Housing Ombudsman Service

Spotlight on: Damp and mould

It's not lifestyle

October 2021

Contents

Foreword

When I started as the Ombudsman, one of the first cases I saw concerned damp and mould. The issues we investigated, and the experiences of residents living with it are now all too familiar.

I feel strongly these cases can be different. There are many and varying root causes that lead to damp and mould in the cases we investigate; but the impact on the resident is a thread that runs between them. You can see the distress, disruption, even embarrassment, felt by the resident. You can see the evident concern about their health and well-being, especially mental health; the impact on any children. Whether or not we uphold their complaint, this experience is real, and it is profound. It also reveals the strain on the resident and landlord relationship; the loss of trust and reputation.

These are circumstances that no one working in social housing should want to see. We decided to produce this report because of the high uphold rate and reoccurring reasons leading to maladministration. In the context of Covid-19, looking at housing conditions felt important, and the media stories we have seen throughout this year has reinforced the need for an examination. I know many housing professionals, who are passionate and committed to improving housing conditions, are alarmed by the stories they have seen. I recognise the challenges sometimes presented for landlords in tackling this problem; overcrowding, poverty, the age and design of homes. That's why this report, more than any other investigation we have done, identifies best practice and innovation within the sector.

Yet evidently there are also other deep-rooted reasons why landlords are sometimes falling short, evidenced by our high maladministration rate. These require changes in culture, behaviour and approach by them; from being reactive to proactive, and from inferring blame to taking responsibility. Our unique and entirely independent perspective as an Ombudsman provides important lessons and practical recommendations that are within the landlord's control. Our 26 recommendations are based on hundreds of investigations across 142 landlords – a really powerful body of evidence – more than 500 responses to our call for evidence and candid discussions with residents and landlords. It contains learning for everyone whatever their role. Nor is any landlord exempt from this learning; yes, urban high-rise presents more challenges, but one of the landlords we investigated manages fewer than 50 homes.

Our view is that landlords should adopt a zero-tolerance approach to damp and mould. This does not mean zero cases. But it does mean less fatalism. Fatalism that can sometimes result in a loss of empathy. The policy and legislative basis for taking a zero-tolerance attitude is compelling. It is clear many landlords are reacting to

residents rather than proactively reviewing the homes and buildings they manage or lease. Landlords should be on the front foot identifying potential issues which, given the age of some social housing, are likely to be more extensive than we have seen. Intelligence, data, and complaints should inform this strategic approach, which we know that some landlords are successfully taking. When there is a problem, effective diagnosis is critical. My view is landlords would also benefit from a consolidated and comprehensive policy in relation to damp and mould if they have not already adopted one. Establishing a clear and transparent framework on the landlord's approach to diagnosis and use of independent expertise; the steps they would take depending on whether the issues are structural or not; timescales, effective communication and appropriate mitigations; and after care. This approach would give the landlord and its residents insight and clarity. If such a comprehensive policy already exists, it may be time to review it.

This leads to the most sensitive area – the inference of blame on the resident and the associated onus on them when it is often not solely their issue. Our call for evidence revealed an immense frustration and sense of unfairness at the information residents are sometimes provided by landlords about issues like condensation and mould. This reoccurred so often it is appropriate to call it systemic. I met with residents who spoke about feeling patronised, even stigmatised. While I appreciate this is not intended, I would urge engagement with residents to review communication and literature, working together with them to co-design meaningful advice that shares responsibility and supports them at a distressing time. In doing so I hope the word 'lifestyle', when it may be a consequence of limited choices, is banished from the vernacular.

Although these steps may reduce complaints, it remains critical for complaint procedures to be accessible and responsive. Landlords need to 'find their silences' where complaints are not being raised when all indicators suggest there may be issues. It is profoundly wrong for any resident to feel their best option is to resort to the courts or media. Effective complaint handling is preferable to increasing disrepair claims, which may take longer or leave the issue unresolved. It is also important to remember the Ombudsman may order an independent inspection following an investigation and actions to resolve repair issues. It remains the individual's choice to pursue legal action, but the pre-action protocol on housing conditions encourages the use of alternative dispute resolution. Yet we have seen the complaints process being closed once the protocol commences. This is a missed opportunity to use the complaints process to its fullest potential and resolve issues in a less adversarial way. It is my opinion that the protocol does not constitute proceedings. Our jurisdiction guidance for landlords has been revised to make this clear and how complaint procedures and the protocol should work together is set out in this report. This should empower complaints teams to resolve issues, and I am also asking the Ministry of Justice to strengthen the protocol further to promote the use of the complaint procedure.

When we took the decision to conduct this investigation, damp and mould was not yet the focus of debate about social housing, but we have seen attention shift over the course of the last six months. Alongside building safety and net zero, it is clear

that a strategic response to damp and mould is required, particularly in the context of decarbonisation. The Decent Homes review is also an opportunity to consider these issues afresh. A better, fairer, more reasonable approach can be achieved and I would encourage landlords to share how they may do things differently with residents over the coming months.

Richard Blakeway
Housing Ombudsman

Our jurisdiction

We can consider complaints from the following people[1]

- A person who has a lease, tenancy, licence to occupy, service agreement or other arrangement to occupy premises owned or managed by a landlord who is a member of the Housing Ombudsman Scheme
- An ex-occupier if they had a legal relationship with the member at the time that the matter complained of arose
- A representative or person who has authority to make a complaint on behalf of any of the people listed above

This means that, as well as considering complaints from tenants, we can also accept complaints from leaseholders and shared owners. The only category of homeowners who are not eligible to bring a complaint to the Housing Ombudsman about a member landlord are those who own the freehold of their home.

However we cannot consider complaints where:

- The landlord/managing agent is not a member of the scheme
- The complainant does not have a landlord/tenant relationship, including leaseholders and shared owners, with a member landlord/managing agent
- The landlord complaints procedure has not been exhausted
- They concern matters that are, or have been, the subject of legal proceedings and where the complainant has or had the opportunity to raise the subject matter of the complaint as part of those proceedings
- That involve the level of service charges or costs associated with major works
- They fall within the jurisdiction of another Ombudsman, regulator or complaint handling body.

[1] Para. 25 of the Housing Ombudsman Scheme lists the people who can make a complaint to the Ombudsman.

Summary of recommendations for senior management

Chapter 1: From reactive to proactive

1	Landlords should adopt a zero-tolerance approach to damp and mould interventions. Landlords should review their current strategy and consider whether their approach will achieve this.
2	Landlords should consider whether they require an overall framework, or policy, to address damp and mould which would cover each area where the landlord may be required to act. This would include any proactive interventions, its approach to diagnosis, actions it considers appropriate in different circumstances, effective communication and aftercare.
3	Landlords should review the accessibility and use of their systems for reporting repairs and making complaints to 'find their silence'.
4	Landlords should identify opportunities for extending the scope of their diagnosis within buildings, for example by examining neighbouring properties, to ensure the response early on is as effective as possible.
5	Landlords should implement a data driven, risk-based approach with respect to damp and mould. This will reduce over reliance on residents to report issues, help landlords identify hidden issues and support landlords to anticipate and prioritise interventions before a complaint or disrepair claim is made.
6	Where properties are identified for future disposal or are within an area marked for regeneration, landlords should proactively satisfy themselves that residents do not receive a poorer standard of service or lower living conditions, that steps are taken to avoid homes degrading to an unacceptable condition and that they regularly engage and communicate with these residents.
7	Landlords should avoid taking actions that solely place the onus on the resident. They should evaluate what mitigations they can put in place to support residents in cases where structural interventions are not appropriate and satisfy themselves they are taking all reasonable steps.
8	Together with residents, landlords should review the information, materials and support provided to residents to ensure that these strike the right tone and are effective in helping residents to avoid damp and mould in their properties.

9	Landlords should be more transparent with residents involved in mutual exchanges and make the most of every opportunity to identify and address damp and mould, including visits and void periods.
10	Landlords should ensure their strategy for delivering net zero carbon homes considers and plans for how they can identify and respond to potential unintended consequences around damp and mould.

Chapter 2: From inferring blame to taking responsibility

11	Landlords should review, alongside residents, their initial response to reports of damp and mould to ensure they avoid automatically apportioning blame or using language that leaves residents feeling blamed.
12	Landlords should consider their current approach to record keeping and satisfy themselves it is sufficiently accurate and robust. We would encourage landlords to go further and consider whether their record keeping systems and processes support a risk-based approach to damp and mould.
13	Landlords should ensure that their responses to reports of damp and mould are timely and reflect the urgency of the issue.
14	Landlords should review the number of missed appointments in relation to damp and mould cases and, depending on the outcome of any review, consider what steps may be required to reduce them.
15	Landlords should ensure that their staff, whether in-house or contractors, have the ability to identify and report early signs of damp and mould.
16	Landlords should take steps to identify and resolve any skills gaps they may have, ensuring their staff and contractors have appropriate expertise to properly diagnose and respond to reports of damp and mould.
17	Landlords should ensure that they clearly and regularly communicate with their residents regarding actions taken or otherwise to resolve reports of damp and mould. Landlords should review and update any associated processes and policies accordingly.
18	Landlords must ensure there is effective internal communication between their teams and departments, and ensure that one individual or team has overall responsibility for ensuring complaints or reports are resolved, including follow up or aftercare.
19	Landlords should ensure that their complaints policy is effective and in line with the Complaint Handling Code, with clear compensation and redress guidance. Remedies should be commensurate to the distress and inconvenience caused to the resident, whilst recognising that each case is individual and should be considered on its own merits.

Chapter 3: From disrepair claims to resolution

20	Landlords need to ensure they can identify complex cases at an early stage, and have a strategy for keeping residents informed and effective resolution.
21	Landlords should identify where an independent, mutually agreed and suitably qualified surveyor should be used, share the outcomes of all surveys and inspections with residents to help them understand the findings and be clear on next steps. Landlords should then act on accepted survey recommendations in a timely manner.
22	Where extensive works may be required, landlords should consider the individual circumstances of the household, including any vulnerabilities, and whether or not it is appropriate to move resident(s) out of their home at an early stage.
23	Landlords should promote the benefits of their complaints process and the Ombudsman to their residents as an appropriate and effective route to resolving disputes.
24	Landlords should continue to use the complaints procedure when the pre-action protocol has commenced and until legal proceedings have been issued to maximise the opportunities to resolve disputes outside of court. Landlords should ensure their approach is consistent with our jurisdiction guidance and their legal and complaint teams work together effectively where an issue is being pursued through the complaints process and protocol.

Chapter 4: From a complaints to a learning culture

25	Landlords should consider how best to share learning from complaints and the positive impact of changes made as a result within the organisation and externally. Systems should allow the landlord to analyse their complaints data effectively and identify themes, trends and learning opportunities.
26	Landlords should ensure they treat residents reporting damp and mould with respect and empathy. The distress and inconvenience experienced by residents in this area is some of the most profound we have seen, and this needs to be reflected in the tone and approach of the complaint handling.

Background and methodology

Overview

No one can have failed to have been shocked by the conditions some residents evidenced in media coverage earlier this year. While most social housing is of a decent standard it is clear this is an area where, compared to others, residents feel a great deal of frustration and dissatisfaction. Cases like those shown in the media are thankfully a minority, however, even one such case is one too many. The recent media coverage clearly demonstrates the significant impact on residents when things do go wrong, complaints are not responded to appropriately, and lessons are not learned.

There is a strong legislative and policy basis to prevent these issues arising but it is clear that despite this, residents are still facing problems, sometimes extreme problems, and landlords are struggling to resolve these. This means we need a fresh approach.

This report is published as we move into the time of year when damp and mould is more prevalent and a rise in reports of damp and mould is probable this year as people have been spending more time at home due to the Covid-19 pandemic and subsequent changes to working patterns.

Following each news report, we reviewed our own casebook and identified that none of the cases featured had been referred to us for consideration. We are deeply concerned that we did not see any of those cases where we could have helped. The call for evidence helped us 'find our silence' and we have since seen a 50% increase in complaints about damp and mould.

The media investigation and our call for evidence highlight how vital it is that landlord complaint processes are accessible and effective for residents. Clearly there is also an awareness issue with our own service, and we have initiated a project to widen access to complaints in response[2].

The nature of an Ombudsman's role means that we are more likely to see cases where things have gone wrong than cases where they have gone right. We also know that some landlords are doing excellent work in this space. As such we have highlighted examples of good practice throughout this report to help landlords make improvements to both their services and residents' lives.

This report prompts learning for three groups within landlords. Our case studies provide learning points for case handlers. Our recommendations are aimed at senior management to consider their organisation's approach. In our final chapter we ask a series of questions for governing bodies to discuss and seek assurance on, and

[2] Housing Ombudsman launches project on widening access to complaints - Housing Ombudsman (housing-ombudsman.org.uk)

strongly encourage any learning as a result of this report, or wider work by the landlord, be shared with residents.

Legislative requirements

There are legislative requirements setting out what is considered to be a decent home. The Decent Homes Standard was updated in 2006 to take account of the Housing Health and Safety Rating System (HHSRS), which replaced the Housing Fitness Standard[1]. According to the Standard, for a home to be considered 'decent' it must:

1. Meet the current statutory minimum standard for housing
2. Be in a reasonable state of repair
3. Have reasonably modern facilities and services, and
4. Provide a reasonable degree of thermal comfort.

However, the Government's Social Housing White Paper identified that the Decent Homes Standard does not "reflect present day concerns".

The Homes (Fitness for Human Habitation) Act 2018 amended the Landlord and Tenant Act 1985, with the aim of ensuring that all rented accommodation is fit for human habitation. While it did not create new obligations for landlords, it required landlords to ensure their properties are fit for human habitation at the beginning of, and throughout, the tenancy. The Landlord and Tenant Act does not define "fit for human habitation", but consideration should be given to repair, stability, freedom from damp, internal arrangement, natural lighting, ventilation, water supply, drainage and sanitary conveniences, facilities for preparation and cooking of food, the disposal of wastewater and any prescribed hazard.

The Act also strengthened tenants' means of redress where landlords do not fulfil their obligations, with the expectation that if tenants are empowered to take action against their landlord, standards will improve. The Act gives the tenant the right to take their landlord to court and can therefore be costly if the court does not find in the landlord's favour. For registered providers, it has led to an increase in speculative disrepair claims from solicitors on a "no win no fee" basis. This is not necessarily the most effective route to resolution for residents as some registered providers will settle the claim out of court while the underlying disrepair issue remains outstanding.

Social housing compared to the private rented sector

According to the 2019-20 English Housing Survey[3], serious condensation and mould problems were present in at least one room in 133,000 (3%) social sector homes and 192,000 (5%) of homes lacked thermal comfort. Homes built between 1981 and 1990 were most likely to fail the decent homes standard for thermal comfort.

Although damp and mould is not specifically mentioned in relation to private rented sector (PRS) properties, the survey does note that the PRS had the highest proportion of non-decent homes (23%, 1.1 million). In comparison, the social housing sector had the lowest proportion of non-decent homes (12%, 504,000). We heard

[3] English Housing Survey 2019 to 2020: headline report - GOV.UK (www.gov.uk)

from private tenants in our call for evidence, many facing problems with damp and mould. Given our mandatory membership consists of social landlords, the PRS is considered outside the scope of our recommendations but private tenants' responses evidence the need for redress to be strengthened across the housing market.

Health and well-being

One of the areas where we see damp and mould having the greatest impact is on health and wellbeing. This came across repeatedly in our casework and in our call for evidence, with distress and health issues referenced in almost every case. While our investigations do not find causation with health conditions, we do consider the detriment, and this is a reoccurring factor where we find maladministration.

Residents living in homes with damp and mould may be more likely to have respiratory problems, allergies, asthma, and other conditions that impact on their immune system[4]. This, set against the context of the COVID-19 pandemic, highlights the potential seriousness of this issue for residents. There are also other broader impacts on the mental health, education and career prospects of residents living with damp and mould, highlighting why there is a real urgency for change.

Methodology and structure of the report

In addition to reviewing our casebook for the last two financial years, we also conducted a call for evidence that ran for seven weeks during April to June 2021, asking for assistance from both the public and sector professionals to inform our understanding. We held discussions with landlords and with several representative bodies, including the National Housing Federation, the G15 organisation and the Northern Housing Consortium. We also held discussions with our Resident Panel and the Tenant Participation Advisory Service.

This report will set out the data from our casebook before moving onto the insight we gathered from the call for evidence. We will then explore the four themes identified by the datasets and our discussions, making recommendations, and using case examples to illustrate our findings, before drawing conclusions and setting out the next steps.

[4] Can damp and mould affect my health? - NHS (www.nhs.uk)

Key data

Overall complaint volumes and outcomes – April 2019 to March 2021

1,595 complaints from residents about damp and mould were reported while within the landlord's complaint process and were assisted by our Dispute Support Team

410 damp and mould complaints were formally investigated because the resident was dissatisfied with the landlord's response

56% of cases we investigated resulted in findings of maladministration

976 individual findings were made within those complaints

501 orders were made to put something right with 288 additional recommendations

£123,094.57 in compensation was ordered across 222 cases, with sums over £1,000 being ordered in 21 cases

Maladministration findings related to landlord size

We investigated 142 landlords within our formal remit, finding maladministration against 92 of them; nearly two thirds of the landlords we investigated. As would be expected, the majority (52%) of the landlords we investigated were large landlords who account for the majority of social homes.

Landlords investigated by size			
	Under 1,000 homes	**Between 1,000 and 10,000 homes**	**Over 10,000 homes**
Number	8	60	74
Percentage	6%	42%	52%

The following table shows a breakdown of complaints maladministration findings by landlord size.

Maladministration findings by landlord size			
	Under 1,000 homes	**Between 1,000 and 10,000 homes**	**Over 10,000 homes**
Number	3	39	50
Percentage	3%	42%	55%

The following table shows the maladministration rate – the proportion of their cases that we find maladministration on – by reference to landlord size.

Maladministration rate by landlord size			
	Under 1000 homes	**Between 1000 and 10,000 homes**	**Over 10,000 homes**
Percentage	38%	65%	67%

While the data may appear to indicate that there is less of a problem for smaller landlords, this is not necessarily the case as will be discussed in later chapters.

Landlord performance

The following table shows landlord performance in relation to cases concerning damp and mould.

The table is ordered by maladministration (mal) findings per 10,000 homes to make a fairer comparison that accounts for the size of the landlord. The table also includes other important factors including amount of compensation paid and the maladministration rate as a percentage of all cases investigated by the Ombudsman.

All of these landlords are large landlords with more than 10,000 homes and this correlates with the perception that local councils and landlords covering high density urban areas, with a greater prevalence of flats and converted properties, have the highest maladministration rate.

Overall						
Landlord	**All damp and mould cases**	**Cases with mal**	**% mal**	**Number of homes**	**Total compensation**	**Mal per 10,000 homes**
Hammersmith and Fulham Council	20	13	65	12,022	£8,785.00	10.8
A2Dominion Housing Group	11	10	91	33,106	£10,037.22	3.0
Camden Council	10	8	80	32,351	£11,692.00	2.5
Lambeth Council	10	5	50	24,051	£2,882.00	2.0
Southwark Council	13	10	77	53,800	£3,450.00	1.9
Leeds City Council	14	8	57	56,654	£1,967.00	1.4
Clarion Housing Association	21	14	67	109,545	£5,557.00	1.3
Birmingham City Council	13	8	62	65,600	£525.00	1.2
Sanctuary Housing Association	12	6	50	75,831	£9,375.15	0.8
London & Quadrant Housing Trust	12	6	50	79,811	£3,382.47	0.8

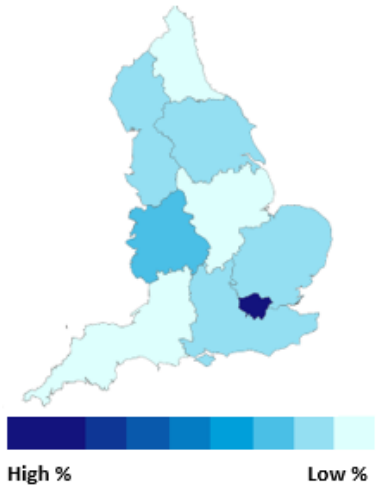
The following table shows landlord performance in relation to cases concerning damp and mould for landlords with between 1000 and 10,000 homes.

1,000 to 10,000 homes						
Landlord	**All damp and mould cases**	**Cases with mal**	**% mal**	**Number of homes**	**Total compensation**	**Mal per 10,000 homes**
Harrow Council	4	3	75	5,969	£774.00	5.0
Newlon Housing Trust	4	3	75	7,241	£4566.50	4.1
Waltham Forest Council	5	1	20	9,653	£1,130	1.0

No table has been produced for landlords with less than 1,000 homes as the data for this group is highly variable and does not enable meaningful comparisons to be made.

Heat map of maladministration cases

The maps below show the geographical locations of all damp and mould cases with findings of maladministration and the geographical distribution of social housing. Although this clearly demonstrates a disproportionately higher proportion of cases in London, this could be influenced by other factors such as age profile and occupancy levels (i.e. overcrowding) of homes.

Region	% of total mal	Map of mal cases
London	57%	
West Midlands	11%	
South East	8%	
East of England	6%	
Yorkshire and the Humber	6%	
North West	6%	
East Midlands	4%	
South West	2%	
North East	0.5%	

Heat map of distribution of social housing[5]

Region	% of total	Distribution map
London	19%	
West Midlands	14%	
South East	13%	
East of England	11%	
Yorkshire and the Humber	10%	
North West	10%	
East Midlands	8%	
South West	8%	
North East	7%	

[5] We have been unable to find postcode data for leasehold properties where the freeholder, head leaseholder or managing agent is a social landlord. Consequently, the number of homes represented are for social rent only.

Landlord response to fixing damp and mould problems

This data is a subset of the overall data above showing landlord performance in relation to dealing with reports of damp and mould. This analysis uses individual findings from the cases we investigated; a single case may have one or more findings associated with it.

We found maladministration on issues related to damp and mould in 40% of cases

373 findings

286 orders with 189 additional recommendations

£87,553.97 compensation in total was ordered in 177 cases

The table below shows landlords with findings in relation to damp and mould. Again, local councils and landlords with portfolios in high density urban areas have the highest maladministration rate.

Landlord	All damp and mould findings	Mal findings	mal %	Number of homes	Mal rate per 10,000 homes
Hammersmith and Fulham Council	23	15	65%	12,022	12.5
Haringey Council	10	6	60%	15,106	4.0
A2Dominion Housing Group Limited	12	11	92%	33,106	3.3
Camden Council	12	9	75%	32,351	2.8
Lambeth Council	11	6	55%	24,051	2.5
Southwark Council	13	10	77%	53,800	1.9
Leeds City Council	16	9	56%	56,654	1.6
Birmingham City Council	14	9	64%	65,600	1.4
Clarion Housing Association Limited	21	14	67%	109,545	1.3
Islington Council	11	4	36%	34,594	1.2
Sanctuary Housing Association	16	8	50%	75,831	1.1
London & Quadrant Housing Trust	14	8	57%	79,811	1.0
Notting Hill Genesis	10	4	40%	50,466	0.8

Landlord complaint handling performance

This data is a subset of the overall data above showing landlord performance in relation to complaint handling when the substantive issue was damp and mould. This analysis uses individual findings from the cases we investigated; a single case may have one or more findings associated with it.

We found maladministration on complaint handling in 64% of cases

144 findings

105 orders with 53 additional recommendations

£12,556
compensation in total was ordered in 84 cases

The table below shows landlords with findings in relation to complaint handling with respect to damp and mould, which is a universal factor and not directly related to the location of the landlord portfolio. Local councils generally have the highest maladministration rate.

Landlord	All findings	Mal findings	Mal %	Number of homes	Mal rate per 10,000 homes
Hammersmith and Fulham Council	7	4	57%	12,022	3.3
Camden Council	8	6	75%	32,351	1.9
Lambeth Council	6	4	67%	24,051	1.7
Southwark Council	6	6	100%	53,800	1.1
Birmingham City Council	5	5	100%	65,600	0.8
Clarion Housing Association Limited	7	6	86%	109,545	0.6
Sanctuary Housing Association	5	4	80%	75,831	0.5

Call for Evidence insights

Under the new Housing Ombudsman Scheme, we can conduct investigations into potential systemic and thematic issues. In March 2021 we published our systemic framework setting out how we look beyond individual disputes to identify key issues that impact on residents and landlords' services. A review of our case data identified that damp and mould featured significantly in our work and that compensation levels are proportionately higher, reflecting that damp and mould can have a significant impact on residents.

We used our new powers to issue a call for evidence. We invited submissions from all stakeholders, including member landlords, their residents and relevant housing professionals. The call for evidence opened on 13 April 2021 and ran until 4 June 2021.

Increased awareness

Prior to the call for evidence, we received an average of 6-7 damp and mould cases per week. This has increased by approximately 50%. During the call for evidence itself, we received 523 cases relating to damp and mould, 464 of which were from member landlords with the rest from the private sector. We referred 76 responses to the call for evidence to our dispute support team for follow up action as these were of concern.

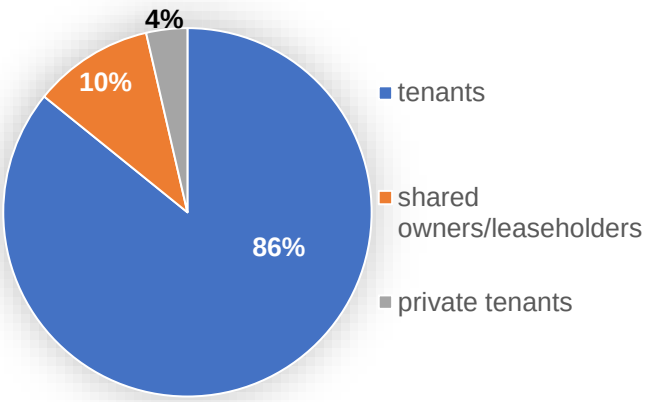
Call for evidence survey responses

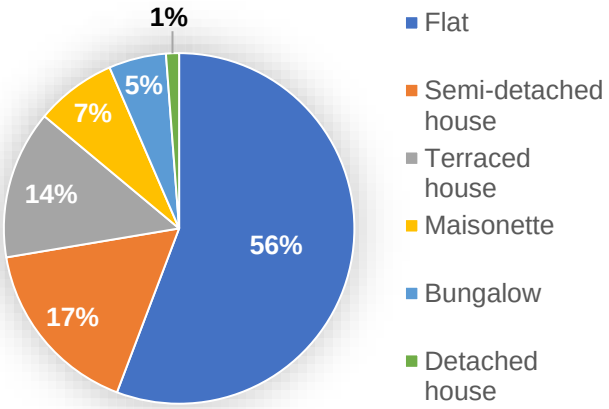
We also received 20 written responses from landlords and other relevant agencies including Citizens Advice, the National Housing Federation (NHF), the Chartered Institute of Public Health, and the National Federation of ALMOs. While these written submissions have been considered and insights from them do feature throughout the report, they have not been included in our data tables.

According to survey responses, the top three causes of damp and mould are:

Condensation was fourth with 18%. It should be noted that these causes are often not mutually exclusive, and our respondents acknowledged that some or all of the causes may be present in any particular case.

Resident response by residency type



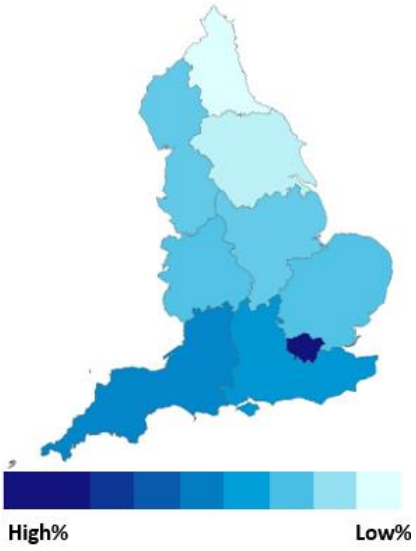


Of the 416 residents that responded to the survey, 357 said they were tenants, 44 said they were shared owners/leaseholders and 15 said they were private tenants. The Ombudsman can only consider complaints from private tenants where their private landlord has opted to be a voluntary member of the Scheme.

Most residents responding to the survey lived in a flat and are therefore likely to experience issues in addressing damp and mould issues that residents in houses do not experience, such as landlords requiring access to other properties to locate the source of a leak.

Heat Map of Call for Evidence respondents

This heat map shows the geographical location of the respondents to our call for evidence. Notably, although London is top, by comparison to the location of social housing and our maladministration findings we received proportionately more responses from the South West, which may be indicative of an emerging issue for providers in that area.

Region	% of responses	Map of responses
London	28%	
West Midlands	17%	
South East	15%	
East of England	9%	
Yorkshire and the Humber	9%	
North West	8%	
East Midlands	8%	
South West	3%	
North East	1%	

Quotes from respondents

Most people surveyed did not think the root causes of damp and mould were difficult to identify but did think they were difficult to address.

The general sense of frustration felt by residents who did not feel that they were being heard or their landlord did not seem to them to be taking their repair reports or complaints seriously was apparent from several responses.

The selected quotes below are proportionate and reflective of the responses to the call for evidence.

"*It is very tiresome trying to explain to tenants it is not rising damp, time consuming and they don't believe it*"

Landlord

"*Most landlords will tend to blame the issue on condensation created by the tenants unless the damp has reached the water stain stage*."

Contractor

"*There are obvious holes and cracks in the walls. I keep the property heated properly and let out condensation … I spend hours cleaning off mould and I can smell it when I sleep at night*."

Resident

"*They have been steadfast in insisting that you ventilate, open windows and keep the heating on low. I have been put off bringing it to their attention because … there was a hostile attitude towards tenants. It brow beats you down. When even care coordinators and social workers repeat … that the council won't do anything, you just give up*."

Resident

"*Landlords I feel don't care … according to them and the person that came to my property, it's the tenant's responsibility. Which I found was an easy way out for them.*"

Resident

"*It appears to be an issue that is dismissed … The inspector [that came to the house] said he doesn't know why the council are doing this inspection as they are unlikely to take any action*."

Resident

"*There is a culture of not caring as they hear it all the time. There is a lack of involvement with their tenants which leads to a them and us culture and where issues could be dealt with quickly and efficiently, the lack of communication means things take much longer*."

Resident

Chapter 1: From reactive to proactive

Zero-tolerance approach

The building safety crisis and the challenge of net zero is leading many landlords to proactively examine the homes they rent or lease. This is an opportunity for landlords to improve their approach to damp and mould by adopting a zero-tolerance approach. Both our casework and call for evidence suggest that landlords miss opportunities to address issues early on either because of a protracted diagnosis or by failing to extend their investigations to other properties within a block after a problem is reported. Moving from a reactive to proactive approach to tackling damp and mould is essential to improving the experience of residents.

The need to address damp and mould has been raised in successive policy measures, including legislation, seeking to improve the conditions of homes. The Government has also said it will review the Decent Homes Standard, as it does not fully reflect present day concerns.

Our investigation indicates that addressing damp and mould needs to be a higher priority for some landlords. A proactive attitude needs to be the bedrock of a revised approach. We are aware that some landlords are revising their approach, but this is not necessarily universal.

Nor is it evident that all landlords have a clear, comprehensive, and consolidated framework, or policy, to respond to damp and mould. This means that landlords may need to rely on different policies or procedures to inform their response to the resident, such as their repairs policy if there are structural issues. This can lead to a lack of clarity and inconsistency and make it harder to manage the resident's expectations. Such a policy or framework would ensure a shared understanding and approach across different teams within the organisation, to reduce the risk of silos.

Good practice – a consolidated, comprehensive policy

One council has implemented a specific damp and mould policy with the key principles of ensuring they provide dry, warm, healthy homes for their tenants, and to ensure that the fabric of the buildings are protected from deteriorating due to damp and mould.

The policy also outlines their approach to proactive and reactive investigations, planning of resources in anticipation of periods of higher demand, budget management to reduce instances of damp and mould and ensuring staff have the correct equipment to assess cases.

The policy clearly sets out how they will achieve those aims with a focus on reducing condensation, recognising the health risks of living with damp and mould, staff training to enable them to spot risk factors and understand the stock portfolio. They are also committed to seeking out and adopting best practice from other organisations.

Recommendation 1 for senior management

Landlords should adopt a zero-tolerance approach to damp and mould interventions. Landlords should review their current strategy and consider whether their approach will achieve this.

Recommendation 2 for senior management

Landlords should consider whether they require an overall framework, or policy, to address damp and mould which would cover each area where the landlord may be required to act. This would include any proactive interventions, its approach to diagnosis, actions it considers appropriate in different circumstances, effective communication and aftercare.

Reducing over-reliance on residents to report issues

It is evident that many landlords have been too reliant on residents reporting issues. We have also heard from landlords that many of their customers complained after having to chase missed appointments and report recurrence of damp and mould in their homes. Landlords should consider proactive actions to identify homes that have, or may be at risk of, developing problems rather than waiting for their residents to report issues.

The challenges which some residents face in accessing complaints procedures may also mean issues are not being addressed. Responses to our call for evidence suggest some residents may simply give up reporting issues to their landlord where trust has been eroded. This means there is likely to be a gap between what is known by the landlord and the true extent of these issues. By taking steps to 'find your silence' landlords can reduce the size of that gap.

Options include surveying residents, especially where there have been previous reports of damp and mould, or identifying underrepresented groups who are not approaching the landlord.

Recommendation 3 for senior management

Landlords should review the accessibility and use of their systems for reporting repairs and making complaints to 'find their silence'.

Understanding and managing risk

Where we have found maladministration, it is often because the landlord missed opportunities to identify and address problems earlier in an individual case. This lesson can be applied across all the homes for which the landlord has responsibility. We have found some landlords are proactive in their approach and use information held about the homes and households on their systems to ensure they understand the risk profile in relation to damp and mould. This includes exploring to see if there

are wider problems within a building or linking reports to other cases thereby avoiding additional time, cost, and impact on their residents at a later stage.

Crucially the way we use our homes has changed significantly over the last 18 months as a result of the COVID-19 pandemic and this change may extend into the future, potentially altering the risk profile of properties for damp and mould. Landlords should consider how they incorporate these changes into the intelligence they hold about their stock.

There are a range of factors that will affect the risk profile of a property which we have divided into two categories: structural and occupancy. 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.

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. Proactive management could potentially involve checks from landlords to assure themselves about the condition of the property. While the upfront cost may be significant, this can aid resolution and reduce the time and cost of repeat visits to the same properties to respond to damp and mould issues.

Good practice – Adopting a data led, proactive approach

Following a review of current approaches and interventions in response to damp and mould, one large landlord adopted a data-led, proactive approach and have implemented eight key changes. They have building reports based on where they have known issues with damp and condensation to help identify building typologies, locations, property age and tenancy types that are more vulnerable to condensation, damp, and mould. The model will be used to proactively target properties for specialist interventions before problems arise.

In 2018, another large landlord undertook a pilot scheme in one of their estates. They completed a risk assessment of nearly 300 homes to classify properties as low, medium or high risk of condensation, damp, and mould. Interventions for the homes included:

- Low risk: 1-to-1 energy advice and anti-mould paint applied to affected room(s).
- Medium risk: as low risk plus a smart heating controller.
- High risk: as medium risk plus a centralised mechanical extract ventilation system.

On review a year later 100% of residents reported that their condensation, damp, and mould issues had been rectified. The landlord concluded that the use of risk assessments enabled targeted interventions.

Recommendation 4 for senior management

Landlords should identify opportunities for extending the scope of their diagnosis within buildings, for example by examining neighbouring properties, to ensure the response early on is as effective as possible.

Recommendation 5 for senior management

Landlords should implement a data driven, risk-based approach with respect to damp and mould. This will reduce over reliance on residents to report issues, help landlords identify hidden issues and support landlords to anticipate and prioritise interventions before a complaint or disrepair claim is made.

Case study – Landlord failed to take proactive action to ensure property was of a decent standard

Within three months of moving into his home, Mr A reported that the wall in his bedroom was wet and there was extensive mould. On inspection, the landlord found wallpaper that had been put up a week earlier was already peeling off, the underside of the carpet was mouldy, and the wardrobe and drawers were also mouldy. A damp survey indicated there was no evidence of damp in or around the bedroom wall. Mr A submitted a claim for damage to his belongings, which the landlord acknowledged and advised it would respond to on receipt of a technical survey.

Following a further inspection, the landlord noted the ventilation brick had been blocked by expanding foam, which it attributed to the previous tenant. The landlord ordered the installation of additional air bricks in three rooms and offered Mr A £250 for the damage to his belongings which he accepted. Mr A was decanted for remedial works to start but an inspection a week later noted the remedial works had not solved the problem and the property was uninhabitable due to the *"foul smell and sheer amount of mould growth."* The landlord ordered further air bricks and left the property to dry out.

Three months later, the landlord ordered further remedial works including the removal of plaster in the hallway and bedrooms, and the installation of foil-backed plasterboard. It subsequently fitted new flooring, a new radiator and adjusted the internal doors which had swollen due to the amount of moisture in the property.

Mr A submitted a complaint and received two letters from the landlord on the same day. One acknowledging the complaint and outlining the timeframe for a response, the other summarising the complaint and advising an offer of compensation would be made shortly. After not receiving an offer of compensation, Mr A asked for his complaint to be escalated. In its response the landlord offered to pay a cleaning company to clean his sofa, carpet, and cushions, to replace Mr A's bed and bedding and £500 in recognition of the disruption caused.

Mr A accepted the offer apart from the cleaning of furnishings, as he wanted to replace the sofa instead and brought his complaint to the Housing Ombudsman.

Outcome

We found service failure in the landlord's response to the reports of damp and mould and its complaint handling. We found the landlord had not adequately inspected the property prior to re-letting it and had failed to inspect the ventilation bricks. The landlord acknowledged the property was in such a poor state that it should not have been re-let. We also found the landlord delayed unreasonably in responding to Mr A's reports and that it did not follow its complaint policy. We ordered the landlord to pay the £870 to Mr A directly instead of the cleaning company so Mr A could replace his sofa. We also ordered the landlord to replace the items and pay the £500 in compensation as per its final offer.

Learning

Landlords should ensure that they thoroughly inspect empty properties before re-letting them and consider whether the property is suitable for re-letting in its current state. If a property is not suitable for re-letting, landlords should ensure works are completed to bring it to a reasonable standard before it is re-let. If this is not possible, landlords should manage the property in accordance with its disposal policy.

Questions for landlord complaint handlers

- What processes do you have in place to ensure properties are of a reasonable standard before being re-let?
- Does your void checklist cover the repairs history of the property as well as checking ventilation such as air bricks and extractors?

Disposal and regeneration

Landlords should be especially mindful of how they respond to reports of damp and mould in stock that may be nearing the end of its life or is within an area earmarked for future regeneration as this may influence how staff deal with such reports. The regeneration process can be complex and costly, but landlords still have an obligation to ensure the homes they provide are of a decent standard.

Landlords should consider the condition of properties identified for regeneration and that ensure appropriate steps are taken to mitigate against the risk of homes degrading into an unacceptable condition through reduced investment and maintenance. This includes regular resident engagement and communication to manage expectations and enable open dialogue. Crucially, landlords should remember that their asset is someone's home, and they should not receive a lesser service than residents living in other areas.

Recommendation 6 for senior management

Where properties are identified for future disposal or are within an area marked for regeneration, landlords should proactively satisfy themselves that residents do not receive a poorer standard of service or lower living conditions, that steps are taken to avoid homes degrading to an unacceptable condition and that they regularly engage and communicate with these residents.

Occupancy

Where the cause of damp and mould is non-structural it can be too simplistic to blame residents for drying their laundry on radiators if there is no space in their home for a tumble dryer or the weather is poor, other than those residents fortunate enough to have outdoor space.

Occupancy factors do not mean that the landlord has no responsibility, and landlords should recognise that some homes were not designed with modern living in mind. Landlords should take reasonable steps in partnership with residents in these circumstances including considering improving ventilation or other appropriate measures.

Insight from the Call for Evidence

"Change the thought process from an industry consideration that it's always condensation and lifestyle – instead of seeing how the lifestyle needs to be adapted to suit the property – how can the property be adapted to suit the lifestyle."

Landlord

Recommendation 7 for senior management

Landlords should avoid taking actions that solely place the onus on the resident. They should evaluate what mitigations they can put in place to support residents in cases where structural interventions are not appropriate and satisfy themselves they are taking all reasonable steps.

Communication with residents

Throughout this investigation, residents expressed strong reservations about the tone, suitability, and practicability of some of the advice and information they were provided by landlords. Landlords have also acknowledged to us that some of the information they are providing is not having the impact they expected. This aspect is considered in more depth in Chapter 2.

Advice can be a useful tool in a landlord's response, but the advice should be unambiguous and easy to understand; for example comparing the cost of running mechanical ventilation to the cost of running everyday appliances rather than stating "6p per hour" and clearly stating how long a window should be left open or a fan should be turned on after cooking. Providing customised advice to residents at

tenancy sign up about how to best manage the environment within their home can help to prevent damp and mould occurring.

Landlords should ensure that any information available for residents is accessible to all. Several landlords reported they had specific damp and mould mini-websites which, whilst a good preventative tool, could be inaccessible to some residents.

Landlords should use their resident engagement mechanisms to involve residents in the design of their information resources to ensure they are accessible and easy to understand. Where a particular format is not working for a resident, landlords should consider how they can adapt their approach to ensure a positive outcome for both parties.

Recommendation 8 for senior management

Together with residents, landlords should review the information, materials and support provided to residents to ensure that these strike the right tone and are effective in helping residents to avoid damp and mould in their properties.

Maximising opportunities for intervention

Periods of time where the house is not inhabited (known as void periods) are an ideal time to proactively respond to damp or mould issues before the incoming resident moves into the property.

Whilst landlords may have re-let targets, this should not drive poor service provision to the incoming resident. Our casebook shows that this is a particular problem for mutual exchanges where residents are expected to accept the property "as seen". If landlords are already aware of reports of damp and mould, they should be transparent with the incoming resident at an early stage to make them aware and to resolve the matter as soon as possible.

Insights from call for evidence

"…I had it suggested to me by a housing officer to do a property swap with someone else and hope they don't notice it. Despicable."

Resident

We have investigated complaints where the landlord has argued that the resident accepted the property in its current condition and therefore, they have no obligation to resolve their complaint of damp, or mould. This is unreasonable, and landlords have an obligation to provide a decent home that is fit for human habitation regardless of the condition of the property at the start of the tenancy.

Good Practice - Using the void period

One landlord's void standard requires the replacement of all faulty fans or upgrading existing fans with improved design trickle-fed humidistat units. They also ensure doors and windows are serviceable and can effectively ventilate the property and apply mould treatments where necessary.

Another landlord's void standard requires operatives to clean extractor fans to ensure they are working well, and they install mechanical ventilation to any void property that shows signs of condensation or mould.

A council completes a damp profile survey during the void period whilst another completes works during the void period to bring properties up to an EPC B rating.

Case study – Landlord policy prevented resident from reporting inherited damp and mould issues

Ms F moved into her home following a mutual exchange and immediately raised several repair issues with the landlord including damp and mould. The landlord told her that as she had taken the property under the mutual exchange process, she would have to wait six months before repairs to be actioned, except for emergency repairs.

Ms F submitted two complaints to the landlord, approximately five months apart. She complained about the outstanding repairs including that she could not use her lounge due to damp and mould, missed appointments, dissatisfaction with repairs and in the second complaint, the landlord's handling of the complaint. The landlord responded acknowledging that its service had fallen below the standard expected, apologised for the inconvenience, and outlined a list of repairs it had completed and those outstanding.

Ms F asked for her complaint to be escalated, stating some repairs listed as completed had not been and that as she had not been able to live in her home properly for a year, she was seeking legal advice regarding compensation. She subsequently confirmed that she was seeking compensation for the inconvenience, stress, delays, not having full use of her home, the impact on her health and the damage to her belongings.

The landlord arranged a survey which stated Ms F was living in damp rooms; mould growth behind the wallpaper in the bedroom was inevitable and was already evident in the lounge. The report recommended internal waterproof tanking and plastering was completed *"as soon as possible to allow a decent standard of living."* Ms F was subsequently decanted from the property for six weeks while works were completed. After returning to the property, the landlord offered £512.92 in compensation for belongings that had been damaged. Following negotiations between the landlord and Ms F, this was increased to £1,827 in recognition of the damage to her belongings and the gas and electricity costs incurred during the time she was decanted. The landlord also offered a goodwill gesture of £750. Following contact from the Ombudsman, the landlord explained its compensation policy had changed and increased its goodwill gesture to £1,275.

Outcome

We found that it would have been appropriate for the landlord to apply its compensation policy and provide a refund of 20% of the rent for the period in question. We found maladministration for the landlord's response to Ms F's compensation request and ordered the landlord to pay the resident an additional

£1,075 in compensation relating to the period the property did not meet the decent living standard.

Learning

Landlords should ensure that their policies do not treat residents who have accepted a property through the mutual exchange process differently to residents who have been allocated a home through the usual allocation process. Regardless of how a resident came to reside in their home, landlords have the same legal obligations to maintain the home to a reasonable standard and respond to reports of repairs in a reasonable manner.

Questions for landlord complaint handlers

- Does your policy treat residents differently depending on how they came to live in their home?
- How do you ensure that homes allocated through mutual exchange are of a reasonable standard?

Recommendation 9 for senior management

Landlords should be more transparent with residents involved in mutual exchanges and make the most of every opportunity to identify and address damp and mould, including visits and void periods.

Fit for the future

The social housing sector has significant challenges ahead on its journey towards net zero carbon. Updated building regulations will require all new homes to reduce carbon emissions by 31%, but the question for landlords is how to bring ageing homes, and residents who live in them, on the journey. This was a point which came across strongly during our evidence session with landlords.

Landlords have already been retrofitting modern solutions to homes in the form of double glazing, upgraded heating systems, modern insulation, and ventilation. Retrofitting homes with modern technology can prevent damp or mould and can improve the efficiency of the home, but evidence indicates that it can also have unintended consequences, particularly where adequate mechanical ventilation is not installed to counter the building being “sealed”. There are also significant issues with the higher costs of running electrical heating, compared to gas. Some landlords have committed to contributing to heating costs to mitigate against the higher cost of electrical heating for their residents.

Landlords need to be confident their net zero carbon strategy considers and plans for how they can identify and respond to these unintended consequences which may increase the prevalence of damp and mould in their residents’ homes.

Insights from Call for Evidence

"Older properties where we have retrofitted new windows and doors or central heating systems cause the property to sweat." [Landlord response]

"Retrofitting energy efficiency measures such as double glazing over the last 30 years designed to make houses more efficient and lower energy bills have improved the airtightness of our homes but are making this situation worse, there has been no requirement to assess the ventilation strategy employed which means the home cannot breathe and the moisture-laden air can't escape. As a result there is a build-up of water vapour causing condensation and increasing the risk of mould forming."

Ventilation manufacturer, installer and surveyor

Recommendation 10 for senior management

Landlords should ensure their strategy for delivering net zero carbon homes considers and plans for how they can identify and respond to potential unintended consequences around damp and mould.

Chapter 2: From inferring blame to taking responsibility

Avoiding blame

Our investigation found that complaints about the landlord's response to reports of damp and mould are more likely to occur where the landlord has not taken responsibility for resolving the issue. Where landlords do not take responsibility, their response is unlikely to be effective or timely. There is also usually poor communication with the resident and associated remedial works can become protracted.

An effective response begins when the resident first contacts the landlord. It is crucial that landlords avoid paternalistic attitudes, automatically apportioning blame or using language inferring blame on the resident. We have seen examples of this with landlords initially assuming that the cause is condensation due to the resident's 'lifestyle'. The term 'lifestyle' suggests that it is a resident's choice to live in that way. As noted in the previous chapter, this was a common and reoccurring theme in the call for evidence and can lead to the relationship between the resident and the landlord deteriorating and result in missed opportunities to address the problem.

Insights from Call for Evidence

"…most common mistake is assuming that condensation will be resolved by adjusting heating, ventilation, or 'atmospheric moisture input' – serves to focus blame on the tenant or their 'lifestyle'."

Chartered Institute of Environmental Health

"…they talk about the problem being caused by cooking/breathing/bathing/lack of air circulation. All of which is possible and factual but when foundation bricks are literally breaking down into dust and brickwork on outside is in need of repointing with visible green mould growth and a history of leaking roof and gutters unblocked for several years which all cause greater damage and problems…"

Resident

It is clear some landlords are revising their approach in response to residents raising these concerns. For instance, one landlord explained how their perspective had changed and it now recognises that in many cases 'lifestyle' issues are *"more about the challenging realities of modern life in social housing settings than quick behavioural fixes: families grow but available space doesn't".* Its research has also shown a strong link between fuel poverty and damp and mould, with 44% of 10,000 homes surveyed experiencing fuel poverty, and over 25% experiencing mould issues.

Good Practice - Taking a holistic approach

One landlord's programme seeks to tackle issues of damp and mould by looking at a property as a whole and the pattern of mould, installing humidity and temperature sensors, and supporting behavioural change where necessary. As part of the programme, during visits the landlord identifies any factors that may lead to mould rather than just cleaning the mould. It identified fuel poverty as often an understandable cause of residents neither heating nor ventilating their homes adequately and, therefore as part of this programme, support is offered to help people manage their heating costs in a way which avoids the risk of damp and mould issues.

Recommendation 11 for senior management

Landlords should review, alongside residents, their initial response to reports of damp and mould to ensure they avoid automatically apportioning blame or using language that leaves residents feeling blamed.

Record keeping

It is evident from across our casework that some landlords struggle with record keeping, even at a basic level, and damp and mould complaints are no exception. Improving record keeping would result in significant benefits for both landlords and residents.

For individual complaints it would enable accurate information to be shared across teams and with residents which would improve the landlord response. It would also assist our investigations by improving our understanding of the situation at the time of the landlord response. More broadly, it would allow the landlord to better understand the resident, the history of the property and previous actions in relation to both so that they can consider the most appropriate response.

For landlords to have an effective proactive and risk-based approach to managing damp and mould across their homes – as outlined in the previous chapter – it will need to be data-driven and heavily reliant on accurate records. For some landlords this will mean significant investment in their systems.

Recommendation 12 for senior management

Landlords should consider their current approach to record keeping and satisfy themselves it is sufficiently accurate and robust. We would encourage landlords to go further and consider whether their record keeping systems and processes support a risk-based approach to damp and mould.

Timely response

It is imperative that residents are not left living with damp and mould for an extended period. However, a consistent theme identified through our casework is a lack of timely response from landlords. This not only increases the frustration and

discomfort of the resident but can lead to problems worsening and becoming more complex and intrusive to resolve. This reinforces the importance of focussing on an accurate diagnosis at an early stage.

Good practice – urgency of response

One landlord aims to respond to reports of damp and mould on the day they are reported with works such as mould washes completed, and advice provided at the visit. If the job is likely to take longer than two hours or is more complex, it is referred to the supervisor who will also attend the same day or at a time agreed with the resident. The supervisor will identify any work required and if the resident's circumstances appear to be a contributory factor, advice is given along with a hygrometer. Any contributing factors are referred to the housing management team. If the supervisor is unable to identify the cause, or the cause is disputed by the resident, the matter is referred to the asset management team for a survey or to a third party if a solution cannot be agreed upon.

Landlords should recognise that issues can have an ongoing detrimental impact on the health and well-being of the resident and should therefore be responded to in a timely manner. Landlords should consider appropriate timescales for their responses to reflect the urgency of the case and set these out clearly for residents so their expectations can be managed. In addition, landlords should ensure that any follow up appointments are booked for as soon as possible.

Recommendation 13 for senior management

Landlords should ensure that their responses to reports of damp and mould are timely and reflect the urgency of the issue.

Missed appointments

Missed appointments are a frequent reason for an ineffective response, resulting in jobs being closed prematurely or residents having to repeatedly chase the landlord.

Landlords must ensure that jobs are not closed before they are fully resolved and that new appointments are booked quickly. If landlords are aware an appointment will be missed, they should inform the resident early on and rearrange it at the same time.

We are aware that there will be instances where appointments are missed because it is not possible to gain access to the property. Landlords should have processes in place to follow up with the resident to rearrange the appointment promptly.

Case study – Landlord took five years to resolve report of damp

Ms B first reported damp in 2014 and subsequently made a complaint. The landlord's final response in December 2015 confirmed it had found damp in broadly the same areas as those found in an earlier inspection in 2014. It noted the persistent or reoccurring damp had existed at the property for a considerable amount of time. The landlord accepted that the need for a specialist damp report had repeatedly been identified but not actioned and during this time Ms B had been left

for extended periods of time without bathing facilities or with no water supply to the kitchen. The landlord recommended that a programme of outstanding works was produced, a member of staff was identified as a single point of contact and Ms B was kept informed of intended actions and timescales.

In 2016, Ms B expressed dissatisfaction that little progress had been made in six months, and by February 2017 the outstanding works were still extensive. Ms B complained about the length of time works were taking and raised concerns that she had been paying rent for a property she could not live in since 2015.

In its response to Ms B's second complaint, the landlord advised that the rent rebate was in dispute and noted she had arranged her own accommodation rather than waiting to be decanted by the landlord. It explained how it would calculate any rent rebate owed, taking into account the period of time Ms B could not reasonably have been expected to live in the property and the estimated cost of alternative accommodation if it had been provided by the landlord. The landlord also advised the resident that she should claim for any damage to her belongings on her own contents insurance or under the landlord's policy if liability was accepted.

The matter of compensation for the periods Ms B considered the property to be uninhabitable remained under dispute. Ms B stated she had to vacate the property on three occasions between 2014 and 2017, and at the time of her complaint to the Ombudsman, she was still not residing at the property. The landlord's position was that Ms B only needed to vacate the property between April and July 2017 when damp work and occupational therapy adaptations were completed. The landlord maintained that whilst it accepted Ms B could not live in the property alone, it was not unfit for habitation. In November 2018, the landlord asked Ms B to confirm when she would return to the property.

Following further works that would ordinarily have been the resident's responsibility, the landlord confirmed in May 2019 that the property was ready for Ms B to return to. It advised any compensation due would be calculated by the complaints team the following week. At the time of Ms B's complaint to the Ombudsman, no substantial compensation had been offered.

Outcome

Works were first requested in 2014 and the matter took until May 2019 to be resolved. The reports in response to the complaints in 2014 and 2017 indicated there were extensive problems at the property and it would not have been reasonable for Ms B to live there.

Throughout the life of the complaint there was a succession of promises that financial redress would be forthcoming once the works were completed but only a very limited offer was made. Nor did we see any offer of alternative accommodation. We found severe maladministration and ordered the landlord to pay Ms B £4,000 in compensation and to refund the rent it had previously agreed.

Learning

Where landlords make recommendations in response to a complaint, they must be acted on in a timely manner. It is not acceptable for residents to have to raise multiple complaints in order to progress a repair. Landlords should ensure that where

a resident is given a single point of contact that that person is empowered to progress the matter when things stall.

Questions for landlord complaint handlers

- How do you ensure that recommendations made after a complaint investigation are acted on?
- What mechanisms do you have in place to ensure that where issues are ongoing for a significant period of time, they are identified and escalated appropriately?

Recommendation 14 for senior management

Landlords should review the number of missed appointments in relation to damp and mould cases and, depending on the outcome of any review, consider what steps may be required to reduce them.

Professional standards

We are aware that many landlords are encouraging their staff to identify other potential issues when visiting the homes of residents and this is particularly important in relation to damp and mould to avoid cases becoming more complex to resolve later on. 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.'*

Crucially, landlord staff and contractors should respond proactively rather than take a "not my department" approach to issues that fall outside of their area of expertise. At its most simple, this could consist of raising repairs on the resident's behalf or ensuring the relevant team is informed of the problem. This requires staff to be trained and knowledgeable about the signs of damp and mould and have clear policies in place to respond appropriately.

We would encourage landlords to ensure they are supporting residents whose homes are overcrowded and actively explore solutions such as management moves and mutual exchanges, as well as ensuring the resident is registered with the relevant housing authority and supporting them to check their application has been given the correct priority banding.

Making the most of every visit

For early prevention work, one landlord will use every visit to a property, whether it is a gas servicing visit, a repair visit, an electrical test, a visit from the housing officer or any other opportunity they create to identify early signs of damp or mould. Like their safeguarding response, they consider that everyone has a responsibility to highlight potential concerns.

Case study – Landlord issued with Improvement Notice following failure to act on survey recommendations

Following a report of mould growth at a home, the landlord visited and recommended a specialist contractor came to inspect. The specialist contractor recommended extensive works, but after two months, the landlord had not taken any further action so Ms J emailed for an update. The landlord did not respond resulting in her visiting the landlord's offices two months later. The landlord informed her there had been staffing changes, but despite it advising it would investigate and provide an update, it did not.

Although there had been a specialist inspection five months earlier, the landlord used its own staff to inspect the property again. This report noted the property had *"severe damp/mould"* and that it was caused by *"lifestyle and the amount of residents living in the property."* The scheduled works to complete a mould wash, apply anti-mould paint and treat the windows were not completed due to a lack of access, which Ms J disputed. The landlord did not supply the Ombudsman with any evidence regarding what happened over the next three months, but a specialist contractor visited the property again after this period and according to Ms J noted that overcrowding was a factor. Ms J had to chase the landlord again a month later as she had not had any update from the landlord. She contacted environmental health who inspected the property and wrote to the landlord about the condition of the property. The landlord did not respond, so environmental health issued an Improvement Notice. A month later the landlord completed a planned visit to Ms J and advised that due to the extensive works required, she would need to be decanted.

There was a delay in the works taking place as the paperwork completed in preparation for the decant was inaccessible due to staff sickness. This also resulted in a disagreement between Ms J and the landlord regarding whether a permanent decant had been agreed.

In response to Ms J's complaint, the landlord stated it had handled the decant to the best of its ability and in line with policy. It acknowledged it should have been clearer that a permanent decant was not guaranteed, but that as the mould was treatable it did not consider a permanent decant was necessary. The landlord apologised for the delays and the stress and inconvenience caused and offered £100 compensation. Ms J asked for her complaint to be escalated stating the landlord had not considered that overcrowding was a contributory factor and the environmental health report. In its response, the landlord reiterated its offer of £100 and explained Ms J's property had been allocated to her based on her original household size and that she was in the correct banding.

Following Ms J's contact with the Ombudsman, the landlord reviewed its response and offered £3,025. It also offered its sincere apologies and advised it had taken steps to prevent reoccurrence.

Outcome

We found maladministration in respect of the landlord's response to reports of mould at the property and its handling of the decant. We also found service failure for its handling of the banding assessment and its complaint handling. We ordered the landlord to re-evaluate Ms J's priority banding taking the overcrowding and health

concerns into account, thoroughly explain her housing options to her in writing, pay the previously offered compensation of £3,025, and to calculate and pay an additional sum of compensation of 30% of the rent over a period of approximately ten months.

Learning

Where inspections result in recommended works to tackle condensation, damp or mould landlords should ensure they act on the recommendations in a timely manner. Any deviations from the recommendations should be clearly documented and explained to the resident. Landlords should also consider sharing reports with residents to promote openness. Landlords should also ensure that information is available to all relevant staff, so cases are not delayed in the event of staff absence.

Questions for landlord complaint handlers

- What actions do you take to proactively support households that are overcrowded?
- How do you ensure that recommendations following property inspections are acted on in a timely manner?
- What procedures do you have in place to respond appropriately to contact from environmental health?
- What procedures do you have in place to ensure that records are accessible to all staff who may need them?

Recommendation 15 for senior management

Landlords should ensure that their staff, whether in-house or contractors, have the ability to identify and report early signs of damp and mould.

Appropriately skilled staff

We know from our casebook that landlords assigning jobs to operatives who do not have the correct skills can be extremely frustrating for residents and lead to jobs being closed prematurely. The National Federation of ALMOs, amongst others, reported that their members' evidence showed having well-qualified, experienced, customer-focused surveyors, technical staff and repairs managers willing and able to properly inspect and remedy issues was crucial to being able to identify root causes.

We are aware some landlords have developed specialist teams for the diagnosis of, and remedial work to, damp and mould and others have directly employed surveyors to ensure they can swiftly respond to reports. Others have set up networks to share best practice, procedures, technical expertise and staff between organisations to overcome this problem.

Whilst accessing the right skills can be challenging, landlords should have appropriate plans in place to address any skills gaps.

Case study – Appropriately qualified staff are crucial to early diagnosis of issues

Following a report of damp in the bedroom, the landlord inspected the home and identified a leak from a pipe beneath the bath, which was suspected to be the cause of the damp. The landlord repaired the pipe, replaced the ceiling in the bedroom, and installed heaters and dehumidifiers. Mr E continued to report damp and mould at his home, including that it had spread to the living room, and he subsequently raised a claim for damage to his belongings with the landlord's insurer. The landlord offered Mr E £50 in compensation for delays to repairs and arranged for a surveyor to visit.

This inspection also identified a leak to the pipe beneath the bath was the likely cause of the continuing damp and although the damp was contained to the bathroom, mould was evident throughout the home. The surveyor recommended further repairs to the bedroom, anti-mould wash to the internal walls, installing a new chemical damp proof course and upgrading the fans to the kitchen and bathroom. The landlord accepted the recommendations, and the work was completed the following month.

It is evident issues continued as environmental health inspected the home five months later and found high damp readings, which appeared to come from the floor and recommended further investigations to identify the cause. They also recommended that Mr E vacated his home until the damp issues had been resolved, which he did. The landlord arranged another inspection by its surveyor who found mould in the bedroom, living room and bathroom and suggested the damp was caused by the property being unoccupied with limited heating left on. The landlord's surveyor recommended the installation of a larger radiator to the living room and improved ventilation in the bathroom. Although not mentioned in the report, the landlord also repaired the guttering and exterior brick work.

Mr E complained to the landlord that the leak in the bathroom should not have been left for three years and that the landlord's contractors had misdiagnosed the damp, which had still not been resolved. The landlord completed a heat survey and introduced dehumidifiers to the property to reduce condensation. It also completed further damp investigations including a CCTV survey, which found no evidence of damp penetrating the property from outside. The landlord subsequently fitted a new kitchen (as part of major works), installed the larger radiator, and applied a mould wash as recommended by its surveyor, fitted a new boiler, and installed cavity wall insulation. The landlord then met with environmental health and following their recommendation completed a water test to confirm the property was no longer damp. Following this, the landlord completed a final inspection and confirmed to Mr E his home was ready for him to return to. Mr E said he could not return as he could not afford to replace his damaged belongings.

The landlord responded to Mr E's complaint six months after he submitted it. It advised it would refer his claim for damages to its insurer and apologised for the length of time it had taken to complete repairs. It offered compensation of £2,995.48 in recognition of the inconvenience caused by the delays, the cost of running the dehumidifiers and the cost of rent between February and July 2018. The landlord subsequently redecorated the property and in its final response, it increased the compensation to £4,242.22 in recognition of environmental health declaring the home uninhabitable in November 2017 and confirmed its insurer had also offered

£3,000 in respect of the damaged belongings. Mr E gave notice to terminate the tenancy shortly afterwards.

Outcome

We found that the landlord acknowledged the delays in resolving the damp and offered reasonable compensation. We also found that it was appropriate for the landlord to refer the claim for damage to Mr E's belongings to its insurer for consideration. However, we found that the landlord did not adequately investigate the cost of running the dehumidifiers and that it could have offered Mr E more assistance with acquiring the basic furniture he needed to return to his home. We ordered the landlord to pay an additional £250 in compensation in account of these service failures.

Learning

Landlords should ensure that their operatives are appropriately qualified to investigate the causes of damp and mould to avoid misdiagnosing the cause. It is also important that investigations are thorough and that appropriate tools are used. An aftercare programme can help landlords to quickly identify when matters have not been resolved without residents having to report the problem again. Where landlords make use of dehumidifiers or other electrical tools that are likely to have a marked impact on residents' electricity costs, landlords should ensure they can accurately calculate the costs to reimburse residents accordingly.

Questions for landlord complaint handlers

- What aftercare processes do you have in place to confirm that works have been successful or to quickly identify that further action is needed?
- What can you do to assist residents to successfully return to their property after a decant where their belongings have been damaged?
- How do you calculate the electrical costs of works incurred by the resident, particularly when the resident has been decanted?

Recommendation 16 for senior management

Landlords should take steps to identify and resolve any skills gaps they may have, ensuring their staff and contractors have appropriate expertise to properly diagnose and respond to reports of damp and mould.

Keeping residents informed

Our investigations have often found poor communication, particularly in regard to inspections, outcomes and timetabling of works. In a number of cases involving roof leaks and leaseholders, we found poor communication had exacerbated the situation.

Residents should be given a choice of appointments times and, wherever possible, reasonable notice. If appointments need to be changed, the landlord should inform the resident of this at the earliest opportunity and rearrange at the same time. Whilst

it is reasonable for landlords to confirm appointments in writing, it is not appropriate for residents to only be sent appointments by letter, unless this is specifically requested by the resident. This puts the onus on the resident to contact the landlord to rearrange appointments that are inconvenient, and the landlord has no control over if or when the resident receives the letter.

It is important the landlord clearly communicates its diagnosis with the resident, sharing any relevant information, to ensure the resident has confidence in it and understands the next steps. Where follow up work is required, the resident should be informed early on. Landlords should explain why follow up work is required, what work is needed, why the work could not be completed at the initial appointment and a clear timetable for future works. If there is any slippage to the timetable, again residents should be informed as soon as possible, and they should be advised why the timetable has changed.

Wherever possible, landlords should avoid leaving external contractors to arrange appointments with residents directly, so they are fully aware of all issues and the onus is, again, not on the resident to reports these.

It is also important for landlords to have appropriate processes in place to ensure that where follow up work is needed, jobs are not marked as complete in error leaving the resident to chase the outstanding activity. Appropriate after care services, such as a follow up call after the job is marked as complete, will quickly identify any outstanding issues which can be appropriately managed.

It would also be good practice for landlords to schedule follow up visits at set periods, for at least a year after works are completed, to satisfy themselves that the problem has not returned.

Where landlords decide follow up work is not required, residents should again be informed of this in a timely manner. Landlords should clearly explain to the resident why they have decided no further work is needed. If landlords have had the property inspected and have decided against further works based on the inspection report, consideration should be given to sharing the results of the report with the resident, if they do not routinely do so already. Clear communication and sharing information are particularly important where the resident has supplied their own inspection report that contradicts the landlord's inspection report. This can help to build trust between residents and landlords.

Recommendation 17 for senior management

Landlords should ensure that they clearly and regularly communicate with their residents regarding actions taken or otherwise to resolve reports of damp and mould. Landlords should review and update any associated processes and policies accordingly.

Case ownership

It is clear from our investigations that residents can often fall through the gaps between different departments, with no one taking overall ownership for resolving the

problem reported. Whilst different departments and expertise may be required at different times, landlords must ensure their approach is robust and does not prevent early and effective action to help the resident.

Landlords must ensure the effective operation of communication channels between different teams, such as the complaints and repairs teams. This will ensure that all parties have access to accurate and current information which can be passed to and from the resident and will avoid unnecessary delays.

Landlords should ensure that one department or individual has overall responsibility for ensuring that all reports or complaints are resolved, especially where the response covers a range of disciplines or departments.

Good practice – Case ownership

To tackle this issue, one landlord is considering introducing a specialist damp and mould team who will manage these types of cases from end-to-end. Their purpose would be to have control of the case from the point of identification including accurate diagnosis, triaging, agreeing the appropriate intervention, monitoring case performance until completion, quality assurance and aftercare.

Case study – Failure to appropriately manage contractors resulted in lengthy decant for family

Following a report of mould, the landlord visited the home and recommended a specialist contractor inspected the issue. There was a short delay in the contractor completing the inspection, which the contractor emailed Ms G and apologised for. It also explained that a mould wash and use of a dehumidifier would not resolve the situation. Following the inspection, Ms G emailed the contractor explaining she was concerned about the environment she and her children were living in, reporting that her soft furnishings and clothes were damp and that her youngest child was ill again. The contractor provided a copy of the report to Ms G which recommended the installation of passive vents in each bedroom, an air filter and a new extractor fan. The contractor also suggested there may be a problem with the plasterboard absorbing water and works to open the area would be needed to remedy the situation. It confirmed it was waiting for the landlord to approve the works, which it expected to take 4-5 days.

Ms G chased the contractor who advised it was still waiting for the landlord to approve the works. Ms G subsequently informed the contractor that she had sought legal advice and would be requesting compensation for the damage to her belongings. The contractor acknowledged Ms G's contact, advised it had informed its insurer and arranged an appointment to complete mould removal and treatment. The contractor was late attending this appointment due to a vehicle breakdown, which it failed to inform Ms G about and when it arrived, its operative was unable to complete the works required. The contractor was also late to the follow-up appointment which meant it was unable to access the property.

Presumably a mould treatment was applied by the contractor at some point, as Ms G contacted the contractor and the landlord to advise the mould wash had not worked and the walls were covered in mould and fur. She stated the issue of rising damp

had been raised previously but the contractor had failed to address it. Ms G subsequently raised a formal complaint in which she stated she had been informed by email that she needed to be decanted but there were no properties available, she had been forced to live in one room with her children due to the condition of her home, and that the landlord had not taken the situation seriously. The landlord sent the resident a £20 voucher for the missed appointment and the air filter was installed shortly afterwards.

Three months after the initial report, the landlord's operative attended to apply a mould wash but because of concerns about the effectiveness of the treatment, he sought advice from a supervisor who told the operative to stop work and leave the property. Two days later the landlord raised a work order for a subcontractor to carry out intrusive works and Ms G was decanted two weeks later. Approximately one month after she was decanted, the subcontractor confirmed it had located the source of the damp, which was due to a leak from the collar of a rainwater downpipe in the kitchen/diner.

Five months after Ms G had been decanted, she was invited to view the property. Following the viewing, she informed the landlord that she was *"disgusted with the state of it"* and asked for her complaint to be escalated despite not having received a response at stage one. The property had still not been deep cleaned when Ms G returned to it almost two months later. In its stage two response, the landlord acknowledged delays and that the works had not been completed to the standard expected before Ms G returned to her home. It apologised for the delays and attributed them to its subcontractor. It also apologised for the delay in responding to the complaint and offered Ms G £525 in compensation.

Outcome

We found that the landlord had delayed unreasonably in carrying out the repairs needed to Ms G's home. We found there were repeated failures to manage its repairs contractors and subcontractors effectively, leading to Ms G and her children being decanted for a significant period. While we acknowledged that the landlord had offered compensation, in our opinion it was not proportionate to the circumstances of the case, and we ordered the landlord to pay Ms G £1,500 in compensation.

Learning

Landlords should ensure they have processes in place to appropriately manage delays caused by their contractors and subcontractors. They should also ensure they maintain contact with the resident throughout the repair process instead of leaving the resident to liaise directly with the contractor. Where intrusive works are required, landlords should act quickly to decant the resident and start the works. Appropriate checks should be carried out at the property to ensure it is suitable for residents to return to.

Questions for landlord complaint handlers

- How do you manage delays caused by contractors and subcontractors?
- What steps do you take to ensure properties are in a suitable condition for residents to return to following a decant?

- Do you ensure that you speak to residents directly, rather than letting the contractor liaise with the resident?

Recommendation 18 for senior management

Landlords must ensure there is effective internal communication between their teams and departments, and ensure that one individual or team has overall responsibility for ensuring complaints or reports are resolved, including follow up or aftercare.

Remedies

Where something has gone wrong, it is important that the landlord puts it right and they have the opportunity to do so before we investigate. Where we found service failure, this was often because landlords had not provided appropriate remedies to restore the resident to the position they would have been in had the failure not occurred.

This was generally caused by failing to fully account for the distress and inconvenience the resident had experienced, loss of amenities or additional costs to the resident because of damp and mould. Whilst a clear remedies policy can provide good guidance to complaints teams to help them determine adequate redress, it is crucial that landlords consider the individual circumstances of the household or resident when calculating compensation. Finally, landlords should apologise to the resident, and in more serious cases, consideration should be given to a senior member of staff apologising in person.

In some cases, personal items will have been damaged as a consequence of damp and mould. Where an insurance claim may be required, it is important for landlords to offer appropriate support to residents, which could include the landlord submitting the claim to their insurer rather than requiring the resident to submit the claim themselves.

Recommendation 19 for senior management

Landlords should ensure that their complaints policy is effective and in line with the Complaint Handling Code, with clear compensation and redress guidance. Remedies should be commensurate to the distress and inconvenience caused to the resident, whilst recognising that each case is individual and should be considered on its own merits.

Chapter 3: From disrepair claims to resolution

Identifying complex cases

There will always be some damp and mould cases that are more difficult to diagnose and/or repair and, therefore, longer to rectify. It is important that these types of cases are handled with particular care to ensure they are resolved effectively, maintain the relationship between the resident and the landlord and reduce the risk of the resident feeling the need to resort to a disrepair claim.

Landlords should ensure they have strategies in place to manage these types of cases with an emphasis on ensuring that the resident is kept informed, feels that the landlord is taking the issue seriously and that the matter is progressing. This is particularly the case where it is going to take longer than usual for works to commence at the resident's home.

Landlords should consider providing a single point of contact and a timeline of work and/or to providing updates to residents at set intervals. This includes when the matter has not progressed for a period of time to ensure residents are kept informed and can be assured that they have not been forgotten.

Recommendation 20 for senior management

Landlords need to ensure they can identify complex cases at an early stage and have a strategy for keeping residents informed and effective resolution.

Case study – Focus on subsidence meant landlord missed opportunities to respond to damp

Ms H reported problems with several doors which were repaired and noted as possible subsidence. Subsidence was later confirmed by the landlord's insurer who completed a plan of works to rectify the issue.

Ms H informed the landlord of further problems with the doors. In responding the landlord also asked the operative to check for signs of damp or condensation.

Seven months after first reporting the issue, Ms H chased a damp survey contractor regarding an inspection the landlord had raised three months previously. During this contact with the damp survey contractor, Ms H requested an out of hours appointment, which the contractor raised with the landlord. However, the landlord did not respond to the request. A year after the problem was reported, the landlord's insurer identified damp in the kitchen floor, which it said required further investigation.

Ms H subsequently complained about how it had handled her reports of damp and cracks to the property. Almost a year after the landlord had raised the inspection request, the damp contractor and a roofing contractor inspected the property. The

roofing contractor informed the landlord the same day that the loft should be insulated, and the roof replaced. The damp contractor provided a report to the landlord a week after the inspection in which it advised it had not been able to find a damp-proof course, several cracks were potentially allowing damp in, it had found condensation and it could not give any assurance that the property was not affected by rising damp.

The landlord issued its stage one response three months later and explained it had decided to rehouse her due to the subsidence. It apologised for its poor communication, the inconvenience caused and offered £400 in compensation. It also confirmed it would not complete any further repairs at the property unless they were urgent. Ms F accepted the landlord's offer to be rehoused but also asked for the complaint to be escalated. In its stage two response the landlord explained its actions further, apologised and did not offer any further compensation. Ms F was rehoused eight months later.

Outcome

We found the landlord had offered reasonable redress for its complaint handling failures, however we found maladministration for how it handled Ms H's reports about the door, cracked walls and damp. We considered that the landlord had not treated the issues with the door as an emergency, despite it being a fire safety hazard and a security risk. We also found that it had unreasonably delayed in arranging the damp report which meant Ms H had had to live in a home requiring extensive repairs for much longer than necessary. We ordered the landlord to pay an additional £450 in compensation.

Learning

Despite recognising at an early stage that the home may be affected by condensation and damp, it took over a year for a damp survey to be completed. When the survey was completed, it identified significant issues at the property, including cracks to the building that Ms H had reported several times. Landlords should ensure they respond quickly to reports of condensation, damp, or mould and should not let other significant repairs prevent the investigation of these issues. It is crucial that landlords maintain regular contact with residents whilst they are living with repairs issues that will take a significant period to rectify. Landlords should also consider whether it is reasonable to leave a resident living in a home that has structural issues, major faults and requires major remedial work whilst a permanent move is identified.

Questions for landlord complaint handlers

- How do you keep residents informed when another organisation is leading remedial works?
- How can you ensure that reports of damp or mould are not neglected when other significant works are identified?
- Are your staff trained to notice flags for possible safety and security issues that may not have been reported by the resident?

Where specialist surveys are required, landlords should ensure the need is identified early on and that work orders are progressed in a timely manner. Landlords should also highlight instances where using an independent, mutually agreed and suitably qualified surveyor may be useful to avoid any concerns the resident may have of bias, and obtain parity with the housing conditions pre-action protocol. The outcome of these surveys, and any other inspection at the resident's property, should be routinely shared with, and explained to, the resident. This includes being clear where on any recommendations or actions that are not going to be followed up and the rationale for this to aid the resident's understanding.

Recommendation 21 for senior management

Landlords should identify where an independent, mutually agreed and suitably qualified surveyor should be used, share the outcomes of all surveys and inspections with residents to help them understand the findings and be clear on next steps. Landlords should then act on accepted survey recommendations in a timely manner.

Decanting

Diagnosing damp and mould issues can take time, with repeated visits to, and inspections of, the resident's home, but residents are not always properly updated following these inspections. Residents will see more people coming to their home but will not know what, if anything, is happening following the inspection which can cause frustration and a loss of trust in the landlord.

Where appropriate, landlords should consider at an early stage whether moving the resident out of the property (otherwise known as 'decanting') to suitable accommodation is necessary, either on a temporary or permanent basis. This will ensure that residents are not left living in unsatisfactory conditions for months before a decant is considered. This is particularly important with respect to vulnerable residents where major works are required.

Landlords should also ensure that where significant works are required, smaller remedial works such as mould washes/anti-mould paint that will improve the resident's living environment are still completed. Landlords need to be clear that where such treatments are required, they should be treated as a repair obligation and not classed as 'decoration' which would be considered a resident responsibility.

Recommendation 22 for senior management

Where extensive works may be required, landlords should consider the individual circumstances of the household, including any vulnerabilities, and whether or not it is appropriate to move resident(s) out of their home at an early stage.

Case study – Landlord should have considered the resident's medical conditions following a leak

Mr L reported a 'flood' in his kitchen and living room, apparently caused by a blockage in the pipework. The landlord initially treated this as a routine repair as there was no leak but upgraded this to an 'emergency repair' when Mr L reported the same problem three days later.

A drainage company visited and believed it had cleared the blockage, but the problem soon recurred. Due to his medical conditions and limited mobility, Mr L decided to vacate his home until the problem had been resolved.

The landlord made several inspections of the pipework in the flat and in the property above, but after five weeks it had still not found the cause of the problem. Mr L made a formal complaint about the time taken; he explained that he was still paying rent but felt unable to live in his home due to his medical conditions and disability. The landlord provided a verbal response to the complaint, agreeing to investigate the delay and resolve the problem as soon as possible.

The landlord needed access to other neighbouring properties to identify the cause of the blockage, which meant it took a further 13 weeks before the landlord was able to fully resolve the issue and carry out the subsequent repairs to Mr L's flat.

In its final response the landlord offered Mr L £250 as a 'goodwill gesture'. It noted the property had been habitable and it was Mr L's decision to vacate it. It considered that the complexity of diagnosing the problem had contributed to the time taken.

Outcome

We found that whilst the landlord had responded in line with its repairs policy, it had not considered the impact of Mr L's medical conditions when deciding whether it was reasonable for him to remain in the property. We also found maladministration for its complaint handling as the landlord did not provide a written response to the formal complaint; took too long to issue its final review; and its offer of compensation did not have regard to all the relevant factors.

We ordered the landlord to refund Mr L the £1,280 he had paid for alternative accommodation or to refund him the rent paid for his home while he was absent. We also ordered the landlord to pay Mr L £700 compensation and to explain what evidence it required should he wish to reclaim other expenses and how to make an insurance claim.

We recommended that the landlord should ensure its staff are aware of the Ombudsman's Complaint Handling Code and the need to provide a complainant with the written outcome of their complaint at each stage of the process.

Learning

Despite the report being dealt with in line with the landlord's repairs policy, this case was unusually complex and required several inspections of multiple properties, leading to the issue remaining unresolved for an extended period. After five weeks Mr L indicated to the landlord that he felt unable to live in his home as he was disabled. In situations where residents do not feel their home is habitable, or where major works are required, landlords should consider whether the resident ought to

move out or what could be done to help them stay in the property to avoid additional expense and inconvenience.

Questions for landlord complaint handlers

- Does your organisation have processes in place to review and increase the urgency of repairs if subsequent information comes to light following the initial report?
- Where major works are required, or residents report that they feel their home is not habitable, does your organisation have a mechanism in place to consider whether decanting the household is required?

Making effective use of the complaints procedure

Long-term or complex cases are at higher risk of becoming legal issues. Landlords are clearly concerned about the increase in disrepair claims from their residents, with one reporting a 70% increase in associated costs over two years. Whilst this issue is broader than damp and mould, it is critical that residents in these cases do not feel the need to resort to disrepair claims, especially when the complaints procedure could provide a better outcome for the resident and landlord. There are real benefits to both residents and landlords if disputes can be resolved through the complaints process, and the Pre-Action Protocol for Housing Condition Claims makes clear that alternative dispute resolution should be sought.

Landlords should ensure they clearly promote the benefits of their complaint process and the resident's rights to approach the Ombudsman at an early stage, which include:

- More timely resolution of the issues
- More straight-forward and flexible approach to redress
- Free to the resident and
- Not limited in scope, unlike a disrepair claim.

Should the complaint process be exhausted then residents are able to use our alternative dispute resolution service which is:

- Free and simple to use
- Impartial
- Independent of the landlord
- Non-adversarial
- Faster and
- Broader in scope than a legal disrepair claim.

Recommendation 23 for senior management

Landlords should promote the benefits of their complaints process and the Ombudsman to their residents as an appropriate and effective route to resolving disputes.

Pre-Action Protocol for Housing Conditions Claims

When a landlord receives correspondence initiating the protocol, it is important that they do not disengage from any open complaint or the repair issue itself. Commencing the protocol does not constitute legal proceedings and a complaint can be considered at any stage of the protocol.

The Ombudsman's view is that a matter does not become 'legal' until proceedings have been issued. The landlord should be clear with the resident on how it is handling correspondence – whether under the complaints process, the protocol or both – and clearly communicate to the resident when a complaint has exhausted its process. Landlords should direct residents to the Ombudsman for a free, independent and impartial assessment of the case.

The Ombudsman's view is that a matter does not become 'legal' until proceedings have been issued and following the pre-action protocol does not constitute proceedings, and that there is no reason landlords cannot continue to try and resolve matters though the complaints process until that time.

Whilst landlords may manage residents' expectations around our jurisdiction, it is ultimately for us to decide whether we will investigate a complaint. We have updated our jurisdiction guidance to address this issue in more detail and landlords will need to ensure their approach is consistent with the guidance.

The Ombudsman will accept that a landlord letter (from either their in-house legal team or legal representatives) in response to a solicitor's letter on behalf of the resident, such as a letter of claim, is their final response and evidence of having exhausted the complaints process for the purpose of the Ombudsman's jurisdiction.

Even when proceedings have been issued, the landlord should determine whether matters raised in subsequent correspondence form part of those proceedings or ought be addressed through another route such as the complaints process.

This approach should ensure landlords make full use of their complaints process wherever possible and do not prematurely close complaints because of existing unrelated proceedings. Landlords should also use intelligence from these cases to inform and feed into their proactive actions to address damp and mould.

Recommendation 24 for senior management

Landlords should continue to use the complaints procedure when the pre-action protocol has commenced and until legal proceedings have been issued to maximise the opportunities to resolve disputes outside of court. Landlords should ensure their approach is consistent with our jurisdiction guidance and their legal and complaint teams work together effectively where an issue is being pursued through the complaints process and protocol.

Case study – Landlord failed to progress resident's complaint

Ms R had been reporting issues with mould at her home for over a year before it was inspected, and significant works were recommended. The inspection report recommended Ms R was decanted while the works were completed. Ms R reported that the landlord attended and removed the bath panel six months after the inspection, but nothing further happened.

Ms R referred her complaint to the Ombudsman two years after she first started reporting the issues at the property.

The landlord was prompted to update Ms R about the outstanding repairs after one of their staff attended her home to speak to her about another matter, three months after the complaint was referred to the Ombudsman. The landlord apologised for the delay in responding. The following day it advised Ms R that arrangements had been made for the drains to be repaired and once this was completed and the property had dried, further works would commence.

Despite several requests for information, the landlord did not engage with the Ombudsman and the complaint was accepted for investigation. The landlord subsequently advised that the matter was a disrepair case being handled by its solicitors and there was no evidence of an investigation into Ms R's complaint. Two months later, the landlord confirmed the case had not gone down the legal route and was not subject to legal proceedings.

Outcome

We found severe maladministration in the landlord's handling of Ms R's repair requests and the formal complaint. We ordered the landlord to pay Ms R £3,663 in compensation, provide us and Ms R with a detailed schedule of works with timescales to deal with all outstanding issues at the property, discuss the damage to Ms R's belongings and offer reasonable redress to reflect this. We also ordered the landlord to complete a senior management review of the case and to look at why it had failed to carry out the repairs, failed to raise and respond to the complaint and failed to send us a copy of the report.

Learning

Wherever possible, landlords should continue to engage with residents when a complaint or damp or mould issue has the potential to become a disrepair case. Where residents have made a complaint, landlords should continue to progress the complaint until the court papers are issued, at which point the court case takes precedence. Importantly, landlords should ensure that repairs are progressed.

Questions for landlord complaint handlers

- How do you respond to contact from solicitors when the resident has not previously made a complaint?
- Are your complaints teams empowered to continue to investigate complaints when a case has the potential to become legal, but proceedings have not been issued?
- What processes do you have in place to ensure repairs are progressed in these circumstances?

Chapter 4: From complaints to a learning culture

Establishing a learning culture around complaints

Whilst we have high compliance with individual orders, organisational learning from our decisions needs to be better. We made maladministration findings in relation to complaint handling in 64% of cases involving damp and mould. This indicates that landlords are not doing the basics as well as they could and may be a reflection of the organisational culture in relation to complaints.

Some organisations can view complaints as a direct criticism that requires a defensive response. On the contrary, it is essential that landlords recognise that complaints are a valuable learning opportunity that provide real insight into performance on the ground and what is not working quite as well as it could be. Complaints can also help to identify trends and root causes to prevent future issues. With the right response, they can be a strategic resource providing a variety of perspectives on how well a landlord's aims are being achieved from the point of view of their residents.

Landlords can and should encourage complaints from their residents by ensuring their systems provide multiple ways of submitting complaints to support different accessibility needs across their resident population.

A review of our casebook indicates that complaints in relation to damp and mould problems share many of the following characteristics:

- They are often complex
- Issues may be long running
- Poor communications
- Lack of clarity about repairs and timescales
- Lack of confidence by residents in the initial diagnosis
- High level of distress and disruption for the resident
- Health and wellbeing are frequently cited and
- Problems are not fixed and reoccur.

These characteristics mean that complaints concerning damp and mould provide necessary learning for landlords and their staff, which may also be relevant to other areas of landlord operations. The key question for landlords is how well they are set up to capture this learning and feed it into service improvements that will also improve the lives of their residents.

Complaint systems should allow the landlord to analyse their complaints data effectively and to identify themes, trends and learning opportunities. This will enable landlords to be proactive rather than reactive as outlined at the start of this report. Consideration also should be given to sharing learning from complaints with the wider organisation and with their residents, celebrating when things have gone well,

or when positive changes have been made because of complaints or other comments.

We recognise that organisational learning is a challenge for any organisation and are exploring establishing a Centre for Learning as part of our next three-year corporate plan to assist landlords with learning from the wider sector. However, landlords will still need to consider how best to implement organisational learning from their own complaints.

Recommendation 25

Landlords should consider how best to share learning from complaints and the positive impact of changes made as a result within the organisation and externally. Systems should allow the landlord to analyse their complaints data effectively and identify themes, trends and learning opportunities.

Empathy

It is clear from our investigations that complaints involving damp and mould cause considerable distress and inconvenience to the resident. Unlike some other areas of our casework, health and well-being are frequently cited by the resident.

It is important that landlords demonstrate empathy with these circumstances when responding to complaints. Landlords should consider how they train their teams and how to prevent fatigue setting in with call handlers. Landlords should also recognise the impact handling complaints can have on their staff and ensure that appropriate mechanisms are in place to support staff when necessary.

Recommendation 26

Landlords should ensure they treat residents reporting damp and mould with respect and empathy. The distress and inconvenience experienced by residents in this area is some of the most profound we have seen, and this needs to be reflected in the tone and approach of the complaint handling.

Conclusions: Demonstrating change

Damp and mould can be a complex and often frustrating issue for both landlords and residents. We recognise that some landlords are being proactive and that governing bodies are scrutinising approaches. This report aims to support these actions.

We have noted two key systemic issues that persist in cases across our casebook.

- Over reliance on residents
- Lack of overall responsibility for ensuring complaints are resolved.

Our evidence reveals many landlords relying on residents to report problems, to follow up work and to chase missed appointments. Whilst it is accepted that residents have a responsibility to report repairs at an early stage, landlords should ensure proactive actions are incorporated into business-as-usual activities to anticipate likely issues without waiting for those issues to manifest and be reported. For example, if an issue reported by one resident is likely to affect multiple residents, landlords should not wait for the other residents to be affected before taking action. Residents should not be expected to follow up on poor workmanship, outstanding works and missed appointments. These areas are the landlord's responsibility and speak to the importance of good communication and robust follow up procedures.

We also repeatedly see cases where the resident has fallen through the gaps in service provision, and issues that could have been resolved at an early stage have deteriorated, often leading to unacceptable living conditions for those residents. It is crucial that where issues are reported someone is accountable for the resolution of the matter to prevent residents being passed between teams and/or between the landlord and its contractors. It is important to note that both issues are not unique to damp and mould cases and accountability starts at the point the matter is reported not at the point a complaint is made.

It is important for landlords to demonstrate to residents learning from damp and mould complaints. We would encourage landlord staff and managers to review the case studies and learning provided in this report, actively consider how they would have responded to the case and whether as an organisation they would have made the same mistakes.

While some landlords are considering afresh their approach to damp and mould, we would encourage all landlords to do so. In particular, we would encourage senior leaders and governing bodies to ask the following points:

1) **Do we have a proactive, zero-tolerance approach to damp and mould and a comprehensive, consolidated policy or framework for responding to these cases? Are we considering damp and mould as part of our net zero strategy?**

2) **How effective and timely are we at responding to and resolving reports and complaints concerning damp and mould? How do we know we are providing meaningful information and support to our residents?**

3) **How do we identify and manage complex cases, complex situations and/or those involving legal disrepair claims? Are we promoting our complaints processes enough and does our approach allow the complaints process to continue alongside pre-action claims?**

4) **What is our organisational culture with respect to learning? Are we making the most of our complaint data and case studies to learn and improve?**

Governing bodies should seek assurance in relation to compliance with the Complaint Handling Code, as this provides a strong platform for good complaint handling. They should also seek assurance that their organisations and their policies address the key questions outlined by this report and are producing the right outcomes.

We would strongly encourage landlords to share their learning and an action plan with residents during 2022 to improve understanding of their response, transparency and accountability.

Landlords should consider their approach to accountability and transparency and how they can demonstrate these values to their residents. Landlords should make use of opportunities for sharing information such as resident panels, community workshops and newsletters. Crucially, resident panels and community workshops provide landlords with the opportunity to hear the resident voice and be accountable to their residents.

Alongside this, the Ombudsman is also committed to taking action in several areas following this report. In addition to the new guidance on our jurisdiction, we are:

1. **Responding to the Ministry of Justice's call for evidence on the role of alternative dispute resolution**. We hope this will reduce the current trend of 'no win, no fee' legal firms soliciting disrepair claims from residents who have not been through the complaints process.

2. **Raising awareness of our service and the benefits of the complaints process to address issues.** While we have seen a significant increase in complaints relating to damp and mould, our corporate plan sets out plans for more awareness raising including removing barriers for any groups who may find accessing the complaints process more challenging.

3. **Reviewing the cases in this report to inform the proposed review of our remedies guidance in comparison with disrepair case studies**. Whilst we do not necessarily propose to increase the level of redress we offer to compare

favourably with disrepair claims, we recognise that we need to do more to encourage residents to use our services over the courts.

4. **We will follow up on this report**. The report covers a lot of issues and landlords will need time to consider their response. We will be monitoring landlord performance in this area and will actively consider where further systemic investigations may be required in the future to address service improvements with individual landlords. We will also consider whether we need to do further work in relation to possible contributory factors to damp and mould such as roof leaks, retrofitting or the managed decline of stock.

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