

COMMUNITY & HOUSING OVERVIEW AND SCRUTINY COMMITTEE

Date of Meeting	Wednesday 15 th January 2025
Report Subject	Welsh Housing Quality Standards (WHQS 2 2023) and Housing Disrepair (HDR) update
Cabinet Member	Cabinet Member for Housing and Communities
Report Author	Chief Officer (Housing and Communities)
Type of Report	Operational

EXECUTIVE SUMMARY

The purpose of this report is to provide an update regarding the new Welsh Housing Quality Standards (WHQS 2 2023), the voids lettable standard and the Council's obligations relating to delivery of the new standards.

The report also details the current financial position relating to disrepair claims and what the service is in the process of implementing to mitigate future financial risk.

RECOMMENDATIONS

1	To support the capital investment programme in the next phase of delivery as it moves towards complying with the new updated Welsh Housing Quality Standards and requirements.
2	To support the Housing Assets service to continue to manage the Housing Disrepair (HDR) protocol on behalf of the Council, ensuring the obligations placed upon the Council are met.

REPORT DETAILS

1.00	EXPLAINING THE WELSH HOUSING QUALITY STANDARD & DISREPAIR PROCESS
1.01	<p>The Welsh Housing Quality Standard 2023 (the Standard) sets the target for the condition of all social housing in Wales.</p> <p>The Council is in the process of drafting its WHQS compliance policy, which will link to the new Voids Lettable Standard and Voids Policy.</p> <p>All tenants in Wales should have the opportunity to live in good quality homes, which meet the requirements of each household. The Housing Assets Service is responsible for ensuring the Council meet these standards along with the Welsh Housing Quality Standards (WHQS).</p> <p>WHQS 2023 driving towards a Net Zero Wales WHQS sets out Standards relating to the decarbonisation of social homes and aims to reduce carbon emissions from the Welsh housing stock. This Standard contributes towards governmental climate change goals expressed through the Net Zero Wales plan published in 2021 and updated in 2022. In time, it is anticipated that the Standard will apply to other types and tenures of housing, and this will be kept under regular review.</p> <p>WHQS 2023 and digital connectivity Consideration should be given to how landlords can alleviate digital exclusion amongst tenants. Digital connectivity is a social justice matter, with Ministers expecting social landlords to be innovative in maximising the opportunity for individual households and communities to have, where possible, equal access to online opportunities.</p> <p>Evaluation of WHQS 1 (2008) The evaluation concluded ‘that the WHQS had been effective in achieving its key objective of raising standards of social rented housing’ and ‘has benefits for tenants and should be continued into the future...’</p> <p>The evaluation process identified areas of the Standard that required updating and improving, areas where research and societal changes had changed expectations since the original Standard was launched, as well as new areas to include, these are listed below:</p> <ul style="list-style-type: none">• Data collection and reporting;• Compliance policies;• Fire and electrical safety;• Affordable Warmth and Environmental Impact (new elements);• Flooring (new element);• Water efficiency (new elements);• Biodiversity (new element);• Active travel (new element); <p>Timeline for achievement of the Standard</p>

By 31 March 2025, landlords must:

- Assess the condition of their stock and the work necessary to meet the Standard.
- Estimate the investment needed to achieve the Standard.
- Complete tenant engagement on the programme.
- Prepare and submit a Compliance Policy to the Welsh Government; and
- Update the Business Plan to reflect the programme.

By 31 March 2027, landlords must:

- Produce Target Energy Pathways, informed by their Whole Stock Assessment.

By 31 March 2034, landlords should have:

- Confirmed that all their housing stock meets the Standard.

Tenant engagement on the programme

It is recognised that to foster pride and belonging, tenants should be encouraged to be involved in making any decisions that affect their community and environment. It is expected that tenants are shown how the programme was developed, and how tenant and/or tenant groups views and priorities have influenced the programme. The precise process for tenant engagement is a matter for the individual landlord.

New elements for the Voids Lettable Standard

- Repairs, decoration, secure and safe etc.
- Compliant components such as kitchens, bathrooms, heating etc.
- Running costs – Energy usage and thermal retention.
- Focus on living spaces, useable garden space with external storage.
- Increased standards relating to ventilation, lighting and electrical amenities (socket outlets etc.).
- Water retention – smaller baths, wash hand basins, garden water butts etc. – to aid with water usage.
- Flooring – Appropriate floor coverings in all rooms.

1.02

Disrepair Update

The Housing Assets Service is responsible for ensuring all HRA stock is compliant with the various housing standards and regulations. The Council must ensure all properties are free from disrepair and that any repairs are dealt with as quickly as possible.

This report provides an update on the measures the Council has in place to ensure all repairs are completed in a timely manner and that the work associated with any disrepair claims the Council may receive are completed effectively and efficiently.

There are occasions when the Council receives a disrepair claim from a solicitor appointed by a tenant, where the tenant believes their property is subject to disrepair.

This is a legal process and subject to the Housing Disrepair (HDR) protocol. The Council must fully investigate all claims and ensure that all outstanding repairs within the claim are dealt with in a timely manner and the claim is defended fairly and robustly.

The Housing Assets Service is responsible for managing all housing disrepair claims and works closely with other Council services, for example, Housing Management and Legal Services.

We have appointed an external legal defence company (Hugh James Solicitors) to assist the Council in managing any claims received.

On receipt of the disrepair claim, our in-house Inspection and Surveying Teams are allocated key pieces of field work to assess if the claim is valid, alongside collating evidence relating to the claim. This evidence will include any requests for service / repair logged and recorded within our housing record systems (Open Housing). We must ensure that the Council have met their obligations in terms of actively dealing with any reported repairs or concerns relating to the asset the tenant may have, along with ensuring that any repairs or remedial works are raised and actioned accordingly.

Our tenants must ensure they have also complied with their conditions of tenancy, ensuring all repair requests have been raised with the Council and allowing the Council access to complete any repairs, maintenance works or investment works.

From the receipt of the claim, the Council will be able to ascertain if the claim is valid or if the claim has been raised incorrectly.

Our appointed legal teams will advise if there is any risk to the Council in terms of compensation, where we have failed to act or deal with a repair request, such as incorrect assessment or remedial works; or if the claim should be settled or defended.

Unfortunately, there are many opportunistic claim solicitors, who on occasion impose themselves on our tenants with the promise of compensation and a 'No Win, No Fee' guarantee.

However, what is not communicated to the tenant is the potential for a landlord to recover their legal costs against the tenant if they are unsuccessful. The claimant's solicitors will not cover these costs and a landlord can recover all defence costs and staff time associated with the claim.

A recent example is a claim submitted against social landlord where the claimant (tenant) lost their claim due to the tenant not complying with their tenancy conditions correctly. The costs of the social landlord's legal defence were over £20,000, and these were sent directly to their tenant as a rechargeable cost.

A recent case in November 2024 resulted in a tenant receiving an order to pay costs of over £2,000 in court fees, after being encouraged by a legal

firm to pursue a claim of disrepair, a claim that failed once the courts decided it had no merit.

The tenant, who had 21 days to pay the costs, was claiming for up to £20,000 in damages. The judge determined that the evidence suggested there is no merit to the claim, and that it was a waste of time. The claimant had not met the burden of proof; the claim failed and was therefore dismissed.

The Council have an excellent track record with successfully defending disrepair claims, however we often find our tenants are encouraged to pursue a claim which has no merit, compensation being promised and that all repairs will be action immediately. This is not the case, and it may result in our tenants becoming liable for costs that have not been conveyed by their appointed 'No Win, No Fee' solicitor.

In addition to court costs, there are other financial risks for tenants. Once the claim has been initiated and the solicitor's documentation has been signed, the solicitor may not let the tenant change their mind and stop the claim. They often advise tenants that if they stop the claim, they will be liable for the cost of the survey arranged, often up to £1,000, and credit agreement charges of over £500 for "No win, No fee" to cover legal cost insurance.

The Council have had many "No win, No fee" legal companies attempt to access our tenants homes, advising our tenants that they have been sent by the Council to inspect their homes for repairs and to organise the works.

Once they have gained access, they have advised the tenant to commence with a claim against the Council.

Again, a repeat concern was raised with the Council where a legal company had wrongly advised a tenant they had been appointed by the Council. We have contacted Trading Standards and our appointed Legal teams over a recent case where a company accessed tenant's homes without proper consent. The company has been written to in response.

Disrepair claims can take up to two years to resolve and cause further inconvenience to tenants, as the solicitor 'acting' on their behalf may advise them not to allow the Council into their homes and to carry out any repairs while the claim is ongoing. By following their advice to not allow the Council access to complete repairs, tenants are in breach of their tenancy agreement / conditions, and this can result in claims being invalid and the tenant being responsible for all associated costs.

Disrepair claims companies use a legal scheme that was introduced to protect tenants from landlords who do not complete repairs to their home in a timely manner.

They encourage tenants to take legal action based on the promise of winning easy compensation.

	<p>The Council works hard to keep our homes in a good state of repair. In 2023/2024 the Council completed over 35,000 housing repairs not including any planned investment works, works to empty properties or regular maintenance works.</p> <p>The Council also invests over £25m annually into its housing stock as part of its Capital Investment Programme, relating to WHQS associated works.</p>
1.03	<p>Disrepair Statistical data</p> <p>During 2023-24:</p> <ul style="list-style-type: none"> • 37 disrepair claims were received by the Council (55 for 2022-23). • 19 of the claims were withdrawn - as a result of Council advice / potential invalid claim. • 2 claims are currently dormant - no action. • 10 claims were settled: <ul style="list-style-type: none"> ○ £853 average compensation to claimant. ○ £1412 for claimant's legal fees. <p>Current claims:</p> <ul style="list-style-type: none"> • 26 claims are currently being defended successfully. • 2 claims are at pre-issue stage.
1.04	<p>The Housing Assets service teams have weekly meetings relating to active disrepair claims and hold monthly management meetings to report on progress and discuss any trends or concerns that may have been identified.</p> <p>Each claim is tracked from receipt to conclusion. The teams discuss the number of claims received, the contents of the claim and work category. The various teams review not only the claim, but also the area of the county it relates to, the claimant's solicitors and their methods of accessing our tenant's homes. We work proactively to engage quickly and to support our tenants where feasible, along with identifying any works required to their home. It is important to track progress but to also review each case independently to ensure we capture any learning and areas for improvement.</p> <p>Ongoing improvement to our processes and procedures is critical, targeting those areas identified including:</p> <ul style="list-style-type: none"> • Holding cross departmental awareness meetings. • Advising where likely claims will be submitted based upon area or stock type (i.e., sheltered properties). • Ensuring our stock condition surveys are robust and up to date. • Holding training seminars for our Customer Contact Teams and Housing Officers. • Proactively communicating with our tenants. • Producing condensation and mould briefing papers for our members. • Producing a condensation and mould guide for our tenants.
1.05	<p>Conclusion</p>

	<p>It is important we encourage our tenants to work with the Council. The majority of our resources (staff time and staff costs) committed to defending all disrepair claims are in-house, with only the appointed solicitors external to the Council.</p> <p>These in-house resources could be better utilised to undertake more housing inspections and housing repairs.</p> <p>The Council work to limited budgets and resources, and each claim submitted takes a considerable amount of officer time to correctly manage and progress accordingly.</p> <p>The Council have a high success rate when dealing with disrepair claims, however as stated, it could utilise all associated resources and costs more effectively.</p> <p>To claim disrepair against the Council, our tenant must report the defect directly to the Council, have evidence that we have failed to deal with the work and have not resolved it in a reasonable timescale.</p> <p>If any tenants have any concerns with the condition of their property, the most effective way of resolving the issue is to call the Council's Customer Services Department on 01352 701660 and report the repair to us immediately.</p>
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2.00	RESOURCE IMPLICATIONS
2.01	<p>Staff - There are concerns staff retention may be difficult to maintain. Given that the construction industry is an ever-changing sector, staff may seek opportunities elsewhere i.e., new build, private sector etc.</p> <p>The Housing Assets Service has made adjustments to the team's structure to incorporate a degree of resilience, succession planning and robustness to the delivery model and departments risk register.</p>
2.02	<p>Budgets - When developing our delivery programme, budget estimates were made for the required upgrade works to our existing properties with contingency sums included for unforeseen work such as structural repairs etc.</p> <p>Further works have been undertaken with colleagues in Finance and we have begun forecasting our budget requirements for the next tranche of works.</p>
2.03	<p>Procurement – Procuring the various WHQS works can be challenging. The Council must ensure all contracts are measured, not only by cost but by quality. Quality forms an important part of the assessment process where the Capital Works Team interviews all contractors and assesses Quality Submission Papers before any contracts are awarded. The team have been able to secure further efficiencies by merging some contracts so that internal and external resources can be shared.</p>

	<p>There is a risk that many contractors are opting for new build contracts rather than refurbishment contracts. Engaging with our supply chain early and sharing our Capital Investment Programme aspirations with our Contract Framework Partners assists us to procure longer term contracts and therefore reduces risk of inflated costs based on long term contract arrangements.</p>
3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	<p>As per paragraphs 2.01, 2.02 and 2.03, the Council has commenced with a full review of the Council's resources, budget requirements and procurement challenges.</p> <p>The Housing and Assets service are in the process of procuring a framework of contractors and suppliers to mitigate risks in terms of contractor resource and material supply and to also provide assurance with regards to associated costs, which impact upon our budgets etc.</p>

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	<p>Prior to the Capital Investment Programme commencing in 2014 to comply with the WHQS (2008), the team held Member workshops, where most Members attended and were actively involved in the design and delivery of the current Capital Programme.</p> <p>Tenant Federation workshops were also held where we engaged with the federation with regards to what priority, and which order the works should be completed, along with holding tenant consultation workshops in our FCC Connects Centres and community centres engaging with our tenants and discussing the Capital Programme along with ascertaining what order tenants would prefer to have components of their home upgraded first.</p> <p>Moving forwards, and as part of the next phase of the Capital Programme and decarbonisation retrofit programme, the Capital Works Team will again be consulting with Members, contract holders and contract holder groups to ensure that each is engaged with and to ensure their preferences and any concerns with regards to this next phase are considered and implemented as we have previously.</p>
4.02	<p>In addition to the work detailed within this report, there is a wider issue that needs to be considered around the potential to undertake regeneration schemes on some of our estates rather than continue to commit funding to assets that will be expensive to continue to maintain and run, have high numbers of voids and which are expensive to heat and run for the tenant.</p> <p>Consultations will need to be held with Members and contract holders as the Council progresses with its investment plans and this will be completed prior to any works being procured and delivered.</p>

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	https://www.gov.wales/welsh-housing-quality-standard
6.02	https://gov.wales/decarbonisation-homes-wales-advisory-group#content
6.03	https://gov.wales/sites/default/files/statistics-and-research/2021-06/welsh-housing-quality-standard-summative-evaluation.pdf

7.00	CONTACT OFFICER DETAILS
7.01	Contact Officer: Sean O'Donnell, Service Manager - Housing Assets Telephone: 01352 701642 E-mail: Sean.O'Donnell@flintshire.gov.uk

8.00	GLOSSARY OF TERMS
8.01	<p>Capital Programme: The Council's financial plan covering capital schemes and expenditure proposals for the current year and future years. It also includes estimates of the capital resources available to finance the programme.</p> <p>The Welsh Housing Quality Standard (WHQS): is a national standard of quality for homes. This is set by the Welsh Government. It means that all tenants in Wales should have the opportunity to live in good quality homes which meet the requirements of that household.</p> <p>Financial Year: the period of 12 months commencing on 1 April.</p> <p>Budget: a statement expressing the Council's policies and service levels in financial terms for a particular financial year. In its broadest sense it includes both the revenue budget and capital programme and any authorised amendments to them.</p> <p>Contract Framework: A Contract Framework is an agreement between one or more contracting authorities and one or more economic operators. These frameworks have Contractors, Consultants and Suppliers that have been successful in joining the specific work categories. The Council often uses these frameworks to procure works that have already gone through a tender process in line with OJEU and can be utilised to procure works or services. They are often the most economic advantage in terms of value for money and local training provision.</p>

HRA: The Housing Revenue Account .

Components: A part or element such as an asset / amenity (kitchen bathroom, boiler, roof, windows, doors etc.).

Decarbonisation: Referring in this instance to Welsh Governments requirement for all Local Authorities in Wales to reduce its Carbon emissions and usage.

EPC: Energy Performance Certificate

SAP: Standard Assessment Procedure