

## Neighbour guide 2

### Empty Homes and Disrepair

Has the empty property next to you started to deteriorate?

Do you have questions about what the council can do to help?

Are repair issues getting worse, or so severe that more immediate action is needed?

The longer a property stays empty, the more likely it is to deteriorate and cause issues for nearby properties. Peeling paint, broken/boarded up windows and crumbling brickwork are all signs that the property is empty and can make it look unsightly.

Lack of maintenance is particularly concerning for you, as a neighbour, where it affects your own property. Your title deeds will tell you what work is shared between you and your neighbours. For example, if you are in a flat, terrace or semi-detached home, you may share



responsibility for the roof, guttering, drainage and garden.

This guide aims to help neighbours understand:-

- What action you can take
- What powers councils have when owners are unable or unwilling to look after their property
- When and how councils are likely to use these powers

Some issues can gradually get worse if not addressed while others may happen more suddenly and need immediate attention.

## What Action Can I Take?

### How can I encourage the empty property owner to deal with repairs?

Best advice is to communicate directly with the other owners to agree on shared repairs. However, if the property is empty and you don't know who the owner is or where they are, this becomes more difficult.

You can use our tips in guide 1, (Help! The House next door is empty) to try and find the owner. If your council has an [Empty Homes Officer](#) (EHO) they can also help.

They won't be able to give you any details they hold for the owner, but they can contact the owner and remind them of their responsibilities. Timescales depend on how easy the owner is to find and if they respond to contact.

CAB also have this letter [How to write a letter \(citizensadvice.org.uk\)](#)

For any issues about communal repairs in flats [Under One Roof](#) is a

great resource. The section on the website on [enforcing repairs](#) has a duty to maintain template letter.

### What action can I take if repair problems are getting worse and can't wait?

You shouldn't be left out of pocket for covering the empty property owner's share of repairs. However, you may need to carry out repairs to prevent damage getting worse, if the work is critical and the owner can't easily be contacted. Keep a record of attempts you have made yourself or via the council to contact the owner.

There are specific processes that can also be followed under the Tenement (Scotland) Act 2004, which allows for majority agreement for essential repairs. This can be used when title deeds are silent or conflicting on a particular point. [Under One Roof](#) have information focussed on shared repair in flats, including how to enforce repairs.

Even if you can't find the owner, you can send copies of any quotes and notice of your intention to start work to the empty property address. It's important to document all these steps should you need to raise court action to recover costs in the future.

### **Can the Council help pay an absentee owner's share?**

Where the majority of owners agree to common repairs some councils may offer to pay the missing shares of the minority who are unwilling or unable to pay. If this is something your council offers there will usually be certain criteria. For example, individual shares being over a certain amount and that a maintenance account should be created for funds to be paid into. The council also needs to agree the costs are reasonable, that all owners have been notified or contact attempted where there is an absent owner. Work should also not start until approval for the missing share has been given.

### **What powers do councils have?**

Responsibility for maintaining private property rests with the owner and this doesn't stop when they leave their property. A council's ability to deal with empty homes is limited, and normally linked to threats to public safety, public health or risk to adjoining property.

### **How can the Council force action on empty homes?**

What action councils can take depends on when the law says they must act and what resources are available. Councils will usually try to trace the owner and encourage them to act before considering any steps they can take.

### **What powers do councils have to force owners to tidy their garden?**

There is very little that can be done to force an owner to tidy their garden, despite the impact it could be having on you and your street.

For action under planning legislation the impact of the overgrown garden must be so severe that it is 'detrimental to the amenity of the neighbourhood'. Overgrown gardens may be one of the first things neighbours notice about an empty home, but they aren't likely to be a priority for the council.

### **What powers do environmental health have for empty properties?**

Living next to an empty home can be a nuisance for you as a neighbour as it can cause inconvenience and annoyance. However, not every nuisance will be something that environmental health officers can take action on. Perception of nuisance also varies from person to person. For more detailed information on environmental health's role with empty homes see Guide 3 on Empty Homes and Environmental Health.

## **Council Powers to deal with repair**

### **What are they?**

### **When and how are Council's likely to use available powers?**

Home owners are responsible for making sure their property doesn't affect other property or present a danger to others. A council's role is a safety net for public protection when owners are unwilling or unable to maintain their homes.

Councils favour an advice and assistance approach, cooperating with owners. Use of public funds for work to private properties will only be considered where strictly necessary.

Where council action is appropriate this will only address the immediate symptoms of the empty property, experienced by you as a neighbour. The best way to stop a property's condition from getting worse and affecting the wider area is for it to be occupied again.

## Works Notice

If an empty property is not maintained then it may deteriorate to the point it falls below the Tolerable Standard. This is the minimum legal standard any property must meet before it can be occupied. Further information about these requirements is available from [Shelter Scotland](#). A property can also be substandard if it is likely to deteriorate quickly or damage other premises if no action is taken.

Where the empty home is substandard councils can issue a works notice. This requires the owner to bring the property up to a reasonable state of repair. The notice will specify what work is needed and sets out an appropriate timeframe.

If the owner doesn't do the work the council can carry out necessary repairs. However, this will depend on resources. Action will be prioritised based on the severity of the situation.

## Maintenance Order

Maintenance Orders can cover the following work:-

- repairs and replacement
- cleaning
- painting
- gardening
- reinstating part (but not most) of a property, and
- other routine work.

If an owner is served with a Maintenance Order, they must produce a plan showing how they will keep a property maintained or bring it up to standard.

Encouraging owners to be proactive about maintenance avoids smaller issues getting worse.

Councils can put their own maintenance plans in place if owners don't act.

## Defective Building Notice

Where a property isn't immediately dangerous but there are signs of significant repair issues, for example chimney cracks, damaged roofing or leaking gutters, a council can serve a Defective Building Notice. This is served in recognition that action is required to prevent a home deteriorating further or causing issues for adjacent property.

If the owner fails to carry out the work in the set time frame, they are guilty of an offence. If action is not taken, the council can carry out the work and can recover costs from the owner.

## Dangerous building notice

Ideally, repairs should be addressed by the owner before reaching crisis point.

If an empty property is a danger to those nearby, the general public or adjacent property, the council has a duty to act. What action is

necessary depends on their risk assessment.

If there is an immediate danger the council will act to remove this. This can include removing dangerous roof tiles and fencing off a property. Whilst the immediate risk is removed, the council does not have to carry out repair work.

If the property is dangerous but immediate action isn't required, the council will serve a Dangerous Building Notice. This notice sets out the work required to deal with the danger.

If the owner doesn't act on the notice, they are guilty of an offence and the council may carry out the work.

## How is danger assessed?

The council will consider a number of things when assessing the danger presented by the property.

This includes:-

- where the danger is located
- the persons at risk

- time of year
- weather
- ease of tracing owners and their willingness to take action

## Contact Us

If you are concerned about a deteriorating empty home and need further advice contact our advisers:-

 0344 515 1941

 [emptyhomes@shelter.org.uk](mailto:emptyhomes@shelter.org.uk)

Our advisers will gather details and provide further information and advice where they can. With your consent this could also include referring on to the local empty homes officer or other council department.