

How to Guide – Adapting Common Parts

February 2020

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Why has this guide been prepared?

The Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020 have been developed by the Scottish Government to allow disabled people to make adjustments to the property. The term “Relevant Adjustments” has been used because it is a legal requirement but it means the same as adaptations. Whenever you see the term “relevant adjustments” or “adjustments” it can be read as “adaptations”.

Previously, you could only make adaptations to common areas with the consent of all the owners. These regulations mean that you now only need the consent of a majority of owners and no one can unreasonably withhold their consent. There is no standard definition of “unreasonable” but where there is disagreement, any owner has the right of appeal to the Sheriff. The other owners may also ask for reasonable conditions to be attached to consent. There is also a right of appeal to the Sheriff if you think the conditions are unreasonable.

This guide sets out how to go about making changes to common areas of your home to make it easier for you to get around. It sets out what you need to do, who you need to speak to and when you need to do it.

Is this guide for you?

Do you live in a property with a shared common area?
Do you need an adaptation to the common area to enable you to get into or out of your home?

If the answer is ‘yes’ to these questions then this guide may help you adapt where you live and make your home more accessible.

I privately rent my home. Does this apply to me?

Yes, if you privately rent you will have the same rights to make adaptations to the common area of your building. You should inform the owners that you are planning to make an adjustment to the common area and follow the process set out below to obtain the agreement of the majority of owners.

Need some extra support?

If you feel that you might need some independent support to take you through this process you can ask for the help of an advocate. Advocacy services support people to represent their own interests. Where this is not possible, the advocate will represent your views. You can get more information on Advocacy Services, and search for an advocate in your local area, on the Scottish Independent Advocacy Alliance’s website at www.siaa.org.uk

At the end of the guide there are also links to organisations you may find helpful.

Who pays for the adaptation?

You can choose to pay for the adaptation yourself or you can apply for grant funding from the Scheme of Assistance. Local authorities may provide grant funding of 80% or 100% but only if the adjustment is assessed by a suitably qualified professional such as an Occupational Therapist, as necessary. The attached link provides more information about the levels of assistance available for housing adaptations.

<https://www.webarchive.org.uk/wayback/archive/20170701174840/http://www.gov.scot/Topics/Built-Environment/Housing/access/adaptations>

Where do I start?

If you are paying for the adaptations yourself, you might want to consider getting some advice first. Your local Care and Repair service will be able to offer support and advice. You can find your local Care and Repair at:

<http://careandrepairsotland.co.uk/office-locations.html>

If you do not have a local Care and Repair, your local authority will offer a similar service.

If you are applying for grant funding you should contact your local authority Social Work Services who will decide, following an assessment of your needs, whether the changes needed to your home meet the conditions for essential work. The assessment will usually be carried out by an Occupational Therapist, and will identify what you need help with and suggest possible ways of meeting your needs, including adaptations to your home. You can find your local social services at: <https://www.mygov.scot/social-services/>. You can also ask Care and Repair for help and support if you are applying for grant funding.

If it is not possible to adapt the property to accommodate your needs, you should seek advice on what other options there are to ensure you have a home that meets your needs. While you may want to stay in your own home, it may be that a move to a more suitable property would enable you to continue to live safely and independently.

Do I have to tell the other owners in the building?

Yes, you will have to seek the agreement from the other owners. You will have to notify them that you are planning to make an adjustment to the common area of your building. You should write to all the owners who share the common area. If you do not know all the owners or some of the properties are let, you can use the Scottish land registry to obtain details of the owners (www.ros.gov.uk/services/search-property-information). You can order digital copies of title documents, including title sheets and title plans, for £3 + VAT. This will allow you to write directly to the owners whose consent you wish to obtain. You can also ask the tenants for details of the owner or the letting agent so you can send the letter to the right person. You may also find it helpful to search the Scottish Landlord Register (<https://www.landlordregistrationscotland.gov.uk/>) to find details of the landlord of any properties which are let.

You should send the letters by registered post to make sure you have a record of the letters being delivered to the owners.

If you share the common area with many properties for example a large block of flats, you may wish to send your letter to the factor or managing agent of the property, for distribution to the owners by newsletter or email.

I tried to get agreement for an adaptation previously but the owners rejected it, can I still use this process?

Yes, under the new legislation, owners cannot unreasonably withhold their agreement. Even if they abstain or reject your request you can take your case to the Sheriff and they will consider your request. The Sheriff has the final say on the adaptation.

Is there a particular format of the notification/letter?

Yes, there is a schedule called [Application for Consent to Relevant Adjustments](#) which is part of the regulations. You should complete this with the details of the adaption and send it to the owners. Additionally, there is a further schedule [Notice Of Decision Of Owner Of A Property With A Share In The Common Parts Of The Premises](#) which would be sent along with the above application and the owners would complete to agree or disagree with the proposed adaptation.

Once you have replies from the owners, you must record the majority decision on the schedule [Notice of Majority Decision](#) and send a copy of that notice to all owners of the common parts affected by the proposed works.

The Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020 and schedules can be found at:
<http://www.legislation.gov.uk/sdsi/2020/9780111043615/contents>

Who is responsible for maintaining the adaptations should that be required?

Unless an agreement has been reached with the other owners, the disabled person will be responsible for any necessary maintenance, or repair, required for the adaptation.

What happens once I have informed the owners of my plans?

The owners will be asked to agree, object or agree with conditions to the adaptation proposed. They have 28 days from receipt of the letter to respond. If the majority of the owners agree, and none of the owners who objected have applied to the Sheriff to look at the case, then you can go ahead with the adaptation. The adaptation will have to meet building regulations and comply with any other housing and fire safety legislation. Depending on the adaptation you may need to obtain a building warrant or planning permission.

What kind of conditions can the owners ask for?

There is no list of reasonable conditions as there would almost certainly be situations where a reasonable condition is not detailed on the list. However, examples of reasonable conditions could include things such as:

- Asking that any work needed to install the adaptation should not begin before a certain time in the morning and should finish by a certain time in the evening;
- For health and safety reasons all equipment used to install the adaptation should be removed at the end of each day and the area should be clean and tidy;
- Adaptations should, where possible, blend with the area being adapted. This could include things like asking for the colour to be the same as the surrounding colour.

What if no one responds?

You need a majority of owners to agree to the adaptation. No response or an abstention from an owner is noted as a disagreement. If you do not have a majority vote you can then apply to the Sheriff and ask them to look at your case. The owners who object or who have not responded cannot unreasonably withhold their permission and the Sheriff can look at the case and make a judgement to approve or reject your adaptation.

How do I appeal to the Sheriff?

You can find more information about the legal process here.

<https://www.scotcourts.gov.uk/taking-action/summary-applications>. Alternatively you can contact your local citizens advice or seek your own legal advice. Further sources of information can be found at the end of this guide.

I took my case to the Sheriff but lost, why?

This can happen if the adaptation requested is considered unreasonable or does not meet building or fire regulations, or comply with existing housing legislation. For example, but not limited to, if you have asked for a lift to be installed to your flat on the 4th floor, a ramp access that is too steep to meet building regulations, installing a stair lift that means the staircase is too narrow or the adaptation does not meet current fire regulations. If it is not possible to adapt the property to accommodate your needs, you should seek advice on what other options there are to ensure you have a home that meets your needs.

What happens if I move to a new property?

If you sell your property, and the other owners do not wish to keep the adaptation, you are responsible for removing the adaptation or restoring it to the condition it was in before the work was carried out.

Glossary

What does “Common parts” mean?

“Common parts” means the exterior of the building, for example the doors, path or steps to and from the building, any common facilities of the building such as common room, laundry area, bin storage.

What are “Relevant adjustments”?

“Relevant adjustments” are alterations or additions to the building which mean the disabled person can access or use the common parts in the same way as a person who is not disabled.

Other sources of advice

Disability Information Scotland

<http://www.disabilityscot.org.uk>

Helps to guide people through sources of disability information. They have a searchable directory which may help source legal or other advice services in your area.

Disabled Living Foundation

www.dlf.org.uk

DLF is a national charity providing impartial advice on independent living.

Housing Options Scotland

www.housingoptionsscotland.org.uk

HOS advise and support disabled people, veterans and older people to resolve their housing issues, by working on finding tailored solutions for families and individuals.

Care Information Scotland

www.careinfoscotland.scot

Care Information Scotland website has been set up to provide comprehensive information on how to access care services in Scotland.

Shelter Scotland

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

Provides housing advice on a wide variety of topics including disability and adaptations.

Citizens Advice Scotland

www.citizensadvice.org.uk/scotland

Provides advice on a wide variety of topics including housing.



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