

## Maintenance Orders

### **What is a maintenance order?**

The power to serve maintenance orders was introduced by the Housing (Scotland) Act 2006. A maintenance order is a statutory order served in respect of a house and any owner receiving it has an obligation to comply with the order to ensure future maintenance of the building.

A house is any accommodation which is or is capable of being used as a separate dwelling. This includes the structure and exterior along with any external areas and outbuildings related to the house whether in sole or common ownership. Maintenance orders can require works to non-residential premises but only if the work is needed to secure the maintenance of any house which forms part of the same building.

When a maintenance order is served this is recorded on the title deeds to the house or houses served with the order.

### **Why have I been served with a maintenance order?**

Maintenance orders are used when it is recognised that a house or houses have not been maintained, or are unlikely to be maintained to a reasonable standard. Maintenance can include repairs and replacement, cleaning, painting and other routine work, gardening and the reinstatement of part (but not most) of the house.

Alternatively you may have been served with a maintenance order where it is felt that the benefit of works carried out under a Work Notice issued by the Council or a Repairing Standard Enforcement Order has been reduced or may be lost due to poor maintenance.

### **What do I have to do when I have received a maintenance order?**

Any owner served with a maintenance order is required to produce a maintenance plan showing how the house is to be maintained to a reasonable standard. The Council would normally request that this plan covers work for a period of 5 years. A template maintenance plan is available via the website.

You will have to prepare this plan and return this to the Council by the date specified in the order. The Council will review the submitted plan and will approve, reject or modify the plan. If you fail to submit a maintenance plan by the date specified in the maintenance order the Council may devise a maintenance plan for the house concerned. You will be notified of any decision made by the Council. When approved the maintenance plan will be registered on the title deeds to your house and the maintenance order will be removed from the deeds.

During the period set out in the maintenance order, the Council will monitor that the works are being carried out. You may be required to provide returns to the Council to assist in the monitoring process. At the end of the period specified within the maintenance plan reference to the plan will be removed from your title deeds. You will however still be responsible for carrying out the maintenance to the property in your ownership.

### **Can additional works be carried out once the plan is approved?**

Whilst the maintenance plan will set out a timetable of work to secure the maintenance of your property to a 'reasonable standard' you may be required to carry out other additional works from time to time when required. These works may be required where unforeseeable disrepair, damage or emergency works are required.

For example the plan may specify that the roof will be inspected in May and any subsequent repairs carried out further to this. However you may be required to carry out additional works at other times, say for example where disrepair is evidenced after particularly stormy weather or where emergency works are required.

The maintenance plan does not include the requirement to carry out improvements. If you wish to carry out works of this nature you would have to obtain the consent of fellow owners on the terms of agreement set out in your title deeds.

### **The works identified are common works, what should I do?**

The title deeds for your property will detail the other properties that share common elements. Owners of those other properties will also have been served with the same maintenance order that you have received.

If you do not have a copy of your title deeds these can be obtained from the Registers of Scotland who can also provide details of other owners with common responsibilities. A charge will be made for any service provided to you by that agency. Alternatively a solicitor can obtain this information for you. Again a charge will be made for their services.

Where works are common a joint maintenance plan must be prepared with other owners who have common repair responsibilities. The plan can cover any part of the building, including (but not restricted to) parts owned in common. The plan must apportion the liability of each joint owner in respect of the costs of implementing the plan. You will be able to get details of the shares from your title deeds. There has to be agreement between the co-owners to the terms of the maintenance plan, before the Council can approve it.

### **Is help available to me in preparing the maintenance plan?**

If the maintenance works are common and you have a Property Manager in place they will be able to assist you and other common owners in preparing a plan. If this agent is not already in place you may wish to consider having one appointed to assist in preparation of the plan and to co-ordinate future maintenance works and prepare returns for the council. Your title deeds may give you more information about appointing Property Managers or factors.

If you have sole responsibility for the works you will be responsible for preparing the plan. The Private Sector Housing Section can provide a draft maintenance plan for use as a basis in preparing your own plan and can also provide advice on appointing a Property Manager if you are in a block with common responsibilities.

### **What if I cannot get owners with a shared responsibility to participate?**

Ultimately it is the responsibility of the owners to comply with the terms of a maintenance order and to carry out works to any property in their ownership as per the conditions set out within their title deeds. However if you are not able to get other owners to co-operate you should contact the Private Sector Housing Section for further information and advice on how to progress.

### **What types of assistance are available from the Council when I have received a maintenance order?**

Under the council's 'Scheme of Assistance' assistance may be available to owners in receipt of a maintenance order. This assistance may include the provision of information and advice on how to obtain copies of your title deeds, how to set up residents associations or assistance in tracing missing owners. In some circumstances practical assistance may be available to help you arrange meetings to bring common owners together to discuss what steps are required to be taken to comply with the maintenance order.

Any assistance provided will be tailored to individual circumstances and will be provided to help owners to carry out the required actions themselves.

### **What are the benefits of a having a maintenance plan in place?**

Having a maintenance plan in place will secure maintenance of your building. Failure to maintain a building can turn a simple and relatively inexpensive job into a very costly one. Carrying out routine maintenance and repairs can also help to sustain the value of your house.

As a maintenance plan is registered on the title deeds to your property if you decide to sell your property within the time the plan covers any future owner will also have to conform with the plan. This can provide reassurance for a purchaser knowing that maintenance of the property will not be allowed to lapse.

Whilst the order does not require you to improve building elements you may wish to take this opportunity to carry out improvements to your property if you wish to remove future maintenance or to save money in the longer term. For example you may replace a material previously used with one requiring less maintenance or you may choose to install energy efficiency measures to cut down your energy bills.

### **I have received a maintenance order, can I appeal this?**

Owners can appeal to the sheriff against the decision:

- to serve a maintenance order;
- to approve or devise a maintenance plan; or
- to vary or revoke a maintenance plan.

You can appeal to the sheriff against a maintenance order. You must give notice of your appeal within 21 days from the date the order is served.

### **What happens if the work detailed in the Maintenance Plan is not carried out?**

In the event that the works are not carried out as set out within the maintenance plan the council can step in to enforce the works. Any expenses incurred by the council in enforcing works will be recovered from the owners. The outstanding amounts will be recovered by the council through the serving of a repayment charge on the title deeds to each property. Interest will be charged for the period that the debt remains outstanding with all outstanding monies plus expenses and interest repayable on resale if not paid off before.

### **Further information**

For further information, advice and practical assistance in relation to the preparation and serving of maintenance orders and monitoring of maintenance plans contact:

Safer and Inclusive Communities, Public Health and Housing Team, Inverclyde Council, 40 West Stewart Street, Greenock PA15 1YA

Tel: 01475 717171

Email: [customerservice@inverclyde.gov.uk](mailto:customerservice@inverclyde.gov.uk)

or visit the Inverclyde Council website [www.inverclyde.gov.uk](http://www.inverclyde.gov.uk) and looking under Housing.

Further information on dealing with common repairs and on appointing property managers is contained within the information booklet 'Common Repair, Common Sense' published by Consumer Focus Scotland Tel: 0131 226 5261 [www.consumerfocus-scotland.org.uk](http://www.consumerfocus-scotland.org.uk) and also available from the Private Sector Housing Section

Please note that Inverclyde Council can recover fees and administrative costs incurred in registering in the appropriate land register each maintenance order, maintenance plan approved, devised or varied and notice of revocation of a maintenance plan from the owner of the house concerned.