

MODULE

2

Teaching guidance and handouts

Housing disrepair: assessing courses of action and developing communication skills



lawforlife

foundation for public legal education

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Handouts

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Introduction

This training resource has been developed by Law for Life: the Foundation for Public Legal Education, together with our award-winning information service Advicenow (www.advicenow.org.uk).

Law for Life is a charity dedicated to ensuring that people have the knowledge, confidence and skills needed to deal with law-related problems. The resource, intended for use with intermediaries in community organisations, focuses on the development of legal capability. However, please feel free to adapt the modules to suit the needs of any groups you work with.

Who are intermediaries?

Intermediaries are people who work in organisations whose service users are seeking help to deal with problems which may have legal dimensions. The intermediaries may be paid staff, students, volunteers or trustees and are unlikely to have any legal or advice training. This training aims to help them to spot a legal issue, know when the law can help, know how to find out what rights apply, and know where to get help. They can then help service users to organise and plan how to deal with their case, help with the practical steps of dealing with a law-related issue, build their confidence, support them to communicate effectively, and be organised. This training can also be used to support those who currently provide legal advice, but would like to build skills to teach public legal education.

What is legal capability?

At Law for Life we think about legal capability as the personal attributes that someone needs in order to deal effectively with law-related problems. These capabilities include or encompass knowledge, skills and attitudes. The concept of legal capability is explicitly about empowerment. It aims to transform, through education,

people's knowledge and understanding of their legal rights and their capacity and willingness to enforce them. This is distinct from and goes beyond having specific knowledge of legal systems and processes. If you have legal capability it means you can identify potential law-related problems as they arise, find information to help you understand the problem, and take steps to deal with it.

Training overview

This training resource contains handouts and guidance notes to be used in conjunction with the handouts. Three different legal topics have been paired with particular skills to form each module. They are:

- 1 Finding out about the law:** where to get information and help (consumer contracts)
- 2 Housing disrepair:** assessing courses of action and developing communication skills
- 3 Employment and discrimination:** developing confidence and getting organised.

The modules are designed to be taught consecutively but you can easily adapt them in order to teach them independently. Each module has specific learning aims, which you should use to guide the delivery of the module, as well as detailed guidance notes for each activity.

We hope we have anticipated many of the issues and questions which may arise as you prepare to deliver these modules, but please contact us if you need additional support. Any questions about the modules can be directed to info@lawforlife.org.uk.

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Authors

Housing disrepair:

assessing courses of action and developing communication skills



Background

This session deals with practical legal questions of disrepair and the relationship between landlord and tenant. It provides the opportunity to develop and practice key communication skills and the ability to identify and assess different courses of action for dealing with disrepair problems.

Key learning points and outcomes

The session is designed to help group members to:

- understand the basic rights and responsibilities of landlords and tenants in relation to disrepair,
- assess and develop a course of action for dealing with disrepair problems,
- recognise and develop effective communication skills,
- identify sources of support for disrepair problems.

Running time

2 hours – 2¼ hours



Equipment and preparation

Equipment

Try to have the following items available:

- name tags or labels on which people can write their name;
- a flip chart or white board, with markers;
- sheets of flip chart paper and markers for small group use;
- a supply of adhesive tack to display group chart and posters.

Internet access

Group members will need access to a laptop, tablet or PC, to enable them to work in small groups of two or three. Check the availability of internet access in the teaching room. You will also need a computer, projector and screen for your own use at the front of the class.

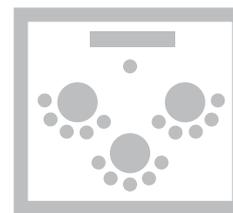
Towards the end of the final activity, you will ask group members to comment on the strengths and weaknesses of a number of real websites. It would be helpful and save time to set up the internet on each computer, with the five sites already open in separate tabs.

Photocopying

Duplicate the following pages, in advance:

- **What's happened?** (see **pages 13–15**)
These should be sorted and placed in envelopes. Produce enough for groups of two and three to each have a complete set.
- **Moving forward** (see **page 16**)
These can be cut apart and sorted into envelopes or distributed as a full sheet. One per group as above.
- **Stop and go role play** (see **page 17**)
Only 3 copies are needed for the activity but it group members may request copies following the session, in which case it may be good to have a few extras on hand.
- **Top tips for negotiation** (see **page 18**)
1 per person
- **Disrepair options** (see **pages 19–20**)
1 per person

Room layout



If possible, we suggest that group members sit in pairs or small groups in a semi-circle arrangement, with access to tables, cabaret-style.

Breaks and timing

We indicate how much time the group is likely to require at the start of each activity. We suggest that you give the group a short break between Activity 1 and 2. Groups may vary in the amount of time they need to complete these tasks. There is enough material for at least two hours, but potentially more. You might consider running the activities over more than one session, based on the needs of your group.

Opening (Option 1): Introductions and practical matters

10–15 minutes



- 1** If this is the first time that the group has met, we suggest that you open by introducing yourselves and asking group members to do the same; giving their name and perhaps brief details of their work role, location, and their reason for coming along.

It may be useful to make a note on the board/flip chart of how group members are hoping to benefit from the course, and to comment on any patterns or characteristics that seem to emerge. You can use this list to help guide the discussion at the end of the module or put it up on the wall and refer to it.

- 2** Briefly run through the module outline with the group, using it as an opportunity to clarify the aims and objectives and to check on how they link to group members' needs and wishes. Clarify and deal with any misfit between what the group is hoping to get from the course and what you are able to provide.
- 3** Stress that the sessions do not amount to a legal training course, but focus instead on developing legal capability. You are not expecting group members to have or to develop specialised legal knowledge.

- 4** Encourage group members' to engage in the sessions by suggesting that they ask questions and seek clarification preferably when their query arises. Stress that you would like members to share their experiences and for the learning experience to be informal.

In some circumstances you may be working with a group who will use the sessions as a basis for training a further cohort of volunteers. In this situation, you may like to explain that you will be looking at questions of training strategy in addition to the learning points and outcomes of the module listed above.

- 5** Finally, check and clarify with the group any practical arrangements, such as break and end times, refreshment arrangements (if any), the location of toilets and fire exits.

Opening (Option 2): Revision

10 minutes



- 1** We suggest that you open the session with a brief summary of the main ideas covered in the previous session, followed by an outline of the work that you intend to cover today.
- 2** Explain that the previous session's work was concerned with finding out about law-related problems, which is one of the first steps in dealing with disrepair. This session provides an opportunity to practise and add to those skills.
- 3** Explain that in this session the group will talk more about 'dealing with' the law with a focus on disrepair problems and the development of skills.

Clarify with the group any practical arrangements, such as break and end times.

Activity 1:

What's happened?

40 minutes



- 1 Distribute pre-sorted envelopes containing Documents A, B, C and D (see **pages 13–15**) to groups of twos or threes. Ask group members to read each document carefully and, based on what they read, to put the documents in order of events. The documents each detail or evidence an exchange between a landlord and tenant concerning disrepair.
- 2 Then ask the groups to explain what is happening in this situation. Encourage them to identify the steps that have occurred in the exchange, namely:
 - 1 Mrs. Ativor called the letting agent, Mrs. Atkinson, to report a series of problems with the flat she shares with her husband. Groups should identify what the problems are.
 - 2 Mrs. Ativor writes a letter to Mrs. Atkinson, detailing the problem in writing. Presumably she did not receive any response to her initial phone call.
 - 3 Mrs. Atkinson finally replies. She is dismissive but does agree to send a builder around. However, she does not set a specific date.
 - 4 Mrs. Ativor is on the phone with her husband, complaining that the builder came round when she was on her way to work. In addition, the builder suggested that the problem was caused by keeping the fire going without opening the windows.

Once this series of events is established (should not take more than 10 minutes), ask participants to identify what information may be relevant from a legal point of view. Then, encourage them to do some research to find out:

- 1 Mrs. Ativor's rights and obligations in this situation.
- 2 Mrs. Atkinson's (or the landlord's) rights and obligations.
- 3 What additional information they need about Mrs. Ativor's situation.

Suggest specifically that they use the **Advicenow**, **Adviceguide** and **Shelter** websites. Also consider asking what search terms they intend using to help them find the best answers.

- 3 After a short time, bring participants back to the main group and ask what they have found out from their research. Draw out the basic rights and duties that the landlord and tenant have for each other, and how they apply to the situation at hand.

Some useful questions here could include:

- 1 What is the tenant able to ask their landlord to do?
- 2 Is the tenant required to allow contractors in at any time?
- 3 Is the landlord responsible for everything the tenant wants dealt with?
- 4 Can the tenant withhold rent?

Hopefully participants will have discovered that it is important for them to find out what kind of tenancy Mrs. Ativor has, as different tenancies grant different levels of security and may impose additional duties on the landlord and tenant, particularly in relation to social housing.

The aim here is to develop a general understanding of the legal limits in the landlord and tenant relationship and, in particular, that the possibility of taking action is very dependant on the type of tenancy agreement the tenant has. Certain tenancies provide more protection than others and the most common private tenancies, assured shorthold tenancies, provide relatively little protection from eviction. As a result, skills such as communication and negotiation are particularly important in navigating landlord and tenant issues.

Group members will also hopefully distinguish between improvements and repairs. A repair is work that fixes damage which has occurred to the property. In contrast, an improvement will make the property easier to manage, more comfortable, or cheaper to run. The difference between a repair and an improvement may vary from case to case. In particular, improvements which arise as a result of changing technology and standards may sometimes be considered repairs.

Activity 2:

Moving forward

30 minutes



1 Having gained a reasonably good understanding of Mrs. Ativor's situation, now ask group members to consider the different potential courses of action she might take. Assume that Mrs. Ativor and her husband have an **assured shorthold tenancy**. This is the most common type of private tenancy. With this type of tenancy, a landlord can evict a tenant on two months notice, although they do need a court order to do so. They can evict with less notice if there are grounds, such as non-payment of rent. The landlord is responsible for most repairs.

2 Distribute the handout **Moving forward** (see **page 16**) and ask participants to consider the options on the sheet. These can be cut into slips and put in envelopes or distributed as a single sheet. Some of the options are viable, others may be less so. Participants may do additional research to understand the options better.

Next, ask the group to think about what Mrs. Ativor's next steps might be. There is no need to use all of the options on the handout.

After about 15 minutes, bring the groups together to discuss and compare what options they have chosen and why. Encourage discussion of the pros and cons of each option. Make sure you go over any option which may have been left out.

It will also be helpful here to think about what kind of outcome Mrs. Ativor would like, and which courses of action are the most likely to lead to the outcome she wants.

As a supplement to the activity, hand out the information sheet **Disrepair options** (see **pages 19–20**) and go over any that may not have come up in this activity.

Activity 3:

Stop and go role play

30 minutes



- 1** The Stop and Go role play is designed to get group members thinking about the importance of skills when dealing with legal problems. The role play is divided into three parts. Each emphasises a different skill (confidence, assertiveness and staying calm).

Introduce the role play by explaining the scenario. The tenant is experiencing disrepair problems and has asked the landlord to come and have a look at the various problems. The role play is the conversation which happens between them. The tenant has already got some legal advice and generally knows their rights.

Ask for two volunteers to do the role play for the group. One will be the tenant and the other the landlord. You may need to encourage participants to volunteer, but usually someone comes forward.

Open with the first section, and stop at the appropriate moment. Ask the group to reflect on:

- whether or not there are any problems emerging at that particular stage, and
- what the tenant could do differently.

Encourage group members to give concrete suggestions as to what the tenant could do or say differently to improve the interaction and achieve their goals. Invite a different volunteer to take on that role, to see how the situation develops. Discuss the change with the whole group.

- 2** Move on to the second and then third parts of the role-play; as before, stopping the action and asking for comment. What problems are emerging? How could the interaction be handled differently? Again invite volunteers to play the role of the tenant in the ways suggested by the group.

- 3** Develop a list of communication strategies on a flip chart or board, as each part is discussed. After the role play is finished, facilitate a more general conversation about skills, raising any that are important but may not have been covered in the role play. Ask group members what kinds of communication and negotiation strategies would be helpful in this and other scenarios? To aid the discussion, hand out **Top tips for negotiation** (see **page 18**).

Closing:

Reflection questions

10 minutes



Now that the group have completed all of the exercises in this module, invite them to discuss the following questions:

- How do you think the skills and legal information we talked about today could be useful to your clients or the people you work with?
- How would you support them to develop these skills and prevent future problems with law-related issues?

What's happened? – landlord and tenant rights



Each of the following four documents describes or provides evidence of an event or interaction which occurred between a tenant and her landlord concerning disrepair.

Group members are asked to put the pieces of evidence in chronological order, identify the important facts and then consider the rights of both the tenant and the landlord.

Document A

To: Geraldine Atkinson
From: Evelyn Ativor
Date: 1st October

Dear Mrs Atkinson

I rang you six weeks ago to point out a leak coming in from the bedroom window at the front of our flat. You suggested that the problem was caused by our failure to close the window properly.

Although the window is always closed when it rains, the plaster and carpet beneath the window continue to be wet and damp.

My husband and I have tried to dry out both the carpet and the wall by turning up the heating, but the problem continues; all we have to show for this is a huge gas bill.

We are not prepared to go through the winter in this fashion, and are therefore asking you to have the bedroom wall checked and repaired and also to have the bedroom window replaced with a double glazing unit, to match the other windows in the main room and second bedroom.

We believe that this is the only right and fair way to ensure that the property is safe and comfortable to live in.

With winter approaching, my husband and I are not prepared to sleep in a damp AND cold room. We would like you to take action on this as soon as possible, and certainly within the next two weeks.

Yours faithfully,

Evelyn Ativor

Document B

To: Evelyn Ativor
From: Geraldine Atkinson
Date: 5th October

Dear Mrs Ativor

Thank you for your message, I am sorry to hear that you are still experiencing problems with damp below the window.

I don't need to remind you that the flat was in perfect condition when it was handed over to you, and that the property represents excellent value for the accommodation that it provides.

I'll get the builder I use to come round to see the flat in the next fortnight, to check what needs to be done.

Geraldine Atkinson
Tradeston Properties

Document C

"Joseph, it's me."

"Hi, Evelyn how's it going?"

"Joseph, I'm so angry. I was just about to leave for work this morning when Mrs Atkinson's builder came round to check the wall and window. I told him it wasn't convenient, but he said he was busy and if I didn't let him in now, he wouldn't be able to get round again for at least a week.

I showed him the window, and he said that there was a problem with condensation. He said that the windows are bound to steam up if we leave the fire on and keep them closed.

I told him that I was following Mrs Atkinson's instructions and that it was the only way to keep warm.

He said that there was not much he could do, except clear away the mould and loose plaster and cover it with a type of paint that blocks out all stains.

What are we going to do Joseph? We are just not getting anywhere. It's only November, but it's already so cold."

Document D

“Mrs Atkinson, it’s Evelyn Ativor here – we recently moved into one of your flats above the shops on Ilford High Road.”

“Yes, Mrs Ativor, what can I do for you?”

“I’m ringing about the damp that is coming into the front bedroom. It’s really bad. If it rains during the night, the carpet under the window gets soaked.”

“Well, water always finds its way through an opening; perhaps you’ve not been shutting the window properly.”

“It’s nothing to do with the window being left open. The wall underneath the window is damp, I think there might be a crack; the paint and plaster beneath the window are starting to flake off.”

“The previous tenants were in the flat for two years and they didn’t mention anything about it; in fact they said how sorry they were to leave.”

“Well if it wasn’t a problem then, it certainly is now.”

“Look, Mrs Ativor, if I was you – I’d keep a check on the windows and make sure they are properly closed, particularly with these summer storms. Let me know in a few weeks how things are going. I’m sure it will all clear up after a few sunny days.”

Moving forward



Read the following options that Ms. Ativor could pursue in her situation. Use these options to plan the most appropriate course of action. You may need to do some internet research to decide the best options.

Call Mrs. Atkinson again. Explain calmly that it is necessary for the builder to arrange a time to drop by in advance and suggest some suitable dates and times in the near future.	Call the Environmental Health Department of the Local Authority to report the problem. Ask them to come and inspect the property for disrepair.
Arrange for a builder to come and do the repairs, then withhold the cost from the rent.	Write Mrs. Atkinson another letter summarising what has happened so far and setting out exactly what you would like her to do next.
Collect any evidence to show that Mrs. Ativor has not caused the disrepair by her own actions.	Try to arrange for the landlord or agent to visit the property and meet Ms. Ativor in person, to see the damage for themselves.
Ask a surveyor to assess the disrepair and/or damage from the damp and mould.	Contact the local Member of Parliament.
Do nothing.	Seek legal advice on a no-win no-fee basis.
Look for grants that might support the landlord to carry out repairs and improvements.	Mrs. Ativor should let Mrs. Atkinson know that she is going to contact the council.
Review the tenancy agreement in case it contains any specific information about how to deal with disrepair.	Get a builder to repair the damage and send the bill to Mrs. Atkinson.
Take photos of the damage.	Look for a new place to live.

Stop and go role play: disrepair and skills



Scene: The tenant has asked her/his landlord to come around to discuss some repairs that need to be made to their privately rented flat. They have asked for support from their local community centre and are aware of their rights. They now need to speak to the landlord and show them what needs to be done.

Part I: Confidence

There is a knock at the door and the tenant opens it, greeting the landlord.

Tenant: Hello. Come in. It is so nice of you to come today. I really appreciate you taking the time.

Landlord: [sounding annoyed] Well, I don't have much of it, so you better go ahead and show me these problems you say you have with the flat. I don't have all day and I'm not promising you anything.

Tenant: Yes, yes, of course. I'm sorry for taking your time. Come to the kitchen and I'll show you the damp patches I mentioned.

Landlord: Fine, but let's make this quick.

STOP: Do you see any problems emerging in this interaction? What could the tenant do differently?

Part II: Assertiveness

Tenant: So, here are the damp patches [gestures to corner of the room]. What do you think? They are forming here around these cracks in the wall.

Landlord: What are you talking about? I don't see anything.

Tenant: [Squatting down] Here, along the edges, mould is growing because of the damp.

Landlord: I've been a landlord for a long time and I know damp when I see it. That is most certainly not damp.

Tenant: I really don't know what else this could be, but ... well, I guess maybe you are right.

STOP: Do you see any problems emerging in this interaction? What could the tenant do differently?

Part III: Keeping calm

Landlord: Was that all you wanted to show me, because I really have other places to be.

Tenant: [Becoming agitated] Well, yes, actually. I wanted to show you the windows in the front room. They've started to come away from the wall and they are letting a draught in.

Landlord: Look, if the windows are broken, that is your problem, not mine. They weren't broken when you moved in.

Tenant: [Now angry, shouting] I did nothing to those windows! They are broken because they are so old and you have never done a thing to repair them. My bills are going up and up, just to keep this rubbish flat heated!

Landlord: Your bills are not my problem!

Tenant: No, but the repairs are. I know my rights! And you had better fix the damp and the windows, or else...

Landlord: Are you threatening me?

STOP: Do you see any problems emerging in this interaction? What could the tenant do differently?

Top tips for negotiation



1 Know your rights

Before you begin negotiating, take steps to find out your rights and obligations. This information will help you know the limits of what you can be required to do and what you can reasonably expect from the person you are negotiating with.

2 Have a plan

Plan what you are going to ask for and how you will ask. Anticipate the response you may get from your landlord and think about how to reply. This will help stop you from being surprised or taken off guard in a conversation. Having a plan can keep you focused on what you want, if the conversation leads in unexpected directions. Choose the exact words you are going to use to explain your key points – just a couple of sentences – and practise saying them calmly and clearly.

3 Be flexible

You may need to compromise at certain points in an exchange. Be prepared for this and decide in advance where you are willing to compromise, and how far you are prepared to go.

4 Be calm, confident and assertive

Try not to let yourself to be intimidated. In negotiation you may encounter many different attitudes, sometimes hostile or dismissive, even aggressive. It is important to stay calm so as to avoid escalating a situation. Similarly, a dismissive or hostile attitude should not prevent you from exercising your rights in a particular situation.

5 Ask questions

When new information or options are presented in the course of a negotiation, it is fine to ask questions until you are confident you have understood what has been said. Wait until you are sure you know what something means before agreeing to it.

6 Take time out if you need to

You are perfectly entitled to take a short break during the conversation, to give yourself some thinking time, or just to take a comfort break! You may also need to end the conversation in order to do more research or to give yourself more time to consider your options. If you can feel yourself getting angry or stressed, it is best to end the conversation and return to it on another day.

7 Ask for a summary

When the negotiation has finished, ask to have all the points summarised verbally, and check that you agree with this summary.

There are several options available to help you with disrepair claims and disputes between landlords and tenants. But each of these options has particular benefits and possible drawbacks.

The local council

What issues can they handle?

They can pursue disrepair issues which either pose a serious problem to health or are a nuisance to others. Health risks include infestations and damp, while nuisance might include roof tiles falling off or a leak from a neighbouring property. This applies mainly to properties let by landlords other than the council.

How can they be approached?

Contact the landlord about the repairs in the first place. If they don't respond or take too long to do the repairs, then you can approach the environmental health department of the local council either by phone or, ideally, in writing. They should then come to your home and carry out an inspection. Notify the landlord before you contact the council.

What are the pros and cons of this strategy?

The local council has fairly wide powers to pursue disrepair issues depending on the circumstances. The environmental health department will keep your identity confidential if you ask them to and so won't tell your landlord that it is you who has contacted them about the disrepair problem.

Member of Parliament and local councillors

What issues can they handle?

A Member of Parliament or a local councillor can make inquiries on behalf of a constituent to the local authority. This is particularly relevant if you have pursued a disrepair issue with the council and not received a response.

How can they be approached?

You can write or email them or go and see them at their local surgery. Use either of these sites to find out who your MP is:

- www.theyworkforyou.com
- www.writetothem.com (This one can tell you who your local councillor is too.)

What are the pros and cons of this strategy?

If you have been in touch with your council, but had no reply, asking one of your local politicians to chase up their response for you can be successful.

Try resolving the issue yourself before going to your MP or local councillor. Some may be more willing to help than others.

The Housing Ombudsman

(note that the Local Government Ombudsman no longer handles these issues)

What issues can they handle?

If your attempt to get a local council or a housing association landlord to deal with your disrepair problem has been unsuccessful you can complain to the Housing Ombudsman.

(continued)

How can they be approached?

The Housing Ombudsman cannot deal with your complaint about a local council or a housing association landlord, until you have exhausted their complaints system. At this point you can approach your MP, councillor or Tenant Panel.

If they cannot resolve the matter they can refer the complaint to the Ombudsman. Alternatively, you can approach the Ombudsman directly, online (www.housing-ombudsman.org.uk) or by letter or phone, but only 8 weeks after you have come to the end of your landlord's complaints process.

What are the pros and cons of this strategy?

While the Ombudsman can be very effective, contacting them can be very time-consuming. It requires you to follow all your local council or housing association landlord's internal complaint steps before the Ombudsman can take any action.

Tenants' association**What issues can they handle?**

Tenants associations mainly exist to ensure the accountability of managers and freehold owners for those who pay a service charge as part of their lease agreement. If recognised, tenants associations must be consulted regarding selection of contractors and costs.

How can they be approached?

Members of a tenants association will usually communicate through a board or association secretary.

What are the pros and cons of this strategy?

Tenants associations are not explicitly empowered to deal with disrepair issues on behalf of individual members. However, they can be a source of support and information.

Lawyers and advice workers**What issues can they handle?**

Seeking legal advice can help to clarify a complicated and/or urgent situation or provide support for pursuing court action.

How can they be approached?

Except in serious cases, court action should be a last resort. Before you take court action, you must contact the landlord first, asking them to do the repairs. There is a set procedure for doing this. Get advice about this from organisations such as Shelter, a Law Centre, a housing solicitor or a Citizens Advice Bureau.

What are the pros and cons of this strategy?

Taking legal action is generally only a viable solution when a tenant has strong tenancy rights (such as those which accompany a regulated tenancy). The other problem is that there is no legal aid for this kind of claim. However, if your disrepair claim is worth less than £1,000, the small claims court can deal with it. If it is more serious, a solicitor may be willing to take it on, on a "no win no fee" basis.

Notes

Notes

Notes

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Law for Life is a charity dedicated to ensuring that people have the knowledge, confidence and skills needed to deal with law-related issues.

It incorporates Advicenow – an independent, not for profit website providing helpful information on rights and legal issues (www.advicenow.org.uk).