

## COMMUNITY & HOUSING OVERVIEW AND SCRUTINY COMMITTEE

<b>Date of Meeting</b>	Wednesday 19 <sup>th</sup> April 2023
<b>Report Subject</b>	Disrepair Update
<b>Cabinet Member</b>	Cabinet Member for Housing and Regeneration
<b>Report Author</b>	Chief Officer (Housing and Communities)
<b>Type of Report</b>	Operational

### EXECUTIVE SUMMARY

The purpose of this report is to provide an update on the Councils current position relating to disrepair and the number of disrepair claims received, settled and successfully defended.

### RECOMMENDATIONS

1	Community & Housing Overview and Scrutiny Committee to note the contents of the report and to support the Housing Assets service to continue to manage the Housing Disrepair (HDR) protocol on behalf of the Council, ensuring the obligations placed upon the Council are met.
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## REPORT DETAILS

1.00	BACKGROUND
1.01	<p>The Housing Assets Service is responsible for ensuring all Housing revenue Account (HRA) stock is compliant with the various housing standards and regulations. The Council must ensure all properties are free from disrepair and that any repairs are dealt with as quickly as possible.</p> <p>This report provides an update on the measures the Council has in place to ensure all repairs are completed in a timely manner and that the work associated with any disrepair claims the Council may receive are completed effectively and efficiently.</p> <p>All tenants in Wales should have the opportunity to live in good quality homes, which meet the requirements of each household. The Housing Assets Service is responsible for ensuring the Council meet these standards along with the Welsh Housing Quality Standards (WHQS).</p> <p>To assist our wider understanding of stock condition, we have recently procured software and begun to pilot in-house Stock Condition Surveys. This will mean we will be able to update our housing asset components remotely and update our future investment plans.</p> <p>This will involve surveys of all HRA council owned properties both internally and externally, to confirm the asset data we currently hold. This information is on a property-by-property basis and will assist in determining the condition of our assets.</p> <p>There are occasions when the Council receives a disrepair claim from a solicitor appointed by a tenant, where the tenant believes their property is subject to disrepair.</p> <p>This is a legal process and subject to the Housing Disrepair (HDR) protocol. The Council must fully investigate all claims and ensure that all outstanding repairs within the claim are dealt with in a timely manner and the claim is defended fairly and robustly.</p>
1.02	<p>The Housing Assets Service is responsible for managing all housing disrepair claims and works closely with other Council services, for example, Housing Management and Legal Services to respond to claims.</p> <p>We have appointed an external legal defence company (Hugh James Solicitors) to assist the Council in managing any claims received.</p> <p>On receipt of the disrepair claim, our in-house Inspection &amp; Surveying Teams are allocated key pieces of field work to assess if the claim is valid, alongside collating evidence relating to the claim. This evidence will include any requests for service/ repair logged and recorded within our housing record systems (Open Housing). We must ensure that the Council have met their obligations in terms of actively dealing with any reported repairs or concerns relating to the asset the tenant may have,</p>

along with ensuring that any repairs or remedial works are raised and actioned accordingly.

Our tenants must ensure they have also complied with their conditions of tenancy, ensuring all repair requests have been raised with the Council and allowing the Council access to complete any repairs, maintenance works or investment works.

From the receipt of the claim, the Council will be able to ascertain if the claim is valid or if the claim has been raised incorrectly.

Our appointed legal teams will advise if there is any risk to the Council in terms of compensation, where we have failed to act or deal with a repair request, such as incorrect assessment or remedial works; or if the claim should be settled or defended.

Unfortunately, there are many opportunistic claim solicitors, who on occasion impose themselves on our tenants with the promise of compensation and a 'No Win, No Fee' guarantee.

However, what is not communicated to the tenant is the potential for a landlord to recover their legal costs against the tenant if they are unsuccessful. The claimant's solicitors will not cover these costs and a landlord can recover all defence costs and staff time associated with the claim.

There has been a recent claim submitted against social landlord where the claimant (tenant) lost their claim due to the tenant not complying with their tenancy conditions correctly. The costs of the social landlord's legal defence were over £20,000, and these were sent directly to their tenant as a rechargeable cost.

A recent case in August 2022 resulted in a tenant receiving an order to pay costs of over £3,000 in court fees, after being encouraged by a legal firm to pursue a claim of disrepair, a claim that failed once the courts decided it had no merit. The tenant, who had 21 days to pay the costs, was claiming for up to £10,000 in damages. The judge determined that the evidence suggested there is no merit to the claim, and that it was a waste of time. The claimant had not met the burden of proof; the claim failed and was therefore dismissed.

The Council have a very good track record with successfully defending disrepair claims, however we find often our tenants are encouraged to pursue a claim which has no merit, compensation being promised and that all repairs will be actioned immediately. This is not the case, and it may result in our tenants becoming liable for costs that have not been conveyed by their appointed 'No Win, No Fee' solicitor.

In addition to court costs, there are other financial risks for tenants. Once the claim has been initiated and the solicitor's documentation has been signed, the solicitor may not let the tenant change their mind and stop the claim. They often advise tenants that if they stop the claim, they will be liable for the cost of the survey arranged, often up to £1,000, and credit

	<p>agreement charges of over £500 for “No win, No fee” to cover legal cost insurance.</p> <p>The Council have had many “No win, No fee” legal companies attempt to access our tenants homes, advising our tenants that they have been sent by the Council to inspect their homes for repairs and to organise the works.</p> <p>Once they have gained access, they have advised the tenant to commence with a claim against the Council.</p> <p>We have contacted Trading Standards and our appointed Legal teams over a recent case where a company accessed tenant’s homes without proper consent. The company has been written to in response.</p> <p>Disrepair claims can take up to two years to resolve and cause further inconvenience to tenants, as the solicitor ‘acting’ on their behalf may advise them not to allow the Council into their homes and to carry out any repairs while the claim is ongoing. By following their advice to not allow the Council access to complete repairs, tenants are in breach of their tenancy agreement/ conditions, and this can result in claims being invalid and the tenant being responsible for all associated costs.</p> <p>Disrepair claims companies use a legal scheme that was introduced to protect tenants from landlords who do not compete repairs to their home in a timely manner.</p> <p>They encourage tenants to take legal action based on the promise of winning easy compensation.</p> <p>The Council works hard to keep our homes in a good state of repair. In 2021/2022 the Council completed over 30,000 housing repairs not including any planned investment, works to empty properties or regular maintenance works.</p> <p>The Council also invested over £25m into its housing stock as part of its Capital Investment Programme, relating to WHQS associated works.</p>
1.03	<p><b>Disrepair Statistical data</b></p> <p>During 2022-23:</p> <ul style="list-style-type: none"> <li>• 55 disrepair claims were received by the Council</li> <li>• 23 of the claims were withdrawn - as a result of Council advice / potential invalid claim</li> <li>• 6 claims are currently dormant - no action</li> <li>• 10 claims were settled <ul style="list-style-type: none"> <li>○ £765 average compensation to claimant</li> <li>○ £1600 for claimant’s legal fees</li> </ul> </li> <li>• 11 claims are currently being defended successfully</li> <li>• 5 claims are at pre-issue stage</li> </ul>
1.04	<p>The Housing Assets service teams have weekly meetings relating to active disrepair claims and hold monthly management meetings to report on</p>

	<p>progress and discuss any trends or concerns that may have been identified.</p> <p>Each claim is tracked from receipt to conclusion. The teams discuss the number of claims received, the contents of the claim and work category. The various teams review not only the claim, but also the area of the county it relates to, the claimant’s solicitors and their methods of accessing our tenant’s homes. We work proactively to engage quickly and to support our tenants where feasible, along with identifying any works required to their home. It is important to track progress but to also review each case independently to ensure we capture any learning in and areas for improvement.</p> <p>Ongoing improvement to our processes and procedures is critical, targeting those areas identified including:</p> <ul style="list-style-type: none"> <li>• Holding cross departmental awareness meetings</li> <li>• Advising where likely claims will be submitted based upon area or stock type (i.e., sheltered properties)</li> <li>• Ensuring our stock condition surveys are robust and up to date</li> <li>• Holding training seminars for our Customer Contact Teams and Housing Officers</li> <li>• Proactively communicating with our tenants (see Appendix 1 - News Letter)</li> <li>• Producing condensation and mould briefing papers for our members</li> <li>• Producing a condensation and mould guide for our tenants.</li> </ul>
1.05	<p><b>Conclusion</b></p> <p>It is important we encourage our tenants to work with the Council. The majority of our resources (staff time and staff costs) committed to defending all disrepair claims are in-house, with only the appointed solicitors external to the Council.</p> <p>These in-house resources could be better utilised to undertake more housing inspections and more housing repairs.</p> <p>The Council work to limited budgets and resources, and each claim submitted takes a considerable amount of officer time to correctly manage and progress accordingly.</p> <p>The Council have a high success rate when dealing with disrepair claims, however as stated, it could utilise all associated resources and costs more effectively.</p> <p>To claim disrepair against the Council, our tenant must report the defect directly to the Council, have evidence that we have failed to deal with the work and have not resolved it in a reasonable timescale.</p> <p>If any tenants have any concerns with the condition of their property, the most effective way of resolving the issue is to call the Council’s Customer Services Department on 01352 701660 and report the repair to us immediately.</p>

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	<p><b>Staff</b> - There are concerns about staff retention within the Housing Assets Service. The construction industry is an ever-changing sector, staff may seek opportunities elsewhere i.e., new build, private sector etc.</p> <p>The Housing Assets Service has made changes to the team's structure to incorporate a degree of resilience, succession planning and robustness to the delivery model and departments risk register.</p> <p>This is critical when dealing with disrepair claims in house.</p>
2.02	<p><b>Budgets</b> - It is important to provide regular updates with regards to all costs incurred by the Council as a result of all received disrepair claims.</p> <p>All costs associated with these claims, such as legal fees and staff costs, must be correctly reported to ensure future budget allowances are available to successfully defend all claims received.</p> <p>Further works have been undertaken with colleagues in Finance and we have begun forecasting our budget requirements for the next financial year.</p>

<b>3.00</b>	<b>IMPACT ASSESSMENT AND RISK MANAGEMENT</b>
3.01	<p>The Council has commenced with a full review of the end-to-end process relating to disrepair and have involved all key stakeholders from within the portfolio. We have also liaised with other Councils and RSL's.</p> <p>The Housing Asset service are in the process of procuring a framework of contractors and suppliers to mitigate risks relating to any delays in completing repairs in a timely manner, and to also provide assurance with regards to associated costs, which impact upon our budgets etc.</p>

<b>4.00</b>	<b>CONSULTATIONS REQUIRED/CARRIED OUT</b>
4.01	The Council undertakes various consultations through the release of Housing Newsletters and updates to our Tenants Federation.

<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix 1 - Housing Disrepair Leaflet to tenants.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	N/A.

<b>7.00</b>	<b>CONTACT OFFICER DETAILS</b>
7.01	<p><b>Contact Officer:</b> Sean O'Donnell, Service Manager - Housing Assets  <b>Telephone:</b> 01352 701642  <b>E-mail:</b> Sean.O'Donnell@flintshire.gov.uk</p>

<b>8.00</b>	<b>GLOSSARY OF TERMS</b>
8.01	<p><b>Housing Disrepair (HDR):</b> Housing Disrepair is when a property deteriorates or requires repairs so that it is safe and suitable to live in.</p> <p><b>The Welsh Housing Quality Standard (WHQS):</b> is a national standard of quality for homes. This is set by the Welsh Government. It means that all tenants in Wales should have the opportunity to live in good quality homes which meet the requirements of that household.</p> <p><b>Financial Year:</b> the period of 12 months commencing on 1 April</p> <p><b>Budget:</b> a statement expressing the Council's policies and service levels in financial terms for a particular financial year. In its broadest sense it includes both the revenue budget and capital programme and any authorised amendments to them.</p> <p><b>HRA:</b> The Housing Revenue Account.</p> <p><b>Open Housing System:</b> An electronic database system which is used by the Housing Assets Team where its assets are recorded along with tenant details, components, works tickets and tenant requests for works or inspections and other services.</p> <p><b>Components:</b> A part or element such as an asset's amenities (Kitchen Bathroom, Boiler, Roof, Windows, Doors etc.).</p>