



# **Right to Repair Policy**

**Date of Approval**  
**September 2019**

**Review Date**  
**September 2022**

## Executive Summary

<b>Brief Overview:</b> Updating the Association's right to repair policy which is reviewed every three years
<b>Risks:</b> Low
<b>Relevance to Business Plan:</b> None
<b>Financial Implications:</b> As long as the Association continues to operate a high quality service there are no financial implications
<b>Equalities:</b> N/A
<b>Regulatory Impact:</b> Complies with the Housing (Scotland) Act 2001
<b>Recommendations:</b> None. The compensation levels have not increased since 2002

# **Tenants Right to Repair**

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## **1. General Aims of the Policy**

1.1 It is policy of Elderpark Housing Association to comply with both the provisions and the spirit of the regulations relating to the statutory Right to Repair.

1.2 The purpose of this policy is to state the requirements and implications of the Right to Repair for both staff and tenants.

1.3 The Government's stated purpose of the Right to Repair is to provide an improved repairs service for tenants.

1.4 The Right to Repair only applies to the Tenants of the Association.

1.5 The statutory Right to Repair has been introduced by the Scottish Statutory Instrument 2002 No. 316. The Regulations came into force on 30<sup>th</sup> September 2002. The legislation to which these regulations refer is shown at Sections 27 and 109(2) of the Housing (Scotland) Act 2001.

1.6 The Association's policy for the Right to Repair will comply with the statutory requirements, Communities Scotland Guidance and "Performance Standards for Social Landlords", and best practice documents such as "Raising Standards in Housing".

## **2. Qualifying Repairs**

2.1 The Right to Repair provides tenants with the right to instruct a Qualifying Repair when their landlord has failed to carry them out within a specified period.

2.2 The Qualifying Repairs covered each have a maximum cost of £350 and are those which are considered to be of particular concern to tenants and likely to cause distress if they are not done quickly.

2.3 The implications from the £350 qualifying condition is that the landlord is aware of the maximum cost ceiling of the repair prior to instructing the contractor.

2.4 The financial limit is one which determines a Qualifying Repair within the context of the Right to Repair.

2.5 The types of repair and the timescale (working days) within which they are required to be completed are shown in Appendix 1.

2.6 A working day for the purpose of the Right to Repair is not a Saturday or a Sunday, Christmas Eve, or any day that the office of Elderpark Housing Association Limited is closed as a result of a public or local holiday.

2.7 The provisions of the Right to Repair are not intended to revoke any existing arrangements that are in place to provide an emergency out of normal working hour's response to repair requests.

2.8 Only those repairs stated in Appendix 1 will qualify under the Right to Repair.

2.9 The introduction of the Right of Repair has resulted in a requirement for 3 new repair categories.

These are required in order to maintain statistical records for reporting purposes i.e. there is a need to distinguish between existing repair categories and response times and those required as a consequence of the Right to Repair.

**RTR 1** This will have a one day response requirement

**RTR 2** This will have a three day response requirement

**RTR 3** This will have a seven day response requirement

Note: In all of the above there is a subjective element of an assessment, but it has been assumed that the safety, security or health of the tenant is at risk by a loss or even a partial loss of any of these facilities.

2.10 Work which is included as part of a maintenance contract, i.e. the heating maintenance contract with the Association's gas servicing contractor, does not exclude the defect from the Statutory Right to Repair.

2.11 There is unlikely to be an alternative contractor to the Association's current gas servicing contractor however this will be reviewed on an ongoing basis for Corgi registered alternative contractors.

### **3. Procedure for Notification and carrying out Qualifying Repairs**

3.1 On receipt of a repair request, staff will check whether the repair is a Qualifying Repair and therefore one which applies under the Right to Repair.

3.2 If the repair qualifies under the Right to Repair, the tenant must provide details of when access to the house will be available either for an inspection to be carried out and/or to allow the repair to be completed. The tenant will also be advised:-

- a) That the repair is a Qualifying Repair under the Right to Repair;
- b) The maximum period within which the Qualifying Repair is to be completed. NOTE: Access must be established by the tenant in order to enable the completion of the repair within the maximum time period.

- c) Given the details of the initial attending contractor and advised to refer to the Association's emergency contact list of approved contractors.
- d) The effect of the Regulations, i.e. that they can instruct the alternative contractor themselves to carry out the Qualifying Repair (only where the primary contractor has failed to carry out the repair by the expiry of the Maximum Period and that compensation will be payable if the repair has not been completed by the expiry of the Maximum Period, in respect of both the initial and the alternative contractor
- e) Advise the tenant whether the repair is to be pre-inspected.

3.3 If the repair is to be pre-inspected, the inspecting Officer must be advised that the repair is likely to be a qualifying one and advised about the arrangements made for access. There is no stipulated timescale in the regulations for starting or completing a pre-inspection, however, where a pre-inspection is required, it will be carried out within 24hrs from the date of notification of the Qualifying Repair.

3.4 At the point of inspection, the tenant will be informed of the Right to Repair requirements by the inspecting officer.

3.5 If the repair reported to the Association qualifies under the Right to Repair and appropriate access is provided, the Association will instruct and issue a works order to the initial contractor. The Association will also provide the contractor details of:

- a) the Qualifying Repair
- b) the maximum period within which the qualifying repair is to be completed
- c) the last day of the maximum period
- d) the arrangements made for access

3.6 The contractor will be advised, and the works order will clearly state that the repair is one which is subject to the Right to Repair.

3.7 Where a tenant fails to provide access to a house at an agreed time, which is within the Maximum Period for the purpose of enabling the qualifying repair to be inspected or to be carried out, then the provision of the regulations relating to the Right to Repair shall cease to apply.

## **4.0 Maximum Period**

4.1 The maximum time period within which a qualifying repair is to be completed is the number of working days as detailed in appendix 1.

4.2 If work has not started by the expiry of the Maximum Period, the tenant should, in the first instance, try to contact the Association or (if outside working hours) the contractor to find out if there is a problem and to establish when the contractor is likely to attend. If the initial contractor cannot attend within the Maximum Period the tenant (or the Association) can instruct the alternative contractor.

4.3 Within the strict compliance of the Right to Repair regulations, the maximum period shall start on the first working day after:-

- a) the date of receipt of notification of the Qualifying Repair by the Association
- b) the date of inspection, if required.

4.4 The Maximum Period calculation must take into account whether the tenant needs to provide access to the property to do the repair. If, for example, the repair request relates to an item with a 1 day response but access is not available for 2 or 3 days, then the tenant's statutory right falls.

4.5 If a Qualifying Repair has not been started by the last day of the prescribed Maximum Period and the repair is not subject to either an exemption or a suspension of the Maximum Period the tenant will be entitled to instruct the alternative contractor and to compensation.

4.6 If the Qualifying Repair has been started but has not yet been completed at the expiry of the Maximum Period, the tenant is NOT permitted to instruct an alternative contractor.

4.7 On receipt of an instruction from the tenant, the alternative contractor must inform the Association that they have been asked by the tenant to complete the Qualifying Repair. The Association will immediately check with the initial contractor to confirm that the work has not yet started, and to check the reason for work not having started. It may be that the contractor has been unable to gain access or that materials are on order. As previously detailed, no access situations will invalidate the tenants Right to Repair but the lack of materials will only do so under exceptional circumstances.

4.8 If the initial contractor confirms to the Association that the work has not yet started and that there is no valid reason for not having started, the alternative contractor will be sent details (a copy) of the original works order for the Qualifying Repair. The Association will also advise the alternative contractor of the date by which the repair is to be completed.

4.9 If the alternative contractor has not completed the repair within the required time, the tenant will be entitled to compensation.

## **5. Exemptions**

5.1 The right to repair scheme does not apply:-

- a) Where the tenant has failed to provide access to carry out the repair or a pre-inspection.
- b) To communal parts of the property
- c) Where the repair affects something to which a contractual guarantee applies in terms of either labour or materials i.e. within a contractual defects liability period.
- d) Where the landlord is not responsible for the repair, i.e. it is the responsibility of a public utility or the repair is the tenant's responsibility as detailed in the tenant's handbook.

## **6.0 List of Contractors**

6.1 Elderpark Housing Association Limited will prepare and maintain a list of contractors who are prepared to carry out Qualifying Repairs. This list will include the initial and alternative contractors. If no alternative contractors are available (for example in the instance of Gas Servicing), the tenant will not be able to instruct an alternative contractor.

6.2 All contractors selected for the Right to Repair must be on Elderpark Housing Association's list of approved contractors, who will be advised of the requirements of the Right to Repair.

6.3 Arrangements for the ongoing monitoring and evaluation of the service provision of contractors will be carried out in accordance with the Association's Maintenance Policies.

## **7. Compensation**

7.1 Where the initial contractor has failed to carry out the Qualifying Repair by the expiry of the Maximum Period, the Association will automatically pay to the tenant compensation. Payment of compensation under the Right to Repair is an entitlement, i.e. the tenant does not need to claim compensation.

7.2 Compensation can come in two parts,

- delay by the initial contractor, and,
- delay by the alternative contractor.

7.3 In respect of the initial contractor, if the repair is not completed by the expiry of the Maximum Period, the tenant will be entitled to a payment of £15.00.

7.4 In addition, if the alternative contractor also fails to carry out the repair within the second period of prescribed time, the landlord is required to pay compensation at the rate of £3 per working day, for every working day that the repair remains outstanding.



7.5 The maximum amount of compensation payable under the Right to Repair is £100.00 for each repair.

7.6 Except with the discretionary authority of the Maintenance Manager, any compensation payment will automatically be credited to a debt due to the Association. If there is more than one arrear account, the order of priority will be as follows:-

- a) A rent arrear.
- b) A housing benefit overpayment recovery.
- c) A rechargeable repair.

7.7 Tenants not in arrears will be sent a cheque for the full value of the compensation due.

7.8 Appropriate expenditure codes will be developed in conjunction with the Association's Finance Section in order to separately account for any compensation payments that may arise as a result of the Right to Repair.

## **8.0 Suspension of Maximum Time Calculation**

8.1 It is possible to suspend the calculation of the Maximum time Period, if there are exceptional circumstances, which are beyond the control of the landlord or the contractor and prevent the repair from being completed. For example, natural disasters such as extensive flooding, or the non-availability of special parts or materials.

8.2 In the event of a heating repair not being completed within the Maximum Period, the tenant will **NOT** be eligible for compensation if alternative means of heating has been provided to the tenant.

8.3 The tenant **MUST** be informed when a suspension to the Maximum Period is in place. This will include the reason for the suspension and the effect of it on the maximum time (completion date). There is no stipulation about the method of informing the tenant, or about the ending of the suspension.

To work within the "spirit" of the regulations, the calculation of the Maximum Period should start again when the reason for the suspension has been resolved.

## **9. Information to Tenants**

9.1 The Association will inform tenants annually about the provisions of the Right to Repair; including the contractors available to carry out qualifying repairs.

## **10. Decision Taking and Appeals**

10.1 Straightforward appeals falling within policy guidelines will be dealt with by Association staff.

10.2 Routine appeals will be considered by the Maintenance Manager and any decision subsequently reported to the Committee.

Complicated cases and other appeals may be referred to a Sub-Committee at the discretion of the Maintenance Manager or at the request of the Tenant.

10.3 Any Tenant who is dissatisfied with a decision should first speak to, or write to the Maintenance Manager who will respond within one month indicating the outcome of the appeal.

10.4 If a Tenant is still dissatisfied with a decision they may appeal to the Sub-Committee. The appeal will be considered at the next available Sub-Committee meeting and the Tenant notified of the outcome within one week of the meeting.

10.5 If a Tenant is dissatisfied with the decision of the Sub-Committee a final appeal can be made to the Management Committee. The Tenant will be allowed to present their own case in person or have representation at this stage.

10.6 This appeals procedure is intended to clarify points of interpretation of the policy and to allow Tenants to put forward information that may not have been apparent or available during the original decision making process.

10.7 Irrespective of the above, Tenants may raise a formal grievance under the Association's published complaints procedure (copies are available at the office).

10.8 Tenants can obtain advice and information about their remedies from a local Citizens Advice Bureau or a Solicitor, or a representative.

10.9 Tenants may also have a complaint referred to the Housing Association Ombudsman once they complete the Association's published complaints procedure and are still dissatisfied.

10.10 If for any reason of disability or impairment a Tenant is unable to complain or appeal to the Association formally then he / she may authorise a representative to write on his / her behalf.

## **11. Monitoring**

11.1 The impact of the Right to Repair will be regularly assessed and reported to Committee half yearly. Therefore, for monitoring purposes the Association has developed effective reporting mechanisms which will enable the Association to determine:-

- a) The number of Qualifying Repairs for each type of repair as detailed in Appendix 1.
- b) The number of Qualifying Repairs carried out by the initial contractors.
- c) The number of Qualifying Repairs carried out by alternative contractors.

- d) The amount of compensation paid, if applicable.
- e) The number and outcome of any appeals made in respect of decisions following a dispute.

Items d and e above will be collated on separate spreadsheets and held by the Association's Maintenance Department. The common element which will link all of the forms will be the works order number.

## **12. Contractors Conditions of Contract**

12.1 The Association will advise approved contractors of the new repair categories and response times relating to the requirements of the Statutory Right to Repair.

12.2 In achieving this the Maintenance Section will consult with all approved contractors who will be subject to the Right to Repair and provide a list of Qualifying Repairs and response times as detailed in Appendix 1. Contractors who do not agree to comply with the Right to Repair requirements may be removed from the approved contractors list.

12.3 The Conditions of Contract for General Maintenance Contractors will be updated to include the statutory requirements of the Right to Repair. The updated Conditions of Contract will contain clauses requiring the contractor to reimburse the Association with the cost of any compensation paid **where the contractor has been responsible for the delay which caused the compensation to be paid.**

## **13. Review**

13.1 This policy will be reviewed every three years, the next review being due in September 2022, or sooner if legislative or best practice changes require this.

*If you require this policy in a different format please ask a member of staff*

**Date of Approval**  
**September 2019**

**Review Due**  
**September 2022**

## **14. Appendices**

- I List of Qualifying Repairs and Response Times

## Appendix 1

### List of Defects and Repairs Which are Qualifying Repairs, and Maximum Timescale for Completion (Days)

<i>Column 1</i>	<i>Column 2</i>
<b>Qualifying Repair</b>	<b>Maximum Period</b>
Blocked flue to open fire or boiler	1
Blocked or leaking foul drains, soil stacks or toilet pans where there is no other toilet in the house	1
Blocked sink, bath or drain	1
Loss of electric power	1
Partial loss of electric power	3
Insecure external window, door or lock	1
Unsafe access path or step	1
Significant leaks or flooding from water or heating pipes, tanks, cisterns	1
Loss or partial loss of gas supply	1
Loss or partial loss of space or water heating where no alternative heating is available	1
Toilet not flushing where there is no other toilet in the house	1
Unsafe power or lighting socket, or electrical fitting	1
Loss of water supply	1
Partial loss of water supply	3
Loose or detached banister or hand rail	3
Unsafe timber flooring or stair treads	3
Mechanical extractor fan in internal kitchen or bathroom not working	7