

**For Update  
CONFIDENTIAL**

Agenda Item 7.3  
Date of Meeting:26/11/25

**To:** The Management Committee  
**From:** The Technical Services Manager  
**Subject:** Damp and Mould Case

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**1. Introduction/Purpose**

- 1.1 The purpose of this report is to update Committee with the current position relating to an ongoing damp and mould case which is the subject of legal proceedings. At each of the April to October 2025 Meetings, Committee were presented with detailed reports relating to this case.

**2. Settlement Package Update**

- 2.1 We have transferred funds of £5,500 for settlement to TC Young and the works are progressing within the property. The final elements of work including the installation of the environmental sensors (data loggers) are due to complete early next week. Once all these works have been completed, we will advise TC Young. In the process of carrying out the works to the kitchen it has become apparent that the kitchen, we have had to in part remove, is not in a state to be re installed. We have taken the decision to replace the kitchen as these are due for replacement next year. We have yet to receive an update from our solicitor with regards to the signing of the non disclosure agreement.
- 2.2 We received an email from our solicitor on 21 November informing us that they have now received a note of the pursuers legal fees. Part of the settlement agreement was made to pay the pursuers legal fees. Within this email our solicitor has advised that we may wish to challenge some of the amounts charged. If we cannot agree to settle the fees then this would be referred to a hearing called a diet of taxation.

If we can agree to settle the fees with pursuer then the diet of taxation will not be required. Therefore, the pursuer will have no basis to seek fees in respect of preparation for and attendance at the diet of taxation.

TC Young have advised that if settlement cannot be reached and the account is lodged, with a diet of taxation fixed, we will lose our basis to challenge the fees sought for same. They have suggested that the account is carefully considered with a view to proposing a reasonable

settlement sum. If the settlement cannot be agreed before 1st December and a diet of taxation is assigned, we will have an opportunity to challenge the fees set out in the account of expenses with the auditor at the hearing. The auditor will decide whether the fee is reasonable thereafter.

- 2.3 We have requested that we meet with our solicitor to further discuss the merits of challenging this fee, as we will incur our own legal fees in the process. The total legal fees for the pursuer amounts to £15,492.20 including VAT. It is estimated that the fees that could potentially be challenged amount to around £2,000.00 plus VAT.

### 3. Notifiable Event

- 3.1 As Committee is aware that since the Director submitted a Notifiable Event to The Regulator on 2<sup>nd</sup> May 2025 about this case, she has been keeping The Regulator updated on the matter. This latest report will be uploaded to The Regulator’s portal shortly.

### 4. Risk

- 4.1 When considering this case we have identified the main risks under the following risk categories and the measures we could take to mitigate such risks.

Risk Category	Mitigating Measure
<ul style="list-style-type: none"> <li>• Financial – cost of defence or settlement</li> <li>• Reputation – bad publicity regarding case and outcome</li> <li>• Health &amp; Safety – condensation has potential to still to occur if case settled or won</li> </ul>	<p>Early settlement or win case</p> <p>Win case but no guarantee of outcome; settlement may keep the case ‘quieter’</p> <p>Monitor property with data loggers to find route cause(s) of condensation</p>

### 5. Delivery of our Strategic Objectives

Area	Related Strategic Objective(s)
Defending our position that we have a wind and watertight home	1. Provide high quality affordable homes
The decision to settle or defend	6. Use resources efficiently and effectively

## 6. Application of our Core Values

Area	Related Core Value(s)
Defending or settling this case	Accountable and Compliant Fair and Approachable Efficient and Responsible

## 7. Compliance and Assurance

7.1 Discussing our options to either defend or settle details how we meet our Regulatory requirements with reference to the following:

Compliance Source	Details
The Standards of Governance and Financial Management for RSLs Standard 5 - The RSL conducts its affairs with honesty and integrity.	GS5.1 - The RSL conducts its affairs with honesty and integrity and, through the actions of the governing body and staff, upholds the good reputation of the RSL.
The Scottish Social Housing Charter	4. Quality of Housing 5. Repairs, maintenance and improvements 13. Value for Money

7.2 Evidence Bank

Evidence	Assurance Exercise Location
<ul style="list-style-type: none"><li>Committee Report</li></ul>	Regulatory Standard 5 – GS 5.1 The Scottish Social Housing Charter

7.2.1 Committee is reminded that our Assurance Exercises are available in the Committee Log-in Area of our website, which Committee can access at any time.

## 8. Summary

8.1 In summary, Committee has been updated with the settlement information relating to an ongoing damp and mould case which is the subject of legal proceedings.

8.2 The current position with the open NE is set out in Section 3.

- 8.3 Risk has been considered at Section 4.
- 8.4 Section 5 shows how dealing with this case contributes to the delivery of our Strategic Objectives.
- 8.5 Section 6 shows how dealing with this case contributes to the application of our Core Values.
- 8.6 Section 7 shows how we comply with Regulatory requirements.
- 8.7 Committee is asked to note the current position with this matter.