

## **Supplementary written evidence submitted by Riverside, Torus, Onward, ForHousing, Salix Homes and Shepherds Bush Housing Group [RSH 110]**

### **1. Background**

- 1.1 Thank you for the invitation to submit further evidence on the issue of disrepair and for allowing us to address some recent comments made to the committee about our work.
- 1.2 In 2021, eight social housing landlords commissioned Connect, public affairs agency, to conduct research into the rise in disrepair claims originating from Claims Management Companies (CMCs) and legal firms. Together we are responsible for over 180,000 homes across the country.
- 1.3 In commissioning this work, our aim was to propose practical ways in which Government can speed up the resolution of genuine cases of disrepair in the interest of tenants and avoid protracted and expensive legal processes which have been promoted by some unscrupulous legal firms and CMCs. We accept that there are instances where a legal route to addressing disrepair is necessary and firmly support the right of tenants to take action when genuine disrepair issues arise.
- 1.4 Through this work, we have evidence that specific areas are being targeted by CMCs. We know that there has been a rising number of claims coming through these companies in the Liverpool City Region and Greater Manchester, as well as in the Midlands and London. Our research has also found evidence of some tenants being pressured or misled into taking legal action when they would be happy to work with their landlord directly.
- 1.5 We strongly support the rights of tenants to hold their landlord to account on poor standards, however we want the Government to address the well-evidenced sharp practices which see some legal firms and CMCs exploiting tenants for their own financial gain, often discouraging them from engaging directly with their landlord, for example by using complaints processes, and unnecessarily protracting the repairs process. We have numerous case studies and have included one in Appendix 1 as a demonstration of a claim which delayed the successful resolution for the tenant.
- 1.6 We remain committed to providing comfortable, safe and well-maintained homes for our tenants and their families. This overriding customer-first priority means we will always work to resolve home repair issues quickly and effectively, to make sure homes are at the standards we expect. We, therefore, encourage tenants to contact us directly when such issues arise.
- 1.7 We commissioned this work after the Government had already closed its consultation on Fixed Recoverable Costs (FRC), to which a number of us responded. We identified FRC as a potentially beneficial reform in part because it was already on the Government's agenda. The Government have since published the findings of that consultation, have recognised the core issue we identified in our report and are seeking to address it.
- 1.8 We therefore agree with the Government that these reforms are necessary. However, we believe that there are further reforms that could better protect tenants from high pressure selling and other sharp practices that previously had been confined to PPI claims.

### **2. What the Connect research found**

- 2.1 On average, across the eight housing associations involved in commissioning the research, we found that over a twelve-month period (April 2020-21), the percentage of the claim costs being paid in claimants' legal costs totalled 47%, more than triple the amount of compensation tenants received (14%) and more than twice the amount spent on repairs (19%). To put that into context, that is projected to be £5.7m paid out in claimants' legal fees when existing claims and those settled in those 12 months are added together. This supports evidence put to the Committee by Claire Miller,

the Chief Executive of Clarion.

2.2 Whilst there is a need for legal costs to be met in the case of genuine disrepair claims, we believe the scale of costs going to solicitors overall is disproportionate and builds perverse incentives into the system which in some cases, encourages unscrupulous behaviour. This is taking money out of the sector that could be used to invest in homes. For example, £5.7m would pay for the retrofitting of 340 existing social houses to make them fit for the future, more energy efficient and reduce disrepair problems such as damp and mould.

### 3. Why is this relevant to the Committee's inquiry?

3.1 We believe that this issue is highly relevant to the Committee's inquiry into the regulation of social housing. The opportunity provided by the Social Housing White Paper to improve complaints processes and put residents first, is being undermined by some legal firms and CMCs who have created a new 'compensation culture' around disrepair. This is an area recently highlighted by the Housing Ombudsman in its Damp and Mould Report: *"For registered providers, it has led to an increase in speculative disrepair claims from solicitors on a "no win no fee" basis. This is not necessarily the most effective route to resolution for residents as some registered providers will settle the claim out of court while the underlying disrepair issue remains outstanding."*

3.2 The 'Make Things Right' campaign is a step in the right direction in helping tenants making informed decisions. However, this could be undermined if at the same time residents are receiving leaflets (see Appendix 2) encouraging them to pursue disrepair claims or being pressurised by unscrupulous CMCs into adopting an approach that is focussed on maximising returns for the legal firms rather than ensuring necessary repairs are carried out as soon as possible.

3.3 The malpractice of some legal firms has also been raised in Parliament. In 2020, Jeff Smith MP called for a debate to *"protect tenants against unscrupulous solicitors"*, after a constituent was landed with a £12,000 bill having lost a no win, no fee case on a housing disrepair claim. [Business of the House - Hansard - UK Parliament](#).

3.4 The priority for the associations involved in this work is to ensure that shortcomings are identified and put right as quickly as possible so that we can achieve positive outcomes for tenants.

### 4. Our Key Proposals

4.1 Through our joint work, we have developed a series of recommendations to Government as follows:

#### ***Solicitors and small claims***

- Introduction of Fixed Recoverable Costs (FRCs) for housing disrepair/conditions claims, similar to Government changes to personal injury claims.
- Limit on success fees that solicitors can deduct from tenants' damages.

#### ***Greater regulation of CMCs***

- A limit on the referral fees that solicitors can pay to CMCs.
- The creation of a declaration of how work has been referred to solicitors. This could be included in the protocol letter of claim.
- Greater sanctions against CMCs when underhand tactics are reported.

### 5. The current Government's position

- 5.1 The Government is already in the process of addressing the first of our recommendations, having conducted a consultation on implementing Lord Justice Jackson’s 2017 reforms on FRCs, which concluded in June 2019.
- 5.2 The Government responded to the consultation in September 2021 with proposals which include:
- extend FRCs to all civil cases in the fast track (those cases valued up to £25,000 in damages that will last no longer than a day)
  - expand the fast track to include simple ‘intermediate’ cases valued between £25,000 and £100,000 in damages
- 5.3 The Civil Procedure Rules Committee agreed to introduce the planned reforms by October 2022.
- 5.4 This is a promising start, however we still believe there is a case for the better regulation of CMCs and the limitation of success fees that can be deducted from the damages paid to tenants.

February 2022

**Appendix 1: Case study:**

THEME / TIMELINE	CASE DESCRIPTION	THE PROBLEM	THE OUTCOME
<p><b>A court case</b></p> <p><b>May 2018 – February 2021</b></p> <p><b>34 months</b></p>	<ul style="list-style-type: none"> <li>• This case is about a tenant who had not anticipated the consequences of working with a CMC and firm of solicitors and reluctantly ended up in court as a witness, only for the case to be dismissed.</li> <li>• The tenant brought a claim for housing disrepair in the summer of 2018.</li> <li>• The letter stated the tenant had made in excess of 20 complaints and no works had been undertaken.</li> </ul>	<ul style="list-style-type: none"> <li>• Two independent experts undertook a joint inspection and agreed that for many of the alleged items, no work was in fact required.</li> <li>• Works identified by the experts were valued under £1,000 by the RP and their solicitor.</li> <li>• The RP denied liability in full, on the basis that the tenant had failed to report any defects and/or disrepair.</li> <li>• The RP undertook the identified repairs, with some delay due to access issues, which they documented/recorded. They also undertook repairs that would normally be deemed rechargeable and other improvement works as a gesture of good will.</li> <li>• Works were finally completed in April 2019 and post-inspected by the RP’s surveyor, the tenant signed a post-inspection form to confirm that all the works had been done to her satisfaction.</li> <li>• The RP offered £200 damages to the tenant, no offer was made for solicitors costs due to costs of works being under £1000 and therefore there was no entitlement to costs.</li> <li>• The tenant’s solicitors said that the tenant did not agree with the landlord’s repair history and rejected the offer.</li> <li>• The parties could not reach amicable settlement and the tenant’s solicitor</li> </ul>	<ul style="list-style-type: none"> <li>• When at trial, the tenant’s Barrister throughout the course of the day continued to propose deals to settle outside of court.</li> <li>• These were primarily to cover solicitors’ costs, while the RP would maintain its position of £200 damages only and small claims costs.</li> <li>• The tenant’s witness statement alluded to making over 20 complaints and said that the RP hadn’t undertaken repairs during the tenancy.</li> <li>• The tenant had to attend court and answer questions as a witness. The tenant said that they had never wanted it to progress this far. They were clearly distressed and required regular breaks during cross examination.</li> <li>• The tenant was not able to provide any meaningful evidence of notifying repairs to the RP.</li> <li>• The RP’s witness presented the repair history, and it was shown that jobs and inspections had been raised and followed through. The records also indicated a number of ‘no</li> </ul>

		<p>issued proceedings.</p> <ul style="list-style-type: none"><li>• The case was initially listed for September 2019, but the tenant's solicitors failed to pay the listing fee, so the case was struck out.</li><li>• Costs were ordered to be paid in the RPs favour, an application for a relief of sanctions was made by the tenant's solicitors and a new trial date was set for February 2021.</li></ul>	<p>access' issues throughout the tenancy.</p> <ul style="list-style-type: none"><li>• The Judge was satisfied that on the balance of probabilities that there was no actionable case.</li><li>• The Judge dismissed the case, and no order was made for the RP to pay costs.</li></ul>
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Appendix 2:

Example of a no win, no fee legal firm leaflet, targeting social housing tenants via Facebook

**WIN £1000**  
**VOUCHER TO CENTRE PARCS**

**NO WIN - NO FEE - NO RISK**  
Are you entitled to compensation due to social housing conditions?  
TO ARRANGE YOUR FREE SURVEY TODAY CALL  
HOME RESCUE UK  
**0333 772 9391**

Voucher redeemable at the following Centre Parcs:  
Wharfedale Forest - Conisbrough, Sherwood Forest - Nottinghamshire, Longleat Forest - Wiltshire,  
Evesham Forest - Suffolk, Woburn Forest - Bedfordshire

T&C: Winner will be announced by 30/3/2022 by an independent adjudicator.

CenterParcs HOME RESCUE UK

Example of a leaflet posted through a social housing tenant's door in May 2021 in a suburb of Greater Manchester. Since May 2021, the Housing Association has received a total of 64 Letters of Claim from the legal firm within the area the leaflet was posted.

Gowing Law Solicitors - [www.GowingLaw.co.uk](http://www.GowingLaw.co.uk) - Regulated Law Firm  
No Win No Fee - Housing Disrepair Claims - Fast Repairs

**Is your property in need of repairs that haven't been carried out by your landlord?**

Contact Gowing Law today, to get your repairs carried out quickly

Claim for damp, mould, leaks, electrical or gas faults, faulty heating, vermin, unsafe surfaces, plastering issues, damaged brickwork & roofing, drainage issues & more...

We'll speed up your repairs & check if you have a compensation claim, FREE of charge.

Call us on Freephone 0800 041 8350 or Google Gowing Law

No Win No Fee Solicitor  
Get a Free Property Damage Assessment today

Anita got her property repaired and £4,750 in compensation

"I'm so glad I spoke to them..." K. Moores  
★★★★★  
Google VERIFIED REVIEWS