

Committee Name and Date of Committee Meeting

Improving Places Select Commission – 04 July 2023

Report Title

Damp, Mould and Condensation Update

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Ian Spicer, Strategic Director of Adult Care, Housing and Public Health

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

Damp and mould in the home can be a hazard to health, causing respiratory problems and increasing allergies.

The Council adopts a zero-tolerance, pro-active approach to reports of damp, mould and condensation in council owned properties and provides support to private rented tenants to address hazards within their homes.

The Draft Damp, Mould and Condensation Policy has been compiled in response to the Housing Ombudsman reports in relation to damp and mould, and the proposals for Awaab's Law which will require landlords to fix reported health hazards within specified timeframes.

This report provides the Improving Places Select Commission with an update on the current processes in place to deal with reports of damp, mould and condensation and a summary of the Draft Damp, Mould and Condensation Policy.

Recommendations

1. That Improving Places Select Commission note the current processes in place to deal with reports of damp and mould.
2. That Improving Places Select Commission provide feedback on the current approach and Draft Damp, Mould and Condensation Policy.

List of Appendices Included

Appendix 1 Draft Damp, Mould and Condensation Policy

Appendix 2 How to keep your home safe, well and warm- a guide for residents.

Appendix 3 Initial Equality Screening (Part A).

Appendix 4 Equality Analysis Form (Part B).

Appendix 5 Carbon Impact Assessment.

Background Papers

None.

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None.

Council Approval Required

No

Exempt from the Press and Public

No

1. Background

- 1.1 The Housing Ombudsman published a spotlight report 'It's not lifestyle' in October 2021 in response to a rising number of damp and mould complaints, high uphold rate and re-occurring reasons leading to maladministration.
- 1.2 In November 2022, the Housing Ombudsman wrote to housing providers to bring renewed focus on the recommendations contained within the report following the tragic death of Awaab Ishak.
- 1.3 A follow up report was published by the Housing Ombudsman in February 2023 which summarises the outcome of the work undertaken with landlords since the previous report. Ten key factors within three priority areas are highlighted within the report as follows:
 - Hiding behind legal proceedings- ensuring complaints processes are accessible and that the tone of advice provided to residents is not patronising, insulting or blaming i.e. keeping the heating on all the time.
 - Dignity, respect and fairness- that communications remove the culture of blaming the resident and their lifestyle, ensuring empathy and recognition of the pressures on some households such as fuel poverty and overcrowding.
 - Good governance, knowledge and information management- landlords are encouraged to have a damp and mould policy in place, have knowledge of properties which are at risk and a void standard/mutual exchange so that tenants do not move into homes with damp and mould issues.
- 1.4 Currently, damp and mould features in the Council's Repair and Maintenance policy. This includes information on the Damp Survey Request and Report Procedure. However, there is no separate bespoke policy detailing the Council's approach to dealing with Damp, Mould and Condensation and the Repairs and Maintenance Policy only applies to council homes.
- 1.5 The Draft Damp, Mould and Condensation Policy has been developed in response to the recommendations by the Housing Ombudsman and also includes the Council's wider responsibilities in responding to issues reported within private housing. The policy addresses the issues raised by the Housing Ombudsman with a clear emphasis on taking responsibility and a proactive zero tolerance approach.
- 1.6 It is likely that the policy will require amendment following the introduction of Awaab's Law and the requirements contained within the legislation.

2. Key Issues

2.1 Current Legislation

2.1.1 The Decent Homes Standard sets out the minimum requirements that social homes must meet which are as follows:

- Criteria a) it meets the statutory minimum standard for housing
- Criteria b) it is in a reasonable state of repair (which was replaced by HHSRS in 2006)
- Criteria c) it has reasonably modern facilities and services
- Criteria d) it provides a reasonable degree of thermal comfort

2.1.2 The Housing Health and Safety Rating System (HHSRS) was introduced to the Decent Homes Standard in 2006 and replaced 'Criteria b' detailed above. The criteria states that a dwelling must be free of category one hazards, and the existence of hazards should be a trigger for remedial action. Damp, mould and excess cold may amount to a category one hazard.

2.1.3 The government launched a consultation in September 2022 to improve the current standard for Social Housing and extend to the private rented sector. This has since been deferred.

2.1.4 The Secretary of State for Levelling up, Housing and Communities wrote to all Social Housing Providers in November 2022 following the tragic death of Awaab Ishak. The letter requested that providers go further than the decent homes standard with particular regard to damp and mould.

2.1.5 The Government has tabled amendments to the Social Housing Regulation Bill to introduce 'Awaab's Law', which will require landlords to fix reported health hazards within specified timeframes. Similarly, the Department for Levelling Up, Housing and Communities (DLUHC) has announced that social housing landlords will have to investigate and fix damp and mould in their properties within strict new time limits, with a rapid review of existing guidance on the health impacts of damp and mould, followed by new guidance tailored to the housing sector, to be published by Summer 2023.

2.2 Rotherham's Current Approach- Council Properties

2.2.1 An inspection is undertaken by a Technical Officer in every case where a report is received in relation to damp, condensation and mould in Council properties. During the visit, the officer provides advice and guidance to tenants. Officers treat the mould during the visit where specialist treatments and interventions are not required. An internal and external inspection is undertaken to determine any repairs related issues which may be causing the damp including loft insulation issues, guttering, defective damp course, faulty extractor fans and roof repair requirements.

- 2.2.2 Work requiring mould, damp or ventilation specialists is ordered to specialist contractors where required.
- 2.2.3 In response to a 238% increase in damp and mould referrals (comparing 128 reports in January 2022 to 432 reports in January 2023), the housing service has increased the number of Technical Officers to inspect mould and damp by 50% (from six to nine officers).
- 2.2.4 The increase is reflected nationally resulting in significant demand for mould specialists across the housing sector. The housing service has a contract in place with QEST and has recently appointed a second contractor to deal with the increased number of requests. The target turnaround for starting treatment works is within 7 working days of instructing the work. However, the target turnaround time is not being achieved by the contractors due to unprecedented market demand in recent months. Contract meetings are in place to address the failure to achieve performance and the housing service is pursuing other options to deal with the increased demand. This includes requesting assistance from Facilities Services who are trained to undertake specialist cleans including mould treatment.
- 2.2.5 The Council acknowledge damp and mould complaints are often received via disrepair claims. The following claims were received in relation to damp and mould:
- In 2021/22 68 cases were received, 61 were closed with a total settlement cost of £22,882, 7 remain open
 - In 2022/23 48 cases were received, 13 were closed with a total settlement cost of £795, 35 remain open
 - To date in 2023/24, 9 cases have been received, 1 has been closed with a settlement cost of £50, 8 remain open.

50 cases are currently active.

2.3 Proactive Mould Surveys

- 2.3.1 The Housing Service attempted 247 proactive mould surveys to Council houses in geographic areas identified as having a disproportionately high number of mould-related issues in 2022. This subsequently resulted in mould treatment works being successfully carried out to 63 properties, and 36 new extractor fans were fitted.
- 2.3.2 There are plans in place to undertake a further 400 targeted proactive mould surveys to Council homes in 2023. The methodology for targeting the 400 proactive mould surveys will follow the same principles as the targeted approach for the 247 surveys undertaken in 2022.

2.4 Communications Campaign

- 2.4.1 In December 2022, the Council launched a major programme of communications with residents.

- 2.4.2 In addition, a video focusing on preventing mould in your home and a leaflet 'How to keep you and your home safe, well and warm' have been published.
- 2.4.3 The Summer 2022 edition of Home Matters featured information on how to combat damp and mould in homes as well as options available for tenants who may have been struggling due to the cost-of-living crisis.
- 2.4.4 'How to report a complaint' is a standing article in all home matters magazines.
- 2.4.5 The website is being amended to include an option to report damp and mould online.

2.5 Proactive investment to prevent damp and mould

2.5.1 Below is a summary of investment in specialist treatments in Council properties over the last 7 years:

Year	Mould and Condensation Treatment	Damp Proofing Works
2016-17	£129,000	£434,000
2017-18	£175,000	£285,000
2018-19	£138,000	£170,000
2019-20	£213,000	£299,000
2020-21	£125,000	£352,000
2021-22	£186,000	£331,000
2022-23 (forecast)	£295,000	£580,000
Total	£1,261,000	£2,451,000

2.5.2 £8.8m of targeted investment to improve ventilation, insulation and thermal efficiency following in-depth stock analysis has been undertaken during the last five years.

2.6 Private Sector Housing

2.6.1 Local Authorities have a statutory role to enforce standards on all private rented homes, these powers are extensive but there are still barriers and limitations to councils using these powers to adequately protect people renting private accommodation.

2.6.2 Firstly, there can be a lack of knowledge of rights. This can be due to a number of reasons such as tenants, especially those from outside the UK, are not aware of their rights, this makes them unsure how to report issues and who to report them to. There are also language barriers that need to be overcome. There may be a lack of confidence in authorities which leads to a lack of reporting although this does improve when they have other services involved.

- 2.6.3 The limitations in providing protection can be linked to fear, this can be fear of reprisals from rogue landlords, fear of rent increases and also fear of becoming homeless which could be through legal routes or could be due to harassment or illegal eviction. Some tenants are also caught up in exploitation by their landlords or organised crime gangs (OCG), and may be housed in appalling conditions however they are unlikely to approach the Council due to fear of the consequences of doing so.
- 2.6.4 There are limitations for people wanting to take their own actions against landlords who supply properties that are below standard. These are due to the complex renting system, the legislation that is difficult to understand and the costs associated with civil action.
- 2.6.5 The Community Protection and Environmental Health Team, who enforce private sector housing problems within Rotherham, are experiencing challenges regarding capacity of experienced officers within the teams due to difficulties in recruitment, which is a national issue and one we're seeking to address through internal training.
- 2.6.6 It is important that the Local Authority recognises these barriers and take steps to overcome them to the best of their ability: indeed, the Council has a statutory duty to do so. This can be achieved by having a visible presence in the area and cultivating relationships with residents and community groups in the area who offer support to residents, whilst also undertaking robust regulation and enforcement actions. Building relationships with residents and delivering early intervention through schools/colleges as well as providing workshops and presentations regarding tenant's rights and how to report issues will also assist in removing these barriers, together with effective enforcement against landlords.

3. Options considered and recommended proposal

- 3.1 The Housing Ombudsman has developed recommendations for housing providers to follow to provide assurance in relation to the processes in place for dealing with damp and mould requests. The draft policy addresses the recommendations contained within the Housing Ombudsman report.

4. Consultation on proposal

- 4.1 The emerging themes from the draft policy have been discussed at Housing Involvement Panel.
- 4.2 The Cabinet Member for Housing has been consulted.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The Draft Damp, Mould and Condensation Policy is scheduled for submission to Cabinet in September 2023.

6. Financial and Procurement Advice and Implications

- 6.1 There is a total budget in place for dealing with damp and mould issues in council homes of £1.072m in 2023/24. This value represents a 109% funding increase vs 2021/22 outturn and a 21% increase vs the 2022/23 outturn.
- 6.2 The current mould specialist contractors are not meeting their contractual obligations due to unprecedented demand in this sector. There is ability to procure an alternative supplier (and QEST fund any additional cost) until QEST can achieve service standards, or terminate part or all of the contract if there are suitable grounds to evidence that QEST are not delivering to the agreed service standards. However, there are a limited number of suppliers delivering these works.
- 6.3 A formal tender process will need to be undertaken if additional contractors are required to meet demand. The cost of the procurement process will be managed via existing staff and budgets. The potential impact on the cost of works will emerge as the tender progresses. Given the current economical position it is possible that costs will increase. This will be managed via the budget monitoring process and would utilise emerging underspends. If this is not possible there will be a call on HRA reserves, which are in a more favourable position than budget due to the underspend in 2022/23.

7. Legal Advice and Implications

- 7.1 There are legislative requirements for keeping social housing and private sector properties in a reasonable state of repair and free from hazards, which are also applicable to damp and mould. The detail of the relevant legislation is contained within the main body of the report.
- 7.2 In due course the government will introduce Awaab's law which will require landlords to fix reported health hazards within specified timescales. The Damp, Mould and Condensation Policy may require amendment to reflect the criteria within the law.
- 7.3 In implementing the Damp, Mould and Condensation Policy the Council is taking steps to minimise the risk of legal challenge/enforcement action by the Regulator in the future. The Council will be able to demonstrate that they have fully considered the recommendations made by the Housing Ombudsman and are taking their responsibilities as a housing provider seriously.

8. Human Resources Advice and Implications

- 8.1 The housing service has followed due process and increased the number of Technical Officers to reflect increased demand associated with damp and mould.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 Damp and mould can negatively impact upon the health and wellbeing of children and vulnerable adults. It is therefore imperative that we address and deal with the issue as soon as possible.

10. Equalities and Human Rights Advice and Implications

- 10.1 Please see attached Equality Analysis.
- 10.2 Reports of damp and mould are prioritised based upon vulnerabilities of the tenant i.e. age, ill health or disability.
- 10.3 Tenants have a right to reside in a home which is fit for habitation.

11. Implications for CO₂ Emissions and Climate Change

- 11.1 Please see attached Carbon Impact Assessment Report.
- 11.2 The works undertaken to improve the thermal efficiency of properties positively contributes to the reduction of CO₂ emissions and climate change agenda.

12. Implications for Partners

- 12.1 QUEST and Mould Doctor are the specialist contractors currently contracted to deliver mould eradication works and are not currently achieving their performance target.

13. Risks and Mitigation

- 13.1 The key risk is to tenants' health who are living in properties with damp and mould which can lead to respiratory problems, infections, allergies or asthma.
- 13.2 Failure to comply with HHSRS and the Decent Homes Standard will lead to non-compliance. The Regulator for Social Housing can issue an unlimited fine, enter properties with 48 hours' notice and make emergency repairs where there is a serious risk to tenants, with landlords footing the bill.
- 13.3 The Draft Damp, Condensation and Mould Policy addresses the requirements of the legislation and Housing Ombudsman recommendations.

Accountable Officer(s)

James Clark, Assistant Director of Housing
Sam Barstow, Assistant Director of Community Safety and Streetscene
Lynsey Skidmore, Interim Head of Contracts, Investment and Compliance
Emma Ellis, Head of Community Safety and Regulatory Services

Approvals obtained on behalf of:

	Name	Date
Chief Executive		Click here to enter a date.
Strategic Director of Finance & Customer Services (S.151 Officer)	Jo-ann Sheppard	14/06/23
Assistant Director of Legal Services (Monitoring Officer)	Michelle Scales	13/06/23
Assistant Director of Human Resources (if appropriate)		Click here to enter a date.
Head of Human Resources (if appropriate)	Claire Cox	06/06/23
The Strategic Director with responsibility for this report	Ian Spicer, Strategic Director of Adult Care, Housing and Public Health	29/06/23
Consultation undertaken with the relevant Cabinet Member	Cabinet Member for Housing - Councillor Brookes	29/06/23

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