

Housing

Ombudsman Service

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One year on follow up report: Spotlight on damp and mould – it's not lifestyle

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Introduction

Many landlords have engaged positively with the Spotlight report '*It's not lifestyle*', since its publication in October 2021. The report has been downloaded over 5,000 times over that period to January 2023.

Following the inquest into Awaab Ishak, the Ombudsman wrote an open letter to all landlords to reinforce the recommendations that were made.

We know that many landlords have been revising their approach to damp and mould. This update aims to provide further insights to landlords as they continue their work in this area and support to governing bodies when reviewing self-assessments against our 26 recommendations.

The report:

- Sets out damp and mould data from our casework in 2021-22
- Summarises the outcome of follow up work with a number of landlords to understand how they are implementing the recommendations, highlighting areas of best practice as well as identifying areas of continued concern
- Contains some of the most salient lessons from our recent casework following a series of severe maladministration findings on damp and mould
- Provides governing bodies with a set of 10 key factors that will influence the success of any action plan to support their scrutiny role

We intend to revisit damp and mould throughout 2023 given the strong focus on this across the sector at present.

Recent damp and mould data

In 2021-22, 13 of the 31 severe maladministration decisions we made were about the handling of damp and mould reports. The landlords involved ranged in size from just over 1,000 homes to almost to 110,000. Of these, four were medium sized landlords of between 1,000 and 10,000 homes and nine are responsible for more than 10,000 homes. Six were local authority landlords and seven were housing associations. This indicates the issues are widespread across the sector, regardless of the size or type of landlord.

The volume of casework and findings have increased significantly. The number of findings we made about the handling of damp, mould and leaks increased from 195 in 2020-21 to 456 in 2021-22, a 134% increase.

The rate at which we upheld those findings increased from 37% to 45%. We had 1,993 enquiries and complaints about damp, mould and leaks in 2020-21 – that figure increased last year to 3,530, a 77% increase and as of December 2022, we had already received 3,969 enquiries and complaints for 2022-23.

Following up on our report

We contacted 40 landlords, 26 of which responded, to ascertain what they had done as a result of the report. These included the landlords who had been in the tables published in the report, those who had responded to the call for evidence and those who were already engaging with us, as well as a random selection of geographically dispersed landlords of varying size.

Landlords found the report to be a useful intervention, although financial implications and restraints were mentioned as a potential barrier to change. 35% of the landlords sampled now have a specific damp and mould policy with streamlined processes for identifying and responding to damp and mould reports

- 12% said they were in the process of implementing one
- 19% have self-assessed against the recommendations
- 41% of landlords who have self-assessed against our recommendations have stated they have not made any changes

Some landlords were exploring damp and mould prevention:

- A risk algorithm that helped identify and prioritise where health and safety is implicated
- A predictive artificial intelligence model to identify properties at risk – with an 80% accuracy rate
- Equipping surveyors with equipment capable of identifying cold spots, thermal bridging and high thermal bypass rates
- Modelling the potential for mould growth by using humidity and temperature sensor data

Areas of good practice in handling damp and mould reports:

- Removing the sole focus on expected resident action from policies and being more open to the consideration of wider factors
- Retrospective risk assessments and prioritisation exercises on the existing reports
- Dedicated apps/video calling services for reporting issues
- Humidity and temperature sensors
- Property MOTs
- Specialist damp and mould teams or 'task forces'
- Root cause analysis modelling
- Dedicated damp and mould dashboard
- Staff training/refresher training
- Voids teams working closely with specialist damp contractors

Areas of concern:

- Replacing the word lifestyle with euphemisms. For example, “internal environmental factors.”
- Considering advice to residents to be sufficient action taken on damp and mould reports
- Examples of wording in guidance; “*get yourself a mould remover kit*” and, “*always keep your home warm*”, without consideration of individual circumstances

Lack of engagement:

There was, however, a notable proportion of landlords who either were unaware of the report’s publication, or, more worryingly, were aware but felt it held no relevance to them and their handling of damp and mould complaints.

This is highly alarming and does not speak to a culture wanting to learn from other sources within the sector.

Key findings from our recent casework

Based on our own casework, there are three priority areas where landlords need to focus:

1) “Hiding behind” legal proceedings

We made a clear recommendation that landlords should continue to use the complaints procedure until legal proceedings have been issued.

Despite this, we continue to see misinterpretation and a lack of clarity around what is meant by legal proceedings. Some complaints policies exclude matters subject to legal proceedings, but are not clear that this does not cover the pre-action protocol. Other policies we have seen incorrectly state that legal proceedings means instructing a solicitor and/or issuing a letter before claim.

The Ombudsman has identified five ‘myths’ related to the handing of claims and complaints; this includes the status of the protocol and access.

Landlords should urgently review policies that prevent appropriate action being taken, and ensure communication is clear and consistent where there is a claim and complaint.

2) Dignity, respect and fairness

Although we have seen some good practice in this area, such as the removal by landlords of the word ‘lifestyle’ from all internal and external publications, it is clear that

the culture of blaming the resident and their lifestyle can still prevail. There is still an issue around language and terminology on some landlords' websites and guidance leaflets, with the onus very much on the resident and a subtext of the solution to the damp and mould being within their control. This may result in meaningful advice being less effective than required, and a lack of empathy and recognition of the pressures on some households, such as fuel poverty and overcrowding.

Tragically, the human impact and consequence of the creeping normalisation of this culture was highlighted by the death of Awaab Ishak. The coroner herself concluded that "too much emphasis was placed on the cause of the mould being due to parents' lifestyle". This misplaced focus meant the landlord did not identify the lack of an adequate ventilation system as a factor. It is evident that "lifestyle" is not just a word: it can be an assumption, an accusation, and a barrier.

It is imperative that each case is dealt with on an individual basis with no assumptions being made about the cause. Landlords may want to carry out empathy and equality training with their staff to help address any potential ingrained bias.

As a minimum, landlords need to ensure they are complying with the relevant legal framework, such as the Equality Act 2010. However, dignity, respect and fairness is much more than a legal definition and a policy. It is an ethos which needs to be set by senior managers and leaders and embedded in daily practice.

Cultural and attitudinal changes in the sector are essential to effect positive change.

3) Good governance, and knowledge & information management

This is the 'golden thread' running throughout our recommendations as it affects both policy and process, as well as front-line delivery. It was disappointing how few landlords had acted on our recommendations to have a dedicated damp and mould policy, despite there being a clear and driving need to have a bespoke response for these reports.

Our Spotlight report also advocates for a risk-based approach to damp and mould. Integral to this is landlords having oversight of their homes. This includes knowing which properties are at risk of damp and mould, which homes need remedial treatment, and crucially, having a clear void standard and mutual exchange policy so that residents do not move into properties with outstanding damp and mould issues. There is also a need to change to public policy, including a review and refresh of the Decent Homes Standard.

Support for governing bodies

The Spotlight report made 26 recommendations against which landlords should be self-assessing their own approach to damp and mould. We have identified 10 key factors that will have an impact on how successful any action plan is in practice. These are set out below to support governing bodies in testing the adequacy of action plans brought to them for review.

From reactive to proactive

Find your silence	<p>Complaints systems are there so people can raise their issues and get them addressed quickly. Landlords should analyse who is not using their complaints process, and why. This will help prevent receiving unexpected Letters Before Claim and/or press enquiries. Most importantly, however, finding your silence will help to ensure parity in accessing the complaints process and help to identify any shortfalls in its reach.</p> <p>Receiving a high volume of complaints is not necessarily indicative of a failing. Rather, it could indicate your complaints process is accessible, you are open and transparent, residents feel they can complain and believe there is a value to doing so. The Housing Ombudsman is as concerned by low levels of complaints as high ones, particularly with larger landlords.</p>
Proactive communication strategy	<p>Advice given to residents needs to be provided in multiple formats. The tone of the advice is key. The resident should not be patronised, insulted or blamed, for example, by making impractical suggestions about keeping the heating on all the time. The onus for resolving the issue should not be placed solely on the resident with a subtext that the issue is within their control.</p> <p>Our call for evidence highlighted there is good practice regarding what actions landlords are taken, but this often isn't communicated effectively to residents.</p>

Take responsibility

Treat residents fairly	<p>Each case needs to be treated individually, even where similar cases have been seen before. This will help to prevent assumptions being made. Behind each report of damp and mould, there is a person or people who may be suffering and that should be the focal point.</p>
Improve record keeping	<p>An intelligence-based approach is essential, but this requires good knowledge and information management. Good record-keeping is an integral part of service provision, not an optional extra. It benefits all concerned. Landlords have clarity on what the issues are and can</p>

	evidence actions they have taken. It helps to prevent complaints being raised and/or escalated as landlords are able to communicate efficiently with residents and answer queries without the need for the resident to continuously chase.
Know your residents	Occupancy factors may include overcrowding and the availability and use of heating and ventilation systems. They also include individual circumstances such as disability, financial hardship, and health conditions.

Focus on the fabric

Check net zero plans	Landlords need to consider whether a green drive will push people into fuel poverty, particularly as electrical heating costs more than gas. Landlords need to be equipped to offer appropriate and empathetic signposting and referrals to agencies who may be able to support.
Know your stock	Structural factors include property age, design, and modifications. For example, certain types of properties such as converted street properties, buildings of concrete construction or traditional solid type construction are more susceptible to damp and mould than others and can require significant investment to address the issues. Property ‘MOTs’ and audits can help landlords to identify which of their properties are at risk of damp and mould, or already have this problem and works are needed before making this property available.

Zero tolerance culture

Dedicated damp and mould strategy	This should include looking wider than the individual report (s) raised and look for themes and trends. It also requires a review of parallel processes, such as mutual exchange and the void standard, to ensure these are aligned with the damp and mould strategy.
Empower staff	We encourage landlords to consider the Chartered Institute of Housing’s Professional Standards if they have not already done so. In particular the ‘Skilled’ standard requires housing professionals to ‘solve problems, be flexible, adaptable and respond to situations creatively, in the moment’ and considers practical application of this standard to include ‘taking pre-emptive action and proactively problem solving’ and ‘finding solutions, even if they lie outside “normal” activity.’
Use the complaints system to learn	Continue to use the complaints process, even where legal action has been suggested, as there still may be an opportunity to resolve the matter.

	Analyse the complaints received to look for common as well as emerging themes and trends. Use this insight to make improvements to your service delivery and/or complaints process.
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Case studies

Case study one

A severe maladministration case after damp and mould issues were left for over 10 years. The landlord identified works that needed doing but failed to carry them out, having a detrimental impact on the resident and her son's health.

In our investigation it was clear there were serious problems with damp and mould at the property, as well as related issues with slugs for a substantial period of time which were reported as an infestation on a number of occasions, and that required repairs were not carried out. The landlord also referred to the issues being due to "lifestyle choices".

Failure to carry out works was a serious failure, especially given the length of time and the severity of the issues.

We ordered the landlord to apologise and pay £5,000 compensation as well as completing remediation works or finding suitable accommodation for the resident. We also ordered a senior management review of the case.

Following our investigation, the landlord's learning from this case includes the introduction of specialist surveys and frontline training for property teams.

Case study two

A resident reported a damp and mould issue to the landlord and requested for the guttering and vents to be checked. Within timeframes, an appointment was booked but subsequently missed due to delays on other jobs. When the repair job was rescheduled, the work was undertaken and the damp and mould removed.

The landlord apologised for the missed appointment and delay, offering compensation for both of these.

Therefore, the landlord responded to the delay reasonably and informed the resident of the next steps in the repair procedure, and clearly set expectations of the next steps.

We recognised that there has been service failure which had an impact on the complainant but was of short duration and may not have significantly affected the overall outcome for the complainant.

The resident experienced inconvenience due to the late cancellation and subsequent delay in the repair. However, this delay was short in nature and unavoidable. Therefore, the compensation amount was reasonable in view of all the circumstances.

Case study three

A resident had been reporting damp and mould in her bedroom caused by rotten window frames in her flat. She said she was not sleeping in the bedroom and had got into debt by buying a dehumidifier.

The landlord carried out mould treatment and responded to the resident's complaint saying it would consider her request for new windows.

At the end of 2020 the resident contacted the landlord about damp and mould in her bedroom again, asking it to repair or replace the windows. The landlord said it was a case of condensation that had not been managed by the resident. It said she was responsible for managing the property in a reasonable manner including washing the mould. In its final response, the landlord said it could not offer an immediate replacement, offered to arrange a further inspection and later found that the windows were beyond repair.

Our investigation found that there was an unreasonable delay when the resident raised further concerns, due to the impact of the damp and mould.

There was no evidence that it considered if the property was uninhabitable and no evidence to support the landlord's finding that the condensation was due to the resident's inaction. This was unreasonable as it had concluded that the windows were beyond repair.

We made a finding of severe maladministration and ordered the landlord to pay £2,175 compensation. The landlord said it will now carry out surveys when there is a fitness for habitation query and will do more to support residents where repairs or reinvestment are delayed.

Useful links

- [Spotlight on damp and mould: It's not lifestyle - October 2021](#)

- Open letter to member landlords following the inquest into Awaab Ishak - November 2022
- Guidance on Pre-Action Protocol for Housing Conditions Claims and service complaints
- Podcast exploring our damp and mould report with the Ombudsman

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