

**For Update
CONFIDENTIAL**

Agenda Item 6.1
Date of Meeting:27/08/25

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

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 the April, May and June 2025 Meetings, Committee were presented with detailed reports relating to this case.

2. Settlement Package and Amended Motion

- 2.1 Both myself and the Director met with our solicitor on 23rd July, at which time it was confirmed there had still been no response from the other party to our first settlement offer. This was the offer advised to Committee at the June Committee Meeting, in summary this consisted of:

- Remedial plasterwork
- Clean
- Installation of data loggers
- £2,000 compensation
- Legal fees

We also requested that when the offer is finalised that a non-disclosure agreement is included by our solicitor.

- 2.2 A motion for the pursuer for a minute of amendment was received by our solicitor on 18 July 2025. This was to request the court allow the Record to be opened up and amended. This was basically to take account of Professor Sharpe's report following his re inspection of the property on 16th April 2025. His report stated that since his report of September 2024 several remedial measures had been undertaken to the property. He further stated that these measures have largely addressed the concerns raised in his previous report. However, he did refer to some works that would be beneficial but based on his report they no longer seem to be looking for the radiators to be relocated and there is no reference to external wall and floor insulation.

- 2.3 On reviewing the motion we concluded that the remaining works suggested by Professor Sharpe were acceptable therefore we did not oppose the motion for the minute of amendment.
- 2.4 We have yet to hear any feedback on behalf of the other party regarding this offer. It should be noted that we have been advised that this is not unusual due to the case not calling until late October. This offer still stands despite the amendment to the motion from the pursuer.
- 2.5 We have asked our insurers Zurich if the compensation element of the settlement will be covered by our policy. We have yet to receive confirmation of this.

3. Notifiable Event

- 3.1 As reported in the Decision Tracker, following the Committee's decision at its May meeting, the Notifiable Event was updated to reflect the Committee's decision to settle the case and a copy of the Committee Report was uploaded. The update was acknowledged by SHR.
- 3.2 As there was no real update at the June meeting, there wasn't an update to provide to The Regulator. However, on 5th August the Director received an email from The Regulator, requesting an update on the NE. The Director responded on the 5th as follows:

“The Committee has had a summer recess (July) and will be receiving an update on the case at its August meeting (27th). We had a Teams meeting with our solicitor on 23rd July, at which time it was confirmed there had still been no response from the other party to our first settlement offer. A motion for the pursuer for a minute of amendment had been received. This was to request the court allow the Record to be opened up and amended. This was basically to take account of Professor Sharpe's report following his re-inspection of the property on 16th April 2025. His report stated that since his report of September 2024 several remedial measures had been undertaken to the property. He further stated that these measures have largely addressed the concerns raised in his previous report. However, he did refer to some works that would be beneficial but based on his report they no longer seem to be looking for the radiators to be relocated and there is no reference to external wall or floor insulation. We concluded that the remaining works suggested by Professor Sharpe were acceptable therefore we did not oppose the motion for the minute of amendment.

The above update and any subsequent updates in relation to our first settlement offer will be reported to the August Committee meeting and I will then upload the Committee report to the portal.”

3.3 The Director has advised that, as of 19th August there has been no further response from The Regulator.

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"> Financial – cost of defence or settlement Reputation – bad publicity regarding case and outcome Health & Safety – condensation has potential to still occur if case settled or won 	<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">Committee Report	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 potential 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. If any update is subsequently received from our solicitor, this will be reported at the meeting.