involves some work and tasks are best shared. If too few people are doing all the work they may get tired and fed up, while others may feel excluded and unimportant. Sharing workloads and responsibilities is a way of ensuring all are involved and no one is overburdened.

Checklist all the jobs that need to be done, put a name by the person who does that job and you will quickly see if the work is shared out properly.

Keeping people involved

Once the owners' association is established, with membership and roles defined, you need to make sure the association operates efficiently. All members must be kept informed about developments whether or not they come to meetings.

The task is not just to get people involved, but to keep them involved. This doesn't happen by chance, you and your colleagues will have to work at it.

Redefine your aims

Make sure your organisation is still clear about what it is trying to do. Some associations start up in response to being issued with a works notice from the Council, others because they are concerned about the property management of the block.

While the ultimate aim may be a large roof repair, this could take time to achieve. You should also set some short term aims such as getting the common stair cleaned regularly or fixing the door entry system. An owners association allows you to pro-actively plan repairs and maintenance and spread the cost of jobs.

You could also consider producing a leaflet like the sample document on page 32 & 33 that an existing Association of Owners and Tenants has developed to improve management of their tenement.

Keep in touch and keeping it going

If people are to feel involved they must know what the association is doing and what decisions have been made. It is important to send out leaflets or letters regularly, and let people know what is going on. Some people may rarely attend meetings but as long as they feel part of an association they are more likely to offer support at some stage. Try knocking on everyone's door from time to time to keep in touch.

Just because people don't attend meetings doesn't mean they're not interested. Maybe they don't want to come out at night or it conflicts with other commitments. Perhaps they are unable to read or understand the information they have been receiving.

Try to make your association enjoyable. Being on an owners association can be hard work but it is possible to get satisfaction by achieving your aims and creating a sense of community among your neighbours. Break for tea or coffee half way through your meetings. This creates more of a social atmosphere where people can chat and get to know each other better. No one will stay in an association where they don't feel comfortable or they don't achieve anything.

Review what you're doing

It is useful to regularly sit back and think about how well your association is doing. Ask yourself;

- what are we trying to achieve?
- what are we doing to get there?
- what have we done in the last six months?
- do people come to meetings and enjoy them?
- do people say anything when they come to meetings?
- are as many people involved now as they were a year ago?

Asking questions like this at least helps you identify what your problems and successes are; then you can start to improve.

Remember, differences of opinion are natural and necessary to make the association think about what it is doing.

The best approach is to accept that conflicts or problems may emerge and try to face them as soon as they occur.

Maintenance accounts

It is useful for an owners association to set up a general account with a bank or building society. If repair works are to be paid for, or monies saved by the association, it might be preferable to open a separate repairs account. (See Further Reading, Safe as Houses: Building Reserve Funds page 38).

You will need to make sure that there are at least two signatories for signing cheques. If two members of the same family are on the committee, only one person from that family should have the right to sign cheques.

If all owners pay an agreed amount every two or three months into a maintenance account, repair bills will be easier to afford.

Will accounts need to be audited?

No, unless you receive a grant from a funder who requires it and even then it may be permissible for 'independent examination' rather than a formal audit. Repair grants from the Council do not require accounts to be audited.

If auditing is not required a committee member could act as an internal auditor. Alternatively someone outside the committee could check over the accounts for you (they do not have to be a qualified accountant).

Insurance

Your association is not required to have insurance (although you might want to consider having a joint policy for buildings insurance). However you would need public liability insurance if you organised any outings or events. If you buy any equipment it should also be insured.

What legal regulations do owners' associations have to follow?

Most owners' associations are unincorporated bodies; they can be informal or formal (although if applying to Argyll & Bute Council for grant the association has to have a formal constitution), and are not governed by any legal requirements. If an owners association chooses to become an incorporated body, like a company limited by guarantee, then it would have legal status. It is possible to change the title conditions to make the adoption of an owners association by everyone in the block mandatory.

What about conflicts of interest

What if an owner works for the property manager or for a contractor that the association is using?

Sometimes there can be conflicts of interest that have to be addressed rather than ignored. Basically it is up to your group to decide what to do.

Conflicts of interest are likely to be of a relatively minor and temporary nature, i.e. a discussion involving a member's employer or a contract in which their employer might be involved. On most occasions it will be sufficient for the person to be made aware that they attend meetings as an owner and not on behalf of their employer.

On occasions it may be necessary to say that if they are to be present for the discussion they could not take part in any vote that is held. In some circumstances it may be best for the person concerned to withdraw from the meeting while that item is being discussed.

Can family members be on the same committee?

This is often a concern for associations but as long as the officers have been appointed according to the agreed procedure, as written in the constitution, then there is no reason not to allow this.

MAKING MEETINGS EFFECTIVE

Organising meetings

Meetings where discussion and decisions have to be made are a vital part of the work of every owners association, so it is important that they are well organised and run properly. If your meetings run smoothly then you are more likely to get your members attending them on a regular basis and contributing to discussions.

We have all been to meetings and thought 'Why did I bother?' Meetings should be about discussing information, sharing ideas, making decisions and following up these with actions.

Your meetings should be representative of everyone in your stair to ensure that all groups are represented and therefore able to have their say. You should

ensure that all equality issues have been considered before arranging your meetings.

By representing everyone's interest in your block, your owners association will be much more effective and should reach well-informed decisions

At the start of meeting

In a small meeting, make sure everyone knows one another. In a large meeting get people to introduce themselves before they speak. You will also have to make sure that for health and safety reasons people know about the fire exits and where the toilets are. Ask people to turn off their mobile phones.

Involving everyone

Make sure that everyone at the meeting can see, hear and understand what is being said. This means ensuring that tables and chairs are well placed. For small meetings get rid of the table and put the chairs in a circle.

At the end of the discussion check that everyone has had an opportunity to say something. Invite them to speak by, for example, asking 'do you want to add anything?'

Preparing for a meeting

Preparation is very important. The more time and effort you put into preparing, the better the meeting will be. This is especially important if you are holding a meeting with other organisations such as the Council, your property manager or contractor. When preparing for a meeting

- do your homework
- plan carefully
- give yourself time to do it properly

Publicity

Even if you always hold your meeting at the same time, in the same place, on the same day of the month and have done so for years, you still need to tell people. Owners' associations are accountable to their members and must tell them what they are doing, how and when – not everyone will know or remember, especially if they are new.

You could put a letter through people's doors or design a poster to display in the stairwell. To attract attention

- use a large typeface
- make sure the date, time and place are prominent
- organise refreshments
- use coloured paper



Good chairing

Good chairing is very often the key to making meetings work. The chairperson has a variety of roles;

- to introduce and summarise the purpose of the meeting
- to introduce each item on the agenda (see pages 24 & 29) giving the necessary background information
- to summarise the points made in discussions and encourage decision making
- to stop people talking for too long or straying off the subject
- to make sure everyone gets the chance to participate
- to be positive and constructive helping the association find solutions.

The main aim is to make sure the meeting achieves what it sets out to accomplish in as fair and friendly a way as possible.

Keeping order & code of conduct

A code of conduct can be very useful because it;

- defines behaviour in a meeting
- is a way of introducing new committee members to how the committee works
- gives confidence to all committee members about how their meetings will be run
- gives the Chair guidance and support for dealing with inappropriate behaviour.

An example of a code of conduct can be found at www.tpas.org.uk (go to their information sheets)

Getting agreement at meetings

The committee is a team and agreement should be achieved through consensus. That is, by talking the issues through until everyone understands the situation and can then agree on what should be done.

All committee members need to;

- listen to one another
- check their facts
- remind themselves that their role is to act in the best interests of the building and the residents
- acknowledge that other people will have different views
- be willing to compromise.

Voting

On most occasions in meetings it will be possible to reach a consensus without putting a decision to the vote.

The main occasion when voting might be necessary is at the Annual general meeting and when taking decisions about repairs and maintenance. The Chair should then tell the meeting on what issues votes will be taken.

When a vote is counted the number of votes for the motion, against the motion and abstentions (non-voters) should be recorded in the minutes. Once the meeting has voted then all members must abide by the decision. As a way of staying impartial the Chair sometimes does not take part in the first vote. In the event of a tie, the Chair has the casting vote.

If using the Tenement Management Scheme you should follow the voting procedures as stated in the Tenements (Scotland) Act 2004,

SAMPLE DOCUMENTS

We have reproduced some sample documents to help you get your owners association underway

<p>Agendas & minutes</p> <p>Preparing and distributing agendas and minutes are the responsibility of the Secretary, usually in consultation with the Chair.</p> <p>The agenda</p> <p>Always have a proper agenda, even if there is only one item. The order of the agenda is important. It helps to manage the discussion so that everything should get done in the time allocated for the meeting. An example agenda is provided on page 29.</p> <p>Agendas should normally go out a week before a meeting, so it needs to be prepared before then, especially if it is an important meeting and other papers need to go out with the agenda.</p> <p>Keeping records of meetings</p> <p>Owners' associations must keep records of their committee and general meetings. They are set up to represent the views of other people and are accountable to their members, they therefore must be able to demonstrate how they are doing this.</p>	<p>How to take minutes</p> <p>A sample minute of a meeting is provided on page 30. Good minutes say very briefly;</p> <ul style="list-style-type: none"> ➤ the name of the association ➤ where and when the meeting took place ➤ who was present and who sent their apologies ➤ whether the minutes of the meeting were a correct record of the meeting ➤ what each item was about ➤ any major issues or points from the discussion of each agenda item ➤ what decisions were made and who is responsible for carrying them out ➤ when the action needs to be done by ➤ date of next meeting <p>Many associations now have access to a computer either at work, at home or through a local library or community centre. It is quite easy, therefore, to set up a template for all minutes similar to the one provided. This will save the person who takes the minutes a great deal of time and effort.</p>	<p>Distributing the minutes</p> <p>The minutes are a record of what was said at the meeting. All residents should be able to see a copy. You can:</p> <ul style="list-style-type: none"> ➤ deliver a copy to every household or use e-mail ➤ display a copy at the entrance to the building ➤ make sure they are distributed quickly to everyone <p>Keeping copies of the minutes</p> <p>It is very important that your association keeps proper records of all its business, including minutes. Keep the minutes in a file, clearly marked and filed in date order.</p> <p>After a year or two, these may mount up and start taking up precious space. But don't throw them away; file them, clearly marking what they are and keep them safe. The minutes of your meeting are an important record of the history of your building and therefore worth keeping. Furthermore, keeping a history of the repairs carried out to your tenement could be a useful marketing tool if you ever decide to sell your flat.</p>
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Example Constitution

Insert Address **Owners' Association Constitution**

The name of the organisation shall be:

"*Address* _____
Owners' Association", hereinafter referred to as "The Association".

Membership of the Association shall be open to any interested owners or residents at *Address* _____

The purpose of the Association shall be to:

- regularly review the condition of the buildings at *Address* _____
- set up and operate a building fund into which each owner pays on an equitable and regular basis
- open a bank account for the purposes of operating such a fund, receive monies, issue and receive receipts and issue payments by cheque as necessary, the signatories of such cheques to be any two of the principal office bearers
- seek quotations from builders for any necessary maintenance works
- consult with owners and residents as necessary
- agree and enter into contracts with architects, surveyors or builders for such purposes as the committee considers necessary to maintain the buildings in satisfactory condition.
- enter in agreement with local authorities or other funding partners as the committee may consider necessary or beneficial to the ongoing maintenance of the buildings
- Seek such legal or other professional advice as considered necessary by the committee

CONDUCT OF BUSINESS:

The business of the Association shall be conducted by the principal office bearers, namely Chairperson, Secretary and Treasurer who will be elected at the Annual General Meeting. No more than one officer shall be elected from each household.

The election or removal of officers or Committee members may only be carried out by a General Meeting of the Association. The Committee may temporarily fill any vacancy arising among the officers of the Association from its other members until the next General meeting of members.

COMMITTEE MEETINGS:

The Committee shall meet as necessary but not less than four times per year. Committee meetings shall be open to any member of the Association wishing to attend.

For any decision that can be made under this constitution, each flat (not each member) has one vote. If the flat has more than one owner they must agree between themselves how the vote is to be cast. If they cannot agree they have no vote.

Tenants may vote with the agreement of their landlord but not on decisions leading to costs being incurred.

If a decision is voted on, the wishes of the majority of the votes are binding on all members (except for changes to the constitution). In the event of a tie, the status quo shall be maintained.

ANNUAL GENERAL MEETING:

The Committee shall call an Annual General Meeting of Association each year. Not less than fourteen days notice of the Annual General Meeting shall be given to all members and all those eligible for membership, together with a form of application for membership.

At the Annual General Meeting:-

The Committee shall present an Annual Report and account of their activities.

Any Sub Committee shall present an Annual Report and account of their activities.

The Committee shall present the certified accounts of the Association for the previous year.

The Officers, Committee and financial examiner for the ensuing year shall be elected.

Any proposals submitted to the Secretary in writing not less than seven days in advance of the meeting shall be discussed.

All decisions shall be taken by a simple majority of full members present and voting (but only one vote will be allowed per household).

SPECIAL GENERAL MEETING:

The Secretary shall call a Special General Meeting at the request of a majority of the committee; or on receipt of a written petition by not less than ____ members of the Association, giving reasons for their request. The Secretary shall give not less than seven days notice of the holding of a Special General Meeting, which shall take place within 21 days of the receipt of the request or petition. Decisions will be taken on the same basis as at the Annual General Meeting.

The quorum for Committee and General Meetings of the Association shall be ____ Members.

NOTICE OF MEETINGS:

Notice of all meetings shall be posted within each close and shall include the date, time and place of the meeting and an Agenda of matters to be discussed. Minutes of all meetings will be distributed to each member's dwelling. Email may be used for this purpose.

SUB-COMMITTEE:

The Committee may appoint such sub-committees as may be required to carry out the activities of the Association. Such sub-committees shall be directly accountable to the Committee. The Committee shall in advance agree the terms of reference of any sub-only within those terms. The Chairperson and Treasurer of the Association shall be ex officio member of any sub-committee.

Where any sub-committee is to continue in existence beyond the Annual General Meeting following its appointment, its members shall submit themselves for re-election at that meeting and annually thereafter.

All sub-committees shall keep proper accounts of income and expenditure and a proper record of all meetings and shall report on them or deliver them up as required by the Committee or any General Meeting.

The Committee or any General Meeting may dissolve any sub-committee, whereupon the accounts, records and assets, financial and otherwise, of the sub-committee shall pass into the hands of the Committee.

DUTIES OF OFFICERS:

The CHAIRPERSON (or in his/her absence another committee member) shall conduct the meetings of Association.

The TREASURER shall open and maintain a banking account in the name of the Association. All cheques shall be signed by the Treasurer. The Treasurer shall keep proper accounts of income and expenditure and report on them or deliver them up as required by the Committee or any general Meeting. Such accounts shall be independently examined annually by a person appointed by the membership of Annual General Meeting.

The SECRETARY shall be responsible for the convening of all meetings and the giving of the prescribed notice to members. He/she shall ensure that a proper record is kept of all meetings of the Association, its Committee and sub-committees in the form of minutes or notes and shall distribute or display such records as appropriate. He/she shall maintain a register of members of the Association.

Any member(s) or Officer(s) delegate to represent the Association in consultation with any other body shall act on the instructions of the Association and shall report back to the following Committee or General Meeting, whichever is the sooner. Only a full member of the Association shall be delegated to consult with the local authority.

ALTERATIONS TO THE CONSTITUTION:

Any proposals to alter the constitution must be submitted to the secretary not less than twenty eight days before the meeting at which it is to be discussed. Not less than fourteen days notice shall be given of such a meeting, together with the wording of the proposed alteration(s). Any alteration shall require the approval to two thirds of those present and voting at the meeting.

If the Committee no longer exists, any ____ Members of the Association shall decide that the Association should be dissolved. They shall give at least fourteen days notice to all those eligible for membership of the meeting at which the matter shall be discussed. For the sole purpose of dissolution a Quorum need not apply and the Association may be dissolved by a two thirds majority of those present. The assets financial and otherwise, remaining when the Association has satisfied its liabilities, shall be distributed to the proprietors of each property on a proportional basis dependent on the amounts which that property has contributed to the fund since the fund's inception.

Adopted Date ____/____/____

Signature_____ Chairman
Signature_____ Treasurer

Sample agenda

Kilmory Owners Association
Meeting to be held on Thursday 1 September 2010 at 7.00pm
at 55 Kilmory Street

Agenda

- 1 Attendance
- 2 Apologies
- 3 Minutes of previous meeting
- 4 Matters arising
- 5 Annual General Meeting
- 6 National Lottery Bid
- 7 Information Technology
- 8 Any Other Business
You can raise anything else at this point
- 9 Date of Next Meeting

Sample minutes / decision and action sheet

KILMORY OWNERS ASSOCIATION - 55 Kilmory Street, 1st September 2010

Present: Mary Brown, Chair; Dave White, Secretary; June Jones, Treasurer;
Jim Black, Caroline Scarlet.

Apologies: Mark King, Audrey Queen.

ITEM	SUBJECT	DISCUSSION	ACTION	TARGET
1	Minutes of last meeting	The minutes were agreed as a true and accurate record of the last meeting.	ALL	
2	Matters arising from the minutes	The questionnaire was distributed to all owners in the building on Wednesday 2 August.	DAVE	Auctioned
3	Owner Consultative Committee	Mary reported back from the recent Owner Consultative Committee meeting. These meetings now take place bi-monthly, the next one due on October 5.	AUDREY	5 October
4	Annual General Meeting	Notices have been sent out and the meeting room booked. Jim agreed to speak to the property manager to see if they can provide an interpreter.	JIM	30 September
5	National Lottery Bid	Mary and Dave have now completed the application form for funding for the new play area and will pass it around the group for comment. June will include the accounts when they are available and submit the form.	JUNE	13 October
6	Information Technology	Mark has set up the group's new PC and arranged an email account. He would like to set up a website for the group.	MARK	TBC
7	Any Other Business	There was no other business.		
8	Date of next meeting	Thursday 2 March at 55 Kilmory Street.	ALL	2 March

Sample application form for joining owners association

Dear Secretary,

Name	
Address	
Home/mobile phone number	
Work phone number	
Email address	

I would like to apply to join the Owners Association.

I am the owner occupier/ owner /tenant (please delete)

Name	
Address	
Contact number	
Email address	

If you are the tenant, please provide contact details for your landlord:

I certify that the above information is correct

Signature

Date.....

Please return this form to:- (name and address of Secretary)

Sample owners' association leaflet (produced by an existing residents association in Edinburgh)

GOOD NEIGHBOURS

I'm sure you'll agree that, here at Your Tenement, we are a happy stair and get on well together. It is always beneficial, though, to remind ourselves of what it is that makes us a neighbourly stair.

We have all benefited from the helpfulness and consideration of our neighbours – taking in parcels, holding spare keys, baby-sitting, or simply keeping an eye out for each other. There are, of course, responsibilities which we all have, if we are to maintain this high level of friendship and co-operation.

This leaflet highlights some of these matters. Each of the items mentioned has been raised by several residents. As always, if there is anything you do not understand, or disagree with, please speak to any of the committee members (details later).

OUTSIDE THE STAIR

Monday	Ground Floor
Tuesday	First Floor
Wednesday	Second Floor
Thursday	Top Floor
Friday morning	Ground floor
Friday Afternoon	First Floor
Saturday morning	Second Floor
Saturday afternoon	Top Floor

The Drying Area

Please try to stick to the timetable for the use of the drying area. It is as follows:

The Bin Store

The bin is emptied on Tuesdays.

Large items should not be left in the bin store. The Council will arrange to take them away if you ring them. There will be a fee.

Please ensure all your household refuse is securely enclosed. Open carrier bags, for example, spill out too easily!

Please put your rubbish IN the bin, not on the floor. If the bin is filling up, large black bags may be placed beside it, to leave room inside for smaller items.

Inside the Stair

Many residents have contributed suggestions as to how the stair may be kept attractive and secure.

DO take care of your pets and children. It is all too easy to trip over a wee one – animal or human! To save them and other residents injury, please supervise your children and pets closely when they are on the stair.

DO take care when moving awkward or bulky items. Furniture and bicycles can cause considerable damage to walls and doors.

DO respect other residents by not spitting on the stair, or leaving chewing gum. Will smokers please be aware that many residents cannot tolerate smoke for health, or other reasons. Please smoke outside the stair or in your home. If your floor is not carpeted, please be considerate of those beneath you, and wear soft shoes.

DO take responsibility for those you let into the stair. The entry-com system is for the security of us all, so:

DO NOT allow anyone access who cannot give you 1) the name of the person they want to see, and 2) a good reason why you should let them on to the stair, if the person they want is not there.

DO NOT let people into the stair who will not be coming into your home. We have had trouble in the past with people loitering unsupervised on the stair causing damage and graffiti.

GENERAL

The Committee

They are happy to discuss with you any concerns or suggestions you have, for making this stair as neighbourly as possible.

Your members are: Chairperson:
 Secretary:
 Treasurer:

The Stair Fund

This fund was instigated to enable us to manage payments for the stair decorating and fitting an entry-com system.

We now have a system of regular on-going contributions, currently set at £7 per calendar month and payable as far ahead as you want.

Cheques should be made payable to : Your Owners Association.

Be sure to obtain a receipt as soon as you hand over the money. Payments are due on the first of the month.

The purpose of the fund is to pay for maintenance relating to the entry-com system, and for small repairs to the common stair well.

Updates

The committee will regularly update all residents on any matters affecting the stair. Accounts will be presented annually, usually by the end of September.

We hope you will find these suggestions reasonable and not restrictive. Each represents the collective views of many of us. The aim is to maintain and enhance our enjoyment of life at Your Tenement and, equally importantly, to preserve the value of our owners' properties, without unexpected or excessive bills!

Remember, if you have any suggestions, we would love to hear from you!

Your Association of Owners & Tenants

Sample headed notepaper for owners association

Kilmory Owners Association

Secretary

Peter MacOwner
Flat 1/2 Kilmory Buildings
55 Kilmory Street
Any Town
Argyll

00000 555777
Email;SecretaryKBOA@whatever.com

Jargon Buster

Absentee Landlord	Landlords who do not live in or near to the property they own. The term is often used to describe landlords who show little concern for their property or their tenants.
Agenda	A list or programme of things to be done or considered.
AGM	An Annual General Meeting is held by an organisation at about the same time every year. At the meeting the committee report on the organisation's work over the past year and present the accounts to the organisation's members. A new committee is also elected at the AGM.
Building Maintenance Fund / Building Reserve Fund	A fund to which owners contribute, to help offset or pay for maintenance and repairs costs.
Burdens	Title conditions found in title deeds (including Deeds of Conditions) containing obligations affecting land or buildings.
Code of Conduct	A code of conduct is a set of guidelines that describe how members of a committee or group are expected to carry out their duties and conduct themselves when at meetings, or acting on behalf of their organisation.
Committee	A committee is a group of people elected by an organisation's members to carry out the work of the organisation. Committees should always have a Chair, Secretary and Treasurer.
Common Parts	Parts of the tenement that are not within the boundaries of individual flats.
Common Property	Property that is owned by more than one person, where each owner has a right to a share in the whole property, but none has an absolute right to any physical portion of it, for example stairwell or roof.
Constitution	A document produced by a group that states its aims, objectives, membership and rules. This is the document that should be referred to if any questions arise about the way the group is run, how and when meetings take place, who looks after the money and what to do if a dispute arises.
Factor	See Property Manager.
Land Register of Scotland	Computerised and plan-based register maintained by the Registers of Scotland. All house sales in Scotland are now recorded in this register.
Lands Tribunal for Scotland	A judicial body with power to change or discharge conditions in title deeds.
Maintenance	To preserve something in its original state e.g. gardening or stair painting.

Maintenance Account	An interest-bearing account set up to pay for maintenance and repair works.
Owners Association	A formal association by which owners manage and maintain their common property.
Property Manager (or factor)	A company that provides maintenance, repair and property management services. Property management may also be provided by a local authority or registered social landlord.
Registered Social Landlord	Housing association or housing cooperative registered with Communities Scotland.
Register of Sasines	A chronological register of title deeds, which is now being replaced by the Lands Register of Scotland.
Registers of Scotland Executive Agency	Agency that maintains the two property registers: the Register of Sasines and the Land Register of Scotland.
Repairs	Putting right what has gone wrong or restoring to original condition.
Reinstatement value	The full cost of rebuilding the property, not just its market value.
Scheme Costs	Any cost incurred through a scheme decision.
Scheme Decision	A decision taken by the majority of owners of related properties, such as in a tenement.
Scheme Property	Parts of the property that are so vital that their maintenance is the responsibility of all owners who have common property rights in those parts.
Sinking Fund	See 'Building Maintenance Fund.'
Statutory Notice	A Statutory Notice issued by the City Of Edinburgh Council alerts and informs owners that a problem has been identified relating to their building. Subsequent action is required by the owners to carry out repairs. Statutory Notices are served under the terms of the City of Edinburgh District Council Order Confirmation Act 1991 or the Civic Government (Scotland) Act 1982.
Steering Group	A group of interested people who want to take an initiative and develop it more fully.
Tenement	A building comprising of two or more related flats that are owned or designed to be owned separately and which are divided from one another horizontally.
Tenement Management Scheme	The default management scheme set out in the Tenements (Scotland) Act 2004 that applies when the title deeds are unclear or unworkable.

Title Conditions	A broad term for conditions applying to property ownership. Conditions can include an obligation to contribute to the cost of a service or to maintain property or a prohibition from carrying out certain activities on the property.
Title Deeds	Legal document that states who has title or ownership of property, and sets out the conditions that affect the property.

Who can I talk to about setting up an owners' association?

Our Housing Services staff can help talk you through the process and help answer any queries you may have about setting up an owners association.

Housing Services offers a range of impartial advice and practical assistance to homeowners on how to improve, repair and maintain their property.

Housing Services web page is being developed further and will soon include downloadable versions of all the information packs available to homeowners, plus other helpful advice and information on maintaining your property.

Housing Services is part of Community Services from Argyll & Bute Council

www.argyll-bute.gov.uk

Further reading

Relevant legislation

Title Conditions (Scotland) Act 2003

This act forms the second stage of the property law programme, complimenting the Abolition of Feudal Tenure etc. (Scotland) Act 2000. The act modernises and clarifies the law on real burdens and title conditions.

Tenements (Scotland) Act 2004

This act was the last part of the programme of property law reform. It provides a structure for the maintenance and management of tenements if this is not provided for in the owners' title deeds

Housing (Scotland) Act 2006

This act gives local authorities a range of powers to improve the quality and condition of private housing. The act is in 10 parts and a summary can be found here:

www.scotland.gov.uk/Publications/2006/07/18162031/2

A copy of the above legislation can be purchased from The Stationery Office Scotland (TSO) and is available to download from:

www.opsi.gov.uk/legislation/scotland/about.htm

Tenement repair and maintenance

Common Repair, Common Sense

Published by Consumer Focus Scotland. Download from:

<http://www.consumerfocus.org.uk/scotland/files/2009/10/Common-Repair-Common-Sense-full-version.pdf>

Management & Maintenance of Common Property

By the Scottish Government. Download from:

<http://www.scotland.gov.uk/Resource/Doc/76169/0019425.pdf>

Maintenance accounts / Building reserve funds

Safe as Houses (Building Reserve Funds)

From Chartered Institute of Housing or download from:

www.cih.org/scotland/policy/resproject019.pdf

Useful Contacts

Independent Housing Advice Line

0800 731 8337

Housing Services

Argyll & Bute Council
Area Offices

www.argyll-bute.gov.uk

Argyll & Bute Citizens Advice Bureau

08456 123808

Chartered Institute of Housing

The professional body for people who work in housing

CIH in Scotland
6 Palmerston place
Edinburgh
EH12 5AA
Tel: 0131 225 4544
Email: scotland@cih.org

Argyll Council for Voluntary Organisations

www.argyllcommunities.org/argyll/

The Property Managers Association Scotland Ltd

Find a local property manager or factor

2 Blythswood Square,
Glasgow G2 4AD.
Telephone: 0141 248 4672
Fax: 0141 221 9270

www.pmas.org.uk

Registers of Scotland Executive Agency

The Agency maintains Scotland's two national property registers – the Register of Sasines and the Land Register.

Glasgow Customer Service Centre

9 George Square
Glasgow
G2 1DY
LP 12 Glasgow 9
DX 501752 Glasgow 9

Tel. **0845 607 0164 / 0141 306 1718**

Fax. 0141 306 1721

Email. customer.services@ros.gov.uk

Customer Service Centre Manager

Carolyn Birrell
Tel. 0141 306 1719
Fax. 0141 306 1721
Email. carolyn.birrell@ros.gov.uk

Shelter Scotland

For independent advice on housing issues

<http://scotland.shelter.org.uk/>

