



Local Government New Zealand
te pūtahi matakokiri

Guidance for Territorial Authorities

Operation of key new provisions introduced in the Weathertight Homes Resolution Services Act 2006

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Territorial Authority's obligations to provide WHRSA06 information

Information provided by Department of Building and Housing (DBH), and the Weathertight Homes Tribunal (Sections 124 and 140 of the WHRSA06)

Sections 124 and 140 of the WHRSA06 are set out in full in appendix A. They require that the DBH and the Tribunal must notify the relevant territorial authority (TA) as soon as is reasonably practicable after certain events occur in relation to a dwellinghouse. The notification must be in enough detail to enable particulars to be included in a LIM. The information that the DBH will provide TAs is set out in protocol agreed between the DBH and LGNZ "Protocol for Notifications to Territorial Authorities for Land Information Memorandum Purposes", which is attached as Appendix B. The information that the Tribunal will provide TAs is set out in the letter from the Ministry of Justice attached as Appendix C.

The events that the DBH or the Tribunal must notify to a TA are:

- an application for an assessor's report under s 32(1) WHRSA06;
- the chief executive's or chair's decision that a claim is not eligible (ss48 and 49 WHRSA06);
- the termination of a claim under ss 52, 53 and 56 or the adjudication proceedings under s109 WHRSA06;
- the withdrawal of a claim;
- the determination of a claim;
- the signing of agreed terms of settlement following a mediation or otherwise (this does not require that the terms of the settlement be notified);
- the transfer of a claim to court, or from court or arbitration; and
- any other discontinuation or termination of the claim for any reason that is known to the DBH or the Tribunal.

The protocol in Appendix B and the letter in Appendix C indicate how these events will be notified, and the wording TAs will receive for each of the event notification types.

In general, the TA can expect to receive notifications from the DBH relating to the first stages of the claim (application for an assessor's report and eligibility decisions), any mediation of a claim, in relation to lower value claims (until the claim goes to adjudication), and the withdrawal, termination, settlement or determination of a claim at this stage. Notifications from the Tribunal will relate to the adjudication process, or the withdrawal, termination, settlement or determination of a claim after it has reached adjudication.

Section 140 also provides that the DBH and the Tribunal must provide TAs with information on events as described in section 124 which are past history/events for claims that have been determined as eligible by the DBH, but that are not in mediation or adjudication as at 1 April 2007 (these are part 2, subpart 4 claims).

For some types of existing claims, section 140 does not require the DBH or the Tribunal to provide any past history information. However, *Local Government New Zealand* has made an Official Information Act request so that the active claim past history information that will be provided to TAs does cover these events.

Local Government New Zealand has not sought information relating to non-active settled, determined or withdrawn claims, and there is no requirement in the WHRSA06 for the DBH to provide that information. If there has been a final determination of a claim this will be publicly available on the WHRS website (<http://www.dbh.govt.nz/whrs-adjudication-determinations>). TAs may also be aware of the final resolution of other claims, as a result of their involvement as a party to the claim. However, if a TA would like to obtain information regarding non-active WHRS claims for its district, it will need to make an Official Information Act request for that information from the DBH. Although there is no mandatory legal requirement to include this information on a LIM, it may be information

the Council considers is relevant for it to include on a LIM under section 44A(3) of the Local Government Official Information and Meetings Act 1987. This section is discussed in further detail below.

How TAs should record the information provided by the DBH or the Tribunal

From 1 April 2007, section 44A(2)(ea) of the Local Government Official Information and Meetings Act 1987 (LGOIMA) adds a further type of mandatory information that must be included in a LIM, by requiring that TAs include "*information notified to the territorial authority under section 124 of the Weathertight Homes Resolution Services Act 2006*". This requirement will also apply to most of the past history information that the TA receives on an existing claim, which is ultimately provided under section 124, even if it is via section 140. Section 44A(2)(ea) only requires the TA to provide the information in a LIM once the TA has received the relevant notification from the DBH or the Tribunal. If the TA is aware of the claim, or an event relating to the claim for some other reason, then it is not mandatory for it to include the information in a LIM.

The DBH has suggested in the protocol guidelines that TAs copy the exact wording provided by it in the event notification onto the property file and then onto any subsequent LIM. TAs should follow this suggested process for both the information it receives from the DBH and the Tribunal. If TAs use the exact wording provided to them, then in the case of any errors in the information, it is less likely that the TA will be held liable for any loss caused to anyone arising out of the incorrect information. It is suggested that TAs alert LIM recipients that they are only passing on information that has been provided to them under statute, by including the following advisory note on any LIM:

"This information has been provided to the council by the chief executive of the Department of Building and Housing, or the chair of the Weathertight Homes Tribunal, in accordance with section 124 of the Weathertight Homes Resolution Services Act 2006, or in response to an Official Information Act request by the council. The council is not in a position to verify the correctness of the information and cannot accept any responsibility for its accuracy."

It may also be useful to include a similar statement on the information in the property file so that other persons inspecting the property file, but not obtaining a LIM, are also made aware of the source of the information.

The TA may also wish to include contact information for the DBH/Tribunal to direct any future enquiries in relation to the information to the correct source, for example:

"For further information or clarification on this weathertightness notification, you should contact the Department of Building and Housing (www.dbh.govt.nz/whrs-index or 0800 324 477) or the Weathertight Homes Tribunal (www.justice.govt.nz/wht or 0800 777 757).

The TA will have a duty to ensure the information provided by the DBH or the Tribunal is filed on the correct property file, and may not be protected from any liability if it makes this type of error. If a discrepancy exists, and there is any doubt about the correct property that the information relates to, this should be resolved with the DBH or the Tribunal prior to recording the notification.

Other information the TA has knowledge of in relation to a WHRSA claim, not provided by the DBH or the Tribunal

By virtue of the Council's involvement in any WHRSA claim, or as a result of information being provided to it by another person, the Council may hold additional information on a property in relation to a WHRSA claim. This information may include letters from owners, the assessor's report, or information concerning the settlement of a claim. As noted below, information relating to mediation under the WHRSA, and settlement following mediation, is confidential. However, this does not include an assessor's report as it is not a document created or made for the purposes of the

mediation; it is created for the purpose of determining whether a claim is eligible - see sections 48, 49 and 84.

Information obtained in relation to a WHRSA claim property that is not an event notification from the DBH or the Tribunal could be included in a LIM if the TA decides that it comes within section 44A(3), that is, it is other information concerning the land the TA "*considers, at its discretion, to be relevant*". However, section 44A(3) can be considered in light of the grounds for withholding information in section 7, as discussed below. TAs should not include WHRSA mediation/confidential information in a LIM.

However, in addition to sections 44A(2) and (3), other sections of the LGOIMA also concern the holding, and release of, official information. Any person may request a TA to make available any specified official information (section 10). "Official information" means any information held by a local authority, with a few exceptions, and would include information relating to a WHRSA claim.

One purpose of the LGOIMA, is to provide for the availability to the public of official information held by local authorities (section 4) and there is a general principle of availability of official information, unless there is good reason for withholding it (sections 5, 6 and 7). The grounds in section 7, in particular, may be relevant in relation to whether other WHRSA claim information should be withheld, if someone requests it. For example, the ground for withholding information in section 7(2)(a), to "*protect the privacy of natural persons, including that of deceased natural persons*", may be relevant to the identification of owners or others, on letters or other information. In point 3 of the guidelines in the protocol, the DBH note that the claimant's name (and the legal description for the property) is only provided so that TAs can identify the correct property, and the DBH does not expect that this information will be included on the weathertightness LIM notification. This information is not specifically required to be given under section 124 as part of the "event" information. However, other information included elsewhere in the LIM may well provide the owner's name and a legal description in any event. Under a LGOIMA official information request this information might also be properly withheld under section 7(2)(a).

TAs are reminded, however, that if there is considered to be a ground to withhold information under section 7 of the LGOIMA, the TA must also apply the balancing test in section 7(1): whether there are any other factors which render it desirable in the public interest to make that information available.

Section 17(1)(c) also provides that information can be withheld if the making available of the information requested would be contrary to the provisions of a specified enactment. In relation to WHRSA mediation information, or any settlement of a claim, the WHRSA06 requires that this information must be kept confidential, and so, its release would be contrary to the WHRSA06.

TAs should also note that there are no provisions in LGOIMA (or the Building Act 2004) that regulate or limit where they must keep official information. To make it easier for TAs to ensure confidential information is not accidentally released, TAs could keep a "regular" property file, where the information on a file is available to be searched by anyone at any time, and a "confidential" property file for the same property, containing confidential or other information that can be withheld in accordance with the LGOIMA provisions. Alternatively, there could be a section of a property file that is marked confidential and is withheld. (Note that the withheld information would need to be reviewed in relation to each LGOIMA request that is made, as there may be good reasons to withhold information in relation to one request that do not apply to another request.)

In summary, public information is:

- the information contained in the notification from the DBH/Tribunal
- the application for an assessor's report (if the TA has this)
- a full assessment or eligibility report (depending which one is done, if the TA has this)
- determination from adjudication (these will be published on the Tribunal website)
- information related to building consents

Confidential information is likely to be:

- information relating to a mediation under the WHRSA
- settlement details following a mediation or otherwise in relation to a claim
- names of owners/others, unless these are already publicly available
- Council's response to the claim, particularly while the claim is still proceeding, as it may be legally privileged. After the claim is determined or settled the Council may wish to reconsider the status of this information.

The WHRSA06 claims process – general information

The purpose of the WHRSA06 is to provide owners of leaky dwellinghouses with access to speedy, flexible, and cost-effective procedures, for the assessment and resolution of claims relating to those buildings. The Act provides a mechanism for owners of dwellinghouses, including owners of multi-unit complex dwellings, who consider that they have a leaky building in respect of which to submit a claim. The process that must be followed in making a claim is described in brief below:

Process

1. Application accepted by DBH.
2. *Two options for claimants:* Eligibility Report *or* Full Assessment Report (Full report can be obtained at a later date following an Eligibility Report being done, but only if the dwelling has not yet been repaired) – reports carried out through DBH.
3. DBH (CE) determines if claim is eligible following receipt of report (if claim not eligible then it cannot proceed, although the claimant can apply to the chair of the Tribunal for a reconsideration of the DBH decision).
4. If claim is over \$20,000 (a standard claim):
 - Claimant applies to Tribunal, and serves documents on respondents/Council;
 - Respondents/Council have 25 working days to respond to the claim;
 - Any applications for joinder or removal of parties are made;
 - Preliminary Conference held as soon as tribunal thinks practical (even if all responses to the claim have not been received);
 - Tribunal can order Mediation (through DBH) or direct that an experts' conference be held (or it may go straight to Adjudication hearing);
 - If Mediation successful, it leads to a Settlement;
 - If Mediation fails, then the parties go to Adjudication hearing (through the Tribunal), which may involve a site visit;
 - Decision of Tribunal follows hearing.
5. If claim is \$20,000 or below (Lower-value claims)
 - Application made by claimant for lower-value claim dispute resolution assistance – settlement advisor appointed to assist all parties resolve claim;
 - Negotiation of claim may be pursued, if that fails;
 - Mediation, provided all parties consent (through DBH);
 - Settlement at Mediation, or, if Mediation fails;
 - Claimant applies to Tribunal for adjudication;
 - Adjudication is on the papers (Tribunal reviews the claim documentation and parties are not required to attend a formal hearing);
 - Decision of Tribunal.

A brief flowchart summary of the claims process (provided by the DBH) is attached as appendix D.

Relevant Timeframes

The council (and other respondents) have 25 days to make a formal written response to a claim after receiving a notice of claim from the claimant (or such longer time as the parties or tribunal may agree to) (s66). The Tribunal has 35 working days to determine a claim after the last mediation process was referred back to the Tribunal, or if there is no mediation, within 35 working days after the last response by a respondent(s) was due, or any further time the parties agree (s89).

The maximum time frames allowed for mediation are 40 working days for multi-unit complex claims and 20 working days for all other claims, irrespective of whether mediation occurs before or during adjudication (s82). Longer time periods can be approved by DBH for the mediation of lower-value claims, where no adjudication application has been made. Otherwise, unless the Tribunal considers the matter is near resolution (see s73(1)(k)), if the mediation is not concluded in the maximum time limits, the claim must be adjudicated.

If a claim has not yet gone to adjudication and the TA considers that a claimant is not making sufficient effort to resolve a claim then the TA can contact the DBH. The DBH can write to the claimant stating that the claim will be terminated unless within 20 working days the claimant satisfies the DBH enough effort to resolve the claim is being made, or make an application for adjudication (s56).

The claim and the council's response

A claimant with a possible leaky dwelling applies to the DBH for an assessor's report on the prescribed form. If it is found to be an eligible claim, the claimant has a right to apply to the Tribunal to have the claim adjudicated, provided they have a full assessor's report, or the work has been done to repair the house, and the owner holds the receipts. There are more complex provisions in relation to claim applications for multi unit complexes and standalone complexes, but these do not directly affect a TA, in terms of the progress of a claim and how it is dealt with at the mediation or adjudication stage, which is when the TA is more likely to become involved.

A lower-value claim can only be referred to adjudication where the claimant has applied for lower-value claims dispute resolution assistance, and received a certificate from the chief executive that he or she is satisfied that the claimant has made reasonable attempts to resolve the claim under the assistance process. Dispute resolution assistance involves a settlement advisor being assigned to a claim. The settlement advisor helps the claimant, and the other parties, to organise resolving the claim through either negotiation or mediation. The DBH do not charge a fee for this service. This process does not appear to involve any statutory requirement for notice of the claim or other documents to be given to the respondents/the TA. However, a mediation cannot take place without the consent of all the parties, so the TA should request that all the relevant information such as the assessor's report is supplied to it before giving its consent to mediate.

When a claimant has applied to the Tribunal for adjudication the claimant is responsible for serving all the other parties (eg the TA) with the application, the eligibility decision, the assessor's report, and any other documents accompanying the application. TAs (and any other respondents) then have 25 working days from receiving the claim information to file their formal written responses. Receiving a notification from the DBH that an application has been made or decided eligible is not service of notice of claim and does not start this clock ticking.

The response must address each cause of leaking identified by the claimant and advise whether the cause is accepted or disputed, whether responsibility for it is accepted or disputed, and provide all relevant supporting evidence. It is important to file a response within 25 working days, as requests for extensions to the time limit are only granted if there is a very good reason. If a response is not received in time, then the Tribunal can continue to deal with the claim regardless.

When a TA receives formal service of a claim from the claimant, or receives information about a potential claim (this may be by a DBH notification under s124), it should commence the internal claim management process. This may include advising the Council's insurer.

Lower value claims

The \$20,000 lower claims value is set by regulation and may change in the future. The current lower claims value is listed on the DBH website. Whether a claim is a lower value claim or not is decided by the value of the receipts for repairs or comes from the assessors report.

If a lower value claim goes to adjudication the Tribunal will not hold a preliminary conference or a hearing, unless the Tribunal decides these are necessary. Dealing with such claims on the "papers" means the Tribunal considers all of the claim information, including the assessor's report, as well as the responses and any information that accompanies a response, such as other expert reports or assessments. TAs should consider whether, in any claim, there is a need for it to obtain its own expert report about the damage to a building.

Joining other parties to a claim

If the TA considers other persons/companies not named by the claimant are also liable under the claim, then it can apply to the Tribunal to have those parties joined to the proceedings. The application must be filed in writing (a form can be obtained from the Tribunal) and should include:

- the correct name/s and current address of the person/company/entity;
- evidence of their liability and their causative link to the claim.

Any applications to join parties should be made prior to the preliminary conference, and must be served on the new party and all other parties at the same time as filing at the Tribunal. (A similar process must also be followed if the TA considers that it is not liable and wants to be removed from the claim.)

The mediation and adjudication processes

Following the preliminary conference, if the Tribunal considers that settlement of a claim might be reached, it can refer the claim to mediation. The WHRSA06 differs from the 2002 Act in that mediation cannot be accessed immediately. A claimant must make an application to the Tribunal to have the claim adjudicated, and can then, with the consent of the tribunal, and jointly with any of the other parties, refer it to mediation. An exception is made for lower-value claims, which can be referred directly to mediation in certain circumstances, with the consent of the other parties.

The principle differences between a mediation and an adjudication hearing, is that mediation is a private meeting of the parties at which they attempt to settle the dispute, facilitated by a professional mediator (provided by the DBH at no cost.) An adjudication is a formal, judicial proceeding, that is open to the public, and is presided over by the Member of the Tribunal assigned to the claim. The Member of the Tribunal will clarify and test the evidence (presented to the Tribunal prior to the hearing). An inquisitorial (questioning) process is used and the outcome/decision is binding on all the parties.

The outcome of a mediation is confidential to the parties. Statements, admissions, documents created for the purposes of the mediation and any information that, for the purpose of mediation, is disclosed orally in the course of the mediation, must also be kept confidential (except with the consent of the parties or the relevant party). By comparison, the Tribunal's decision, which will set out which of the respondents (if any) are responsible for the leaks and how much each should pay the claimant, is published on the Tribunal's website.

Transition between the old and the new Act for existing claims

There are transitional arrangements provided for in the WHRSA06 in relation to claims that have already been made under the WHRSA02, and are still active. Details of these transitional arrangements have been summarised by the DBH on its website for both standalone properties and multi-unit complexes, at <http://www.dbh.govt.nz/transition-info>. This information is also included in appendix E.

Further Information

Information on the WHRSA prepared by DBH and the Tribunal

Information has been prepared by the DBH and the Tribunal which is targeted at claimants but also contains useful information for TAs. From 1 April 2007, this will be available on the websites and hard copies can also be ordered. See: www.dbh.govt.nz and www.justice.govt.nz/wht.

Information on the government lending assistance programme

The government's proposed lending assistance pilot for WHRS claimants who are unable to access finance from private lending institutions is expected to be in place for 1 April 2007. The scheme will be run by Housing New Zealand Corporation but information and application forms will be available from the DBH website.

Appendix A – Legislative provisions

Section 124 WHRSA06 - Notifications to territorial authorities for land information memorandum purposes

(1) The chief executive must notify a territorial authority (as soon as is reasonably practicable after the event, and in enough detail to enable particulars to be included in a land information memorandum issued by a territorial authority under section 44A of the Local Government Official Information and Meetings Act 1987) of any of the following events occurring in relation to a dwellinghouse in its district:

(a) an application under section 32(1) by an owner of the dwellinghouse who wishes to bring a claim in respect of it—

- (i) to have an assessor's report prepared in respect of it; or
- (ii) to have an assessor's report that was prepared in respect of it on the application of a former owner approved as suitable for the owner's claim:

(b) the decision of the chief executive under section 48 that a claim is, or is not, eligible:

(c) the decision under section 49 of the chair on review that a claim is, or is not, eligible:

(d) the termination under section 52 (which requires the chief executive to terminate certain claims if the situation alters) of a claim:

(e) the decision of the chief executive under section 56 to terminate a claim not pursued:

(f) the signing of agreed terms of settlement under section 85:

(g) the discontinuance or termination, for any other reason (for example, under section 55 and because of a change of ownership), and if known to the Department, of a claim.

(2) The chair must notify a territorial authority (as soon as is reasonably practicable after the event, and in enough detail to enable particulars to be included in a land information memorandum issued by a territorial authority under section 44A of the Local Government Official Information and Meetings Act 1987) of any of the following events occurring in relation to a dwellinghouse in its district:

(a) the termination of a claim under section 53:

(b) the withdrawal of a claim under section 67:

(c) the determination of a claim under section 90:

(d) the termination of adjudication proceedings under section 109:

(e) the transfer of a claim to court, under section 119:

(f) the transfer of proceedings to adjudication, under section 120 or 121:

(g) the discontinuance or termination, for any other reason (for example, under section 55 and because of a change of ownership), and if known to the tribunal, of a claim.

Section 140 WHRSA06 - Claim history must be notified to territorial authorities for land information memorandum purposes

(1) Section 124(1) applies to the claim -

- (a) in respect of events to which that subsection applies that occur on or after the transition date; and
- (b) as if events of that kind that occurred before the transition date, and that are known to the Department, occurred on that date, and as if the chief executive must notify the relevant territorial authority of them as soon after that date as it is reasonably practicable to do so.

(2) Section 124(2) applies to the claim -

- (a) in respect of events to which that subsection applies that occur on or after the transition date; and
- (b) as if events of that kind that occurred before the transition date, and that are known to the tribunal, occurred on that date, and as if the chair must notify the relevant territorial authority of them as soon after that date as it is reasonably practicable to do so.

(3) This section overrides section 135.

Appendix B – DBH Protocol for WHRSA06 notifications to TAs

Protocol for Notifications to Territorial Authorities for Land Information Memorandum Purposes

This protocol has been developed and agreed between the Department of Building and Housing (the Department), and Local Government New Zealand (LGNZ) on behalf of the territorial authorities (TAs) of New Zealand. Its purpose is to record an understanding between the Department and LGNZ about notification of certain events for land information memorandum (LIM) purposes, under the Weathertight Homes Resolution Services Act 2006.

The requirements of the Weathertight Homes Resolution Services Act 2006

1. The Weathertight Homes Resolution Services Act 2006 (the Act) requires the Chief Executive of the Department to notify a territorial authority of specified events occurring in relation to a dwellinghouse in its district. The events relate to a claim brought under that Act or under the Weathertight Homes Resolution Services Act 2002. The events are to be notified in enough detail to enable particulars to be included in a land information memorandum issued by a territorial authority under section 44A of the Local Government Official Information and Meetings Act 1987 (LGOIMA).
2. Section 124 of the Act specifies the notifications required for claims from 1 April 2007. Section 140 specifies the notifications required for events relating to claims before that date. The notifications required under section 140 are referred to in this document as 'retrospective notifications'.
3. Section 127(5) of the Act amends section 44A(2) of the LGOIMA by inserting paragraph (ea) after paragraph (e). Section 44A(2) sets out the 'matters that shall be included' in a land information memorandum. The amendment makes the following addition to the matters that shall be included:

information notified to the territorial authority under section 124 of the Weathertight Homes Resolution Services Act 2006.

Retrospective Notifications

1. All retrospective notifications by the Department of events relating to existing claims will be provided to each TA electronically in spreadsheet form, in compliance with s.124, as soon as practicable after 1 April 2007.
2. All information about a particular claim that, in the Department's view, should be placed on a LIM will be provided on one line of the spreadsheet. Any qualifying information that is part of the notification will be included on the line.
3. LGNZ has requested under the Official Information Act 1982 (OIA) the information equivalent to the retrospective notifications required under the WHRS Act 2006 after 1 April 2007. This is to ensure TAs have time before 1 April to place the information on their files, at their discretion in accordance with the LGOIMA, and be ready to produce a LIM with the required information from that date.

This information, equivalent to retrospective notification as at the date on the spreadsheet, will be provided by the Department in accordance with the OIA as soon as is practicable. The Department and LGNZ agree that LGNZ will make a further request under the OIA to obtain information on any events that have occurred between the date on the spreadsheet and 1 April. This will ensure that events that occur between the date of the OIA release and 1 April are notified

4. As these OIA releases will not discharge the Department's obligations under the Act, a formal notification for retrospective claims will be made by the Department as soon as practicable after 1 April. This formal notification will be for the purpose of discharging the Department's obligations only. The notification will be accompanied by a clear message to TAs that it does not contain any information additional to the information released under the OIA.
5. The Department will produce a spreadsheet for each TA, to be provided directly. The column headings for the spreadsheet will be:
 - Territorial Authority
 - Claim number
 - Dwelling address as provided by claimant
 - Claimant name
 - Title name
 - Certificate of title reference
 - Legal description
 - Prefix [reference to the Act]
 - Prefix + [description of event being notified]

The Department suggests that the following information be used for recording details on LIMs.

Information under the columns headed:

- Prefix [reference to the Act]
- Prefix + [description of event being notified].

The cells to be used for recording notifications will be coloured yellow so that they can be distinguished easily.

Notifications from 1 April 2007

1. For events occurring on and after 1 April notification will be provided separately for each event, to the appropriate TA.
2. Notification will be provided as soon as practicable after the event occurs.
3. A notification from 1 April will include:
 - Territorial Authority
 - DBH case number
 - Dwelling address as provided by claimant
 - Claimant name
 - Legal description
 - Event notification

All information except the event notification wording will be provided for identification purposes and is not intended for inclusion on the LIM.

4. Examples of wording of notifications from 1 April are given in following table.

Examples of wording of notifications from 1 April 2007	
Event	Wording
Application accepted	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx. An application

	for an assessor's report was accepted on xx/xx/xx.
Claim decided eligible	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx. The claim for this property was decided eligible by the Chief Executive on xx/xx/xx.
Claim decided eligible after review	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx . The claim for this property was decided eligible after reconsideration by the Chair of the Weathertight Homes Tribunal on xx/xx/xx.
Claim decided ineligible by Chief Executive	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx. The claim for this property was decided ineligible on xx/xx/xx. The claimant has an opportunity to ask for reconsideration of this decision. An ineligible claim does not necessarily mean the property is weathertight.
Claim decided ineligible following review	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx. The claim for this property was decided ineligible after reconsideration by the Chair of the Weathertight Homes Tribunal on xx/xx/xx. The claim was also closed on this date for this reason. An ineligible claim does not necessarily mean the property is weathertight.
Claim terminated under section 52 (wrongly brought multi claim)	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx. The claim was terminated under section 52 of the WHRS Act 2006 on xx/xx/xx because the Department believes other areas of the complex are affected.
Claim terminated under section 56 (tardy claim)	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx. The claim was terminated under section 56 of the WHRS Act 2006 on xx/xx/xx because the claimant was not making enough effort to resolve the claim. The claimant is not permitted to bring another claim for the same property.
Settlement	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx. The claimant has settled the claim with some or all of the parties under section 85 of the WHRS Act 2006. The details of the settlement are confidential. A settlement does not necessarily mean the property has been repaired.
Termination under section 55	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx. The claim was terminated under section 55 of the WHRS Act 2006 on xx/xx/xx because the claimant sold the property that was the subject of the claim.
Closure of claim	The Department of Building and Housing has provided the following information under section 124(1) of the WHRS Act 2006 regarding a claim relating to this property: DBH case number xxxxx. The claimant has chosen to close their claim. This does not necessarily mean the property has been repaired or that the claim has been resolved.

- For a claim involving unit and common areas two notifications will be made: one for each individual unit that is part of the claim, and one for all units in relation to the common areas claim.

Non-notifiable events:

Any events not specified in section 124 of the WHRS Act 2006 will not be notified to TAs under that section. This includes but is not limited to:

- applications received from persons who are not the owner of the property
- applications received that have not been appropriately authorised (in some instances)
- incomplete applications
- addition and withdrawal of units to multi-unit complex claims
- settlements other than those under section 85 of the WHRS Act 2006 (for example, private settlements or negotiations) - though the subsequent closure of these claims will be notified.

Guidelines

1. The TA can use the information as it sees fit according to its statutory requirements under s.44A of the LGOIMA.
2. The Department requests, but cannot require, that the TA copies exactly the words on the notification. For the retrospective notifications the words will be coloured yellow on the spreadsheet. For notifications from 1 April the words will be provided in the specific notification for that event.
3. The Department understands that information provided only for identification purposes, specifically the claimant name and the legal description, will not be placed on the LIM. This identifying information is intended to be used to ensure that a notification is not placed on the wrong property file. The Department will provide the name of the claimant for each claim and the TA will check this name against the name of the owner/ratepayer on their property files. This will reveal any discrepancies. The Department requests each TA to notify it of the discrepancies so they can be resolved. The Department tries to ensure all information provided is accurate but this additional check is necessary to prevent incorrect placement of notifications.
4. The TA may wish to consider including advice on the LIM of the Department's contact details where further information can be obtained.
5. From 1 April the reference system used by the Department for claims will change. Claims will be referred to by 'DBH case number' instead of 'claim number'. Should a claim subsequently be accepted by the Weathertight Homes Tribunal it will be given an additional Weathertight Homes Tribunal case number.

Signed on behalf of the Department of Building and Housing:

Date: _____

Signed on behalf of Local Government New Zealand:

Date: _____

Appendix C – Template Tribunal letter for WHRSA06 notifications to TAs

14 March 2007

Irene Clarke
Senior Policy Analyst
Local Government New Zealand
P O Box 1214
Wellington

Dear Irene

Weathertight Homes Tribunal

Notification to Territorial Authorities for Land Information Memorandum Purposes

We refer to our meeting this morning wherein we outlined for you how the Chair of the Tribunal will be notifying territorial authorities pursuant to section 124 of the Weathertight Homes Resolution Services Act 2006.

Section 124 (2) of the Act is quite clear in that it states that the Chair (of the Tribunal) must notify a territorial authority (as soon as reasonably practical after the event, and in enough detail to enable particulars to be included in a land information memorandum) of any of the following events occurring in relation to a dwellinghouse in its district:

- a) the termination of a claim under section 53
- b) the withdrawal of a claim under section 67
- c) the determination of a claim under section 90
- d) the termination of adjudication proceedings under section 109
- e) the transfer of a claim to a court under section 119
- f) the transfer of proceedings to the Tribunal under section 120 or 121
- g) the discontinuance or termination, for any other reason, of a claim

The Chair of the Tribunal will meet its obligations by issuing a standard letter to the relevant territorial authority indicating the relevant event. It will also provide a full copy of the determination (if the claim has been determined) so that the territorial authority has full and sufficient detail of the events.

A copy of our standard letter is enclosed for your information.

Yours sincerely

Andrew Clapham
Project Manager
Weathertight Homes Tribunal
Ministry of Justice

Create_Date

Case Number: Case_Number

Select_DocumentRecipient_NameAddress_opp

Dear Sir/Madam,

NOTIFICATION TO TERRITORIAL AUTHORITY FOR LAND INFORMATION MEMORANDUM
PURPOSES

Applicant_Name_list

v

Respondent(s)_Name_list

Certificate of Title Number:

Legal Address:

Pursuant to section 124 (2) of the Weathertight Homes Resolution Services Act 2006 you are advised that the following matter has been considered by the Weathertight Homes Tribunal and

<insert relevant event>

the claim has been

- terminated under section 53.
- withdrawn under section 67.
- determined under section 90.
- transferred to a District Court/High Court *<delete one>* under section 119.
- discontinued or terminated under section *<insert relevant section>*.

or

- adjudication proceedings have been terminated under section 109.

or

- proceedings have been transferred from the District Court/High Court *<delete one>* to the Tribunal under section 120.
- proceedings have been transferred from arbitration to the Tribunal under section 121.

<if determined add following paragraph>

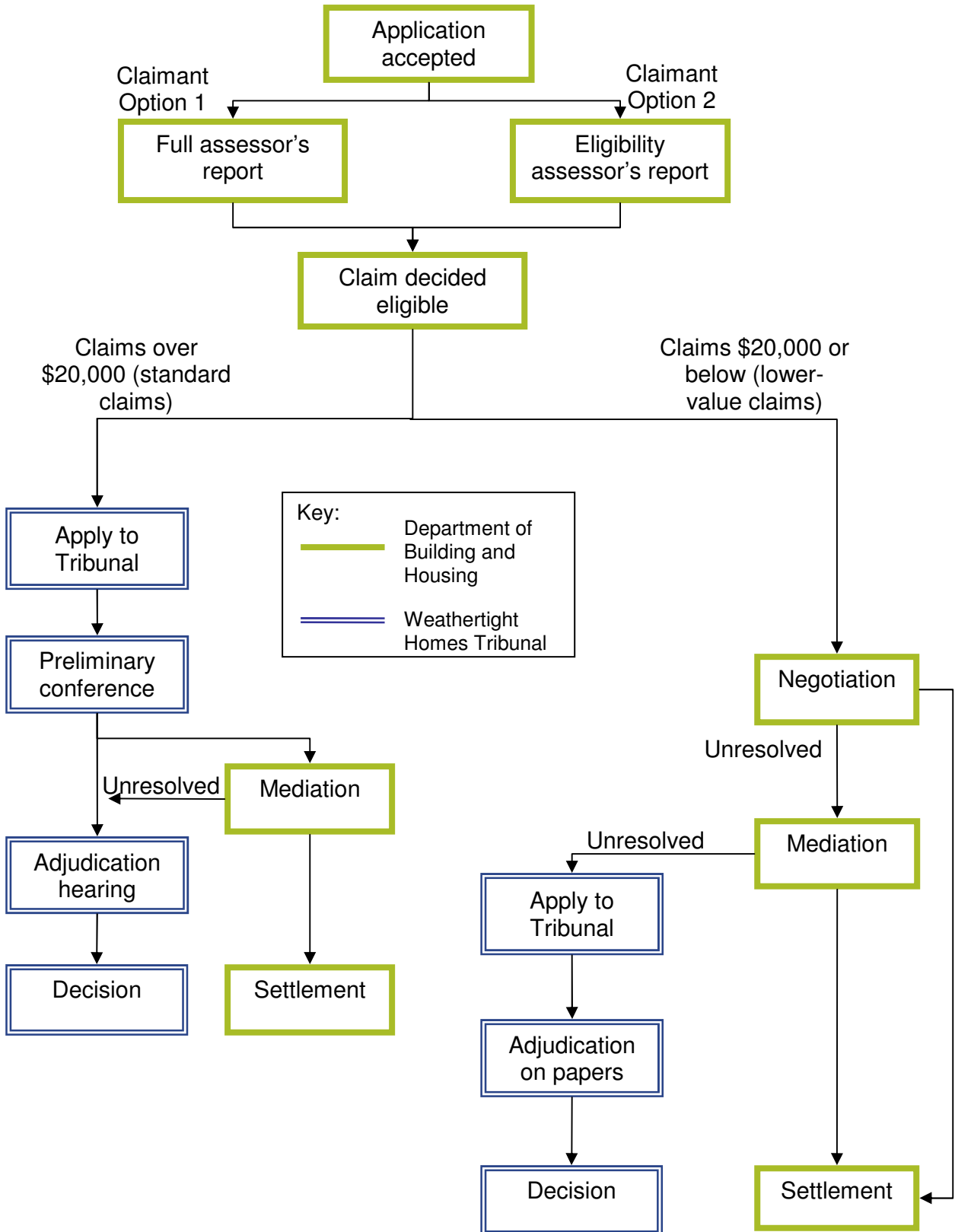
I enclose a copy of the determination <*insert Decision Number*> of the Weathertight Homes Tribunal relating to the above named proceeding and you can also access it on our website at: www.justice.govt.nz/wht

Yours faithfully

Assigned_To
Case Manager
Phone: Assigned_To_Phone
Weathertight Homes Tribunal

Cc: Associated_CC_cd__select_DocumentRecipient_NameAddress_opp

Appendix D – Flowchart summary of claims process



Appendix E – Transitional arrangements

To view documents for Appendix E go to:

<http://www.dbh.govt.nz/transition-info>