

M&G Affordable Living RP Limited (“MAL”)

Disrepair Policy

Landlord: MAL Affordable Living RP Limited “MAL”

Version: MAL 1.0

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1. Purpose

The Disrepair policy sets out the process used by MAL to manage housing condition claims (also known as disrepair). This is a type of civil claim arising from the condition of residential premises that we own.

2. Introduction

Housing condition claims will be managed in line with the Pre-Action Protocol for Housing Conditions Claims, which replaced the Pre-Action Protocol for Housing Disrepair Cases. If a claim proceeds to litigation, the court will expect all parties to have complied with the Protocol as far as possible. Our policy has been developed based on the route recommended within the protocol.

3. Key Aims

In line with the pre-action protocol our aims are to:

- Promote a clear and early exchange of information to achieve an early resolution of the issues
- Ensure remedial works are carried out promptly which are identified as our responsibility
- Keep the costs of resolving disputes down and avoid unnecessary litigation
- Ensure that tenants receive any compensation to which they are entitled

4. Scope

Claims covered are 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
- the express or implied terms of our tenancy agreement and lease

It includes claims by any person with a Housing Conditions claim including tenants and lessees. This policy will be followed for all Housing Condition claims regardless of the value of the damages claim.

5. Exclusions

This procedure does not cover claims brought under section 82 of the Environmental Protection Act 1990.

The Housing Condition Claims Protocol does not cover claims which originate as counterclaims or set-offs in other proceedings (e.g. possession for rent arrears). However, in these cases we will follow the same broad principles by exchanging information promptly to clarify issues and resolve the case.

M&G Affordable Living RP Limited (“MAL”)

Personal injury claims will be notified to our insurers. There is a separate protocol for personal injury which is available on the Ministry of Justice website. Where a Housing Condition claim contains a personal injury element, only where it is insufficient to warrant separate procedures will it be dealt with as part of the disrepair claim.

6. Roles and responsibilities example

The responsible person(s) and their key responsibilities under this procedure are set out below: Job title and/or team	Tasks
Property Manager	Responsible for coordination of disrepair case management and implementing this policy. (This includes considering the ‘letter before action’ to see if work has already been done prior to cases going to court)
Property Manager	Carrying out inspections and issuing works for contractors
Repairs / Admin Coordinators	Responsible for providing administrative support to the Property Manager
Regional Manager	Assesses whether our Property Managers legal team can take on the case or refer to an external solicitor. Where the case is referred externally the solicitors will have full responsibility for the day to day running of the case.
Contractors	Responsible for the delivery of works that arise from the disrepair claim and consultation with residents
Customer Services/ Housing staff	Responsible for forwarding any suspected disrepair cases received through customer services/other correspondence to the disrepair email inbox - within 24 hours of receipt
Continuous Improvement Analyst	Responsible for the reporting of performance, trends and costs on Legal Disrepair. Includes monitoring of complaints and repairs to reduce the risk of a claim.

7. Definitions

Protocol: When mentioning the protocol throughout this document we are referring to the pre-action protocol for housing condition claims.

Early Notification Letter: Under the protocol, a tenant (or their representative) is required to give notice of any claim for disrepair to the landlord as soon as possible. In order to avoid delay in notifying the landlord it may be appropriate to send a letter notifying the landlord of the claim (Early Notification Letter - ENL) before sending a letter setting out the full details of the claim (Letter of Claim - LOC).

Single Joint Expert: The protocol suggests the use of a Single Joint Expert to inspect the property and produce a schedule of repairs that will be accepted by both parties. The SJE is normally nominated by the tenant (or their representative), although the landlord may nominate if the tenant is not able to do so. The SJE should be suitably

M&G Affordable Living RP Limited (“MAL”)

qualified to provide an expert opinion of the outstanding repairs, and the works and/or actions required to remedy the problem.

8. Early Notification Letter

When an Early Notification Letter (ENL) is received it should be scanned and emailed to the Property Manager. Where the Property Manager receives this by any other means or in any other format it will also be sent via email to the Property Manager's email address.

9. Counter Claims

Where the Property Manager has been notified of a repair issue, and they intend to take legal action for possession on the basis of rent arrears against those residents they will send a report to the disrepair email inbox. The Property Manager will then arrange for the Asset Management team or Sub Contractor to carry out an investigation if there is not a letter of claim or counterclaim.

If there is a letter of claim or counter claim the Property Manager will investigate. Any outstanding repairs should usually be resolved before Income issues a rent arrears claim. The process for checks on any pre-action is facilitated by the Property Manager and their respective internal teams.

Where a disrepair counter claim is received it should be sent immediately to the Property Manager, with a copy to the appointed solicitor or in-house Paralegal within 24 hours.

10 Letter of Claim

If a Letter of Claim (LoC) is received, it should be scanned and emailed to email address within 24 hours. As in the case of ENL, receipt of such notification in any other way is treated the same.

Where the LoC is received following an Early Notification Letter (ENL), the Property Manager and appointed Solicitor or the in-house Paralegal should take note of any additional information not already provided in the ENL and act accordingly.

Where a LoC is received in place of the ENL, the LoC will be considered the commencement of the case.

11. Case Assessment

Each case is assessed by the Property/Regional Manager. Where a Single Joint Expert (SJE) has been proposed, we have the option of accepting this, proposing another SJE, or undertaking an inspection to agree a schedule of works with the tenant and/or their legal representative.

Where a decision is made to use a SJE, the details of the individual proposed by the tenant or their legal adviser should be checked against our preferred expert list. Where the SJE is on the Property Manager list, the Regional Manager will give an immediate agreement to our solicitor or in-house Paralegal to use the proposed SJE. If the SJE is not on our list, or in cases where an SJE has not been suggested, the Regional Manager will propose a suitable alternative from our list via the legal representative.

By using a SJE, there is an expectation that both parties accept the outcomes of the report. Where disputes do arise, the Regional Manager should refer to the pre-action protocol.

12. Case Administration

The Property Manager will add the case to the complaint and disrepair Tracker and add a Property File for each case on the shared drive, as well as a Qube, to indicate a live disrepair case.

M&G Affordable Living RP Limited (“MAL”)

All documents relating to a case will be stored in the Property File. All correspondence relating to the case will be saved in the property file. Information will be stored and shared securely, and in line with our data protection policy.

The Property Manager will obtain all of the disclosure information available on our systems and if information is not accessible they will speak to Income, Tenancy Services and Home Ownership Teams to request appropriate information such as rent and service charge information, any legal action including ASB, and copies of lease or tenancy agreements or any vulnerability information we hold.

13. Customer Records

The Property Manager will obtain all customer records. Keep things accurately dated to assist solicitor with case chronology, as this can be important when establishing known information that has led to decision making at a point in time. Copies of all these records will then be sent to the appointed solicitor within 5 working days. These documents include:

- Repairs History
- Complaints
- Copy of the tenancy agreement
- Any other relevant documents

14. Legal Response

After receiving instructions from the Property Manager, the paralegal or appointed Solicitor will provide a draft response in reply to the ENL, within 10 working days of the letter being received. The response will advise if the SJE is agreed or not; and if not, the reason why. The Property Manager will review the response and either confirm as being acceptable, or request alterations or amendments – within 1 working day of receipt.

15. Property Inspection

Within 15 working days of our response to the ENL, the SJE should be requested to inspect the property. The appointed Disrepair Surveyor (DS) will facilitate and attend the visit.

16. Single Joint Expert Report

The SJE or DS is expected to deliver a report to the solicitors within 10 working days of completing the inspection.

The appointed Solicitor will provide a copy of the SJE's report to the DS and Regional Manager to review, or, where appropriate, the DS will provide a copy of the report to the Property Manager and in-house solicitor to review.

The Property Manager will put questions to the SJE if applicable, and, where a schedule of works is required, once it is agreed a works order will be raised by the DC for the appropriate contractor, and a timescale agreed within 5 working days - unless specific procurement is required for specialist work.

17. Resolving Outstanding Repairs

The Property Manager/ Asset Maintenance Team will appoint a contractor and instruct for works to be carried out on the property. The Property Manager will liaise with the tenant, or their solicitor in exceptional circumstances, and confirm arrangements with them to visit the property. The contractor will visit the property to carry out repairs within 10 working days of receiving the LoC.

Where there have been problems with accessing the claimants property and this is still an issue, the tenants solicitor should be notified immediately. Cases that involve tenant damage that appears to have led to or impacted repair work, must be recorded, and will be considered when settling a case.

M&G Affordable Living RP Limited (“MAL”)

If problems arise due to access for neighbouring properties or areas the Property Manager will liaise with the housing teams who will coordinate access to the property and will seek an injunction to gain access if needed. If any circumstances are identified that would delay the completion the Property Manager should share this information with the solicitor or in-house Paralegal immediately.

Where a disrepair case will require the tenant to move out for work to be undertaken, the move will be carried out in line with our Decant Policy.

18. Claim Settlement

The Regional Manager or Head of Operations must agree to the terms of settlement. Negotiations include payment details, date works are to be completed, ensuring that we can comply and pay by the payment date. Timescales are part of this negotiation.

19. Post Inspection

The Property Manager should inspect and provide assurance that all recommendations in the SJE report have been met and all works are of a high standard and will not be open to question or challenge. The SJE will then undertake a post inspection.

The post inspection outcome will be recorded in the property file.

Additional or follow up works that are not part of the original claim may be arranged or undertaken, but these will be treated individually, and even if being undertaken in parallel, we will clarify that these are to be excluded from the disrepair claim. For the purposes of the disrepair claim we will stick to the works in the schedule.

20. Closing the Case

The Property Manager will be responsible for arranging settlement or compensation with the solicitor/paralegal and arranging credits or payment through income. Once payment is made the case can be closed on the tracker.

21. Communication

We need to continue to communicate what actions a resident can expect us to take and keep the resident up to date with timeframes for actions associated with their case. We should regularly check that we have correct contact details.

We must seek to adopt a conciliatory tone when dealing with residents to try to seek our goal of a resolution without court action.

This procedure relies on residents to communicate with us and to understand their responsibilities. We may gauge when and how to remind residents that they also have a responsibility to work in line with the protocol. This can include checking that they are aware of alternative routes for dispute resolution.

We can also remind them:

- It is a condition of the tenancy agreement that tenants must report all repairs and defects in their home to us immediately, except for those for which they themselves are responsible.
- It is a condition of the tenancy and lease agreements that residents provide us with reasonable access to be able to inspect or carry out repair or maintenance to our properties.
- The Repairs policy and tenancy agreement sets out landlord, tenant and leaseholder repair obligations.

M&G Affordable Living RP Limited (“MAL”)

22. Other relevant legislation includes but is not limited to:

- Landlord and Tenant Act (1985)
- Defective Premises Act (1972) Procedure
- Environmental Protection Act (1990)
- Fitness for Human Habitation Act (2019)

23. Policy review

We will review this policy at least every two years to make sure it remains relevant and accurate, or more frequently where:

- Legislation, regulation or industry changes require otherwise, making sure that it continues to meet our aims and industry best practice.
- We identify any problems or failures in this policy or procedure as a result of customer, colleague or stakeholder feedback, complaints, or findings from an independent organisation.
- We become aware of any circumstances which may affect the content of this policy.

24. Version Control

Version	Checked by	Amendments	Date of Approval	Review date
MAL Affordable Living Limited.	Director Fund Management	Policy adoption.	Feb. 2026	Feb 2028