

Repairs/Disrepairs Matters-

What Repair?

Who is responsible for a repair depends on the type of repair? If the repair is connected to:

- a. the structure and exterior of the property (being the roof or ceiling)
- b. the supply of water, gas, electricity or sanitation, and space or water heating if fixed to the property (such as the boiler, and electrical wiring).

Then the Landlord is responsible, and you need to report to the landlord immediately. The only exception is if the problem is as a result of your actions which could be construed as negligence. If there is a significant risk of harm to you or anyone then immediately contact the council's environmental team for assistance

If the repair is not one of the above, then you will need to consult your tenancy agreement to identify if the repair is covered and to find out if it is your responsibility or that of the landlord to carry out repairs. A repair becomes a disrepair when the landlord has been made aware or should have been aware, and has failed to carry out the necessary repairs.

Seeking repairs to rented accommodation "where the disrepair poses a serious risk of harm to health or safety"

The Cambridge Dictionary states disrepair to be the state of being broken or old and needing to be repaired. Every property on the market must meet certain minimum standards for it to be deemed as safe to live in.

Health and safety in rented accommodation is normally conducted by Local councils who use the Housing Health and safety Rating System (HHSRS) to evaluate if there are risks to your health and safety in your home. The council's environmental health or housing standards team may act if your home doesn't meet the health and safety standards required.

If you are a private or housing association tenant, your local council's environmental health team may be able to act if the disrepair is affecting your health or safety. Ring the council, you can find the number on "Gov.uk"

For a repair to be considered a disrepair and be eligible under legal aid help and assistance, there is the need to show that the disrepair has a risk of having a serious impact on the individual's health or possess a risk of negatively impacting the individual's health in the future.

How to deal with disrepair

Your first port of call would be to contact your landlord about the disrepairs you have noted in your house. It is important to do so as in most cases the council or housing association landlord is responsible for doing repairs in your home. You need to give the landlord reasonable amount of time to fix the disrepair (14 days) or to arrange how the disrepair will be dealt with.

Note this process may differ depending on if you are renting privately or in a council building. The GOV.UK website is a useful tool to help locate who your council is and so find the people who are responsible for repairs.

You must allow your landlord reasonable access to your home to see what needs to be done and to fix the problem. How much time it should take will depend on what's wrong. If you are a council or housing association tenant, you may have a handbook that lists how much time is allowed for different types of repairs.

If the disrepair is bad or considered an hazard you can ask environmental health to inspect your home if it is deemed unsafe. As they are part of your local council, the above listed GOV.UK site will help locate the correct team. If they refuse to make an inspection you can file a complaint which will be discussed at a later section

What is regarded as a hazard?

Hazards which will warrant inspection include:

- Fire risks
- Damp and mold
- Excess cold or heat
- Dangerous electrics e.g. plug sockets are loose
- Gas and Carbon Monoxide
- Infestations such as rats, mice, fleas, bedbugs etc
- Uneven ground, risk of falls on stairs
- Problems with sewage

How are these hazards assessed

Aspects that will be considered include but are not limited to:

- The likelihood of harm arising
- How serious would the impact be
- Risks to children or older people

Hazards are rated as category 1 or 2 with 1 being the more serious out of the two. Depending on the problem the council could give the landlord either a:

Improvement notice- tells landlord to carryout repairs or improvements to remove or reduce the risk cited a danger to your health and safety. There can be a time limit attached.

Emergency remedial action- Tells landlord that action needs to be taken immediately to prevent you from suffering serious harm

Probation order- This may stop access to part of your home or result in you moving out as it is deemed not safe to live in until improvements are carried out.

Revenge evictions and protection

In some cases, landlords may seek to evict the tenant as a form of retaliation rather than do the work requested.

The Deregulations Act 2015 makes provision to prevent revenge evictions on an assured shorthold tenant.

This is needed as a form of protection as the landlord will be able to issue a section 21 notice and secure a possession order as they may not have to explain to the court their reasoning in doing so.

To be afforded such protection you will need to have complained to the local housing authority as well as the landlord about the disrepair. Furthermore, the local housing authority will have to have served an improvement notice or Emergency remedial action notice to the landlord

For a section 21 notice to be invalid, the following requirements will have to be met:

- The Tenant (T) before the s.21 notice was given, had made a complaint in writing to the landlord (LL) regarding the conditions of their house at the time; and
- The LL did not provide a response or an adequate response within 14 days of the day the complaint was given, or the LL served a s.21 notice following the complaint; and
- The T then made a complaint to the Local housing authority about the same or similar thing; and
- The local authority served the relevant notice (improvement notice or Emergency remedial action notice to the landlord) in relation to the property in response to the complaint; and
- In a case where the s.21 notice was given after the T's complaint to the relevant local authority, then the s.21 will be deemed invalid. The s.21 notice must have been given before the complaint and service of the relevant notice by the local authority.

If the T does not have a way to contact the LL the necessary conditions will be met if the T made reasonable efforts to contact the LL to complain about the conditions in the house but was unable to do so.

Adequate response- in writing providing a description of the action the landlord intends to take and setting out a reasonable timescale within which the action will be taken

The provision will however not apply where the LL provides an adequate response but fails to take action set out in the response

Where the provisions do apply, if the relevant notice is served before a possession order is made the proceedings must be struck out, but if notice is served after a possession order is made the court on that ground must set aside the possession order

Where the relevant notice has been served the LL is effectively prevented from serving a s.21 notice for a period of 6 months from the date of service of the relevant notice. However, after the 6 months there is nothing to prevent the LL from serving a fresh s.21 notice on the T and proceeding to an eviction, even if the LL's motive is revenge.

This provision does not apply in the following circumstances:

The conditions which have caused the disrepair are due to a breach by T of the implied (or express) obligation to use the premises in a tenant-like manner

The property is subject to a mortgage granted before the beginning of the tenancy and the lender requires possession in order to sell.

The LL is a private registered provider of social housing

Be aware that the LL only has to provide an 'adequate response' which includes setting out proposed works and a timetable. However, there is no sanction if the LL does not carry out the works.

You should get advice if you think your private landlord may try to evict you if you complain about repairs. There is limited protection against 'revenge' or 'retaliatory' eviction for some tenants

Legal action may be needed if after taking all the required steps above and (in terms of local authorities or housing associations) following the necessary complaints process assuming this is the organisations procedure for dealing with repairs, and the landlord is refusing to deal with the disrepair. This can be expensive and take a long time. You may get legal aid if you are on a low income and there is a serious risk to your health and safety. To see if you qualify for legal aid, ring the Civil Legal Advice helpline on 0345 345 4345

What Can The Court Authorise- Disrepair

If the after notifying the landlord of the disrepair and allowing reasonable time for repairs to be carried out and the LL still fails to carry out the works, the next step will be to issue the LL with a pre-action letter identifying the works required, the effect on the disrepair on the tenant, action you expect the landlord to take and action which would be taken by you in the event that the works are not carried out. This will include applying for an injunction through the court to force the LL to do the necessary work.

You may need the services of a solicitor to do the pre-action letter and to commence court proceedings.

Disrepair as a Counter claim

If your landlord (LL) has made a claim for possession of your home and you had told the LL your home needed some repair and they didn't fix the problem, you might be able to make a disrepair or damages claim against them known as a "Counter claim". If the LL is seeking a claim for possession on rent arrears, then the damages received could be useful in offsetting the amount of rent arrears you owe.