

# Housing Disrepair Legal Obligations – Good Practice Guidance

The Department for Transport, Local Government and the Regions (DTLR) subsequently commissioned a review of the current legal environment and current local authority practice on housing disrepair, and the preparation of good practice guidance for authorities and registered social landlords on minimising the threat of legal action based on allegations of unsatisfactory housing conditions and reporting effectively to any legal action by providing a high quality repairs service. This work built on an earlier study directed at assessing the nature and extent of the impact on local authorities and housing associations arising from tenants prosecuting their landlord under the Statutory Nuisance provisions of the Environmental Protection Act 1990<sup>1</sup>.

## The Guidance

The general themes running through this guidance are:

- securing an improved service to tenants; and
- provision of better quality housing.

It highlights the importance of good administration and effective procedures, promoting positive and responsive attitudes, providing information and training, and regular monitoring. It also underlines the importance of regular training of all staff involved in housing repair and maintenance on the systems that are in place, ensuring they are aware of the authority's responsibilities and obligations and are updated on legal changes in relation to providing a comprehensive repairs service.

<sup>1</sup> See *The Use of Section 82 of the Environmental Protection Act 1990 against Local Authorities and Housing Associations* (1996) HMSO.

## COMPREHENSIVE STOCK INFORMATION

Detailed information on the age, type and condition of the housing stock should inform all aspects of housing management and provide a sound basis for effective asset management. Local sample stock condition surveys<sup>2</sup> can provide up-dated information or specific data on the condition of the stock which can be integrated with individual dwelling records.

There should be comprehensive records for each dwelling. These should include a complete record of all contact between the landlord and occupiers as well as basic building information, and should be capable of being accessed speedily to enable effective responses to be made to complaints.

## MAINTENANCE, REPAIRS, IMPROVEMENT AND ALTERATIONS

Comprehensive planned preventative maintenance can significantly reduce, but not eliminate, the need for a reactive repairs service.

Whenever a dwelling is vacated, it should be inspected and any disrepair remedied.

There should be systems and procedures for complaints and other unforeseen problems, ensuring that the complaint or reported problem is logged on the dwelling records and that appropriate action is taken and recorded. Response can be speeded up if the person(s) responsible for management of reactive and emergency repairs has sufficient authority and seniority to make decisions. Any complaint or reporting system should recognise that occupiers are not building experts and their reports may be vague explanations of the problem. Although the complaint system should be primarily geared to ensuring a proper response is made, it should also be comprehensive enough to provide information for effectively dealing with any threatened legal action.

Once a complaint has been received by the landlord certain legal obligations may be triggered (such as those currently imposed by s11 of the Landlord and Tenant Act 1985), and this may be the case whether the notification is given through a designated repair office or to another section.

Any complaint recording system should be capable of responding to the range of contacts, such as reporting

in person, letters, telephone calls and even e-mails. A receipt should always be given which also provides details of the response to be expected.

Where an inspection is necessary, for example to assess the exact nature of the problem and remedial action necessary, this should be carried out as soon as possible and should be automatic for some complex issues, such as dampness. Inspections should be made by someone with sufficient authority to authorise the appropriate works.

Whether works are carried out by in-house labour force or external contractors or a combination is irrelevant. What is important is that the works are carried out satisfactorily.

The timescales within which works will be completed should be published and should reflect the nature of the problem not the nature or scale of the remedial works.

The way works are carried out should take into account that they are being carried out in someone's home. Although the works will cause disruption, this should be kept to a minimum, and where this is not possible temporary rehousing should be provided. The use of a designated co-ordination officer, with experience of dealing with this type of situation, could resolve issues as they arise and help avoid problems becoming more critical.

Whatever the reason for the works being carried out, there should be procedures to ensure the works have been completed to the satisfaction of the landlord, and also to the satisfaction of the occupier (the person whose home it is). Records of works completed should be fed back to the team involved in the process and records kept for future reference.

## EFFECTIVE AND POSITIVE RESPONSE TO THREATS OF LEGAL ACTION

Even with an effective and efficient complaint and enquiry procedure, there may be occasions when legal action is threatened. Any such action require an appropriate response to reduce the possibility of legal proceedings starting or continuing. This means that the systems and procedures for responding to any threat of legal action should be separate from the day-to-day complaints system.

<sup>2</sup> *Collecting, managing and Using Housing Stock Information – A Good Practice Guide* (2000) DETR.

The general approach and attitude in responding to such threats should not be defensive, but to engage with the problem.

Where litigation has started, the following basic approach is suggested:

- a) Review the dwelling history to help assess how the current situation has arisen.
- b) Instruct a surveyor, environmental health officer or other relevant expert to assess and report on the current condition and comment on the allegations. Where possible, this should be someone who has not been involved with the dwelling previously.
- c) Obtain a costed schedule of works based on the findings of the expert which should be sent to the tenant's solicitor or adviser as soon as possible.
- d) Implement the works identified as promptly as possible and certainly within any timescales set around any legal action.

There should be a named person or team responsible for responding to threats of legal action and systems to ensure that any such threats are passed to that person however they are received. There should also be deadlines set within which there is a response to all such threats.

Up-to-date legal support is necessary to ensure the response to any threat of legal action is appropriate.

### GOOD COMMUNICATIONS

Good communication will help reduce problems arising, avoid delays and encourage good relations. Where there is more than one department involved, good communication will help ensure the appropriate action is taken within the appropriate timescale, and each department should be aware of their own and the other department's role and responsibilities.

There is a need to ensure good communication between disciplines, such as between lawyers and the building trades. Regular meetings of all those involved will help each understand the responsibilities, priorities and contribution of everyone involved.

There should be a positive attitude between the landlord and tenants, housing departments recognising that they are service providers. Responding to tenants

concerns and keeping them informed through regular meetings, newsletters and through tenants' organisations helps avoid feelings of dissatisfaction.

There should be monitoring of tenant satisfaction with the service generally and on the response to individual complaints or enquiries. This could be by telephone monitoring, by forms or pre-paid postcards, or through tenants' organisations.

### REGULAR REVIEWS OF SYSTEMS AND PROCEDURES

There should be regular reviews of systems and procedures to help ensure they continue to operate properly and to identify issues before they become problems.

Landlords' legal responsibilities and duties are formulated by law and so are subject to change through statute and case law. It is important for landlords to keep up-to-date and to review their systems and procedures in the light of any changes.

Threats of legal action can be taken as indicators of problems in the systems and procedures, and should prompt reviews to try to identify where improvements can be made to reduce the likelihood of future threats.

### ESTABLISH, MAINTAIN AND PUBLISH A SYSTEM FOR DEALING WITH COMPLAINTS ABOUT ADMINISTRATION ETC (NOT ABOUT CONDITION), PROVIDE A SAFETY NET SUCH AS AN ARBITRATION PROCEDURE

Adopting a clear and well sign-posted complaint procedure may help reduce the need for legal action to be threatened<sup>3</sup> and may also highlight problems within the systems and procedures which will inform reviews.

A viable alternative to legal action, such as an arbitration scheme, should be set-up in such a way that it can be seen to be independent and have enforceable sanctions. It should also be able to order works and award compensation.

## Annexes

The Annexes to the Guidance include an outline of the Landlord's Responsibilities to Repair (as at November 2001), Examples of Timescales for Remedial Works, and Recommendations on Staff Training.

<sup>3</sup> For advice on a general complaints procedure, see *Guidance on Good Practice 1: Devising a Complaints System* (1992) Commission for Local Administration in England.

## Further Information

Further information is contained in the Good Practice Guidance, *Housing Disrepair Legal Obligations*, *Good Practice Guidance*, ISBN 1 85112 523 X £16.00 available from:

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