

**EAST DEVON DISTRICT COUNCIL**

**Minutes of the meeting of Housing Review Board held online via the Zoom app on 17 September 2020**

**Attendance list at end of document**

The meeting started at 2.30 pm and ended at 6.05 pm

**63 Public speaking**

There were no matters raised by the public.

**64 Appointment of Vice Chairman**

The Chairman welcomed all those present to the meeting. He welcomed Jo Garfoot, Acting Housing Service Lead, as maternity cover for Amy Gilbert-Jeans to the meeting. Jo thanked the Chair and introduced herself.

Nominations for Vice Chairman were received for co-opted tenant member Peter Sullivan.

**RESOLVED:** that tenant representative Peter Sullivan be appointed Vice Chairman of the Board for the ensuing year.

**65 Minutes of the previous meeting**

The minutes of the Housing Review Board meeting held on 23 January 2020 were confirmed as a true record.

**66 Declarations of interest**

Sarah Chamberlain: Personal interest – works for Exeter City Council in the assets department as a surveyor for compliance.

Cindy Collier: Personal interest – housing tenant.

Ian Hall: Personal interest – mother is a housing tenant and he is a Devon County Councillor.

Christine Morrison: Personal interest – housing tenant.

Peter Sullivan: Personal interest – housing tenant.

**67 Matters of urgency**

There were no matters of urgency raised at the meeting.

**68 Confidential/exempt item(s)**

There were no confidential or exempt items.

**69 Housing Review Board forward plan**

The Housing Service Lead presented the forward plan and advised members that the forward plan acted as a reminder of agenda items to come forward to future meetings.

Members were reminded that they could add further issues to the next forward plan by informing either herself of the Democratic Services Officer.

The Portfolio Holder for Strategic Planning informed the Board that the Government had recently announced £12 billion funding to support decarbonisation. There was £12 billion Government funding available for a five year affordable housing programme. It was suggested that there was housing land available at First Avenue, Millway Rise, Axminster. The Housing Service Lead advised that this would be added to the forward plan for a report to be brought to the November Board meeting.

RESOLVED: that the forward plan be noted and updated to include a report on the Government's five year affordable housing programme.

## 70 **Update on integrated asset management contract**

The Chairman welcomed Kate Green, General Manager and Arron Kelly, Business Manager from Ian Williams Ltd to the meeting. The Board were asked to note progress that was being made with the Integrated Asset Management Contract, which commenced in July 2019, and reviewed the partnership with Ian Williams Ltd over the last year.

In January 2020 the Board received an update identifying a number of areas that were being monitored very closely in order to work towards improved performance. Since that time intense work had been carried out and was continuing with a number of officers focusing on all elements of the contract to continually seek improvements with both the day to day management and performance of the contract.

Kate Green reported that operations this year had not been business as usual and they had had to deal with an array of issues. There were daily update calls between EDDC and Ian Williams Ltd and good progress was being made with staffing. EDDC had employed a permanent contract manager and the structure was continually being reviewed. The Covid-19 pandemic had caused some operational works to be scaled back, but the contract still endeavoured to offer as much of a service as possible.

It was noted that the voids service had been difficult during the first half of the contract year, with the service taking a dip, but there was now an action plan in place which was working well. The General Manager acknowledged that there had been some performance issues at the start of the contract, but that they were now in a good position for moving the contract forward, with both parties recognising that some adjustments were required.

Members had expressed concern at the January HRB meeting but were now greatly encouraged to see the relationship between EDDC and Ian Williams improving. Concern was expressed that there was no longer a dedicated handyman and Ian Williams were asked what was being done to address this. Kate Green replied that they were trying to recruit someone, but that it was proving difficult due to the current social restrictions. They had a duty of care to tenants and operational teams to reduce the amount of time they spent in tenants' homes. The handyman role was more than just a 'fixer' and it was important that the post was permanently filled by the right person. The role combined maintenance care as well as a social service.

It was reported that a cost review of voids was being carried out independently by Echelon. Voids had been tendered for as price per void, based on some historical data.

The KPI used was length of time taken. An openbook financial review of the first year of the contract was being undertaken and the results were due any day. The results of this 12 month review would be published and it was agreed that a further update report on the contract would be brought back to the November Board meeting.

Members also queried how customer satisfaction would be measured. They were reassured that the customer care process was being refined and reviewed and that the paper format would be reintroduced, as well as using the contractors' iPads to submit feedback. Hub advisors would also call tenants for feedback following work undertaken.

RESOLVED: that the Housing Review Board note the progress being made with the integrated asset management contract that commenced in July 2019.

## 71 **Disrepair**

The solicitor gave a presentation to the Board about disrepair and potential legal challenges to the condition of housing stock by tenants through a number of litigious lawyer firms. He outlined why disrepair was such an important area of work for the Housing Service, ensuring that there was an understanding amongst officers and managers that disrepair needed to be prioritised. Ongoing work was required to reduce and manage future cases.

The solicitor explained the legal meaning of disrepair and why disrepair was so topical now. He outlined the litigation process including the pre-action protocol, and set out good practice so that the Council could successfully defend claims by being proactive with tenants. This included every officer asking a tenant about any disrepair in their property when they made contact with the service.

The solicitor advised that the service needed to have policies, procedures and processes in place and that Legal Services had provided a series of training sessions given by Trowers and Hamlins Solicitors to all staff.

RESOLVED: that the Board note the report.

## 72 **Advantage South West - renewal of subscription**

The Housing Service Lead outlined the advantages of being a member of Advantage South West, which EDDC benefitted most through procurement and the significant financial savings it allowed. Another huge advantage was the opportunity to work with other housing providers. It was reported that provision for the subscription had already been included within the current year's budget. Members were asked to note the benefits of membership of Advantage South West and to support continuing membership of the organisation.

RECOMMENDED: that Cabinet approve that the Council continue paying the annual subscription to maintain the membership to Advantage South West.

## 73 **Air source heat pumps**

The Compliance Surveyor presented the Strategic Lead – Housing, Health and Environment's report which considered an element of the Council's carbon footprint

relating to its housing stock. It related to the prevalence of fossil fuel heating systems and proposed a programme of installing air source heat pumps, building on a pilot programme undertaken in Rodney Close, Exmouth in 2017, which had received some very positive feedback from tenants living in those properties.

The forthcoming stock condition survey would confirm the reliance of fossil fuel heating systems for Council homes and using this data officers would be able to formulate and deliver programmes of boiler replacement and associated energy efficiency measures designed to reduce the service's carbon footprint, consistent with the Council's ambition.

It was proposed that approximately £150,000 of the £500,000 annual boiler replacement programme be set aside to initiate a programme of mainstreaming the installation of air source heat pumps in the Council's housing stock, delivering 15 installations. There would be some procurement advantages of using a framework. An external funding application had also been made for the Green Homes Grant which was a government initiative that had set aside £50 million to encourage retrofitting of existing properties.

**RECOMMENDED:** that Cabinet approve the continued use and installation of air source heat pumps as a viable carbon efficient alternative to conventional boilers.

#### 74 **Advantage South West - recruitment and skills project**

The Housing Service Lead's report set out the opportunity for the Council to contribute towards a collaborative project being run by Advantage South West to fund and recruit a member of staff to co-ordinate and deliver an improvement in the South West housing sector's ability to attract staff. It was hoped to work with other members to pro-actively encourage and retain highly skilled staff within the housing sector through shared initiatives and training and development programmes. It would also encourage engagement with schools and colleges to promote the benefits of a career in housing in order to build a workforce for the future. It was noted that the initiative would only go ahead if enough organisations signed up to the project.

**RECOMMENDED:** that Cabinet approve the participation in the initiative at an indicative cost of £3000 per annum for three years.

#### 75 **Climate change action plan**

The Housing Service Lead presented a report summarising the work to be undertaken by the housing service in response to the Council's commitment to carbon reduction and increased energy efficiency.

As an organisation EDDC had committed to achieve carbon neutrality by 2040 and endorsed the Climate Change Strategy and associated action plan to facilitate this. There was a need to ensure sufficient resources were in place to achieve the aims set out in the plan. At present there was not the capacity or expertise in the housing service so it was recommended that an additional Programmed Works Officer be recruited to focus on energy efficiency measures and drive forward an improvement programme for the housing stock.

**RECOMMENDED:** that the Housing Review Board recommend to Cabinet that:

1. Members agree to the climate strategy actions detailed in the report.
2. Members endorse the cultural shift required to move to a carbon neutral housing service within 20 years.

3. Approval is given for the need for an additional Programme Works Officer who will focus on energy efficiency measures and drive forward the programme for improvements to the housing stock, with additional funding being designated from the Housing Revenue Account.

76 **Regulator's review: Neighbourhood & Community Standard - self assessment**

The Board considered the report of the Housing Services Manager which explained the need to undertake a self-assessment of current service delivery against the Neighbourhood and Community Standard as set out within the Social Housing Regulator's Homes Standard. This was to ensure the housing service was meeting all regulatory requirements as set out by the Regulator of Social Housing. The Neighbourhood and Community Standard set out the minimum requirements for what must be achieved in terms of neighbourhood management, local area co-operation and how the service dealt with antisocial behaviour, so that safe and clean areas where tenants lived could be provided.

Overall the housing service performed well against the standards, however it was doing less well in its response to anti-social behaviour (ASB). It was felt that a review of current requirements and processes was needed as well as an improvement in communication with tenants. The Housing Services Manager reported that she would be undertaking this as a priority. Concern was expressed that other housing providers dealt with ASB differently and it was suggested that all housing providers should get together and look at best practice.

RESOLVED: that the Housing Review Board note the contents of the self-assessment document as set out within the report.

77 **Covid-19 housing recovery**

The Housing Service Lead's report contained the housing extract from the corporate report that outlined details of actions taken across EDDC to respond to the Covid-19 pandemic. It provided a high level summary of future recovery actions. A detailed organisation-wide recovery plan was work in progress in conjunction with Devon County Council and would be submitted to Cabinet once complete.

As part of recovery planning the housing leadership team met on a weekly basis to co-ordinate recovery across the service ensuring consistency and the adoption of guidance that continued to cascade from central government. The housing service had four key priority areas, with a series of actions under each one:

- Keeping residents safe
- Protecting residents income and livelihoods
- Sustaining critical services
- Supporting communities and recovery

There had been a huge amount of focus on communication with tenants and well-being calls had been made to every single resident across all of the housing stock, and officers had been able to assist tenants with a huge range of problems. It was noted that rental income continued to remain high, but there was a need to very mindful over the next few months and tenants were proactively encouraged to contact the housing service early if they anticipated or were experiencing problems.

Members congratulated the Housing Service Lead and housing teams and thanked them for everything they were doing to support tenants. Members were concerned that Council staff were also being supported and surveyed on their health and well-being during the pandemic. The Housing Service Lead reassured the Board that there had been a large focus on the health and well-being of officers and that all staff had been requested to complete a survey by the Strategic Lead - Organisational Development and Transformation, with a generally positive outcome.

RESOLVED: that the Housing Review Board note the continued work of the housing service in relation to the response to Covid-19 as well as ongoing work that is being undertaken to recover the service.

## 78 **Finance report to end August 2020**

The accountant's report provided the Housing Review Board with the current position to the end of August 2020 and details of the year end forecast of the draft Housing Revenue Account (HRA) for 2020/21. The HRA showed the main areas of anticipated income and expenditure on landlord activities for the year ahead and highlighted to the Board areas of change and items of note. The report also provided the position of the HRA capital programme for both affordable housing and other capital items outside of the HRA.

At the end of the 2019/20 financial year the HRA was in £960,000 surplus. This combined with the HRA volatility reserve equated to a total of £3.6 million available reserves to deal with the Covid-19 impact, if necessary. During the year end close down due to the onset of Covid-19 the decision was made to utilise all capital reserves ahead of the more flexible revenue reserves where possible.

The Board noted the collection rate and income levels, which were materially consistent with the previous year, with the impact of Covid-19 being largely mitigated. There had been an underspend to date, primarily due to Covid-19 impacting the Council's ability to carry out certain types of work which were not currently possible with Covid-19 requirement and work restrictions. The report proposed the reallocation of work and reorganisation of the planned maintenance programme, primarily moving budgets from areas considered difficult to undertake during Covid-19 to those which by their nature would be less impacted by working restrictions.

The Board were warned of the risk of having to return right to buy receipts, although the Government had currently granted a six-month extension for the period of when development or acquisition of properties was not possible. It was hoped that this extension would be increased. The Housing Service Lead reassured members that officers were constantly looking at opportunities but it was important to look at what was realistically affordable and achievable and to balance this against other priorities, such as ensuring properties were compliant and safe, as well as the challenges and cost that related to decarbonising the stock. The Portfolio Holder for Sustainable Homes and Communities raised the point that she was setting up a Housing Portfolio working group that would debate and consider these issues and help provide direction on the best way forward.

It was noted that the Council had made an application for £500,000 of government grant funding for reducing the carbon footprint of a selection of council properties. The final allocation list of awarded grants would be announced on 28 September 2020.

RECOMMENDED: that Cabinet agree the budget reallocations within the report, note the impact assessments and approve the report on the Housing Revenue Account financial position to end of August 2020.

79 **Stock condition survey**

The Housing Service Lead updated and informed the Housing Review Board on the current position and proposal for the delivery of the stock condition survey previously authorised. There were a multiple number of reasons contained within the report why it was critical that the Council undertook this as the current data was out of date. An up to date stock condition survey was a vital element in the asset management strategy, which should underpin the financial business plan and all the financial decision making. 100% of the Council's housing stock would be surveyed. It was noted that in future there would be a five year rolling programme so that information was always up to date. There was £75,000 in the current year's budget for the stock condition survey with additional amounts available within the planned maintenance reserve to call upon if required within the year.

RECOMMENDED: that Cabinet approve the delivery of the stock condition survey by an external consultant sourced through an approved procurement framework.

80 **Formal complaints**

The Housing Service Manager's report provided the Board with information on formal complaints received in relation to the housing service for the period April 2019 – March 2020. Formal complaints were monitored carefully, using them to learn from and improve services wherever possible.

At present the Housing Service dealt with formal complaints through the corporate complaints two stage process:

- Stage 1 - complaints considered by the Strategic Lead
- Stage 2 - complaints considered by the Deputy Chief Executive/Monitoring Officer

If customers were still not satisfied they could take their complaint to the Housing Ombudsman. They could do this by waiting eight weeks from the date of the Council's final response letter and then approaching the Housing Ombudsman themselves, or by contacting a Designated Person. The Designated Person could be an MP, a local district councillor, or the Designated Tenant Complaints Panel (DTCP), which was a group of tenants supported by an administrative officer and the Housing Services Manager. Most of the complainants who chose to contact a Designated Person chose the Designated Tenant Complaints Panel, favouring the view of their peers in terms of reviewing the council's decision on their case.

Tenants were given information about how complaints were dealt with in general in the Annual Report to tenants each October.

The Housing Services Manager reported that between April 2019 and March 2020, 52 formal housing complaints were received. 15 of these went on from stage 1 to stage 2.

It was agreed that better communication was needed from Housing Officers in responding to queries from tenants to effectively manage customer expectations. Failure

to do this caused customers to complain again, and the focus then moved to dealing with complaints rather than delivery of the service.

Details of the areas of complaints were given in the report. It was noted that there had been an increase in more complex antisocial behaviour complaints since the easing of lockdown restrictions. A new Ombudsman code of conduct was being consulted on and code produced. Landlords were being asked to self-assess against the code by 31 December 2020. It was advocated that the 'designated person' provision be removed from the complaints processes, but that 'designated complaints panels' be kept, although not as a mandatory part of the process.

Members asked for clarity on when the new code would come into place and also expressed concern over the removal of the 'designated person'. The Housing Services Manager replied that the new code would come into effect from 1 January 2021.

RECOMMENDED: that Cabinet approve:

1. that the Housing Leadership Team re-iterate the importance of outstanding customer care, considering additional training and awareness opportunities where appropriate.
2. that the Housing Operational Managers group reviews processes to ensure they are effectively co-ordinating responses and updates on formal complaints and councillor enquiries raised with them.
3. that the Housing Services Manager works with the council's Information and Complaints Officer, and customers on the Designated Tenant Complaints Panel, to self-assess against the ombudsman's new code by 31 December 2020.
4. that the Housing Services Manager ensures that better communication is given from Housing Officers in responding to queries from tenants to effectively manage expectations of customers.

RESOLVED: that the Housing Review Board note the contents of the report.

## 81 **Sailor's Rest, Exmouth - allocations and management**

The report of the Housing Solutions Manager sought the Board's approval of the policy that determined the allocations and management procedures of the properties known as 18A and 18B St. Andrews Road, Exmouth.

A decision to use the properties as temporary accommodation or move on accommodation for homeless applicants who had been placed in temporary accommodation was made by Cabinet in May 2020 in response to the homeless crisis and huge increase in the need to accommodate people as a temporary measure as a result of the Covid-19 pandemic. It had since been decided that move on accommodation was the preferred option, providing a stable accommodation arrangement for homeless applicants and also freeing up the existing temporary accommodation resources for new homeless approaches. This had been brought in for an undetermined period of time and would go some way to alleviate the pressure on the Council's homelessness budget in the general fund as well as providing income of the Housing Revenue Account. It was hoped that it would significantly reduce the use of emergency accommodation, including bed and breakfast.



RECOMMENDED: that Cabinet approve the policy to provide support and clarity to the allocation and management process for the flats at 18A and 18B St. Andrews Road, Exmouth, whilst they are being used as move on accommodation.

## 82 **Structure of the housing service**

The Housing Service Lead's report gave an overview of some of the changes to the housing structure and how these had been implemented over the past few months. The detail in the report set out the reasoning for the changes and included a new structure chart for the housing service. This was an objective of the housing service plan 2020/21.

It was noted that Landlord Services had been renamed Housing Services. The area generally dealt with all of the living in and support services and included the rentals team, mobile support officers, estate management, community development, tenant participation and the Home Safeguard service. The Landlord Services Manager title had changed to Housing Services Manager.

The service recognised a growing demand on mental health and as a result it was proposed to recruit into the Housing Services Team a mental health specialist support worker. This would directly address some of the issues being highlighted in the forthcoming Mental Health Strategy. Further consideration into the new role was required.

The report detailed further changes to the Housing Service Structure and areas where review was ongoing. The structure would be kept under constant review. It was vital to ensure the right resources were in place to drive projects forward at the pace required.

RECOMMENDED:

1. that Cabinet note the changes to the structure and approve the need for the recruitment of a specialist Mental Health Support Officer to work within the housing services team.
2. that Cabinet approve additional funding (£37,500 – Grade 6 with associated costs) is designated from the Housing Revenue Account.

## 83 **Housing performance management**

The Housing Review Board was presented with the Housing Service performance indicator report for quarter 1 2020/21, with details of selected indicators measuring performance across the Housing Service. An example of the latest weekly Covid-19 report, which had been monitoring different areas of the service since March 2020, had also been included for the Board's information.

RESOLVED: that the Housing Review Board note the performance of the Housing Service.

## 84 **Expression of thanks**

At the end of the meeting various Board members, the Chair and the Portfolio Holder Sustainable Homes and Communities all expressed their thanks to the Housing teams for everything they had achieved during the last few difficult months. They wished Jo Garfoot well in her new role and gave their best wishes to Amy Gilbert-Jeans on the forthcoming arrival of her baby

**Attendance List**

**Board members present:**

Councillor Tony McCollum (Chairman)  
Peter Sullivan, Tenant  
Councillor Ian Hall  
Cindy Collier, Tenant  
Christine Morrison, Tenant  
Councillor Sarah Chamberlain

**Councillors also present (for some or all the meeting)**

M Armstrong  
P Arnott  
S Gazzard  
G Jung  
D Ledger  
P Millar  
E Rylance

**Officers in attendance:**

Sue Bewes, Housing Services Manager  
Natalie Brown, Information and Analysis Officer (Housing)  
Michelle Davidson, Property and Asset Management  
Amy Gilbert-Jeans, Service Lead Housing  
Wendy Harris, Democratic Services Officer  
Rebecca Heal, Solicitor  
Debbie Meakin, Democratic Services Officer  
Andrew Mitchell, Housing Solutions Manager  
Giles Salter, Solicitor  
John Symes, Finance Manager  
Alethea Thompson, Democratic Services Officer  
Jo Garfoot, Acting Housing Service Lead  
Kerry Spittle, Housing Contracts Manager, Property and Asset Team  
Kate Green, General Manager, Ian Williams Ltd  
Arron Kelly, Business Manager, Ian Williams Ltd

**Councillor apologies:**

Christine Drew, Independent Community Representative  
Cat Summers, Tenant  
Councillor Helen Parr  
Councillor Brenda Taylor

Chairman .....

Date: .....

# Disrepair

**Housing Review Board  
17<sup>th</sup> September 2020**



## Introduction

- ❑ **Why disrepair?**
- ❑ **Definition of disrepair-s11 Landlord and Tenant Act 1985**
- ❑ **Pre-action protocol**
- ❑ **Defences**
- ❑ **Access**
- ❑ **Avoiding disrepair claims**
- ❑ **Homes (Fitness for habitation) Act 2018**



## Disrepair-Why now?

- End of Personal Injury Fixed costs
- End of Payment Protection Insurance (PPI) claims
- Grenfell Tower
- New legislation from 2018



## **S 11 Landlord and Tenant Act 1985**

- **Section 11 of the Landlord and Tenant Act 1985 implies an absolute and non-excludable obligation upon landlords to carry out basic repairs**
- Keep in repair
- Dwelling house
- Installations in the dwelling house
- Structure and exterior



# Picture 1





## Picture 2







## Picture 3



# Picture 4





## Picture 5





## Picture 6





# Picture 7





## Picture 8





# Picture 9





## How does EDDC know about disrepair?

- A good tenant reports disrepair!
- Through our officers and contractors
- Letter from a solicitor
  - Letter of claim-setting out internal disrepair seeking compensation, special damages, legal costs £££ £££ £££





## Liability for disrepair

- Landlord cannot be liable unless they have been given notice of the defect(s) (internal)
  
- Requirement for notice does not apply to the common parts and exterior of the building
  
- NB s4 Defective Premises Act 1972-covers the communal areas of blocks of flats
  - Duty to “take such care that is reasonable in all circumstances”



## Condensation & Mould

- No claim for pure condensation if due to tenant's lifestyle.
- However, if structural defect is causing condensation then it falls within the landlord's obligations
- Tenants must use the heating properly
- No obligation to install or improve a heating system
- The same applies to insulation and ventilation
- However, if Landlord removes heating then he will be responsible for impact and it must be replaced.



# The Disrepair Claim-Legal Framework

- Pre-action Protocol-Housing Disrepair
  - Letter of claim
  - Instruct an Expert
  - Issue proceedings (Claim & Particulars)
- Contested trial
  - DEFENCE, Allocation, Case Management Conference
  - Trial
- Settlement Part 36 Offer Civil Procedure Rules OR
- Calderbank Letter- Repairs under £1000



## Disrepair within Rent Arrears proceedings- Counterclaims

- Tactic used to off-set compensation against **rent arrears** removing ground for possession
- Beware of low rent arrears possession claims where condition of property is questioned
- If Counterclaim is raised you **MUST** respond by filing and serving a Reply to Defence and Defence to Counterclaim

- Defects not within s11 L&T 1985
- No notice given by tenant
- Repairs carried out within reasonable time
  - Depends on nature of the repair
- The tenant caused the problem
- **Limitation period**-date of last claim

- Regard to age, character and locality of premises
- Tenant must use premises in a tenant like manner eg failure to keep dwelling warm
- Failure/refusal to allow access
  - Tenant's failure to mitigate their loss
- Failure to do minor repairs



## Access for Landlord to survey

- Written request for access within 14 days of letter of claim.
- Letter before action-reference for disrepair.
- Apply for an Injunction.
- Bring possession proceedings (last resort).



# What do we know about our Tenant?

- Equality Act 2010
  - Protected characteristics?
- Mental Capacity Act 2005
  - Do they have capacity to make the claim?
- Rent Arrears?
- Breaches of tenancy?
  - eg Have they entered roof space?



- Stock Condition Survey every 5 years-Know your stock!
- Every officer is a Repairs officer-Ask if there are issues in the property- Rent, Estates Management, MSOs etc,
- Educate your contractors gas and repairs- eyes and ears. They probably have more access than we do! Get feedback!

- Monitor contractors performance=KPIs
- Deal with access issues and liaise with appropriate officers concerning gas safety access-Injunction if necessary
- Check Voids - Inspect all works carried out, ensure “snagging lists” are completed and signed off.
- Consider photographs of each property at sign-up, mutual exchange- eg boiler lights, window surrounds, ceilings

- Difference between Interior and Exterior
- Exterior-Disrepair-the Council is “on notice”- visible from the curtilage. We have Estates Management Officers, MSOs, Contractors and Agents attending on our behalf
- Interior- **Must obtain permission** to view allegations- “breach of covenant of quiet enjoyment” **or Injunction**

- Good communication within the service
- Ensure easy access to repairs records- must be up to date and clear. Detail!!!!!!
- Deal with issues expeditiously- within 5 working days.
- Disrepair claims take priority-delay leads to costs!



## Our Response-Dos and Don'ts

- ❑ **DO NOT** ignore notice/warning letters
- ❑ **DO** diarise the dates by which you are expected to respond to warning letters
- ❑ **DO NOT** assume that the defects amount to statutory disrepair
- ❑ **DO** inspect the property as soon as possible
- ❑ **DO** carry out works that will resolve the disrepair/abate any statutory nuisance
- ❑ **Document** advice given to tenant.



## Our Response-Dos and Don'ts

- **Do** keep detailed records
- **Do** liaise with Legal Services-early instructions
- **Do** access the property at the earliest opportunity. Prepare an internal Housing Surveyor's report-Cost Repairs early-
- **Do** prepare a Scott Schedule
- **Do** question assertions and assumptions made by Claimant's Expert Witness.



# **Homes (Fitness for Human Habitation) Act 2018**

**Now fully in force!**



## Landlord's obligations

“The dwelling must be fit for human habitation at the start of and for the duration of the tenancy.”

New s9A implied covenant dwelling is fit for human habitation-can't contract out.

Updates and extends LL's obligations under s11 of L&T1985.



- Factors when assessing whether a claim is fit for human habitation pursuant to section 10 L&T 1985 Act. The salient (not exhaustive) points are:
  - Repair
  - Stability
  - Whether damp is present (NB Cavity wall insulation, any condensation)

- Internal arrangement-occupation-use of living accommodation
- Natural lighting
- Ventilation
- Water supply
- Drainage/sanitary conveniences



## S10 H(FHH) Act 2018 contd

- Facilities for food prep, disposal of waste water
- England- Housing Act 2004 Health & Safety Regs (HHSR)-prescribed hazards

- Gives T a 'cause of action' if home/building contains a hazard which presents a risk to their health or wellbeing at start of and throughout the life of the tenancy.



## Conclusion

- Potential floodgates for legal claims
- No current case law-lawyers will want to test this!
- Assess the risk
- Policy, Procedure, Process