



berneslai
homes

Disrepair Policy

Document Control

Title	Disrepair Policy
Responsible Officer	Damp, Mould & Disrepair Manager
Author	Head of Repairs Maintenance & Building Safety
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Revision History

Date	Version	Author	Comments
Sept-23	1.0	Head of Repairs Maintenance & Building Safety	First Draft
Oct-23	1.1	Head of Repairs Maintenance & Building Safety	Draft – Review by BMBC & Legal
Nov-23	1.2	Head of Repairs Maintenance & Building Safety	Draft for Comment & Approval by EMT
Dec-23	1.3	Head of Repairs Maintenance & Building Safety	Draft shared with TVP & Key Stakeholders for Comment
Feb-24	1.4	Head of Repairs Maintenance & Building Safety	Draft shared with EMT for comment
Apr-24	1.5	Damp Mould and Disrepair Manager	Final Draft submitted to EMT for Review & Approval – Approved with an EDI section adding
May-24	1.6	Damp Mould and Disrepair Manager	EDI Section added as per EMT

Consultation and distribution

Type	Details
Consultation	Tenants Voice Panel, SMT, EMT, BMBC & Board
Distribution	Everyone (including public via website)

1. Introduction

Berneslai Homes has ongoing investment programmes for planned maintenance and component replacement to ensure that the homes under its management are well maintained to a decent standard in line with statutory responsibilities.

In addition, Berneslai Homes has an excellent responsive repairs and maintenance service to deal with customers repair requests in an effective and timely way.

Further to the business imperatives of having a well-maintained housing stock and great customer care, Berneslai Homes has a legal obligation to keep tenanted homes in good repair. The repairing obligations are implied through legislation in the Landlord and Tenant Act 1985 and Defective Premises Act 1972 and are expressed in the tenancy agreement. The Environmental Protection Act 1990 is also relevant, as it states that any premises in such a state as to be prejudicial to health or a nuisance (say, through disrepair) may constitute a statutory nuisance.

The policy and underpinning procedure will enable Berneslai Homes to effectively manage, monitor, and reduce the number of disrepair claims from customers.

2. Purpose

The policy details how Berneslai Homes manages claims of disrepair from customers who are dissatisfied with the condition of their homes. It has been written in line with the Ministry of Justice Pre-Action Protocol for Housing Condition Claims (England).

3. Scope

This policy applies to:

- Property Services – Repairs Maintenance & Building Safety Team
- BMBC Insurance & Legal Teams
- All Staff

4. Responsibilities

Property Services – Repairs Maintenance & Building Safety Team

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- Ownership and strategic oversight of the policy
- Performance reporting and reviewing
- Management of procedures
- Reviewing policy and procedures
- Administration and reviewing of claims
- Surveying properties
- Preparing reports on condition
- Provide evidence to BMBC insurance team or appointed solicitors
- Arranging for remedial works to be carried out
- Adequately recording repair requests
- Logging comprehensive case notes on repair requests
- Delivery of responsive repairs
- Undertaking remedial works arising out of disrepair claims in a timely manner

Berneslai Homes (as managing agent for BMBC), our employees, contractors and sub-contractors have the right under section 3G of the Tenancy Agreement to gain access to inspect and carry out works.

- *We will maintain the structure of your home, including any FIT equipment we have installed in line with the responsibilities we have by law.*
- *We will keep essential services for gas, electricity, and heating in repair.*
- *We will complete all other repairs which we are responsible for under law. Further guidance is set out in the Berneslai Homes Repairs Handbook.*

BMBC Insurance Team and Appointed Solicitors

- Providing legal advice
- Acknowledging claims
- Preparing defences and admissions to claims
- Responding to legal correspondence about claims

All Staff

- Recording repair requests and passing onto Repairs and Maintenance Team
- Taking notice of items of disrepair as part of day-to-day activity and passing defects to Repairs and Maintenance Team

5. Policy

Berneslai Homes will comply with all relevant legislation (listed below) and respond proactively to the Pre-Action Protocol for Housing Conditions Claims (England) that are initiated by tenants. We will actively seek to engage with tenants through Alternative Dispute Resolution (ADR) and without disregarding any open complaints to come to a desired resolution.

Legislation

Landlord and Tenant Act 1985 (LTA) Section 11

Repairing obligations

- (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

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(c) to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.

Defective Premises Act 1972 (DPA) Section 4

Landlord's duty of care

(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, the landlord owes to all persons who might reasonably be expected to be affected by defects in the state of the premises a duty to take such care as is reasonable in all the circumstances to see that they are reasonably safe from personal injury or from damage to their property caused by a relevant defect.

(2) The said duty is owed if the landlord knows (whether as the result of being notified by the tenant or otherwise) or if he ought in all the circumstances to have known of the relevant defect.

Environmental Protection Act 1990 (EPA)

- Statutory nuisance claims which are brought in the Magistrates Court for work to be carried out.
- A fine can be imposed on the landlord.
- The premises must be in such a state as to be prejudicial to health or a nuisance – often used where there is severe damp causing asthma.
- Prejudicial to health i.e., likely to cause injury to health and can extend to cover damp caused by condensation.

Homes (Fitness for Human Habitation) Act 2018

- To ensure rented houses and flats are fit for human habitation.
- They should be safe, healthy environments, free from causing serious harm. If a claim is brought under this Act, a Court will question whether the property is unfit from human habitation. Tenants must report any issues or concerns to the landlord who has a reasonable amount of time to investigate and carry out remedial work.
- It could mean landlords should carry out improvement works which is beyond previous duty.
- Fitness criteria / hazards – e.g., property layout could give rise to falls; food safety if lack of facilities for storage, preparation and cooking of food.
- Expected to become a standard pleading.

Housing Ombudsman (HO)

- In October 2021 the Housing Ombudsman produced a report entitled spotlight on damp and mould it's not lifestyle : <https://www.housing-ombudsman.org.uk/wp-content/uploads/2021/10/Spotlight-report-Damp-and-mould-final.pdf>
- The Ombudsman's view was that landlords should adopt a zero-tolerance approach to damp and mould on a proactive basis rather than reactive basis when a tenant reports the damp.
- The inquest into the death of the 2-year-old Awaab Ishaac has once again highlighted the issue with an estimated 450,000 homes in England having problems with condensation and mould.
- Lots of media coverage, raises awareness and expectations.

Social Housing (Regulation) Act 2023

Guidance was published in September 2023 on how to manage and understand the health risks associated with damp and mould in the home:

Landlords of all types of tenure must ensure that their homes have all the measures in place to ensure that damp and mould have been minimised. Landlords should regularly inspect their properties, remedy deficiencies promptly and ensure that they have a regular programme of maintenance and management.

Landlords have a right to enter their properties, with reasonable notice, but only in specific circumstances which may include:

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- to inspect the conditions of the premises
- to perform repairs
- access to provide services

If a tenant reports damp and mould, landlords should establish the source of the damp, whether there is any defect to the property that is causing it, and then carry out the appropriate remedial work. While there is currently no specific timeframe within which remedial work to address damp and mould must be undertaken, landlords should always respond promptly and address this issue as a matter of urgency when there is significant damp and mould and/or when there is a significant concern for tenant health. See 'Identifying and addressing damp and mould in your property' and 'Reducing the risk of damp and mould developing' for further guidance.

If all possible remedial action has been taken, landlords may be able to appeal or defend formal action taken under the legislation set out above, even if damp and mould persists.

Regulator of Social Housing - Safety and Quality Standard

Repairs, maintenance and planned improvements:

- Registered providers must provide an effective, efficient and timely repairs, maintenance and planned improvements service for the homes and communal areas for which they are responsible.
- Registered providers must enable repairs and maintenance issues to be reported easily.

6. Performance Measures & Partnership

Performance will be monitored monthly and will feed into the PRIP Performance Report. Performance will also feed into the annual report to board for oversight and assurance.

The performance measures are:

- Number of cases received in the month
- Number of cases closed in the month (no response)
- Number of cases settled in the month
- Number of open cases
- Time taken in days to complete protocol (target 20 days)
- Amount of compensation paid
- Amount of legal fees paid

7. Partnership

In delivering this policy, Berneslai Homes will work in partnership with BMBC insurance Services and appointed solicitors to conclude Disrepair Claims in a timely manner as set out by the Ministry of Justice Pre-Action protocol for Housing Condition Claims (England).

8. Equality, Diversity & Inclusion

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We will ensure equal and fair access to our services; we will do this by taking into consideration the individual needs of our tenants, their family or other persons living with them. We will ensure that individual needs are considered throughout the process and make reasonable adjustments where necessary.

We will treat people fairly and with dignity and respect.

All staff are trained in Equality, Diversity, and Inclusion to embed understanding about where we may need to adapt normal policies, procedures, and ways of working to accommodate resident's individual needs. This is mandatory training which is monitored by our Organisational Development Team. Our Equality, Diversity and Inclusion Strategy meets our duties under the Equality Act 2010 (the Act) is about the following: Equality - Of access to opportunities. Diversity – Recognise and celebrate differences. Inclusion – Belonging and acceptance, feeling valued for who you are.

Reasonable Adjustments

We will support the needs of our diverse residents by making reasonable adjustments to our processes, which could be a physical change or change in work practices to avoid any disadvantage to a resident in accessing this policy. Examples of reasonable adjustments include:

- We will provide information in appropriate alternative formats (e.g. large print, coloured paper, Braille etc.).
- We will risk assess and re-prioritise works considering the vulnerabilities or individual needs of the household where identified.
- We will communicate through a representative.
- We will provide additional support such as a sign language interpreter or translator.
- We will use plain language or Easy Read service.
- This policy is published on our website, and residents can do the following:
- Change colours, contrast levels and font size.
- Zoom in up to 300% without text spilling off the screen.
- Access the policy from a smart phone, tablet, laptop, or PC.