

PS7. Repair

Further Reading Handout

This is not an exhaustive coverage of the subject, but just a reminder of some of the issues covered in the talks, to help as a mental checklist.

Legislation, guidance and online information is frequently updated, so links quickly become obsolete or broken. We recommend that you check and update these at regular intervals – as the general topics do not change, you may find that searching using the words in the topic headings may bring up new links. **Do NOT take any action based on these notes until you have checked and confirmed the current state and content of the legislation, guidance and local practice.**

Repairing Covenants

1. Landlord and Tenant Act 1985

Two Covenants in this Act, requiring a landlord to manage repair within a rent property

a) Section 9A **Fitness for human habitation of dwellings in England**

there is implied a covenant by the lessor that the dwelling—

- (a) is fit for human habitation at the time the lease is granted or otherwise created or, if later, at the beginning of the term of the lease, and
- (b) will remain fit for human habitation during the term of the lease.

Section 10 **Fitness for human habitation**

In determining for the purposes of this Act whether a house or dwelling is unfit for human habitation, regard shall be had to its condition in respect of the following matters—

- **repair,**
- stability,
- freedom from damp,
- internal arrangement,
- natural lighting,
- ventilation,
- water supply,
- drainage and sanitary conveniences,
- facilities for preparation and cooking of food and for the disposal of waste water;
- in relation to a dwelling in England, any prescribed hazard;

and the house or dwelling shall be regarded as unfit for human habitation if, and only if, it is so far defective in one or more of those matters that it is not reasonably suitable for occupation in that condition.

Homes (Fitness for Human Habitation) Act 2018: **Guidance for Landlords:**

- [HHSRS Guide for Landlords](#)
- [HHSRS Guidance](#)

b) Section 11 **Repairing obligations on short leases** (generally tenancies less than 7 Years – not dealing with registered providers here, exceptions and exemptions also apply)

- a) to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),
- (b) to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and
- (c) to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.

Section 17 - “repairing covenant” means a covenant to repair, maintain, renew, construct or replace any property.

It applies but only if

the disrepair (or failure to maintain in working order) is such as to affect the lessee’s enjoyment of the dwelling-house or of any common parts, as defined in section 60(1) of the Landlord and Tenant Act 1987, which the lessee, as such, is entitled to use.

And

In determining the standard of repair required by the lessor’s repairing covenant, regard shall be had to the age, character and prospective life of the dwelling-house and the locality in which it is situated.

2. Defective Premises Act 1972

Section 4 **Landlord’s duty of care in virtue of obligation or right to repair premises demised.**

- (1) Where premises are let under a tenancy which puts on the landlord an obligation to the tenant for the maintenance or repair of the premises, etc...

Guidance: [Landlord and tenant rights and responsibilities in the private rented sector](#) Published 9 April 2019 The second section of this guide provides landlords with information on how to maintain high standards and create positive relationships with tenants.

Pre-Action Protocol for Housing Conditions

The Pre-Action Protocol for Housing Condition Cases (England) replaces the Pre-Action Protocol for Housing Disrepair. The Disrepair Protocol now ceases to apply in England (although it remains in force in Wales). The new protocol reflects the limited changes introduced by the Homes (Fitness for Human Habitation) Act 2018. This Act also does not apply to Wales.

A tenant may bring action against a Landlord for the above pieces of Legislation where the Landlord has not carried out the required duties.

[The Protocol](#) is intended to cover and include those brought under **sections 9A and/or 11 of the Landlord and Tenant Act 1985, section 4 of the Defective Premises Act 1972**, common law nuisance and negligence, and those brought under the express or implied terms of a tenancy agreement or lease. It does not cover claims brought under section 82 of the Environmental Protection Act 1990 (which are heard in the Magistrates' Court). Pre-Action Protocol for Housing Conditions Claims (England):

3 Statutory Nuisance

- a) [Environmental Protection Act 1990](#)

Section 79 Statutory nuisances

(1)(a) any premises in such a state as to be prejudicial to health or a nuisance;

b) [Building Act 1984](#)

Section 76 Defective Premises (quick procedure - 7 day notice)

(1)(a) any premises are in such a state (in this section referred to as a “defective state”) as to be prejudicial to health or a nuisance,

b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by section 80 of the Environmental Protection Act 1990,

4. Section 79 Ruinous and dilapidated buildings –

(1) If it appears to a local authority that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood

5. Houses in Multiple Occupation

The person managing a HMO is responsible in all HMOs to maintain or keep in repair

Non-Section 257 HMOs (Not self-contained or only partially self-contained)

- [Legislation 2006 No. 372](#) - Housing, England
- [Legislation 2006 No. 373](#) - Housing, England
- [Self-contained flats](#) (in some converted houses)

6. Local Government and Social Care Ombudsman

A Landlord or a tenant can use this service, **but** first will need to contact the council to give it the opportunity to investigate the disrepair you complain about. If you are not satisfied with the council’s response to the matter, you may [complain to the Ombudsman](#).

7. Housing Act 2004

A Local Housing Authority may seek to Close a property with a Prohibition Order or make a Demolition Order as alternative courses of action if the Local Authority are satisfied that a Category 1 or 2 hazard or exists at the property (see notes on HHSRS)

- [Housing Act 2004 Section 20](#) & [Housing Act 2004 Part1 Chapter4](#)

8. Public Health Act 1961

The Local Authority has the power to repair, cleanse and remedy stopped up drains

- [Public Health Act S17](#)
- [Public Health Act S22](#)