

REPAIRS

What repairs are landlords responsible for?

The Landlord and Tenant Act 1985 Section 11 (1) states that the landlord is responsible for keeping the following in repair and proper working order:

- The structure and exterior of the dwelling and the building containing the dwelling (including drains, gutters and external pipes).
- The installations for the supply of water, gas and electricity and sanitary installations (including basins, baths and W.C.s).
- The installations for the supply of space heating (i.e. gas fires / central heating) and water heating.

Your tenancy agreement may contain provisions that go beyond the legal minimum. These will also form part of the landlord's legal obligations. The landlord's duty to carry out repairs may also arise from other rights a tenant has such as the right to quiet enjoyment.

What should you do if your flat or house is in disrepair?

Most landlords will be willing to carry out the basic repairs necessary to maintain their property. If repairs need doing the first step is to tell your landlord or the person who collects the rent. It is always advisable to confirm any request in writing and to keep a copy of the letter. This means that if the landlord does not carry out the repair you have evidence of when it was reported.

If the landlord does not do the repair within a reasonable time you should write to the landlord again, saying that you intend to take action to enforce your rights to repair if the work has not been done within, for example, seven days. You may wish to quote the laws outlined below.

There are two ways in which you can enforce your rights to repair. You can ask the local authority to inspect the property and take action requiring the landlord to do the repairs or you can take action in the courts yourself.

Asking the local authority to take action: You should contact the council's environmental health department and ask an officer to visit your home. It is usually best to phone before 10.00am or after 4.00pm as the officers are usually out visiting between those times. The environmental health officer should arrange for a date to visit. Always ask for the name of the person you are speaking with since you may need to contact them in the future.

Inform any other tenants in your house when the environmental health officer will be visiting, since it may be necessary for the officer to inspect other parts of the building. Make a list of all the repairs that you wish to complain about and give it to the officer (keeping a copy for yourself). Ask the officer to keep you informed about what the landlord will be required to do and how long he will be given to do it. You should also ask for copies of any notices that the council sends to the landlord.

If the council is taking a long time to act or is not using all its powers you can ask Student Housing Services, your local Councillor or advice centre to contact the local authority on your behalf.

Taking action against the landlord yourself: If you choose to do so, you can take your landlord to court to get your repairs done without the help of the council. You should always get advice first. It may be possible to get someone from an advice or law centre to represent you free of charge or you may get help through the Legal Aid Scheme to pay the costs of a solicitor.

The advantages of acting yourself include:

Time - You may be able to have an early court hearing, in which case it will be quicker than the council serving a notice. However, in some areas courts are busy and there may be long delays.

Money - In certain circumstances you may be able to claim damages to property or for your inconvenience.

The disadvantages include:

Costs - You may have to pay solicitors fees and court costs if you lose your case. If you get Legal Aid the cost of this may be deducted from any compensation that you receive.

Limitations - The court may not grant all that you ask for.

Proof - You will need to be able to prove there is a problem and how it is affecting you. This may involve taking photographs or asking a surveyor or environmental health officer to provide an independent report.

Withholding your rent to pay for repairs:

You should not simply withhold rent to force your landlord to carry out repairs. If you were to do so the landlord could take action against you for rent arrears, and you could be evicted. However, where the repairs are minor, many tenants decide to do the repairs themselves and deduct the cost of the repairs from the rent. Although this action can be risky there have been court cases in the past that have confirmed the tenants' right to carry out repairs themselves. You should always seek advice before withholding your rent.

If you do decide to take this course of action you should carefully follow the steps listed below:

- Give notice in writing to your landlord of the repairs that need doing, keeping a copy of your letter (and all subsequent letters).
- Obtain two or three estimates from reputable companies.
- After a reasonable amount of time has elapsed, write again, enclosing copies of the estimates, stating that the landlord is in breach of his repairing obligations and that unless the work is done within a specified period (say, two weeks) you will do the work yourself and deduct the cost of the lowest estimate for the work from the rent.
- If there is no response, go ahead with the work and when you pay your contractor make sure that you obtain a proper receipt.
- Work out exactly how many weeks' rent you will be withholding. Only rent can be deducted. You have to continue paying any other sums you owe the landlord such as service charges.
- Write to the landlord explaining precisely how the rent deductions will be made to cover the cost of the work.
- Withhold rent until the cost of the repair is covered.

The main laws relating to disrepair: There are many laws relating to disrepair. The following is an outline of the most important ones.

The Landlord and Tenant Act 1985 Section 11 (1) - This imposes certain repair obligations on the landlord (as detailed above). In order for the landlord to be liable for carrying out the repair work he must be aware of the need for repair and have had a reasonable opportunity to carry out the repair work. The landlord will not be liable if the disrepair is the result of the tenant breaking his or her own contractual repair obligations.

If the landlord has not carried out repairs that he should have done (by virtue of Section 11 (1) or additional stated contractual repair obligations) all or any joint tenants may act against the landlord for **breach of contract**. The usual result of court action for breach of contract is for the court to order the landlord to carry out the repair and for damages to be awarded to the tenant. In serious cases of disrepair, the court may order the landlord to carry out the repairs before the case is given a full hearing in court.

The Landlord and Tenant Act 1985 Part IV - This imposes a duty on local authorities to secure certain minimum housing standards in their area. If a tenant believes the property is in disrepair, they may request that the local authority carry out an inspection. It is usually an environmental health officer who inspects. The officer must decide whether the property is "unfit for human habitation". The term "unfit" is usually taken to mean that through ordinary use of the property the occupier may suffer some harm.

If the property is found to be unfit the local authority **must** take some action. There are five options:

- repairs notice
- closing order
- demolition order
- group repair scheme
- area action

If the property is in disrepair but is not deemed "unfit", the local authority can serve a notice on the landlord under Section 190 compelling the landlord to carry out the repair. Failure to comply with a repair notice is a criminal offence. In this way even the most minor disrepair can be subject to the local authorities' enforcement of standards.

The Environmental Protection Act 1990 Part III contains provisions for dealing with "statutory nuisances" i.e., something that represents a danger to an individual or members of the public. Once again, the enforcement agency is the local authority.

This law can be applied to a number of housing conditions that present a potential injury to health including:

- disrepair
- condensation and dampness
- old wiring
- infestations (rats etc.)
- poor design

If the local authority discovers a statutory nuisance they must serve an abatement notice. The notice will require work to be carried out to stop the statutory nuisance and / or prevent recurrence. The notice will be served on the owner of the property or the person responsible for the nuisance. Failure to comply with the notice will be a criminal offence