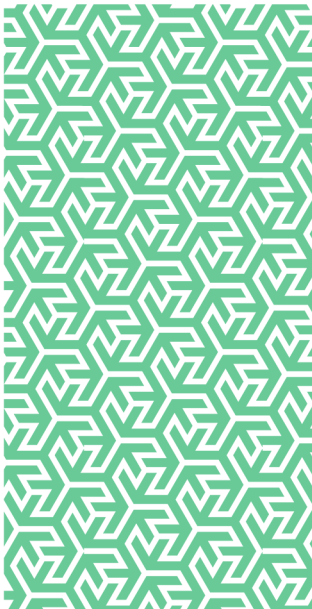


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Risk control

Mould in Landlord Controlled Properties



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Mould in Landlord Controlled Properties

Introduction

In November 2022 Rochdale Coroner's Court heard a case involving the death of the two-year-old child of a tenant of Rochdale Boroughwide Housing¹. This case attracted national media attention and highlighted the need for the government to bring forward housing legislation so that there will be no hiding place for poor landlords. Guidance on the health risks of damp and mould was published by the Department for Levelling Up, Housing and Communities, the Department for Health and Social Care, and the UK Health Security Agency in September 2023².

The introduction of **Awaab's Law**³ in 2025 will target social landlords this includes local Councils and Housing Associations. The mandate, which starts to come into effect in October 2025 will take a three phased approach.

Phase One: As of October 2025, social landlords will be required to investigate and address dangerous damp and mould issues within specified time limits. Landlords will be required to resolve all emergency hazards within 24 hours.

Phase Two: In 2026 the scope will be broadened to include hazards such as extreme temperatures (both cold and heat), risks of falls, structural collapses, fire, electrical hazards, explosions, and general hygiene concerns.

Phase Three: Proposed for 2027, this phase will encompass all remaining hazards as identified in the Housing Health and Safety Rating System (England) Regulations 2005⁴.

Legislation

There are a number of legal standards that private and social landlords must adhere to. A failure in compliance can place tenants at risk and expose the landlord to the prospect of prosecution.

In accordance with **the Housing Act 2004**⁵, properties must be devoid of hazards, particularly those classified as 'category 1' under the Housing Health and Safety Rating System (HHSRS), which is a risk-based assessment tool. This encompasses all forms of dampness, including mould.

The Environmental Protection Act 1990⁶ grants tenants and local councils the authority to initiate legal proceedings in cases where homes are deemed to have a 'statutory nuisance', which refers to conditions that are detrimental to health. For damp and mould to be classified as a statutory nuisance, it must either pose a health risk to the tenant or be considered a nuisance.

The Landlord and Tenant Act 1985⁷, as amended by **the Homes (Fitness for Human Habitation) Act 2018**⁸, introduces new provisions that mandate properties to be

hazard-free, including the presence of damp and mould that renders the dwelling unsuitable for occupation. The well-being of the current occupant may be considered when assessing the suitability of the property.

A home that is deemed fit for human habitation is one that is both safe and healthy, ensuring it is free from damp and mould that could potentially cause substantial harm.

Social housing is required to adhere to **the Decent Homes Standard**⁹ (DHS). To meet this standard, social housing must be devoid of hazardous 'category 1' conditions. However, the DHS also stipulates that social housing should be adequately maintained and offer a satisfactory level of thermal comfort. Neglecting repairs or failing to provide sufficient thermal comfort can lead to issues such as damp and mould. If the Regulator of Social Housing (RSH) determines that a provider has violated these standards, it possesses various legal powers, including enforcement measures.

It is also worthwhile noting that any works related to heating and ventilation systems, as well as window replacements, are considered controlled work. When conducting controlled work, it is imperative to adhere to **the Building Regulations**¹⁰ as a legal obligation.

On 29 February 2024, the Regulator of Social Housing released its updated Consumer Standards¹¹. These standards outline the obligations that all registered providers of social housing are expected to fulfil starting from 1st April 2024.

The Regulator is committed to actively ensuring that registered providers comply with these standards, which includes conducting regular inspections of larger landlords (those with over 1,000 homes) as part of their inspection program.

A Code of Practice has also been produced by the Regulator¹². The Code of Practice places an expectation upon registered providers to undertake regular physical assessments of the inside and the outside of homes where they have a legal responsibility. The assessments should consider whether homes are:

- Safe and free from serious hazards
- Kept in good repair
- Meet relevant standards prescribed in law

Risks to Health

Mould is a significant issue for home residents due to the potential and often serious health problems caused by exposure to mould spores and mould mycotoxins.

Moulds emit spores which can cause a variety of health effects. Some people may maintain particularly sensitivity to them, such as infants, older people and those who suffer from allergies or asthma.

For those who suffer with allergies and asthma, the spores can cause severe reactions.

Many moulds can colonise water-damaged building materials such as plasterboard, wallpaper or wooded finishes¹². During the material decomposition process moulds secrete enzymes into the material to help them to digest it.

Toxins are produced by moulds to give them a competitive edge against other microorganisms, including other moulds. There number of identified toxins is ever growing and to this date well over four hundred have been discovered.

Many mould mycotoxins are harmful to humans and animals when inhaled, ingested, or brought into contact with human skin. Mycotoxins can cause a variety of short term as well as long-term health effects. The toxic symptoms range from instantaneous toxic response to potential long-term teratogenic and carcinogenic effects.

The most common symptoms of mycotoxins exposure include diarrhoea, headaches, skin irritation and fatigue and in worst cases also impaired or altered immune function. Compromised immunity is extremely dangerous because it opens routes for other opportunistic infections.

Black Mould

Black mould spores contain harmful toxins which pose a serious risk to health after extended periods of exposure. They can create or worsen breathing problems, infections, and allergies¹³.

Black mould spreads across materials such as paint, wallpaper, and plaster. It also causes a damp, earthy or musty smell, which you might notice before seeing the mould itself.

Black mould is caused by excessive moisture and / or poor ventilation in a property. It is important that there is enough air circulating in every room of the home to prevent it.

Excessive moisture usually comes from condensation, which can simply be a result of everyday living. Steam from cooking and showering can cause condensation but so can water leaks and structural defects in the home.

Landlords

Determining whether presence of mould in a property is because of a structural defect or tenant's lifestyle habits is sometimes difficult to establish.

If a tenant reports mould, the landlord should arrange an inspection to determine the cause of the mould, and if necessary, make repairs.

Once the problem has been resolved the landlord may also need to repair any damaged plaster or flooring and redecorate the affected areas.

Providing advice to tenants on positive actions to take to reduce the likelihood of mould developing would be beneficial for all parties.

Tenants

It is important to note that tenants have responsibilities too¹⁴.

They should be expected to make sure that the property always remains well-ventilated because good ventilation helps to avoid mould in properties from growing and spreading.

However, they may have been unable to keep the home ventilated because of other disrepair issues which are not their fault. The landlord should remedy any such issues in a reasonable period.

Tenants should be encouraged to:

- Keep the property adequately heated to avoid walls getting too cold
- Dry wet clothes outside when this is possible
- Open bathroom windows during and after showering or taking a bath and ventilate all other areas in the house for at least 15 minutes each day
- Keep a kitchen fan on when they are cooking and open windows if possible
- Keep large appliances and furniture at least an inch away from the walls to avoid tight areas that could accumulate damp and cause mould without it being noticed
- Use mould cleaner to remove any mould immediately if it does occur
- Report cases of damp or mould without delay to ensure the matter can be investigated and if resolved without unreasonable delay

Summary

Any prudent and responsible organisation will regularly review the maintenance of their rented properties to make sure that they are doing everything they can to maintain the wellbeing of their tenants.

Tenants should be empowered to assist in the prevention of mould through the encouragement of behaviours that

reduce the chances of mould developing and to report outbreaks of mould to the landlord without delay.

Where a tenant identifies mould within a rented property it is important that the issue is investigated and addressed promptly by the landlord or agents.

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