

**Know Your Housing Rights
Disrepair
16th March 2017**



**UCL CENTRE FOR
ACCESS TO JUSTICE**

**In association with Haringey Citizens and
Hodge Jones & Allen**

DISREPAIR

DUTIES, RIGHTS AND RESPONSIBILITIES

Landlord's duties to fix disrepair:

Section 11 of the Landlord and Tenant Act 1985

- This implies a term into the tenancy agreement that the landlord is responsible for certain repairs.
- This implied term will exist whether your agreement is in writing or oral
- Section 11 means that your landlord is responsible for keeping the following in repair:
 - the structure and exterior of your home, for example, the walls, roof, foundations, drains, guttering and external pipes, windows and external doors, leaks
 - basins, sinks, baths, toilets and their pipework
 - water and gas pipes, electrical wiring, water tanks, boilers, radiators, gas fires, fitted electric fires or fitted heaters.
- Your landlord cannot contract out of these obligations.
- Your landlord isn't allowed to pass on the cost of any repairs which are their responsibility.

Section 4 Defective Premises Act

- This places an obligation on your landlord to make sure you are safe from personal injury and your property is safe from damage where they should have known there was a defect on the premises.

Check your tenancy agreement to see if your landlord has agreed to additional responsibilities e.g. repairing or replacing faulty items or appliances they provided, such as a fridge, washing machine or gas oven.

- You must allow the landlord access to inspect the property at reasonable times of the day. This will depend on the terms of the tenancy agreement - will usually be on 24 hours notice
- You cannot take action to get a landlord to make 'improvements', rather than 'repairs'.
- Works must be carried out within a reasonable period of time. What constitutes 'reasonable' will depend on the severity of the defect and the effect on the tenant.

Whether your landlord is a private landlord, a housing association or the council their duties are the **SAME!**

Your Duties

If you are a council tenant in **Haringey**, the Council states that your duties will include:

- Replacing locks and keys if you lose your keys
- Repairing, adjusting, or replacing inside doors, locks, handles, linings, doorstops and door frames
- Maintaining kitchen units (including the sink unit and taps)
- Repairing and renewing floor coverings
- Replacing light bulbs, fluorescent light tubes and fuses
- Replacing plugs and chains on baths, basins and sinks

- Replacing fixtures and fittings such as curtain rails, hooks and shelves
- Cleaning windows (except in shared areas)
- Maintaining your private garden (not shared gardens) including grass, shrubs, trees, all paving, paths, patios except those that lead up to the front and back entrance doors.

However, you may still wish to seek legal advice, as this may not always be accurate. E.g. sinks and taps are s. 11 responsibilities, so the council **SHOULD** repair them.

https://england.shelter.org.uk/housing_advice/repairs/landlord_and_tenant_responsibilities_for_repairs

PROCEDURE FOR COMPLAINTS

Private tenants

Your landlord only becomes responsible for repairing a problem when they know about it. Therefore, it is always advisable to:

- **FIRST**, report the issue to the landlord or letting agent via email or letter (Haringey Council suggests allowing 14 days to respond to your complaint)
 - Remember to keep a copy of the letter/email, and a record of who the report was made to and when it was sent.
 - Use this template to help you. You will find it under the subheading “**I am a private tenant and my property is in disrepair**” on the following page:
<http://www.haringey.gov.uk/housing/maintaining-and-improving-your-home/repairs-private-rented-accommodation>
- **SECOND**, if your landlord fails to carry out the repairs in a reasonable time or fails to respond to your report, contact the local authority to inform them of the problem
- **DON'T WORRY!** If you are issued with a section 21 eviction notice you may have a case for **retaliatory eviction** (you would have to give evidence that you had reported the disrepair to the local authority and they had served a notice to the landlord)

Who to contact if you are a private tenant:

Housing Improvement Team (Private Sector)
Level 6, Alexandra House
10 Station Road
Wood Green
N22 7TR

Tel: 020 8489 1000

Fax: 020 8489 5113

Email: environmentalhealth.andhousinggroup@haringey.gov.uk

Housing Association Tenants

- If you are a housing association tenant, you are likely to be an assured tenant
 - As an assured tenant you have the right to have the accommodation kept in a reasonable state of repair
- Certain repairs will almost always be your landlord's responsibility (s. 11 and s.4 also apply)
- Report the disrepair to the housing association landlord (better to do this in writing, keeping a record of when and who you reported the issue to)
- If they won't deal with the disrepair, then use the same contact information as listed under the private tenant

Council tenants

Who to contact if you are a council tenant:

- Go online if you have an account on the Haringey website, log in and book an appointment/log a repair.
- You can also email: repairs@homesforharingey.org - do not email an emergency repair
- You can also call: 020 8489 5611 (lines are open 8am to 6pm weekdays but you can report an emergency repair on this number at any time)
 - An emergency includes: removing immediate danger to people or avoiding major damage to the property
 - Again, best to report an issue in writing, remembering when you made the report and who you reported it to

Council tenants may also benefit from the:

RIGHT TO REPAIR SCHEME

- If your landlord is a local authority, you could use their right to repair scheme
- If the repair work is not done within a certain timescale (depending on your issue) you can claim compensation
- Only certain types of repairs are covered under this. These are called qualifying repairs. They include:
 - Insecure windows and doors
 - Unsafe power sockets or electrical fittings
 - Leaking roofs
 - Broken entry phone systems

For a full list of issues that are classified as qualifying repairs, see the link below:

<https://www.citizensadvice.org.uk/housing/repairs-in-rented-housing/disrepair-what-are-your-options-if-you-are-a-social-housing-tenant/disrepair-using-the-right-to-repair-scheme/>

- A repair will not qualify for the scheme if:
 - It exceeds a cost of £250
 - The local authority has fewer than 100 properties
 - The local authority is not responsible for the repair

Housing association and other social housing tenants

- Social housing landlords do not have to have a right to repair scheme in place but many do, so check your tenancy agreement or ask if you are unsure.

Bringing Disrepair Claims

Pre Action Protocol

- You **MUST** follow the pre-action protocol before trying to bring a claim to court.
- This sets out specific procedures to follow. It suggests you consider another form of solving the dispute (**alternative dispute resolution - ADR**) such as mediation.

- A solicitor can help you through this process.
- If the issue has not been resolved and you still have to go to court, the court will consider the fact you have tried ADR when deciding who has to pay costs.

What do you have to do under the protocol?

- First make sure you have reported the repairs to your landlord in writing, and given them a reasonable time to do the work.
- If your landlord does not do the work, you have to send your landlord a 'letter of claim' telling them that you intend to take court action.
 - Send this as early as possible.
- This letter should include:
 - The tenant's name, the address of your property, the tenant's address if different, the tenant's telephone number
 - Details of the defects
 - History of the defects, including any attempts to rectify them
 - Details of any previously given notification to the landlord for the need to repair
 - The effect of the defects on the tenant
 - The identities of everyone planning on making a personal injury claim
 - Details of any special damages
 - Relevant documents disclosed by the tenant
- Your landlord has 20 working days to respond to the 'letter of claim'.
- If their response isn't satisfactory, or the problem isn't resolved, you can issue a claim in the county court.
- A copy of the protocol is available from the Ministry of Justice website: https://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_hou

Taking court action because of disrepair

- If you've reported repairs to your landlord and they have not done anything about it then you have the right to bring a claim against them for works to be done (specific performance) and for compensation.
- Before deciding whether or not to take your landlord to court you should:
 - Check your landlord is responsible for the repairs (as explained above)
 - Check you have reported the problem (at least once) and given your landlord a reasonable amount of time to do the work
- If you wish to take action against your landlord for a failure to deal with repairs, you will need the help of a legal adviser or a solicitor.
- If you want to go to court, you should make the claim within 6 years!

What can the court do?

- The court can make your landlord do the repair work by making:
 - an order for specific performance
 - a mandatory injunction (for urgent matters)
 - if your landlord does not do this repair work ordered by the court, they could be fined or imprisoned.
 - the court could also make a declaration and tell you to do the repairs yourself and deduct

this cost from the cost of your future rent

- your solicitor can advise you as to whether this will be likely
- the court could also award you compensation (**damages**)
 - you can get these if:
 - you've been injured
 - your belongings have been damaged or destroyed
 - you've been inconvenienced and unable to use your home in the normal way

Evidence to help support your case

Before taking court action, you'll need to have information and evidence to help support your case. This includes:

- a copy of your tenancy agreement
- copies of any correspondence with your landlord about the disrepair
- photographs of the disrepair/any of your belongings which have been damaged because of the disrepair
- copies of receipts if you have had to replace damaged items
- copies of medical reports or a note of medical visits if you were made ill/injured by the disrepair
- any expert evidence you have e.g. report from the Environmental Health Officer.

ISSUES CAUSING HEALTH HAZARDS

- Sometimes the issues at the property will not be caused by disrepair but by the way the building is designed. Your landlords may still have obligations to carry out works in these circumstances.
- All rented homes must meet certain standards so they are safe and fit to live in. **Councils use the Housing Health and Safety Rating System (HHSRS) to assess these standards.**
- If an assessment is made and it shows your home isn't safe, the council can take action against your landlord e.g. take them to court.
 - In some cases, the council can do the work and recover the cost from your landlord.
- You can complain if you are a private, housing association or council tenant.
- Haringey Council can conduct an environmental health inspection to check if your home contains serious health or safety hazards.

Hazards the council can check for includes:

- damp, condensation and mould growth
 - (mould growth in terms of disrepair is only relevant to damp due to design defects and thermal performance)
- rats, cockroaches or other pests and vermin
- broken glass, falling plaster or dangerous stairs
- unsafe gas or electrical installations
- problems with sewage

How hazards are assessed:

- The hazards in your home are rated according to how serious they are and how likely it is that someone will be badly affected by them.
- They take into account any extra risk to young children or older people.
- **A category 1 hazard is the most serious.** See list of category 1 hazards below:
 - dangerous or broken boiler
 - bedrooms that are very cold
 - leaking roof
 - rats or other pest or vermin infestation
 - broken steps at the top of the stairs
 - lack of security due to badly-fitting external doors or problems with locks
 - mould on the walls or ceiling

PROCEDURE FOR HEALTH HAZARDS

- Tell your landlord your problems first before going to the council.
 - Do this in writing (email or letter)
- **Do not delay; small problems lead to big problems!!!**
- If the landlord doesn't reply or complete the works, and the condition is affecting your health or safety, you should contact the Council's environmental health inspectors.
 - Environmental health can advise you if there's action you can take to help improve your situation.

When you contact them, tell them:

- 1) What the problem is
- 2) The ages of everyone living in your home
- 3) If anyone affected has a serious illness or disability

Template email regarding health problems:

https://england.shelter.org.uk/housing_advice/repairs/complain_to_environmental_health_about_rented_housing

- After assessing the problem, they will tell you what to do to solve it
- If you rent your home from the council, environmental health can't take enforcement action against your landlord but they should inspect your home.
 - They should tell your housing office what needs to be done to fix the problem.
- Contact the council again if your landlord doesn't improve the conditions in your home.
- If it's likely that you'll suffer serious harm in the near future if conditions in your home don't improve, the council can take emergency action.
- All tenants (private tenants, council tenants and housing association tenants) can take action against the landlord themselves, via magistrate's court if the council's environmental health department doesn't take action.

What action can the council take?

The council must take action if the Environmental Health assessment shows that there is a category 1 hazard in your home.

- **Hazard awareness notice** – warns your landlord that the council is aware of a problem in your home and that it will take no further action at the moment.
 - Contact the council again if nothing is done or the problem gets worse
- **Improvement notice** – tells your landlord to carry out repairs or improvements. The notice gives a time limit for your landlord to do the work
 - Your landlord can be fined or prosecuted if they do not comply
- **Emergency remedial action** – If it is likely that you will suffer serious harm in the near future if conditions in your home don't improve, the council can take emergency action.
 - The council can do the work itself and charge your landlord for it
- If you rent your home from a private landlord the council can take enforcement action.
- The council can also take enforcement action against a housing association landlord.
- If you rent your home from the council, environmental health can't take enforcement action against your landlord but they should inspect your home.

RIGHT TO LEGAL ADVICE

- Depending on your income and the nature of your case, you may receive legal aid to help with your legal costs.
- **LEGAL AID IS ONLY AVAILABLE WHERE DISREPAIR IS A SERIOUS RISK TO YOU OR YOUR FAMILY'S HEALTH AND SAFETY!**
 - It is also only available to pursue a claim for works to be done and not for compensation.

If you don't qualify for legal aid or legal aid is not appropriate:

- If your claim was just for compensation (not for works done), it could be heard in a small claim's court and you would only have to pay a fixed fee.
- you could check a house insurance policy or a credit card agreement.
- some solicitors may also offer a 'no win, no fee' agreement as a way of funding a disrepair claim, also known as a **conditional fee agreement**.
 - In the event of success, your solicitor would claim the costs off the landlord.
 - You will usually have to pay a success fee which will come off your compensation.

Where can citizens in Haringey go for help?

- Hodge Jones & Allen Blog: <https://www.hja.net/blog/>
- Hodge Jones & Allen housing department <https://www.hja.net/legal-services/social-housing/disrepair/>
- Local charities
 - Shelter - http://england.shelter.org.uk/?_ga=1.21916595.908426094.1470920043
 - Civil legal advice helpline - 03453454345
- Haringey Council Housing: <http://www.haringey.gov.uk/housing>
- Citizens Advice Bureau: <https://www.citizensadvice.org.uk/housing/>
- LawWorks: <https://www.lawworks.org.uk/solicitors-and-volunteers/resources/volunteer-resources>
- National Homelessness Advice Service: <http://nhas.org.uk/factsheets>
- Nearly Legal: <https://nearlylegal.co.uk/housing-law-all/>
- For mould and damp assistance specifically: https://england.shelter.org.uk/housing_advice/repairs/damp_and_mould_in_rented_homes