

SECTION 11 LANDLORD AND TENANT ACT 1985: LIABILITY CHECKLIST

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Here is a convenient checklist of issues to think about, when considering whether an allegation of disrepair is likely to be successful (to be used in conjunction with the fuller “Liability” handout previously provided):

- (1) **Disrepair:** Is the item in disrepair at all? “Disrepair” means the condition of an item has deteriorated, so it is in a worse condition than it previously was
- (2) **Limitation:** Is the allegation time-barred by the *Limitation Act 1980*? Any loss occurring 6 years or more before the issue of the claim at Court is time-barred (although note that if the breach has continued, losses for the 6 years before issue are still recoverable, even if the event which led to the disrepair took place before that)
- (3) **Notification:** If the thing that is out of repair is located inside the tenant’s (or another tenant’s) flat, rather than the common parts of the building, has the tenant notified the landlord of the disrepair or of its effects? Until there is notification, there can be no liability
- (4) **Reasonable time:** Following notification, has the landlord fixed the item within a reasonable time (where what is “reasonable” depends on all the circumstances)? If so, there is no liability
- (5) **Tenant fixture:** Is the item that is out of repair a “tenant fixture”? If so, it is the tenant’s responsibility to keep it in repair – *s11(2)(c) LTA 1985*
- (6) **Tenant at fault:** Is the cause of the disrepair something that is the tenant’s fault, either because they wilfully damaged something, or because they failed to use the property in a reasonable (“tenant-like”) manner? If so, it is the tenant’s responsibility to fix it, not the landlord’s – *s11(2)(a) LTA 1985*
- (7) **Minor disrepair:** Is the disrepair “de minimis” (i.e. does it have no effect at all on the use of the property)? If so, there is no liability – *s11(1B) LTA 1985*
- (8) **Reasonable endeavours:** If the disrepair emanates from another flat, has the landlord used all reasonable endeavours to access that flat, and failed? If so, there is no liability – *s11(3A) LTA 1985*

DISCLAIMER: *This checklist is provided for training purposes only; it is not legal advice, and should not be relied on or acted upon as such; you should always seek fully informed legal advice before acting*