

# The Housing Sector and Mould - Part Three

The actions of the Regulator – what lessons can be learnt?



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As part of our three part series highlighting the risk of damp and mould in the home environment and the particular duties which apply to the housing sector, we identified both health and safety and children's safeguarding issues that had been recognised in the recent inquest of Awaab Ishak, whose tragic death resulted following exposure to mould in his family home.

In this third article of the series, we discuss the Regulator of Social Housing's (the Regulator) recent action against Rochdale Boroughwide Housing (RBH), following an investigation that found widespread failings in relation to damp and mould, beyond the specific circumstances of Awaab Ishak's death.

The Regulator's strong stance emphasises the commitment to drive a stronger and more proactive regulatory regime in respect of damp and mould issues and serves as a further reminder to the housing sector that a failure to comply with the consumer standards will have significant consequences.

## Action taken by the Regulator of Social Housing

As a registered provider of social housing, RBH is required to meet four consumer standards to ensure that tenants are provided with quality accommodation, choice, protection, and the ability to hold their landlord to account. With particular regard to the risk of damp and mould in the home environment, there are two key consumer standards that should be complied with; the Home Standard, which sets expectations for registered providers to provide tenants with quality accommodation and cost-effective repairs and maintenance, and the Tenant Involvement and Empowerment Standard, which outlines the expectation to treat tenants with fairness and respect and to provide information and communication appropriate to the diverse needs of tenants.

Following the recent investigation sparked by the inquest of Awaab Ishak, the Regulator has published a regulatory notice outlining findings that RBH had breached both sets of consumer standards and that as a result, there is actual and potential serious harm to RBH's tenants. In particular, the Regulator was highly critical of RBH's continued failure to act in a timely and proactive manner to protect tenants from potential harm after the damp and mould risks had been highlighted by Awaab's death. With regard to the consumer standards, the Regulator of Social Housing outlined a number of breaches, including:



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- Weaknesses identified within RBH's internal IT systems, coupled with poor communication across the organisation, which meant that vital information had not been passed on to those responsible for repairs and maintenance. This limited the ability of responsible staff to make informed decisions and respond quickly and effectively to the needs of Awaab and a number of other tenants.
- Having waited almost two years after Awaab's death to check other homes for damp and mould risks, RBH found that almost 80% of properties inspected had issues with damp and mould. RBH had missed multiple opportunities throughout this two-year period to proactively protect more tenants from potential harm.
- RBH had made incorrect assumptions about the cause of damp and mould in Awaab's home, disregarding the family's concerns and allowing such assumptions to affect decisions surrounding how the damp and mould issues would be dealt with. This inaction undermined RBH's responsibility to treat tenants with fairness and respect and to communicate in a way that is appropriate to the diverse needs of tenants.

Separately, the Regulator has also published a more detailed regulatory judgment which downgrades RBH's governance to a non-compliant G3 grade. In comparison to a G4 grading, which signifies that the provider is subject to regulatory intervention or enforcement action, a G3 rating indicates that RBH are currently working with the Regulator to address the concerns raised. Measures have included the formation of a new Damp and Mould Taskforce and a £1.2 million programme to improve ventilation in all RBH properties. However, the Regulator has made it clear that RBH will need to address all the failures identified or risk further enforcement action.

The Regulator has already written to all registered providers of social housing to highlight the legal duty on landlords' to take action to protect tenants from hazardous damp and mould, with providers owning 1,000 homes or more needing to provide the Regulator with evidence of:

- their approach to assessing the extent of damp and mould issues in their homes
- their most recent assessment of the extent of damp and mould hazards
- the action they are taking to remedy them, and
- the process they have to identify and deal promptly with damp and mould cases when they are raised by tenants.

## Lessons to be learnt

The Regulator's response to RBH's failings sends a clear message to other registered providers and is indicative of the Regulator's evolving approach, as it begins to adapt to a new role in regulating the consumer standards.

As highlighted in the first article of the series, landlords need to take responsibility for damp and mould issues rather than blaming issues on the residents' lifestyle and delaying an effective diagnosis of the issues raised. This means treating tenants with fairness and respect, valuing their tenants' voice and actively listening to and understanding their tenants' needs.

Where damp and mould issues are identified, landlords also need to have robust systems in place to promptly and effectively resolve these issues and ensure the provision of quality accommodation and effective maintenance. It is increasingly crucial that landlords have an effective approach in place given the expected rise in damp and mould issues resulting from the cost-of-living crisis, which may expose tenants to an increased risk of harm.

We are aware that providers are taking the risks seriously but this is a widespread issue which is likely to involve a large volume of housing stock and so solutions are not quick or easy. Many providers have taken initial steps such as reminding tenants to report issues around damp and mould, some have changed their advice around dealing with such issues from changes to lifestyle to more repair work, and many have set up internal task forces to discuss wider approaches.

In addition, more widely, registered providers need to be proactively considering their wider compliance with the existing consumer standards in anticipation of the upcoming reforms to the Regulator's role – the Regulator has emphasised the need for organisations to begin this process now, rather than wait until the reforms are implemented.

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