

Legal Disrepair Policy

Policy name	Legal Disrepair Policy
Effective from	July 2025
Effective to	July 2027
Approved by	Customer Services Committee
Date approved	Asset Management
Policy owner/department	Repairs and Maintenance
Policy author	Legal Disrepair Manager
Version number	1

Version Control

Version	Date	Changes	Reason for the changes	Approver
1	Feb 2025	Clarity on YHG's responsibilities.	Customers who were consulted felt we needed to be more explicit on YHG's responsibilities in terms of the management of the legal disrepair procedure.	R & C

The YHG Plan

Please indicate where the policy aligns with the YHG Plan

Passionate people <input checked="" type="checkbox"/>	Efficient business <input type="checkbox"/>
Safe buildings <input checked="" type="checkbox"/>	Viability <input type="checkbox"/>
Safe environment <input checked="" type="checkbox"/>	Advocating <input type="checkbox"/>
Secure and connected <input type="checkbox"/>	Working in Partnership <input type="checkbox"/>
	Growth <input type="checkbox"/>

Relevant National Standards or Regulation	Safety and Quality Standard
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Relevant Legislation	<ul style="list-style-type: none"> • Section 11 Landlord and Tenant Act 1985 • Disrepair Protocol – Civil Procedure Rules (revised) • Section 4 of the Defective Premises Act 1972 • Occupiers Liability Act 1957 • Health and Safety at Work Act 1974 • Occupiers Liability Act 1984 • Environmental Protection Act 1990 • Housing Act 2004 Housing Health and Safety Rating System (HHSRS) and Decent Homes Standard • Equality Act 2010 • Homes (Fitness for Human Habitation) Act 2018 • The Building Act 1984 • Building Safety Act 2022 • Control of Asbestos Regulations 2012 • Construction Design and Management regulations 2015 <p>This policy is not a complete legal statement in terms of the above mentioned statutory Acts but merely a guideline as to how Your Housing Group will approach legal disrepair claims.</p>
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Partner Responsibilities	We cooperate with Local Authorities (Statutory Notices), various counsel, judiciary and external solicitors.
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1. Purpose of the Policy

Your Housing Group (YHG) wants its customers to have safe, comfortable homes to live in. This policy sets out:-

- a) The context for YHG's approach to responding to, and managing, cases of legal disrepair brought by customers under relevant legislation;
- b) Responsibilities and obligations on colleagues in teams across YHG in effectively supporting legal disrepair cases to mitigate and minimise financial liabilities and assist with ensuring that our legal duties are fully discharged in accordance with legislation.

The aims of this policy are to provide a clear framework for colleagues dealing with housing disrepair and injury claims arising from allegations of disrepair and defective

premises claims, based on complying with the Housing Disrepair Pre-Action Protocol. The specific aims of the policy are:

- To maintain our homes and provide an excellent repairs and maintenance service.
- To minimise potential claims under the legislation.
- To avoid unnecessary litigation.
- To promote responsive and appropriate repairs which are the landlord's responsibility.

2. Scope of the Policy

As a registered provider of social housing YHG is legally obliged to repair and maintain the homes its customers live in, and to 'keep in repair' the property portfolio. The Disrepair Policy applies to all residential properties owned and managed by YHG and its group companies.

This document should be used by all YHG colleagues to understand their obligations to maintain a safe well-maintained environment in each customer's home.

Complaints from customers in relation to repairs or poor housing conditions will be dealt with in accordance with section 7 of this policy. Claims against YHG for personal injury or damage to their home or property will be dealt with through YHG's insurers. Where the damage was caused by our contractor this will be handled by YHG's contractor's insurer.

3. Definitions

Decent Homes – the current minimum standard against which Registered Providers (RPs) regularly assess the condition of the properties that they manage.

Housing Health and Safety Rating System (HHSRS) – it is a legal requirement for RPs to regularly assess all properties that they manage against the criteria of this system to ensure that their stock is safe and free from hazards.

Disrepair/poor housing conditions – A property is considered to be in a state of 'disrepair', if the conditions of the property and/or its utilities do not meet the required standards under Decent Homes, HHSRS or the terms of the relevant lease or tenancy. These may result from an RP's failure to meet its repairs obligations for any part of a managed property and its installations for water, gas, electricity, heating and sanitation.

Pre-Action Protocol for Housing Conditions Claims (England) – an agreed procedural framework to be used by all parties in the pre-action stage of a legal disrepair case which is intended to assist all sides in resolving the case early and appropriately.

Expert / Single joint expert – a suitably qualified person acting as an independent witness for the benefit of court, who prepares a report addressing any allegations of disrepair.

4. Consultation

- Customer Connect Panel – 22nd November 2024
- Capsticks legal review – 25th March 2025

5. Background and Context

The main objective is to maintain homes and provide an excellent repairs and maintenance service, avoid litigation wherever possible and to follow the Housing Protocol guidelines on seeking alternative dispute resolution. Where litigation cannot be avoided, we aim to ensure the Disrepair protocol is followed and all timescales are adhered to minimise the impact of the claim.

Legal disrepair is a course of action that customers can take, via third party solicitors, which places a duty on their landlord to respond within a set framework to the allegation that they have not fulfilled their obligation to keep the customer's property in an adequate state of repair under key legislative and regulatory frameworks:-

- Defective Premises Act 1972; Landlord and Tenant Act 1985; Environmental Protection Act 1990; Housing Act 2004
- Decent Homes Standard
- Housing Health and Safety Rating System

The incidence of legal disrepair cases has risen since the coroner's verdict in the Awaab Ishak case and the ensuing increased focus on damp and mould across the RP sector. It is incumbent on Registered Providers that they have a robust policy and procedure in place to manage legal disrepair cases and can assure Board and customers that such cases will be dealt with appropriately, fairly and in a timely fashion.

This policy covers properties for which YHG has repair responsibilities. There are some YHG properties where there are different tenure/lease agreements, where YHG would not be responsible for dealing with a legal disrepair claim. In such cases we will advise customers to assist them with resolving their issue.

6. Policy Detail

YHG manages its assets proactively and strategically to ensure they are kept in a good state of repair (that meets the key regulatory and statutory obligations set out in section 5) through:-

- Keeping in repair the structure and exterior of our homes including drains, gutters, and external pipes, and the installations for the supply of water, gas, and electricity, sanitation, space, and water heating. Where we are notified of any such issues, we will carry out repairs within a reasonable time and within the timeframes required by law.

- Operating a responsive repairs service through which customers can report repair and maintenance issues relating to property condition. We record all repairs reported by customers or identified by staff.
- Promptly investigating and responding to claims of poor repair, damp and mould or general housing condition, including keeping accurate records of all customer communications.
- Reviewing and maintaining all properties at void stage to ensure that their condition meets regulatory and statutory obligations before new customers move in.
- Operating a rolling programme of stock condition surveys (20% per annum) to review the condition of the assets we manage (by block, property and key component) and when components will need to be replaced, with the aim that no stock condition survey is older than five years.
- Carrying out a HHSRS assessment in each property where a stock condition survey is completed. We prioritise and escalate any Category 1 HHSRS risks, as appropriate.
- Maintaining a database that holds and reports on stock condition information, including compliance with the Decent Homes standard.
- Managing an annual investment programme that prioritises assets whose condition is at risk of not meeting key regulatory and statutory obligations such as Decent Homes, and which seeks to reduce the need for responsive repairs.
- Our records also contain details of the maintenance or repair works undertaken to a specific property, block or scheme to help inform us on the condition of our properties.

There will be occasions when, despite these controls, the condition of a property falls below a customer's expectations and they wish to pursue a legal disrepair claim. Our process for dealing with claims has the following overarching key aims:-

- Responding to all legal disrepair claims within twenty working days of receipt.
- Following the Pre-Action Protocol when dealing with any legal disrepair claim.
- Where necessary, instructing an independent expert or joint expert to work with the customer or their legal representative to inspect the property and agree the scope of remedial works.
- Resolving claims thoroughly, quickly and effectively through our in-house legal team to minimise the need for court action and to maximise customer satisfaction, considering all reasonable options when trying to resolve or settle a case.
- Depending on the details of the case and the scope of works required, resolving a case may include arranging a temporary decant with the Tenancy Management

Officer, and/or financial compensation to the customer in compliance with statutory guidance.

- Robustly defending cases where we believe a legal disrepair claim is unfounded.

7. Complaints about Disrepair

Complaints from customers in relation to repairs or poor housing conditions will be dealt with in line with the YHG's Customer Feedback Policy, except where a resident instructs solicitors to pursue a legal disrepair claim. The Legal Disrepair Team will respond to a resident's instructed solicitors outside of the Customer Feedback Policy.

Where a customer raises a disrepair claim with the Housing Ombudsman Service, we will provide the Ombudsman service with the outcome of the disrepair claim.

We encourage customers to use our complaints process to resolve disrepair issues, rather than make a disrepair claim using the Pre-Action Protocol. Our complaints process is free for customers to use and can achieve the same result as would otherwise be obtained through legal proceedings.

8. Inspections

We inspect the property for evidence of disrepair as a matter of urgency, after we have been told by the customer, or otherwise put on notice, of a potential disrepair issue in our property.

An agreed schedule of works is drawn up to remedy disrepair within a reasonable period of time and the repairs are carried out in accordance with our repair timescales and as required by law.

Our aim is to complete disrepair works as quickly as possible to ensure customer satisfaction and minimise our liabilities. This may sometimes mean that parts of the property will be inaccessible for a period while works are undertaken.

We re-inspect properties with the customer within 28 days of completion of remedial works.

We exchange information with solicitors or other agencies requests in line with the Pre-action Protocol and Data Protection legislation in line with section 12.

9. Access

Where disrepair has been reported and subsequent attempts to access the property have failed, we pursue legal routes, including injunctions, where necessary, to obtain access. We ensure all access attempts are recorded accordingly.

10. Responsibilities under this Policy

The Head of Asset Strategy and Sustainability will have overall responsibility for the Disrepair Policy and its implementation throughout YHG and communicating lessons learned.

Ownership of all matters arising out of legal disrepair and injury claims will be within the remit of the Legal Disrepair Manager or nominated deputy.

Legal case handlers and managers will always be proactive to minimise the claims for disrepair in the following ways:

- Scrutiny of all claims and why they have arisen.
- Ensuring prompt action to inspect properties and carry out remedial works as required.
- Instigating action for legal access if access is refused for completion of remedial works.
- Learning outcomes from current and historic disrepair claims.
- The Legal Disrepair Manager will review all disrepair claims on a regular basis to ensure all cases are being handled according to this policy.

11. Risk Management

Following the Legal Disrepair Policy will mitigate potential risks arising through Legal Disrepair such as:-

- Negative customer satisfaction.
- Financial loss.
- Reputational damage.
- Investigations.
- Specific performance actions ordered by the Courts.
- Criminal proceedings by Environmental Property Act.
- Compensation.

Case reviews will be conducted across teams from Housing, Assets and Repairs to gain knowledge from lessons learned, whether claims have been settled, lost at trial or successfully defended.

12. Data Protection, Record Storage and Retention

YHG understands that confidentiality is important to customers and will treat all information relevant to each customer in the strictest confidence.

We approach the protection of personal data in a comprehensive manner in line with the Data Protection Principles of the UK General Data Protection Regulations (UK GDPR) and the Data Protection Act 2018 (DPA) (collectively referred to as the Data Protection Legislation). YHG's Data Protection Policy will also be adhered to in following this policy during our allocations and lettings activities.

We will collect, store and process personal information of our existing and potential new customers, (applicant/s) and recognise that the correct and lawful treatment of

this data is necessary to provide for the continuance of successful business operations and maintain confidence in YHG. Customer data will be retained in our secure internal system Documotive in line with the principles of UK GDPR and YHG's Document Retention Policy.

13. Equality and Diversity

As part of the development of this Policy, an equality impact assessment will be undertaken. The outputs of that review will be considered to shape the policy before publication.

This Policy will be applied in a way which ensures equality of treatment for all customers without discrimination, or victimisation on account of any protected characteristic as defined within the Equality Act 2010. In developing this policy YHG has considered its public sector equality duties under s149 of the Equality Act 2010, namely the need to:

- eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited under the Act.
- advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The policy pays regard to diversities around access to and delivery of any services.

On request, YHG will provide a translation of this Policy and the accompanying Procedure in other languages or formats.

14. Communication

Internally this policy will be viewable and accessible by all staff members and stored on the groups intranet site Youggle.

The Legal Disrepair Manager will work with our Communications Team to ensure that that all key stakeholders, internal and external, are aware of the main provisions of the policy.

15. Learning and Development

Mandatory annual training for all staff within the Housing and Customer Services and Asset Management directorates will be required to ensure this policy is both read and complied with in line with their duties and responsibilities.

16. Performance Management of this Policy

Costs associated with legal disrepair costs will be monitored monthly by the Legal Disrepair Manager and the Director of Asset Strategy and Sustainability, this data will be subject to ELT scrutiny.

17. Review of this Policy

This policy will be reviewed every two years or as required by statutory, regulatory, best practice, emerging developments, or circumstances arising from reviews of other Group wide policies.

The policy will be reviewed by the Head of Asset Strategy and Sustainability in conjunction with the Director of Asset Management.

Related Documents

Document Type	Name
Connected Policies and Procedures	Correlation with relevant legislative Statutes Tenancy Management Policy Safeguarding Policy Repairs & Maintenance Policy Data Protection Policy
Forms and Letters	
Leaflets/Publicity Material	Customer and colleague communications will be produced for information.
Training Materials Available	
Intranet/ Website Page	Will be uploaded once approved