

**Report to:** **Housing Review Board**

**Date of Meeting:** 17 September 2020

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Subject:** **Disrepair**

**Purpose of report:** To update members on the subject of disrepair and outline work that is ongoing to reduce and manage future cases.

**Recommendation:** **For information only**

**Reason for recommendation:** To ensure Members are up-to-date with Disrepair Claims in the Councils Housing stock

**Officer:** Interim Property and Asset Manager – Graham Baker

**Portfolio Holder:** Portfolio Holder Sustainable Homes and Communities

**Financial implications:** Disrepair claims by their nature are not possible to forecast and therefore will constitute an unbudgeted expense. Instances and costs associated with each instance will be recorded separately within the HRA and reviewed.

**Legal implications:** Legal are separately providing a brief presentation on the legal context of disrepair and its potential impact on the Housing Service.

**Equalities impact:** Low Impact

**Climate change:** Low Impact

**Risk:** Medium Risk

Disrepair claims reflect negatively on the Councils reputation and could lead to significant financial loss.

**Links to background information:** [HRB Agenda June 2019 The Homes \(Fitness for Human Habitation\) Act 2018 Agenda Item 16](#)

**Link to [Council Plan](#):** Choose Priorities and delete what not appropriate.  
Outstanding Place and Environment  
Outstanding Homes and Communities  
Outstanding Economic Growth, Productivity, and Prosperity  
Outstanding Council and Council Services

## Report in full

### 1. Background

- 1.1 Housing disrepair means a property that is in need of repair in order for it to be safe and suitable for tenants to live in. In a house where repairs or works are needed and we fail to carry out the work within a reasonable amount of time after the issues are reported, this could be considered to be housing disrepair. Landlords cannot be liable unless they have been given notice of the defect(s)
- 1.2 Under section 11 of the Landlord and Tenant Act 1985 a landlord has to keep in repair the structure and exterior of the dwelling house including drains, gutters and external pipes, and to keep in repair and proper working order the installations for the supply of water, gas and electricity and for sanitation. A landlord must also keep in repair and proper working order the installations for space and water heating.
- 1.3 A high quality repairs service is a key element in the provision of good quality rented housing. It is an essential element in achieving high levels of tenant satisfaction, improving the landlord and tenant relationship and protecting health and safety.
- 1.4 A poor repairs service increases the scope for legal action being brought by tenants which diverts resources away from housing management, maintenance and improvement. The provision of a responsive and well-managed housing service depends on the interrelationship between four main areas:
  - i. The stock.
  - ii. The tenants.
  - iii. Staff.
  - iv. Financial resources.

### 2. Current Position

- 2.1 EDDC have, to date, received 5 Disrepair claims from a number of different Solicitors. The Solicitors are consistently from the North West of the UK. Many Solicitors' practices are now targeting Council and Housing Association properties in a similar way to PPI claims previously, using 'door knockers' to identify properties with poor external appearance as this is often symptomatic of further issues internally. Tenants are advised that they are entitled to compensation for repairs that have not been completed satisfactorily or are outstanding. They are not always advised that they can report the repairs themselves and we will do them but are led to believe that they will get compensation if repairs have not been completed. Often these repairs have not been reported or are a result of tenant lifestyle. Once tenants sign the Solicitors paperwork, they can be responsible for paying Solicitors fees if the claim fails.
- 2.2 All EDDC claims are predominantly for mould. This is a common claim as causes and remedial work is complex and requires good interaction with residents. In order to defend and resolve Claims it is very important that property information is available, accurate and up-to-date.
- 2.3 Technical inspections have been undertaken and reports produced for each property to substantiate/dispute the claims. These are then used to compare with the Solicitors Claim. Decisions are made as to whether the issues are 'lifestyle' i.e. contributed to by the residents or whether there are genuinely a defect within the property and we were aware but have failed to put the defect right. Common defects are extractor fans either not being present, not working or turned off by the residents. If extractors are turned off then residents are contributing to the disrepair so the Claim can be disputed. Gutters leaking due to lack of cyclical cleaning would be disrepair but unreported broken joints would not.

- 2.4 Disrepair Claims require communication across a number of services with Legal Services co-ordinating responses whilst Property and Asset manage any necessary work, often with the support of Housing teams to ensure tenants are able to manage their tenancies. Supporting residents with their responsibilities for looking after the property needs to run alongside defending Claims.
- 2.5 Four of the claims have been settled currently with reduced offers of compensation. Remedial work is ongoing. Compensation settlements have been offered in all cases as the historic data and stock condition information held by EDDC is not as up to date or of the required standard that is needed. The fifth case is being defended vigorously by appointing a joint expert and defending court proceedings brought by our tenant.
- 2.6 Disrepair claims will increase and are prevalent across the country. We are working jointly with ASW members to share best practice, joint surveying experts, legal advice and training for all staff. We are currently in a strong position as we have good systems and processes and have appointed an internal working party overseeing all claims.
- 2.7 We are ensuring that all staff are keeping records and there are numerous ways that staff and tenants can report repairs. We are reviewing processes in line with the new Homes (Fitness for Habitation) Act 2018 and our position will be further strengthened when we complete the full stock condition survey.