

PRENDOS

LIMITED

Leaky Home Guide

Compliments of Prendos

THE PRENDOS LEAKY HOME GUIDE

This guide is designed to create a better understanding of the options and processes homeowners are likely to encounter in coming to terms and dealing with a leaky home problem. It is not definitive in its depth of explanation. Instead, it outlines how to carry out a limited form of checking on your own home; explains the choices you have in terms of seeking advice and professional assistance and spells out the likely ramifications of those choices.

Many years after Prendos first brought the issue of leaky homes to the attention of government and the public, the crisis shows no signs of abating. Prendos continues to receive a steady flow of calls from concerned homeowners worried that their home might be afflicted and not knowing what to do next. The type of questions asked indicate considerable confusion and concern over the prospect of having to deal with the spectre of owning a leaky home and initiating some sort of process to deal with it.

Background to the problem

Traditionally, homes throughout New Zealand have not been built to a 100% weathertight standard. Even so, homes built before the 1990s were usually able to experience a small degree of leakage without suffering a significant loss of durability. In the mid 1990s, however, a number of factors conspired to make even the smallest amount of leakage dangerous in new homes and renovations. These included the introduction of untreated timber framing and the inappropriate use of new and sophisticated building materials and cladding systems on 'Mediterranean' and other complex architectural design styles. Poor workmanship as a result of skill shortages also contributed to the building debacle.

In short, bad designs, inappropriate materials and shoddy construction have created a large number of homes that look sound on the outside but are potential castles of decay.

Unsuspecting homeowners cannot be blamed for any part of this fiasco but the sad fact is, they now own the problem.

Fronting up to the problem

No one wants to own a leaky home and it is understandable that someone in such a predicament should experience a strong sense of dread and denial. But if you choose to ignore a leakage problem it does not simply go away. Instead, a number of things may happen:

- > the extent of the damage caused by the leakage will continue to grow, adding further to the eventual cost of repair;
- > people living in the house can be exposed to the risk of health-related problems through exposure to moulds, bacteria, bio-contamination caused by allergenic or toxic reaction, stachybotris mould and dust mites;
- > the time limit imposed by the Building Act's Long Stop provision and the Statute of Limitations on a homeowner's eligibility to place a claim may expire. (The house must have been built or altered within the 10-years immediately prior to the date of lodging the claim or WHRS application, or a claim should be lodged within 6-years of certain knowledge of problems existing.)

For this reason it is better to investigate the nature and extent of the problem as soon as possible.

The following Question and Answer section is designed to kick-start this process.

Note: *Self-help is promoted throughout this publication to the extent that it is helpful and advisable. Self-help is empowering, but in dealing with leaky homes there is a limit to what can be achieved safely on your own. The best thing a homeowner can do is understand the nature of the problem and position they are in, know what paths are available and the implications of those paths. It is our experience that once People understand the problem and are able to make decisions for themselves, they begin to feel less overwhelmed.*

Q: How do I know if I have a leaky home?

A: You can carry out a limited form of due diligence by checking the following points:

I. Certain cladding types are known to be more at risk when poorly detailed or finished. The most risky are:

- > textured fibre cement.
- > cement stucco.
- > EIFS cladding systems.

All these give the appearance of a plastered exterior to a house. In New Zealand, "Exterior Insulation and Finish Systems" typically comprise of a layer of polystyrene insulation over-coated with two layers of acrylic plaster. It looks similar in finish to cement stucco but provides insulation, weather proofing, and a finished exterior surface in a single product. Risk factors common to the installation of these cladding systems are now well understood and information on them is readily available. Check your house for these risk factors.

2. A number of other factors influence weathertight performance.

These include:

- > **Number of storeys** – homes or multi-units of more than one storey are more at risk than single-storey homes or buildings.
- > **Eaves** – homes built with overhanging eaves are less at risk than homes without eaves.
- > **Location** – homes built in sheltered locations are less at risk than those built in exposed locations.
- > **Date of construction** – the year of construction can help identify homes with a higher than normal likelihood of leakage problems.

Date of construction	Degree of risk
Before 1987	Low/Moderate
1987–1997	High
1998–2004	Very high
After 2004	Low/Moderate

3. Tell-tale signs inside the house can point to a leakage problem but be aware that only about 1 in 50 leaks are noticeable. Signs include:

- > small amounts of unexplained water or dampness around doors and windows.
- > swelling of fibreboard skirting.
- > damp or rotting carpets, rusty nails to carpet edging
- > a musty smell, but not often.
- > unexplained corrosion, staining or mould growth.

Note: Other factors can also cause mould through an excess of internal moisture, e.g. poor ventilation leading to condensation build up on walls and windows.

4. Check the outside of your house for the following details, which can potentially pose some risk:

Note: The list below is not exhaustive but can help you identify design features that pose a significant weathertightness risk if not properly installed and finished.

Window and door joinery

- > Do you have sloped or curved window heads?
- > Do you have recessed windows i.e. set back from the face of the cladding?
- > Do you have complex joinery i.e. faceted, stepped sills, corner windows?

Flashing systems

- > Do your windows and entrance doors have a metal (or other material) head flashing?
- > Are your windows and entrance doors sealed against the cladding?
- > Are penetrations of the cladding by electrical meter boxes and drainage pipes etc. sealed or have flashing?
- > Is the bottom edge of any apron flashing on any roof-to-wall intersection stop-ended so as to direct water away from the cladding?

Roofing

- > Do you have flat roofs?
- > Do you have parapets?
- > Do you have skylights?
- > Do you have internal gutters?
- > Do you have roof to wall intersections?



Ground clearance

- > Does the cladding extend all the way down to the ground or surrounding paving?
- > If you have a timber subfloor above a vented space, can you clearly see all the subfloor vents on all sides?
- > Is the ground under the house continually damp? Any ground that is not dry is considered damp.

Cladding

- > Does your cladding have random cracking?
- > Do other building elements or fixtures penetrate the cladding e.g. pergola timbers, fascias, gutters, lighting fixtures?
- > Are penetrations of the cladding adequately flashed or sealed, e.g. around metre boxes, waste pipes etc.

Decks

- > Do you have an enclosed balcony with an internal overflow?
- > Is the level of the deck equal to or higher than the level of the floor?
- > Is there a space between the edge of the deck support structure and the cladding?
- > Is the deck support structure fixed directly through the cladding?
- > Are the joists supporting the decking an extension of the house floor joists?

BUYING A HOME

If you are buying a home and are concerned that it might be a leaky home:

- > Carry out the checks listed above.
- > Contact a Registered Building Surveyor to discuss your concerns and arrange a weathertightness survey – www.buildingsurveyors.co.nz

Note: *Councils are obliged to identify properties in Land Information Memorandum (LIM) reports that are or have been subject to WHRS claims. However properties that have been subject to weathertightness claims through the courts or private actions do not have to be identified. Therefore, the fact that a LIM makes no mention of past weathertight issues does not necessarily mean they have not occurred.*

OWNING A HOME

If you own your own home and are concerned that it might be a leaky home

- > Carry out the checks listed above.
- > Contact a Registered Building Surveyor who is a Certified Weathertightness Surveyor and/or a Remediation Panel member:

OR CONTACT PRENDOS

- > Registered Building Surveyors.
- > Certified Weathertightness Surveyors.
- > Remediation Panel Members.

Note: *The NZ standard for prepurchase inspection NZS 4306:2006, specifically excludes weathertightness survey as cladding is usually damaged by proper investigation. Infrared cameras detect the infrared emission from the surface and can give back false-negative/false positive results.*

Q: I have carried out a check of the above points, what should I do now?

A: If any of your answers strengthen your suspicion of a leakage problem, further investigation should be carried out by a Registered Building Surveyor to determine the nature, cause and extent of the problem.

If your answers to the above points are reassuring but you still have concerns (perhaps your principal concern is unlisted), contact a Registered Building Surveyor to discuss the matter further:

Q: What should I ask the Building Surveyor to do?

A: After discussing your concerns with the Building Surveyor it is best to request just a brief, visual, non-destructive inspection, and a written preliminary report.

Preparing a list beforehand often helps and it is advisable to obtain a fee estimate before commissioning a report.

1. Information relevant to the affected property is helpful to the investigation and report. A homeowner can obtain relevant Property Files from the local council. This information is usually stored in 'property bags', or on CD. A property bag contains a limited amount of information relevant to a particular property. It may contain:
 - > Files of applications for building consents or permits and associated plans and documents.
 - > Amended plans.
 - > Inspection records & Code Compliance Certificates.

Property Bag data will help you understand dates and timing relevant to the construction of your home, and possibly provide information on issues related to its construction as identified by council staff. Look for dates of Building Inspections, Notices to Fix, a Code Compliance Certificate (CCC) and other material relevant to your situation.

Ring the council and check the uplifting procedures – some councils offer digital retrieval procedures.

2. It is a good idea for the homeowner to be on site at the time of the survey to:
 - > ensure the Building Surveyor has ready access to all inspection areas.
 - > answer the Building Surveyor's queries.
 - > obtain insight into any potential weathertightness issues identified by the Building Surveyor.

If you are present during the inspection, do not expect or request detailed answers to verbal questions – complex and detailed questioning regarding findings and solutions is best left to a later stage when a report is produced.

Q: I now have the report – what next?

A: You have two options

1. If the report is clear of problems you can accept it or seek a second opinion from another accredited provider.
2. If the report is not OK – in other words it points to potential issues
 - > arrange for a more detailed inspection (obtain a pre-estimate first).
 - > check the type of investigation, the extent to which it will be carried out, and the methodology it will use.
 - > check whether the investigation makes use of an independent agency to identify potential decay and mould and timber treatment levels – it is imperative that it does so.

Q: What should I do if the report indicates problems?

A: Seek legal advice. Legal counsel is likely to advise you to file a claim either with the Weathertight Homes Resolution Service (WHRS) or with the District or High Court.

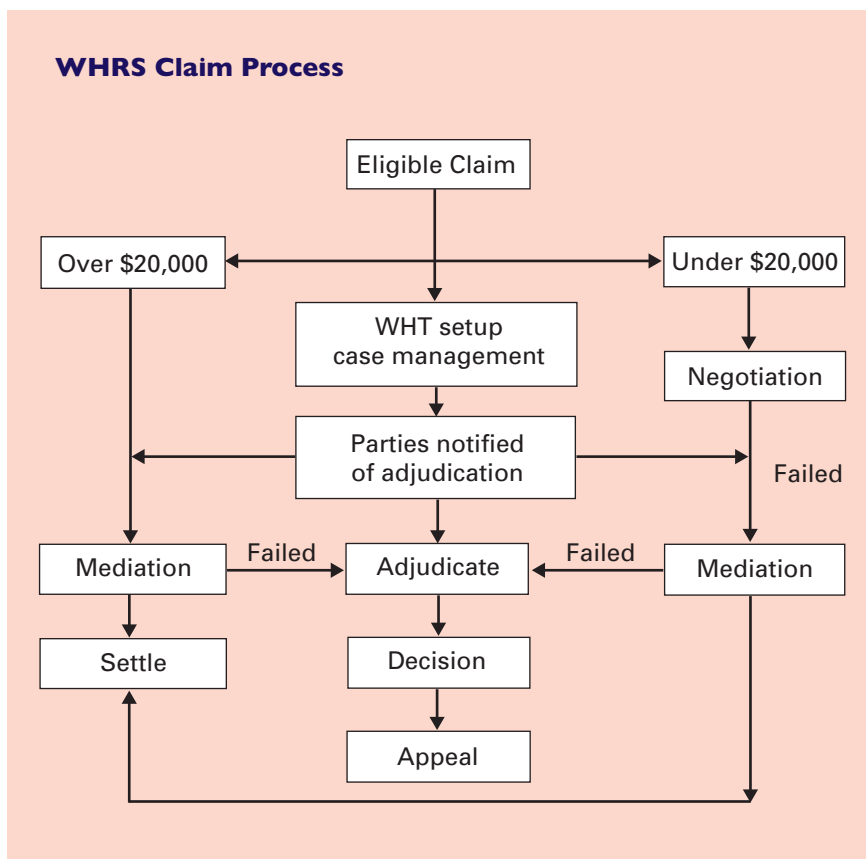
I. Weathertight Homes Resolution Service (WHRS)

The WHRS offers two claims processes:

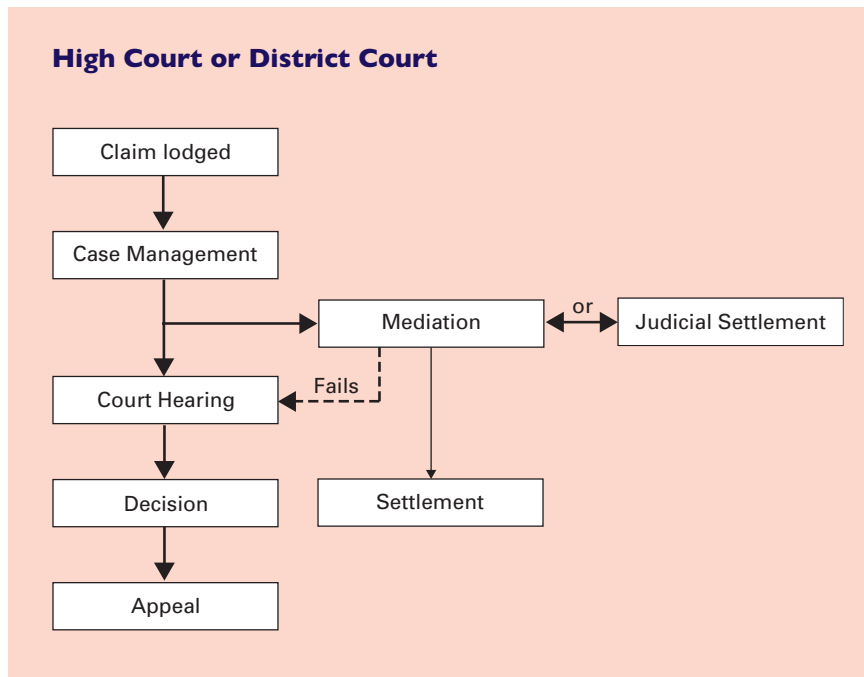
1. Claims for repair below \$20,000 follow a streamlined resolution process within the Department of Building and Housing. The claims process uses negotiation and, where that fails, mediation to arrive at a settlement. If mediation fails, a decision via adjudication can be sought from the Weathertight Homes Tribunal.
2. Claims for repair above \$20,000 are handled by the Weathertight Homes Tribunal (WHT). The claim process uses either the DBH Mediation process to arrive at a settlement, or, if that fails, a WHT Adjudication Hearing to arrive at a decision.

For further information and an overview on claimant eligibility and how these various claims processes work, see the following webpages:

DBH – www.dbh.govt.nz/ws-resolution Weathertight Homes Tribunal – www.justice.govt.nz/wht/home.asp



2. District or High Court



Note that for claim processes:

- > The WHRS and WHT path is claimed to be quicker and cheaper than District or High Court but this is not always the case. The process allows parties to have legal representation or to be your own advocate but the latter course is often not easy; extensive time is needed to understand relevant legal issues and legal principles of law still apply to any outcome. Knowledge of relevant laws is therefore advisable, particularly in situations where respondent parties have highly skilled legal representation. A further option is to use the services of a lay advocate.
- > Legal counsel will help prepare your case and notify potential parties that problems exist.
- > In seeking legal advice, be careful to ensure that the legal advisor is experienced in this field and not just a conveyance solicitor for example, who might be helpful but unaware of the difficulty of obtaining a positive outcome by these means.
- > If you have your own report at the time of seeking a WHRS resolution the process may be quicker.
- > With both the WHRS and Court paths, you can proceed with repair on your own behalf.

Q: Should I repair first or litigate first?

A: As a homeowner, you have three realistic paths of action.

Path 1. Repair then litigate

If you have the money or can raise the funds needed to start the repair and legal processes, this option gives the best possible outcome.

- > The surveyor is required to do less investigation.
- > The amount of money required to repair the problem is definitively established.
- > Evidence of the cause of leaks and substandard materials and workmanship becomes available during the repair process.
- > All issues, including any not linked to weathertightness, become evident during repair.
- > Very compelling for parties to settle.

Note: 1. *At the same time you begin the repair process you should inform, through your lawyer, those whom you intend suing of what you are doing, to give them the chance to respond.*

Note 2. *It is likely that any ensuing legal process, whether through the WHT or High Court, will be interrupted by a mediation process which is designed to achieve an outcome acceptable to all parties but is unlikely to return the full amount spent.*

Path 2. Tender the repair work then litigate

If you do not have sufficient money to fully fund repairs and the legal process you can choose to carry out a report; prepare design documents; tender the remediation work to three builders and then seek legal redress. By doing this you establish a competitive process which creates value and which the court will look on as being valid. The issues to be aware of are:

- > The investigative report needs to be more thorough.
- > Hidden issues remain hidden.
- > Any court action undertaken is based on an estimated quantity only, which may not be an accurate reflection of the actual cost of the work.

Note: *Tenderers should be given a letter of intent to proceed when settlement is reached*

Path 3. Quantify the repair work then litigate

The third and least effective course of action is to carry out a report and measure the anticipated repair work on quantum, and then seek legal redress to fund the repair work. The issues to be aware of are the same as Path 2 with the additional issue that:

- > The court is likely to base its decision on the 'lowest reasonable value' and settle on a lower value than the actual cost of the work.

Q: What do I need to effectively argue my case?**A: Sufficient information and material to support your case.****In particular, you need to:**

- > Know what is wrong with the building.
- > Know how the problem relates to the parties involved in constructing the building and be able to identify their role.
- > Obtain through an expert registered building surveyor support material in the form of photos, samples of decay and mould, reports on timber treatment levels and other relevant technical literature.
- > Obtain historic records from the Council and have them assessed and reported on by an expert registered building surveyor.
- > Obtain Contract documents including plans and specifications and include them in the expert evidence.
- > Obtain correspondence relevant to the Contract, including between parties; records of site meetings, inspections, changes to plans or specifications etc. and have it reviewed by the expert.
- > Understand procedural processes for the least complex process, that of WHT resolution. Court process should be the sole province of legal counsel.

Q: What are the pros and cons of the Court and WHRS processes?

A: The following points are noted.

1. When following the WHRS path to arrive at a (theoretically) quicker and more cost-effective result:
 - > You cannot sell your property until the matter is settled.
 - > You cannot recover any of your legal or expert costs other than those for the investigative report, and the design and administration of repairs. Additional costs might typically be between \$80,000 – \$140,000, or possibly higher with bigger houses.
 - > Claims are restricted to leak matters. Other matters, including structural failure independent of leaking, cannot be dealt with.
2. When following Court action:
 - > Procedural matters are slower and therefore legal costs are often higher.
 - > Legal and expert costs can be reckoned on a scale and included as part of the settlement.
 - > A broad range of issues can be settled – the claim is not restricted to leakage issues.
3. Both the Court and WHRS processes are often intervened by voluntary mediation between parties, which usually takes one day to resolve. Using mediation, you need to be aware that:
 - > Early negotiated settlements are possible but rare because defendants have little incentive to negotiate early on.
 - > Full recovery is not likely but you avoid the cost of a lengthy legal process.
 - > You accept the risk of an adjudicator not agreeing with your case.

4. Going to Court can be a dangerous thing in that you put yourself entirely in the hands of the judge.
 - > If, on the day you go to court, the judge likes the cut of your cloth, you might do well. But the reverse might apply the day after. Mediation makes you a more active player – you take part in the decision-making process and have a say in whether or not you are prepared to accept a given settlement. In mediation the parties, rather than the mediator, have the final say. But, ironically, the threat of failed mediation being ultimately decided in another venue by an adjudicator or judge, acts as a keen incentive for mediation to succeed.
 - > Mediation can also deliver a better result in complex cases involving numerous parties where the probable cost to all parties of pursuing recovery through a lengthy court process far outweighs the value of the case. This scenario, which applies equally to cases involving small as well as large sums of money, highlights the fact that there is usually a point at which you are better to settle, take the money and get on with life.
 - > Mediation is designed to achieve an agreed settlement rather than a 'fair' outcome. This means the outcome is likely to be one in which the homeowner agrees to give up some part of their claim. If you decide to use the Court process to pursue a more 'just' solution, you might just win all you want. But it will cost much more money to do so and the likelihood of receiving such a judgment is remote.
 - > As a rule of thumb you can expect both processes to deliver less money than it costs to repair your home and seek legal redress.

Q: How much will it cost to repair and litigate?

A: It is impossible to put a definitive price tag on the process – the size and cost of repair of each home is different, so too are the specific circumstances of each case.

- > As a rule of thumb, the overall cost of repair and litigation is likely to be about one and a half to two and a half times the cost of the repair bill alone.
- > Early interception of the legal process reduces legal costs but may lower your chance of a higher level of return. The flip side of this is that interception of the legal process at a later stage may cost you more in legal fees but give you a better chance of a greater return.
- > There are no cast-iron guarantees on levels of return, legal and mediation processes are dependent on both circumstance and human nature.

Q: What about funding?

A: Personal finances influence decision-making processes and these in turn influence outcomes. Homeowners realistically have two options for covering the cost of carrying out repairs and taking legal action.

Option One

This option requires the homeowner to have access to a considerable sum of money up front, to repair and then litigate. These might be private funds or funds arranged through a loan or a mortgage.

Borrowed funds: Borrowing more than 100% of the value of the property to carry out repairs and pay for the legal process creates a situation where there is more debt on the property than there is equity to cover it, which is not a situation lenders like. Under these circumstances some lenders will turn down a request for a loan, but if they do, seek further advice because other lenders may be prepared to make such a loan.

Lenders who have an existing interest in a property will sometimes lend additional money to fund the remediation process because it protects the value of the property, which, because of its leaky condition, might otherwise be difficult to sell.

If the bank is unsure of your position, ask that it talk to the Building Surveyor to gain confidence in the process. The questions the bank will want answered are:

- > Can you get the dwelling back to a code compliant state?
- > Will there be financial controls on the remediation process?
- > Can the bank be kept informed of progress all the way through?

The answer to all these questions is usually 'yes' but the surveyor rather than the homeowner needs to give this assurance to the bank.

Option Two

The second option is often used by less wealthy homeowners. It requires the homeowner to spend a minimal amount of money to obtain a WHRS report, then wait patiently in the WHRS mediation pool.

Note: *You can also seek assistance from Housing New Zealand – though few people currently make use of this facility. For further information see: www.dbh.govt.nz/ws-finance-repairs*

ADMINISTERING THE REMEDIATION PROCESS

Who should I get to administer the remediation contract?

Under traditional building contracts, architects design the building and administer the building contract. This type of contract is now a comparative rarity in New Zealand. Common law says the design is not complete until the building is complete but it is now standard practice to separate the various design and construction functions. Most buildings are now built without the designer being made contractually responsible for administering the building work. In some cases a new breed of building professional – the project manager – is contracted to take administrative control over all consultative entity groups on behalf of the owner. While some homeowners attempt to save money by taking on the roles of contract administration and project management themselves, this option is not advisable with leaky home remediation.

Prendos role in remediation design and administration

Prendos generally restricts its role in the design and repair of leaky buildings to matters of design and administration. In practice, rather than acting as project managers we tend to deal with building companies that are able to take responsibility for the running of the entire construction process. This means the building company bears responsibility for its own procurement process, health and safety issues, organisation of subcontractors and council inspections. It is standard Prendos practice, however, to insist on a quality monitoring process whereby builders provide some means of showing they have self-inspected their own construction process.

The redesign process

To remediate a leaky home you need to first find answers to four questions:

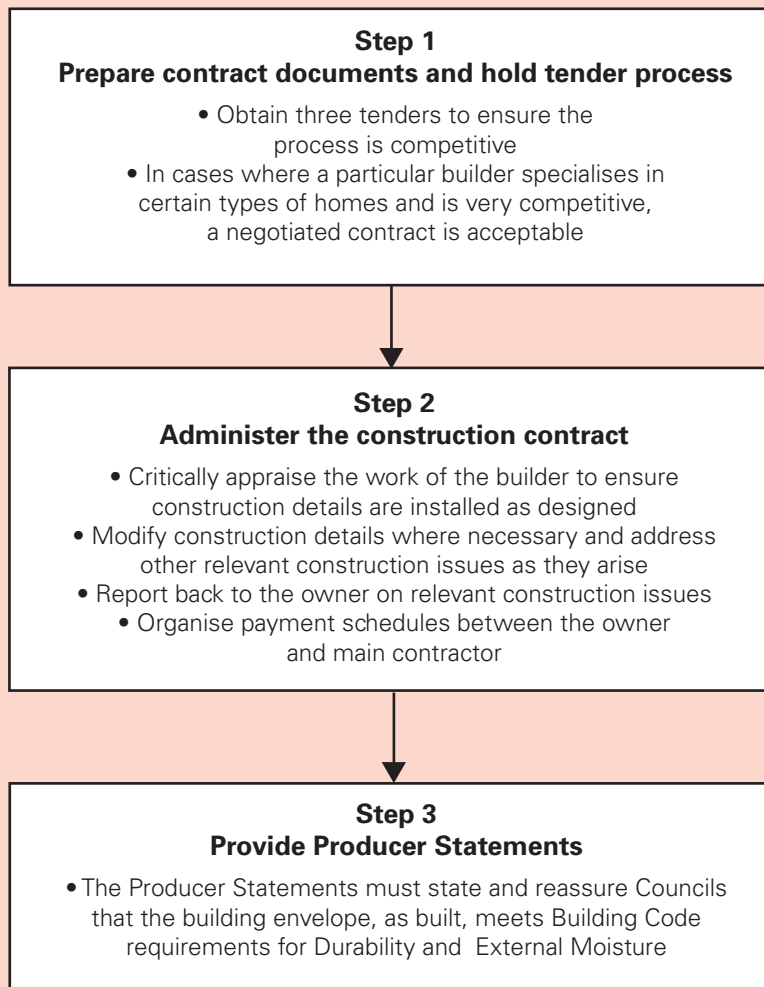
1. What caused the building to fail?
2. Which durability aspects must be dealt with in order to ensure the building does not suffer another failure?
3. Which solutions should be applied to achieve a successful outcome?
4. How can the aesthetic design of the building be maintained or enhanced?

In seeking answers to these questions Prendos oversees the preparation of design drawings including appropriate weathertight details, and ensures the redesign takes account of existing building materials and architecture. The new design intent is then developed into a completed building following the Prendos Administration Procedure.

Note: Administration procedures vary from company to company.

Homeowners do not necessarily need to follow the Prendos administration procedure but we suggest that the key elements should at least be noted, considered and taken care of.

Prendos Administration Procedure



Q: Can homeowners manage the remediation process themselves?

A: Homeowners are free to choose how they manage the remediation process. However, there are frequent cases where owners obtain a report on a house and arrange for builders to do the repairs. Later, when in spite of everyone's best intentions the repair fails, owners find themselves back at square one much poorer for the experience.

The risk of repeated failure of a leaky home is real and must be prevented before it has the chance to happen.

Identifying hidden timber decay is a specialised skill, which builders are not equipped or trained to do. Indeed, builders who are familiar with this type of repair work will usually refuse to carry out repairs without the backup of experienced consultants and laboratory resources needed to identify probable or incipient timber decay. Likewise, designing and constructing the right weatherproof solutions to ensure a building does not fail again requires specialised knowledge and expertise.

Note: *If competent and qualified personnel do not carry out the building survey, redesign, construction, inspection and internal contract monitoring processes, the risk of a repeat failure remains a distinct possibility.*

USING THE WEATHERTIGHT HOMES RESOLUTION SERVICE

The WHRS offers a low-cost path but homeowners should be aware that it delivers the potentially lowest return.

WHRs Assessments

- > Affected homeowners who meet the eligibility criteria set out under the Weathertight Homes Resolution Service Act can obtain a full assessor's report.
- > An eligibility assessor's report is free of charge.
- > Claims can be made for stand alone houses, multi-unit complexes and stand alone complexes.
- > The eligibility criteria differ slightly for each category.
- > Reports cost \$500 for a stand-alone property or single unit claim, \$1000 for a duplex (2 units) or \$1500 for a multi-unit complex.

Note: *Low-cost WHRS assessments are not speedy and the quality and accuracy of assessment reports varies greatly. For further information on eligibility criteria and the associated claims processes, contact the WHRS www.dbh.govt.nz/weathertight-services*

WHT Resolutions

Weathertightness issues identified by WHRS reports can progress to adjudication by the Weathertight Homes Tribunal (WHT) and can be intercepted by the option of direct negotiation or mediation.

Note

1. A WHT resolution based solely on a WHRS report is high risk. The level of settlement can be well below that required to fully fix your house.
2. A better and safer option is to obtain a low-cost WHRS assessment report and then contact an independent Registered Building Surveyor to check the report and confirm its findings.
3. Claimants can apply to Housing New Zealand Corporation (HNZC) for a guarantee of support for a private loan, or as a last resort, a direct loan from the Corporation at market rates to assist with remedial design and construction work. This process is slow. For further information on this option see www.hnzc.co.nz
4. Further information on the perceived shortcomings of the Government response to the leaky home crisis and its response mechanism the WHRS are documented on The Leaky Homes Action Group website. See www.nailed.co.nz/Leaky_Homes_Action_Group_728.aspx

Repairs

Note: If you follow the path of repairing your property first, more evidence is provided including the actual cost of repair work and consultant's fees.

Repair Methods

There are three basic repair methods: target, partial and full repair.

Target Repair involves cutting into and fixing isolated problem areas, then replacing the cladding to match the balance of the building including cosmetically. This method should be used only in situations where the nature of the problem is clearly identifiable and well understood from a technical perspective. The specific local fix must completely remedy the problem and not readily fail.

Note: Using Targeted Repairs like a shotgun to target multiple locations in the same building has a very poor record of success and frequently leads to widespread future failure. Link to technical paper. <http://www.prendos.co.nz/TECHNICAL-PAPERS/TECHNICAL-PAPERS/menu-id-62.html>

Partial Repair uses a drained cavity system to fully reclad some areas of the building. It is often used on buildings with mixed cladding types e.g. brick and plaster. If only one cladding type is failing, areas clad with that cladding can be repaired providing that the existing timber framing contains enough timber treatment to safeguard against future decay.

Full Repair involves the total replacement of cladding and, at times, roofing, because of widespread and global failure of these systems. It is also used to eliminate the chance of ongoing failure in areas which have not yet failed but have a high probability of doing so. For instance, if there is serious mould contamination, remediation requires the use of an air pressure balanced ventilated wall cavity to obtain a dry environment to prevent future failure of any timber, which does not contain enough preservative to fully protect it.

WARNING: *Other, untried and unsound repair methods not fitting any of the above categories are not recognised as reasonable or safe methods to follow.*

THE ROLE OF COUNCILS

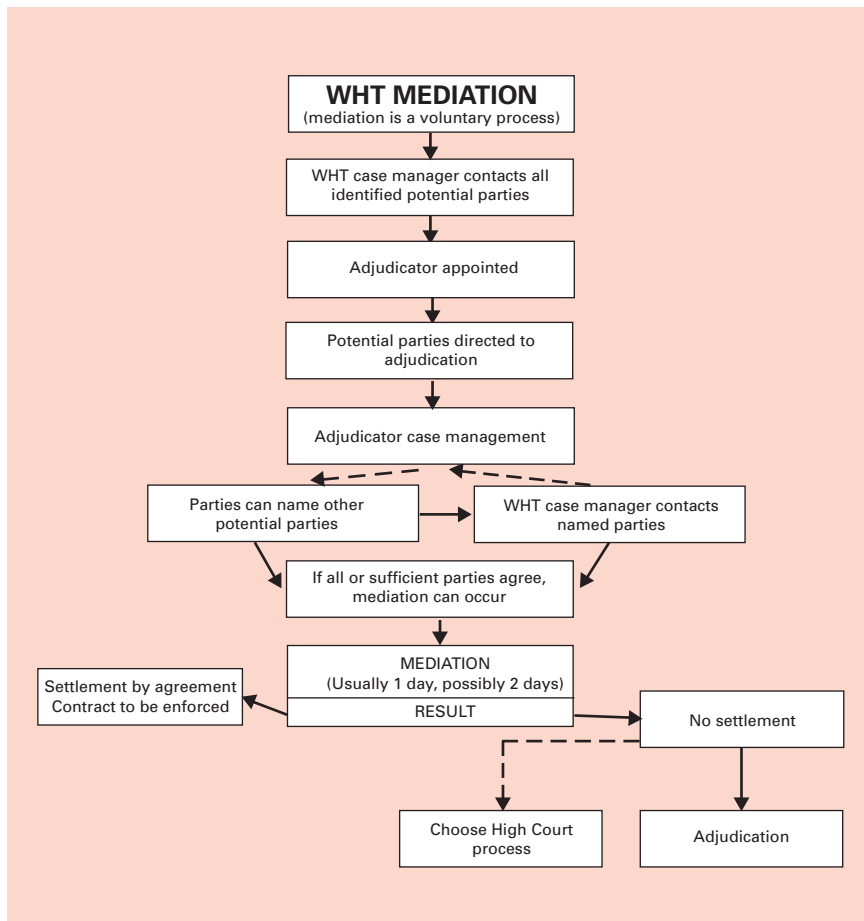
Many of the settlements on leaky homes include payments, either through settlement or mediated as directed by the WHT or the courts, from the local Council. This payment relates to the authority's failure to meet its legal obligations in respect of its duty of care to the homeowner. In practical terms, for a homeowner to receive damages from any of the parties deemed liable for causing damage to their home, those parties must be financially solvent. If they are not solvent, there can be no payout.

In many cases of leaky home litigation, the local Council is sometimes the only remaining solvent defendant and, therefore, the only party effectively able to pay compensation. For this reason, it helps to understand councils' role in relation to affected homeowners. Councils have two roles; statutory and legal, with the legal role stemming from the statutory responsibility.

Statutory role: The ultimate statutory authority for all building work is the Department of Building and Housing (DBH) but the main interface between the public and the DBH are the Councils. These bodies are now becoming known as Building Consent Authorities (BCAs). The role of a BCA is to process and approve that the designs and support technical information for construction meet with the building code, produce building consents and, by way of inspections or other means, follow the construction process through to a point where it can confirm that building work is completed in respect of the consent documents and the Building Code. It then issues a Code Certificate of Compliance (CCC) in respect of the drawings, building inspections and any other relevant information such as manufacturer warranties and Producer Statements. The building is now classified as a Code Compliant building but this does not form any kind of warranty or guarantee. It is simply an assurance that all the statutory processes have been satisfactorily completed.

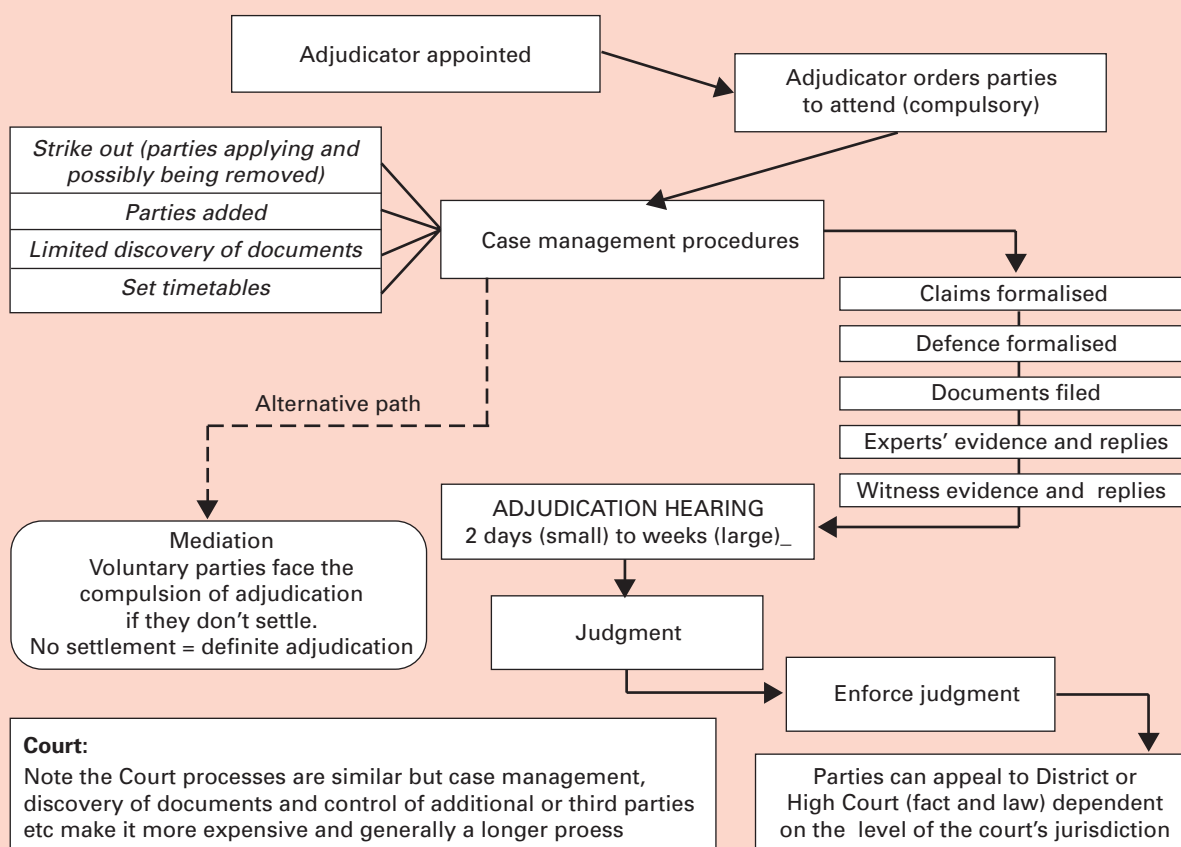
Legal role: In providing a reference point to monitor and control the design and construction process Councils assume a common law responsibility. Legal precedent has established that a Council and all its derivatives have a duty of care to the homeowner in its perusal of plans and carrying out and signing off an inspection process. This duty of care extends to all subsequent owners but only for a period of 10 years beyond the date of the consent, inspection process or issuance of a code compliance certificate. The 10-year provision applies not just to a council but also to all other parties involved in the design and construction process.

Note: Councils' legal liability towards homeowners does not apply to commercial construction, where owners and builders are considered to have access to technical advice to ensure the building complies with the Building Code.



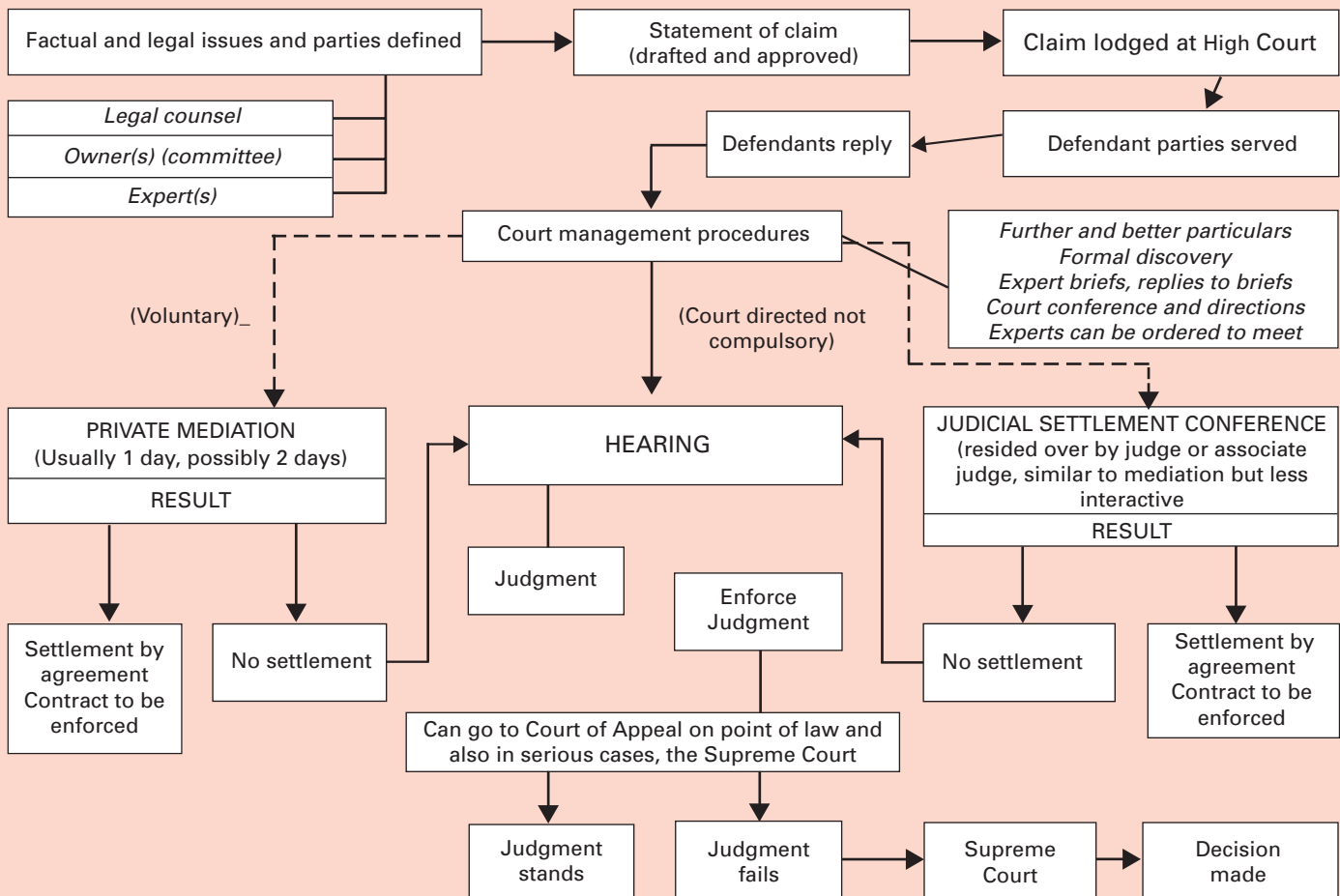
WHT ADJUDICATION

(adjudication is a compulsory process)



HIGH COURT LITIGATION

(District Court below \$200,000.00)
(With Private Mediation)



PRENDOS

LIMITED

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Leaky Home Guide

Compliments of Prendos

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