



Property Management

Disrepair (Housing Conditions) Claims Policy

Regulation and Legislation	<p>This policy links to the management of Housing Condition cases relating to our properties and estates under:</p> <ul style="list-style-type: none">• The Leasehold Reform, Housing and Urban Development Act 1993• The Landlord and Tenant Act 1985 - Section 9A• The Defective Premises Act 1972• The Commonhold and Leasehold Reform Act 2002• The Regulatory Reform (Fire Safety) Order 2005• The Fire Safety Act 2021• The Building Safety Act 2022• The Housing Act 2004 - Part 1 Housing Conditions• The Health and Safety at Work Act 1974• The Management of Health and Safety at Work Regulations 1999• The Environmental Protection Act 1990 (section 79-82 inclusive)• The Homes (Fitness for Human Habitation) Act 2018• Pre-Action Protocol for Housing Conditions Claims (England) 2020• RICS Code of Practice• ARHM Code of Practice• The Regulator of Social Housing Consumer Standards• Decent Homes Standard• Good Practice Guidance on Housing Condition Legal Obligations January 2002• The Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994• The Data Protection Act 2018• Housing Health and Safety Rating System (HHSRS)• Civil Procedure Rules
Supporting documents	<ul style="list-style-type: none">• Housing Conditions (Disrepair) Claims Procedure• Responsive Repairs Policy and Procedure• Damp, Mould and Condensation Policy and Procedure• Complaints Policy and Procedure• Estate Inspection Procedure• Property Management Operational Policy• Personal Insurance Procedure• Data Sharing Guidance• Void Management Policy and Void Lettable Standard

Scope	Orbit's approach to managing Housing Conditions (Disrepair) Claims cases.
Reference to "Orbit" means Orbit Group which consists of Orbit Group Limited, Orbit Housing Association Limited, Orbit Homes (2020) Limited, Orbit Treasury Limited and Orbit Capital Plc.	

1. Introduction

- 1.1 Orbit wants customers to enjoy a safe, comfortable home where they can thrive and enjoy life. This Policy sets out our approach to ensuring we:
 - Keep our properties and communal areas free from disrepair and poor housing conditions by identification and proactive resolution
 - Investigate disrepair and poor housing conditions claims promptly and establish whether there is a case
 - Resolve claims quickly and effectively to improve customer satisfaction and avoid the need for court action.
- 1.2 This Policy applies to all residential properties in General Needs Housing, Leasehold, Independent Living, including Agency Managed Schemes, and must be read in conjunction with individual tenancy agreements or leases and Orbit's Policies and Procedures, as our repair obligations for each property and tenure can differ.
- 1.3 The Policy follows the guidance set out in the Pre-Action Protocol for Housing Condition Cases: The Protocol (Appendix 1), which uses section 9A in the Landlord and Tenant Act 1985 (implied term as to Fitness for Human Habitation) and Part 1 Housing Conditions of the Housing Act 2004 (implied term as to the Health and Housing Safety Rating System).
- 1.4 Additionally the Policy also considers those 29 categories of housing hazard and the weighting categories (1 = Serious 2 = Other) identified in the Health and Housing Safety Rating System.

2. Definitions

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 housing standards (HHSRS), often leaving customers living in unsafe and unhealthy conditions. The failure to keep in repair the structure, exterior and installations for water, gas, electricity, heating, and sanitation of a property to the requisite standard or if we have failed to comply with our repair obligations under the tenancy agreement or lease. Those can be identified by the customer, staff, contractors, a local authority, Health and Safety professional, or a third party

Decent Homes Standard

A Government programme aimed at improving social housing homes to bring them all up to a minimum standard of decency.

Housing Health and Safety Rating System (HHSRS)

Places a legal duty on landlords to assess and regularly review the condition of their properties to ensure that properties are safe and free from hazards.

Housing Conditions Claim

A civil claim arising from the condition of residential property and may include a related personal injury claim.

Pre-action Protocol

Procedural framework to be used by parties in the pre-action stages of a disrepair/poor housing conditions claim, intended to assist parties in housing condition claims to resolve the issues early and appropriately.

Expert/Single Joint Expert

A suitably qualified expert who acts as an independent witness for the benefit of court, and who prepares a report addressing the allegations of disrepair and/or poor housing conditions.

Survey

An inspection or assessment of the structure, exterior or related installations of a property.

Case Manager

Responsible officer for managing the claim on behalf of Orbit.

3. Regulatory and Contractual Obligations

- 3.1 We have responsibilities and obligations under the Landlord and Tenant Act 1985, the Defective Premises Act 1972, Environmental Protection Act 1990, Housing Act 2004 and Homes (Fitness for Human Habitation) Act 2018 to keep residential properties in repair.
- 3.2 We are also required to ensure our residential properties meet the Decent Homes Standard. Specifically, a property must:
 - **Meet the current statutory minimum standard for housing**
 - **Be in a reasonable state of repair.** Homes which fail to meet this criterion, are those where:
 - one or more of the key building components are old, and because of their condition, need replacing or major repair, or
 - two or more of the other building components are old and, because of their condition, need replacing or major repair
 - **Have reasonably modern facilities and services.** Homes which fail to meet this criterion, are those which lack three or more of the following:
 - a reasonably modern kitchen (20 years old or less)

- a kitchen with adequate space and layout
- a reasonably modern bathroom (30 years old or less)
- an appropriately located bathroom and WC
- adequate insulation against external noise (where external noise is a problem)
- adequate size and layout of common areas for blocks of flats
- **Provide a reasonable degree of thermal comfort.**
- a SAP rating of less than 35 (using the 2001 SAP methodology) has been established as a proxy for the likely presence of a Category One hazard from excess cold.

3.3 Additionally, in cases where the local authority Health and Safety Officer identifies disrepair as a risk under the HHSRS, we are legally required to carry out the work within a reasonable amount of time to avoid prosecution.

3.4 Where we are the freeholder, we are also obliged to ensure the communal areas are repaired, maintained, and insured in line with health and safety compliance.

3.5 Our repairs responsibilities differ across different tenures as laid out in individual tenancy agreements and leases. Where we are not responsible for the disrepair, we will provide prompt advice and guidance to assist customers to resolve the issue.

4. Prevention Against Disrepair and Poor Housing Conditions

4.1 We strategically build, invest in, and manage our properties to ensure all our properties meet the regulatory and contractual obligations outlined in Section 3, as well as our obligations to customers.

4.2 We operate a rolling programme of stock and block condition surveys to evaluate, and risk assess the state and condition of our properties. We prioritise and escalate any Category 1 HHSRS risks, as appropriate.

4.3 We deploy resources to carry out investment works on a planned basis to reduce the likelihood of disrepair and/or poor housing conditions e.g., damp and mould.

4.4 We maintain a central asset investment database which contains information regarding our stock, enabling us to determine which types of property in which areas require investment to prevent disrepair.

4.5 We operate a responsive repairs and maintenance service to mitigate against the potential for disrepair and/or poor housing conditions. As stated in their tenancy or lease agreement, customers must promptly report to us any repairs needed that we are responsible for. We record all repairs reported by customers or identified by staff during Estate Inspections or visits on our Housing Management system, Active H.

4.6 Our records also contain details of the maintenance or repair works undertaken to a specific property or scheme to help inform us on the condition of our properties.

4.7 We identify potential disrepair and/or poor housing conditions issues during our void maintenance process and deploy resources to remedy any defect before the property is re-let. We only allocate empty properties that are physically fit for long term

human habitation in accordance with our Lettings Standard, which can be found on our website.

- 4.8 Under the terms of the tenancy, lease and Landlord and Tenant Act, Orbit requires actual notice from the customer to be liable to carry out a repair. However, if an officer or agent of Orbit has visited a customer's property where the defect/repair required would have been obvious to that visitor, then Orbit is said to have implied notice of the repair or defect.
- 4.9 Our contractors and staff will either raise a Works Order or report back to the Customer Support Hub, immediately where they become aware of repair issues while visiting a property or estate.

5. Legal Routes of Disrepair

- 5.1 We aim to reply to a Letter of Claim within 20 working days of receipt. We adhere to the Pre-Action Protocol when responding to all reports of disrepair/poor housing conditions.
- 5.2 Where a customer issues a housing condition claim, we may instruct a solicitor to act on our behalf. We consider using alternative dispute resolution methods, where reasonable to resolve the matter with a customer at the earliest opportunity to avoid legal action. We will, where appropriate, consider settlement including financial settlements to resolve housing conditions claims.
- 5.3 Where appropriate, we instruct an expert or single joint expert in conjunction with the resident or their third-party legal advisor to inspect the property for evidence of disrepair.

6. Complaints About Disrepair

- 6.1 We deal with complaints of disrepair or poor housing conditions directly from customers, or a third party, in line with our Complaints Policy and Procedure, except where a customer instructs a solicitor to make a disrepair claim using the Pre-Action Protocol. We will respond to customers' instructed solicitors outside of our Complaints Policy and Procedure while still seeking alternative dispute resolution.
- 6.2 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.
- 6.3 We encourage customers to use our complaints process to resolve disrepair and/or poor housing conditions 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.

7. Inspections

- 7.1 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 time and the repairs are carried out in accordance with our published repair timescales. Our aim is to complete disrepair works as quickly as possible to ensure

customer satisfaction and minimise Orbit's 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.

- 7.2 We exchange information with solicitors or other agencies requests in line with the Pre-action Protocol and our Data Protection Policy.

8. Access

- 8.1 Where disrepair and/or poor housing conditions have been reported and subsequent attempts to access the property have failed, we pursue legal routes, including Injunctions, where necessary, to obtain access. We ensure that all access attempts are being recorded accordingly on our Housing Management system, Active H.

9. Disrepair and Possession Claims

- 9.1 Where we are in the process of taking arrears recovery action, and a customer raises a counterclaim of disrepair and/or poor housing conditions, we continue the arrears recovery procedure and, if applicable, offset any sum payable under the housing conditions claim against the arrears. We will follow up on our Compensation Policy where necessary.

10. Roles and Responsibilities

Those responsible for the implementation of this Policy are:

Role	Responsibility
Head of Property and Estates Management	<ul style="list-style-type: none">Ensures that the Disrepair (Housing Conditions) Claims Policy and Procedure are being followed.
CSH Resolutions Team/Income Collection and Recovery Team	<ul style="list-style-type: none">Updates Active H and Response databases with previous and live complaints and arrears action.
PM and ES Co-ordinators	<ul style="list-style-type: none">Sets up new cases and collates records relating to the caseSets up a temporary file for the collated records to be storedMaintains and updating all case records if requested by the Case Manager.
Case Manager	<ul style="list-style-type: none">Leads on the case management, including ensuring all time restrictions are complied with Pre-Action Protocols and actions completed in a timely mannerMaintains and updates all case records before the end of claim processEnsures temporary files are deleted or destroyed.

Data Protection Officer	<ul style="list-style-type: none"> Ensures all requests for information are provided in line with Data Protection laws and pursuant to Data Subject Rights.
Regional Property Manager	<ul style="list-style-type: none"> Reviews cases, identifies learning actions and shares with relevant stakeholders.
Orbit's Lead Disrepair Solicitor	<ul style="list-style-type: none"> Advises the Case Manager on the management of the claim Leads on negotiations with claimant's solicitor.

11. Performance Controls and Business Risk

- 11.1 Compliance with this Policy will be monitored by the Head of Property and Estates Management.
- 11.2 Regional Property Managers will monitor the progress of active housing condition claims through Orbit's Lead Disrepair Solicitor's tracker, carry out quality assurance spot checks and review closed cases, monthly.
- 11.3 Regional Property Managers will hold monthly performance management meetings with the Lead Disrepair Solicitor and Case Managers.
- 11.4 Orbit will carry out a fundamental review of this Policy every three years subject to legal, regulatory changes or in accordance with the agreed Policy Review programme.

12. Essential information

- 12.1 All Orbit policies and procedures are developed in line with our approach to the following, data protection statement, equality diversity and inclusion (EDI) approach, complaints policy and our regulatory and legal obligations to ensure we deliver services in a lawful manner and treat people equally and fairly. Details of these are found on the declaration document for strategy policy and procedure summary and have been an integral part of the formulation of this document. Orbit's privacy policy can be accessed on our website www.orbitcustomerhub.org.uk/publications/policies/

EA	Equality Analysis was completed in January 2023 and is available to view.
DPIA	A DPIA relating to the Disrepair (Housing Conditions) Claims procedure was approved July 2022 and is available to view.
Consultation	Internal: Heads of Service across Customers and Communities, Health and Safety Team, Governance. This policy also went to Customer and Communities Leadership Team for recommendations.
	External: Customers have been involved in the formulation of this Policy, via the Disrepair Policy Focus Group, plus a further independent review by Orbit's Lead Disrepair Solicitor.
Applies to	All business areas

Document control

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