



Bar Council response to the call for evidence on housing disrepair claims

This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the Ministry of Housing, Communities and Local Government Call for Evidence on housing disrepair claims.¹ The response has been prepared by members of the Bar Council's Remuneration Committee and specialists in the area of housing, civil legal aid and personal injury.

About the Bar Council

The Bar Council is the voice of the barrister profession in England and Wales. Our nearly 18,000 members – self-employed and employed barristers – make up a united Bar that aims to be strong, inclusive, independent and influential. As well as championing the rule of law and access to justice, we lead, represent and support the Bar in the public interest through:

- Providing advice, guidance, services, training and events for our members to support career development and help maintain the highest standards of ethics and conduct
- Inspiring and supporting the next generation of barristers from all backgrounds
- Working to enhance diversity and inclusion at the Bar
- Encouraging a positive culture where wellbeing is prioritised and people can thrive in their careers
- Drawing on our members' expertise to influence policy and legislation that relates to the justice system and the rule of law
- Sharing barristers' vital contributions to society with the public, media and policymakers
- Developing career and business opportunities for barristers at home and abroad through promoting the Bar of England and Wales

¹ [Open call for evidence: Housing disrepair claims – Ministry of Housing, Communities & Local Government](#)

- Engaging with national Bars and international Bar associations to facilitate the exchange of knowledge and the development of legal links and legal business overseas

To ensure joined-up support, we work within the wider ecosystem of the Bar alongside the Inns, circuits and specialist Bar associations, as well as with the Institute of Barristers' Clerks and the Legal Practice Management Association.

As the General Council of the Bar, we are the approved regulator for all practising barristers in England and Wales. We delegate our statutory regulatory functions to the operationally independent Bar Standards Board (BSB) as required by the Legal Services Act 2007.

Introduction

Since the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) came into force in April 2013, the nature of work and remuneration around civil legal aid has changed drastically. The Bar Council has repeatedly warned the Ministry of Justice (MoJ) about the damaging effect of LASPO on access to justice and the sustainability of the publicly funded civil Bar.²

In the context of housing, the implementation of LASPO saw significant aspects of housing disrepair work removed from the scope of legal aid, particularly most claims for damages/repair orders, leaving housing legal aid in crisis. The knock-on effects of LASPO legal aid cuts for housing means that people may have rights to a safe and secure home (as well as defences to claims, *e.g.* counter-claims to reduce or extinguish rent arrears), but they do not know about them because of the reduction in available legal advice, which leads to weaker public access to justice, including to the County Court, which in turn, leads to increased homelessness.³

Restoring legal aid is therefore the single most effective reform. Without it, the market will continue to incentivise claim farming and poor-quality case handling because vulnerable tenants will have no realistic alternative. For tenants to achieve proper access to justice, vindicate their rights, and secure homes fit for human habitation, a proper review of the civil legal aid system and LASPO, as the Bar Council has repeatedly advocated for, must occur.

² "LASPO: One Year On" (September 2014), "LASPO: Five Years On" (October 2018), "Running on Empty" (January 2021) and "Access denied" (November 2022).

³ LASPO: Five Years on (October 2018).

Trends in housing disrepair claims

Question 1: Have you noticed any differences in housing disrepair claims in recent years (for example their frequency, the types of issues raised, the time for remedies, or the outcomes?)

The experience of barristers is that there has been a decrease in the volume of cases issued. That is not surprising. The effect of LASPO removing types of housing disrepair work from the scope of legal aid inevitably means that fewer cases will be brought to solicitors and, in turn, to barristers. The growth in the “no win/no fee” market in no way makes up for the decimation of civil legal aid providers.

Ironically, those cases which do make their way to barristers are often more serious than what might have been the case pre-LASPO. That is because legal aid is still available where the disrepair poses an imminent threat to the health of the tenant. In the CFA market, a strong claim (*i.e.* very bad disrepair) is, for obvious reasons, a more attractive claim than one with weaker evidence or disrepair which is more recent.

In short, fewer people secure access to justice and those who do tend to have much more serious disrepair than was the case before the LASPO reforms.

Question 2: If you have any evidence on trends in housing disrepair claims please share it here.

The number of legal aid providers offering housing legal aid has fallen by around 25% in the last 3 years (from 483 in March 2019 to 365 in October 2023), and even then a large proportion of those providers are not delivering legal aid cases.⁴ Legal help fees have been frozen for 10 years for barristers practising in housing since the fee cuts introduced by the Civil Legal Aid (Remuneration) Regulations 2013.

There has been a decrease in spend of 70% in normal fees paid to counsel between 2008- 2009 (approx.£8.87 million) and 2022-23 (approx. £2.67 million) and a 63% decrease in high cost case fees (£918,966 to £338,401).⁵ Gross fee income for barristers

⁴ Inside Housing: “Legal Aid in Crisis” (05.02.24) [Inside Housing - Insight - How the housing legal aid crisis is impacting tenants and landlords](#)

⁵ [The Bar Council \(2023\), ‘Bar Council Data Analysis: Review of Civil Legal Aid, The Family and Civil Legal Aid Bar 2015-2023’, Table 7.](#)

undertaking legally-aided housing work is lower than those undertaking other areas of civil legal aid. In 2022 mean and median fees were respectively 10% and 20% lower.⁶

Regulation and Oversight

Question 3: Before answering this call for evidence, if you had concerns about a claims management company's behaviour, would you have known how to report it?

It is not clear in practice who, exactly, sits where in the chain. Tenants are often contacted by "housing disrepair specialists", marketing outfits, introducers, or call handlers who do not make their regulatory status obvious. By the time a solicitor's name appears, the tenant may already have signed up, or assumed the whole operation is one regulated entity.

Although barristers or other legal professionals may be able to find the reporting route, the system is difficult to navigate, especially for vulnerable tenants. We suggest that a single front-door reporting mechanism that triages claims to the right regulator, plus a requirement to state clearly (at first contact) who is regulated by whom, would materially improve protection.

Question 4: Before answering this call for evidence, if you had concerns about a solicitor's behaviour or service, would you have known how to report it?

The Bar Council is not best placed to provide evidence on this point

Question 5: Do you feel the existing regulatory regimes support and protect tenants?

Not adequately.

Question 6: If you said no to question 5, please provide details.

One concern is that the regulatory framework does not match what is happening on the ground. A volume market has grown up around disrepair claims and is heavily driven by acquisition, costs and speed of settlement rather than by repairs and tenants' welfare.

In that environment, regulation that focuses only on the end solicitor or on formal rules misses the real risks, which tend to sit earlier in the pipeline, such as, cold

⁶ Bar Council's Data Analysis Review, Chart 3.

outreach, lead selling, referral fees, weak screening of vulnerability and claims being run in a way that prioritises fees over outcomes.

The result is that tenants can end up with under-settled claims, inadequate provision for works, and poor advice on risk. Without strong legal aid provisions, tenants also have fewer routes to competent early advice, making exploitation easier.

Question 7: Have you experienced inappropriate behaviour from either a CMC or a solicitor when pursuing a possible housing disrepair claim or do you have any evidence that it has occurred? (Select one)

The Bar Council is concerned by reported recurring patterns that are a feature of 'claims farming'.

Question 8: If you said yes to question 7, please provide details and clarify whether this was a CMC or solicitor if known.

Reported recurring patterns that are a feature of claim farming include:

- aggressive lead generation and referral arrangements driving case acquisition
- claims being run to maximise recoverable costs rather than prioritise repairs
- under-settlement of damages with weak or missing works provisions
- insufficient attention to equality and vulnerability issues
- inadequate use of evidence and schedules, leading to weak pleadings and avoidable disputes
- a "moving feast" of repairs that is not properly managed procedurally, leading to constant amendments and inefficiency
- lack of expertise in housing and disrepair, not seeking specialist advice from counsel and not knowing that settling a disrepair claim could impact possession
- failing to release tenant's file to legal aid solicitors without costs undertaking

Question 9: If you said yes to question 7, did you make a complaint to the relevant ombudsman?

Not applicable.

Question 10: Are there any changes to the regulation of solicitors or claims management companies that would better protect tenants making housing disrepair claims?

Yes. The changes that would most protect tenants are the ones that remove perverse incentives and force repairs-first, tenant-centred practice. In particular we suggest:

A complete ban on referral fees in housing disrepair claims

Referral fees drive claim farming and distort incentives away from repairs and tenant welfare. Any ban should be drafted to catch workarounds such as marketing fees, “case handling fees”, retainers linked to volume, and benefits in kind.

A hard ban on cold calling and similar acquisition tactics, with real consequences

Cold outreach and pressure selling are incompatible with a market involving vulnerable tenants, complex rights, and major housing risk.

Mandatory transparency at the point of first contact

Tenants should be told clearly and early:

- who is regulated and by whom
- whether there is any introducer or referral arrangement
- what money changes hands for introductions
- the funding model, including success fee and adverse costs risk
- what the representative will do to secure works, not just damages
- that legal aid may be available and the pros and cons

Minimum standards for settlements in disrepair claims

A settlement should not be treated as adequate unless it includes an enforceable works package (scope, standard, dates, access arrangements, and a sign-off mechanism), or the tenant has had genuinely independent advice and opts out.

Tighter controls on the use of artificial intelligence in high-volume claims and handling

If AI is used to draft letters, schedules, pleadings or evidence summaries, there should be a requirement for traceability and human verification. These are claims where errors can have direct housing and health consequences.

Regulatory focus on outcomes, not just paperwork

Regulators should look at whether the model actually delivers repairs promptly and protects the tenant’s position (including possession risk), rather than whether files contain formulaic documentation.

Question 11: Is there anything else that could be done to improve the housing disrepair claim process?

Yes. The core improvement is to restore a system where tenants can receive competent, early advice and where the process is built around repairs.

As reiterated in our submissions, the restoration of legal aid is essential to improving the housing disrepair claim process. We suggest that this should be restored without restrictive gateway. The lack of legal aid has left a vacuum that has been filled by claim farms and volume operators. Restoring legal aid would move the market back towards properly run claims with proper evidential standards and a repairs-first focus

We also suggest that the process is rebuilt around a live schedule of defects and works. Disrepair is often a developing picture, and so the processes should assume and manage that fact, rather than force repeated amendments and procedural skirmishes. Additionally, we suggest clear expectations about when expert evidence is required and what minimum inspection evidence is needed to make the claim and settlement meaningful.

We also encourage the integration of equality and vulnerability issues from the outset as they are essential to achieve effective processes. Equality and vulnerability issues should not be treated as an add-on as they effect urgency, access arrangements, reasonable adjustments, and the real impact of disrepair.

Finally, we suggest that processes should address possession risk as part of the disrepair ecosystem. Bad settlements and procedural delay can directly worsen a tenant's position in rent arrears and possession proceedings. The process should not treat those risks as another's problem.

Alternatives to court

Question 12: If you have made a housing disrepair claim or had a claim made against you, did you take steps to comply with the pre-action protocol?

The Bar Council is not best placed to provide evidence on this point

Question 13: Is there any aspect of the Housing Disrepair pre-action protocol that can be improved and if so what and how?

There is a growing problem in county court litigation concerning the interaction between the Pre-action protocol (PAP) and public authority internal complaints processes. The Bar Council is aware that many public authorities and social landlords consider that a PAP letter should be treated as a complaint and dealt with as such,

rather than as the first stage in a litigation process. The Bar Council has significant concerns about this practice.

First, a PAP is undoubtedly the first step in a litigation process. It is qualitatively different from a complaint about, *e.g.* a delay in responding to correspondence.

Secondly, treating the PAP as a complaint means that a different (non-statutory) time scale is triggered as the landlord investigates the matter and then decides how to respond. A person living in disrepair should be entitled to enforce their rights without waiting for an internal complaints process to be completed.

Thirdly, the anecdotal experience of barristers is that compensation which is offered as a result of an internal complaints process is significantly lower than a court would award in a successful claim. That is not surprising. A complaints process compensates a person for a procedural failure whereas a claim for damages results in an award which reflects the loss of amenity arising from the disrepair.

Finally, it is vanishingly unlikely that the tenant will have legal representation during the complaints process, with neither legal aid nor CFAs being available for such matters. By contrast, the landlord will have access to legal advice throughout.

We suggest that there needs to be targeted reforms to reflect how these cases actually run. In particular we suggest:

- A “live Scott schedule” model baked into the protocol. Both parties should maintain a single schedule that is updated at defined stages: notification, inspections, post-inspection response, and pre-issue. The schedule should capture defect, location, severity, proposed remedial works, access issues, and target dates.
- Clearer provision for mixed claims. The protocol should explicitly deal with how different strands of claims (for example repairs, damages, personal injury elements, Equality Act elements) are handled together so that cases are not artificially fragmented.
- Better guidance on experts. The protocol should state when expert evidence is expected, what the expert is to address, and how parties should cooperate on inspection and instructions.
- Stronger and predictable consequences for non-compliance. If protocol steps are ignored or treated as box-ticking, the cost consequences need to be strong enough to change behaviour.

- A simple AI governance requirement. If any party uses AI to generate material documents, the protocol should require confirmation of human verification and a record of what was generated and checked.

Demography question

Question 14: In which capacity are you completing these questions?

The General Council of the Bar of England and Wales – the representative body for barristers.

Questions for tenants

Question 15: Where do you live?

This question is not applicable to the Bar Council.

Question 16: Do you spend more than 30% of your household income on rent?

This question is not applicable to the Bar Council.

Experience of Making Housing Disrepair Claims

Question 17: Have you ever experienced disrepair issues in your rented home that made it unsafe or unsuitable to live in? For example, damp and mould, problems with the heating and hot water, or water leaks.

This question is not applicable to the Bar Council.

Question 18: If you have experienced disrepair, have you made a housing disrepair claim against your landlord?

This question is not applicable to the Bar Council.

Question 19: If you made a disrepair claim, can you describe the condition of your property at the time? What problems, if any, were you experiencing and how were they affecting you? If you have made more than one disrepair claim, please answer based on your most recent claim.

This question is not applicable to the Bar Council.

Question 20: If you made a disrepair claim, why did you decide to take legal action against your landlord? If you have made more than one disrepair claim, please answer based on your most recent claim

This question is not applicable to the Bar Council.

Question 21: If you made a disrepair claim, what was the outcome? If you have made more than one disrepair claim, please answer based on your most recent claim.

This question is not applicable to the Bar Council.

Question 22: Have you ever received any unexpected contact (e.g. cold calls, leaflets, automated messages, or home visits) about housing disrepair claims, even if you did not have any disrepair?

This question is not applicable to the Bar Council.

Question 23: How, if at all were you first contacted about making a claim.

This question is not applicable to the Bar Council.

Question 24: When you were contacted, did the person tell you they were from:

This question is not applicable to the Bar Council.

Question 25: What kind of information would help you make a more informed choice about whether using a CMC is right for you?

This question is not applicable to the Bar Council.

Question 26: Is there anything that the government or other relevant organisations could do to help make it easier for you to choose an appropriate provider (such as a CMC or a solicitor) to help with a housing disrepair claim?

This question is not applicable to the Bar Council.

Question 27: Have you ever refused to let your landlord enter the property until ongoing court proceedings were finalised? If yes, why?

This question is not applicable to the Bar Council.

Question 28: If you used a CMC to help make a housing disrepair claim, what was your experience with them? For example, were you happy with how they approached you, how they explained the process and how your case was handled?

This question is not applicable to the Bar Council.

Question 29: If you used a solicitor to help make a housing disrepair claim, what was your experience with them? For example, were you happy with how they approached you, how they explained the process and how your case was handled?

This question is not applicable to the Bar Council.

Question 30: If you have made a housing disrepair claim, did your landlord serve you with a possession notice at any point of the court process? If you have made more than one disrepair claim, please answer based on your most recent claim (Select one)

This question is not applicable to the Bar Council.

Question 31: If you have made a housing disrepair claim at court, did you take any of the following steps to address the issue before making the claim? (Select all that apply)

This question is not applicable to the Bar Council.

Question 32: If you answered 'none of the above' to question 31, please can you explain why you decided not to take any of these steps?

This question is not applicable to the Bar Council.

Question 33: Could the alternatives to making a disrepair claim be improved in any way?

This question is not applicable to the Bar Council.

The cost of housing disrepair claims

Question 34: If you have made a housing disrepair claim, how did you pay for the solicitor fees? If you have made more than one disrepair claim, please answer based on your most recent claim. (Select all that apply)

This question is not applicable to the Bar Council.

Question 35: What fees did you pay? Did these fees match what your solicitor told you at the start of the process?

This question is not applicable to the Bar Council.

Question 36: Before answering this call for evidence, were you aware that legal aid may be available to help meet the costs of legal advice for housing disrepair claims?

This question is not applicable to the Bar Council.

Question 37: If yes, how did you first become aware that legal aid may be available?

This question is not applicable to the Bar Council.

Question 38: Have you ever accessed legal aid funded advice for a disrepair claim?

This question is not applicable to the Bar Council.

Question 39: If yes, did you find it easy or difficult to access? Please explain.

This question is not applicable to the Bar Council.

Questions for landlords

Demography questions

Question 40: In which region(s) in England do you/your company currently let or manage rental properties?

This question is not applicable to the Bar Council.

Question 41: How many rental properties in England do you own or manage? If necessary, rounded figures can be entered.

This question is not applicable to the Bar Council.

Question 42: Social Landlord only: Which, if any, of the following describes how you currently view your role as a landlord?

This question is not applicable to the Bar Council.

Question 43: Private Landlord only: Which, if any, of the following describes how you currently view your role as a landlord?

This question is not applicable to the Bar Council.

Experience of Disrepair Claims

Question 44: Has a tenant ever brought a housing disrepair claim against you or your organisation? If yes, how many disrepair claims? Please provide your best estimate. If necessary, rounded figures can be entered.

This question is not applicable to the Bar Council.

Question 45: How many of the claims were from solicitors working under a no win no fee agreement (if known)? Please provide your best estimate. If necessary, rounded figures can be entered.

This question is not applicable to the Bar Council.

Question 46: How many of the claims were generated by a CMC (if known)? Please provide your best estimate. If necessary, rounded figures can be entered.

This question is not applicable to the Bar Council.

Question 47: How many of the tenants who made disrepair claims had informed you of the housing disrepair issue before you received the letter of claim? Please provide your best estimate. If necessary, rounded figures can be entered.

This question is not applicable to the Bar Council.

Question 48: What proportion of the housing disrepair claims you or your organisation were involved in had each of the following results. Please provide your best estimate. If necessary, rounded figures can be entered.

This question is not applicable to the Bar Council.

Cost and Impact of Disrepair Claims

Question 49: How much did you spend in total for all the housing disrepair claims? For instance, legal defence, adverse costs, settlements (i.e. settling out of court) and damages. Please provide your best estimate. If necessary, rounded figures can be entered.

This question is not applicable to the Bar Council.

Question 50: Have you made any changes to your service as a result of disrepair claims? For example, improving internal processes to address disrepair, or reducing spending to offset the cost of defending claims.

This question is not applicable to the Bar Council.

Question 51: Is there anything that could reduce the costs involved in defending disrepair claims?

This question is not applicable to the Bar Council.

Question 52: If you have any additional data or evidence on the cost of housing disrepair claims or the impact on your operations, please provide it here.

This question is not applicable to the Bar Council.

Questions for solicitors and claim management companies

Question 53: Solicitors only: Who do you represent?

This question is not applicable to the Bar Council.

Question 54: CMCs only: What best describes your role?

This question is not applicable to the Bar Council.

Question 55: Which sectors do you provide services in?

This question is not applicable to the Bar Council.

Question 56: Who is your regulator for the housing disrepair work that you or your organisation undertake?

This question is not applicable to the Bar Council.

Question 57: How many clients have you or your organisation handled housing disrepair claims for?

This question is not applicable to the Bar Council.

Question 58: Solicitors only: How did you generate the majority of your leads?

This question is not applicable to the Bar Council.

Question 59: What proportion of the housing disrepair claims you or your organisation were involved in had each of the following results. Please provide your best estimate. If necessary, rounded figures can be entered.

This question is not applicable to the Bar Council.

Technical questions

Question 60: Are there any lessons from the approach taken to Personal Injury claims in recent decades that could be applied to housing disrepair claims?

Yes, but only if adapted properly. The most useful personal injury lessons are:

- removing referral fee incentives (which in personal injury were recognised as driving poor incentives and claim farming)
- clearer costs protection for claimants so that enforcement of basic rights is not priced out by adverse costs risk
- stronger pre-action discipline so cases are properly evidenced early, with real consequences for non-compliance

The big difference between personal injury and housing disrepair claims is that disrepair claims are not only about money. They are about works, access, timing and habitability. Any personal injury-style streamlining has to be built around an enforceable work schedule, otherwise it will simply accelerate monetisation rather than accelerate repairs.

Question 61: In your experience, how frequently are referral fees paid on housing disrepair claims?

- never
- rarely (up to 25% of the time)
- sometimes (26% - 50% of the time)
- often (51% - 99% of the time)
- always
- unsure

The Bar Council is not best placed to answer this question.

Question 62: How appropriate do you think referral fees are in housing disrepair claims? Please explain your answer.

The Bar Council is opposed to all use of referral fees; they distort the market and do not benefit the consumer. Referral fees drive claim farming, distort incentives away from repairs and tenant welfare, inflate costs across the system, and create structural risks of exploitation and poor-quality litigation. In a context where the priority must be swift remediation of unsafe conditions, a marker that monetises introductions is incompatible with a fair, efficient and tenant-centred system.

Barristers are not permitted to pay or receive referral fees. Further information is available here: <https://www.barcouncilethics.co.uk/documents/referral-fee-prohibition/>

Question 63: Currently, successful claimants' legal fees in fast track cases are recovered from the defendant, but they have to pay their lawyer's success fee where there is a Conditional Funding Agreement in place. If the claim is not successful, the claimant does not pay a success fee to their lawyer, but they may have to pay the defendant's legal costs and disbursements. If a claim is allocated to the small claims track, costs are generally not recoverable from the losing party. Does the way in which defendants' and claimants' legal costs are managed provide suitable protections for both parties?

No, not as things stand.

In the context of social housing, some social landlords have many poor-quality properties, and so, claims management companies bring many claims against those landlords. There is a perception that claims management companies operating under a CFA, inflate the value of the claims and the amount of work done so that when the landlord loses (as they often do), they get hit with damages and high costs awards. We believe this perception to be largely unfair.

There is a very simple answer to this perceived problem that landlords are getting hit with damages and high costs awards, which social landlords have refused to accept. Social landlords need to have an active stock management programme and do any identified works in response to the Letter Before Action (LBA). The problem is that far too many social landlords ignore the problem, lose claims and then complain about the damages and costs.

From the claimant's perspective, the risks associated with costs are often unclear and can be significant. Unlike in personal injury claims, there is no simple costs-protection mechanism for disrepair cases, and the absence of legal aid leaves vulnerable tenants reliant on high-volume operators or conditional fee arrangements. While CFAs might appear to offer a solution, they often do not in practice, as someone is still required to fund disbursements upfront – expert reports, court fees and other essentials – which is rarely viable for either solicitors or clients. This makes CFAs a far less workable option than what is sometimes suggested.

From the defendant's perspective, the current approach can generate high, front-loaded costs and encourage settlements that are driven by costs risk rather than by an objective assessment of works, standards and damages.

We suggest that a better balance would be:

- restoring legal aid so that early advice and representation is not marketised

- introducing a housing-conditions-specific form of costs protection for tenants who act reasonably and comply with protocol
- strengthening sanctions for exaggerated claims or protocol non-compliant
- structuring cases around a live schedule so that costs are spent on resolving the real issues (works and consequences), not procedural churn

Question 64

Do you think the small claims track limit for housing disrepair claims (the estimated cost of repairs or other work is not more than £1000; and the financial value of any claim for damages is not more than £1000) is appropriate?

No.

Question 65

Please expand on your answer above with your rationale and evidence to support this view.

We say that the proposal to increase small claims limits so that more disrepair claims become small claims would be catastrophic for tenants. Whilst disrepair claims might be common for lawyers, they are not legally straightforward. For example, legal arguments about the scope of the demised property or when the landlord was on notice of the disrepair are legally complex.

The £1,000 threshold does not reflect how disrepair disputes work in reality. The cost of remedial works can exceed £1,000 quickly, even for issues that are straightforward to describe, but expensive to fix properly (especially damp and mould, leaks, electrical issues and associated making good). Disrepair cases are often a developing picture. They need structured evidence, clear schedules, and sometimes expert input. Small claims are not well designed for that, and the no-costs recovery position risks leaving tenants unrepresented even where the case is serious.

If more cases are pushed into small claims, the likely consequence is not “better justice for less costs”. It is a rise in unrepresented tenants on one side and high-volume operators on the other, with settlements that prioritise speed and fees over repairs.

Additionally in recent times there have been new legislative changes to housing law.⁷ The application and effect of these changes have not yet been tested by the courts, meaning there is no guiding case law. The idea that unrepresented parties can fairly

⁷ For example, s 10A of the LTA (sometimes known as Awaab’s law) and the Renters Rights Act 2025.

be left to navigate wholly new primary and secondary legislation about something as fundamental as the conditions in which they live is completely unrealistic. In order to address tenants' best interests, the complexities of housing law require this specialist knowledge to be properly funded and accounted for.

We therefore suggest that the policy focus should be on improving process and removing perverse incentives (particularly referral fees), not on forcing more vulnerable tenants into a forum where advice and representation are harder to secure.

Further Comments

Question 66

Is there anything else that you would like to share about claims management activity or housing disrepair claims?

In addition to our submissions above, we wish to make the following points:

- works must be central, enforceable and measurable. Any regime that allows damages-only or vague works settlements will leave tenants living with the same hazard and will drive repeat disputes
- the procedure needs to accept that disrepair is a “moving feast”. The CPR approach should allow parties to update the case in a controlled way through schedules, rather than through repeated amendments and inflated costs
- Part 36 is often a poor fit where works are uncertain. Offers become hard to value and compare where the core dispute is about what works will be done and when. A schedule-led process would make offers and settlements far more meaningful.
- Artificial intelligence needs explicit governance. AI can be used to scale up low quality claims handling and generate unreliable documents. In this area, where housing safety is at stake, there should be clear expectations around verification, accountability and transparency.

Bar Council

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