

**Committee Name and Date of Committee Meeting**

Cabinet – 18 September 2023

**Report Title**

Damp, Mould and Condensation Policy

**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)**

Lynsey Skidmore, Interim Head of Housing Property Services, Adult Care, Housing and Public Health. 01709 334950.

**Ward(s) Affected**

Borough-Wide

**Report Summary**

This report seeks approval of the specific Damp, Mould and Condensation Policy. The Policy sets out the Council's approach to dealing with Damp, Mould and Condensation problems in Council-owned and private sector homes.

**Recommendations**

That Cabinet:

1. Approves the specific Damp, Mould and Condensation Policy.
2. Delegates authority to the Assistant Director of Housing, in consultation with the Cabinet Member for Housing, to alter the Policy to bring it into line with forthcoming new legal time limits for social landlords to address damp and mould, if required.

**List of Appendices Included**

Appendix 1 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**

Housing Ombudsman Spotlight Report 'It's not lifestyle' October 2021:

Housing Ombudsman Report 'One year on follow up report: Spotlight on damp and mould – it's not lifestyle'. February 2023:

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Improving Places Select Commission- Damp Mould and Condensation Update- 12<sup>th</sup> July 2023.

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Damp, Mould and Condensation Policy**

### **1. Background**

- 1.1 Damp and mould in the home can be a hazard to health, causing respiratory problems and increasing allergies. In some cases, it can lead or contribute to serious health conditions and even death. Excess damp and mould constitute a severe hazard and therefore must be addressed by landlords.
- 1.2 The Council adopts a zero-tolerance, pro-active approach to reports of damp, mould and condensation in council-owned properties and expects other landlords in Rotherham to do the same. The Council provides support to private rented tenants to address hazards that occur in their homes primarily through enforcement of statutory minimum legal standards.
- 1.3 The Damp, Mould and Condensation Policy has been developed in response to the recommendations by the Housing Ombudsman report 'It's not lifestyle', published in October 2021. The report was a spotlight on damp and mould issues in social housing based on common features present in hundreds of complaints heard by the Ombudsman. While the Ombudsman's jurisdiction does not encompass private sector housing, many of the themes and recommendations apply equally to all housing tenures.
- 1.4 This issue was brought into sharp focus following the coroner's report into the tragic death of two-year old Awaab Ishak, who lived with his parents in a housing association home in Rochdale. The report found that the cause of death was a severe respiratory condition caused by presence of mould in the home. The property had inadequate ventilation and was not equipped for normal day-to-day activities, which led to excess damp and mould; and the landlord placed too much emphasis on Awaab Ishak's parents' 'lifestyle' and were too slow to implement remedial works.
- 1.5 It is likely that the Policy will require amendment following the introduction of new regulations that will specify minimum response times in cases of reports of severe health and safety hazards (known as 'Awaab's Law').

### **2. Key Issues**

- 2.1 The Council has a statutory obligation to deal with hazards in Council and private sector properties. The Housing Health and Safety Rating System (HHSRS) 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. In the social housing sector, the Decent Homes standard includes a requirement that a property must be free of category one hazards.
- 2.2 Currently the Council's approach to damp and mould has not been a separate policy and is documented in the Council's Repair and Maintenance Policy. This includes information on the Damp Survey Request and Report Procedure. However, given its importance it is proposed to have a separate Policy document detailing the Council's approach to dealing with damp, mould and condensation.

- 2.3 This new Policy will cover both Council and private properties.
- 2.4 Key aims of the Policy are to raise awareness of damp, mould and condensation, provide advice to residents, and detail the Council's approach to dealing with reports of damp and mould.
- 2.5 The Policy includes:
- The definitions and causes of condensation, damp and mould, and steps that can be taken prevent and treat it.
  - The role of the Council as a landlord.
  - The role of the Council as the enforcement body for private sector homes.
- 2.6 The Policy is underpinned by the following principles:
- All residents should expect to be able to live in a safe and healthy home environment free of damp, mould and condensation.
  - Residents should be empowered to identify, treat and prevent damp, mould and condensation in their homes where it is safe, practical and reasonable to do so.
  - There is a clear and accessible way to report cases of damp, mould and condensation available for all residents.
  - Council staff and contractors should always treat residents in a fair and empathetic manner, taking into account individual circumstances including age, health conditions, language barriers and any contributing factors such as fuel poverty, insulation defects and overcrowding.
  - All landlords, including the Council, should take responsibility and be proactive. A data driven, risk and solution focused approach should be adopted to identify and prevent damp and mould quickly.
- 2.7 The legislative framework will be strengthened through the introduction of 'Awaab's Law', which will require landlords to fix reported health hazards within specified timeframes. The Department for Levelling Up, Housing and Communities (DLUHC) will bring forward new requirements soon. Cabinet is requested to authorise a delegation to enable rapid amendment to the Policy if required so that it aligns with any new legal requirements.
- 2.8 Council housing  
Between January 2023 to July 2023, the Housing Service received 1,598 reports relating to damp and mould in Council properties. This is a significant increase in comparison to previous years. The number of Technical Officers to inspect mould and damp has been increased by 50% (from six to nine officers) following the 338% increase in reports in January 2023 (comparing 128 reports in January 2022 to 432 reports in January 2023).
- 2.9 The zero tolerance and pro-active approach within Council properties includes the following:
- Pro-actively identifying issues through awareness raising, staff training and a programme of property surveys.
  - Preventing the potential for mould occurring through targeted investment in areas/property archetypes with a high prevalence of damp and mould
  - Improvements to thermal efficiency and ventilation.

2.10 The Housing Service attempted 247 proactive mould surveys to Council houses in geographic areas identified as having a disproportionately higher 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. 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.

2.11 The table below summarises the investment in specialist treatments in Council properties over the last 7 years:

Year	Mould and Condensation Treatment	Damp Proofing Works	Beyond the mould (Extractor Fan planned Programme)	Annual spend
2017-18	£175,000	£285,000	£0	<b>£460,000</b>
2018-19	£138,000	£170,000	£0	<b>£308,000</b>
2019-20	£213,000	£299,000	£0	<b>£512,000</b>
2020-21	£125,000	£352,000	£0	<b>£477,000</b>
2021-22	£186,000	£331,000	£0	<b>£517,000</b>
2022-23	£295,000	£580,000	£53,000	<b>£928,000</b>
2023-24 (P5 Forecast)	£750,000	£896,000	£432,000	<b>£2,078,000</b>
<b>7 Year Total</b>	<b>£1,882,000</b>	<b>£2,913,000</b>	<b>£485,000</b>	<b>£5,280,000</b>

2.12 In addition, £8.8m targeted investment has been made in the Council's housing stock during the last five years to improve ventilation, insulation and thermal efficiency.

#### 2.13 Private sector housing

The Council takes a pro-active approach in Selective Licensing designated areas, and a reactive approach to deal with unresolved complaints elsewhere. Tenants should first contact their landlord, who has a duty to ensure that properties are fit for human habitation. Tenants can request an inspection by a Community Protection Officer/ Environmental Health Officer (EHO) if their landlords have failed to carry out appropriate repairs. Landlords are held to account in relation to any hazards presented by damp and mould, which during the current financial year has resulted in two properties being prohibited for human habitation due to damp and mould.

2.14 The Council's Community Protection and Environmental Health team has received 10 private sector housing complaints relating to mould and damp between January and July 2023 which implies that by year end there will be an increase on previous full years with 13 in 2022 and 12 in 2021.

2.15 However, it should be noted that tenants in the private sector are not as ready to complain, for a range of reasons, compared to tenants in the social sector.

For each reactive complaint made to the Council, the property will be inspected for hazards and damp and mould will be picked up even where the original issue relates to a different matter, such as heating. The team has dealt with 372 complaints so far, this financial year. In addition, where pro-active inspections of private sector properties are undertaken, damp and mould is one of the hazards examined and is found to be a Category 1 hazard in an estimated 7% of properties.

### **3. Options considered and recommended proposal**

- 3.1 **Option 1:** Do not publish or delay the separate bespoke Policy (not recommended). The Council could rely on the Council Housing Repairs and Maintenance Policy, or the Council could opt to delay introduction of a policy until new legal requirements to deal with damp and mould are in force. This is not recommended because the separate Policy ensures that residents know how to report damp and mould, and the service they should expect once reported.
- 3.2 **Option 2:** Publish a Policy covering only Council housing (not recommended). This option would address the core requirements of the Council in its position as a social landlord, but it would leave other residents with no clear guidance or expectations of support.
- 3.3 **Option 3:** Publish a bespoke and separate Policy covering all housing types (**recommended option**). This option, combined with a delegation to bring the Policy into line with any new legal requirements, is preferred because it provides clear policy now, and to all residents.

### **4. Consultation on proposal**

- 4.1 The emerging themes from the Draft Policy were discussed at the Housing Involvement Panel and the Draft Policy has been shared with tenant representatives and their feedback has been incorporated.
- 4.2 The Draft Policy has also been shared with members of the Rotherham Strategic Housing Forum. Housing associations have provided positive feedback.
- 4.3 The Draft Policy and an update on the current position on damp and mould within Rotherham was presented to Improving Places Select Commission on 12<sup>th</sup> July 2023. IPSC asked for some more data on issues in the private rented sector. This is contained within this report.

### **5. Timetable and Accountability for Implementing this Decision**

- 5.1 Subject to approval, the Policy will be published on the Council website in September 2023.
- 5.2 An annual progress report will be prepared for the Improving Places Select Commission.

## **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 enforcement of legislation relating to the private rented sector is contained within existing revenue budgets and for designated areas, within the Selective Licensing budget. The Selective Licensing budget is funded through fees charged to landlords for the Licensing of properties.
- 6.3 There are no direct procurement implications associated with the approval of the Policy. There are current contracts in place with specialist mould and damp contractors to facilitate works to Council homes. As and when these contracts require renewal (or additional contractors are required to meet demand), they must be procured in compliance with the Public Contracts Regulations 2015 (as amended) and the Council's own Financial and Procurement Procedure Rules.

## **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 The Social Housing (Regulation) Act received Royal Assent on the 20<sup>th</sup> July 2023. The Act will introduce "Awaab's law" which will require landlords to fix reported health and safety hazards within specified timescales.
- 7.3 The Social Housing (Regulation) Act also enhances the powers of the Regulator by permitting regular inspections of the largest social housing providers and the power to issue unlimited fines to rogue social landlords, the inspections are expected to commence in April 2024.
- 7.4 The Regulator will now consult on revisions to the consumer standards, and the Department of Levelling Up, Housing and Communities (DLUHC) will consult on the measures to move forward with the social housing reform programme such as "Awaab's Law", changes to the Decent Homes Standards and professionalisation of the sector.
- 7.5 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.
- 7.6 The Council has a statutory obligation under section 3(1) of the Housing Act 2004 to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken, and at section 4(1) and (2) to inspect properties where Category 1 or 2 Hazards may exist. Section 5 of the Housing Act 2004 places a statutory duty on the Council to take action where Category 1 hazards exist.

7.7 Part 3 of the Housing Act 2004 provides powers for Council's to designate areas for Selective Licensing, which gives the Council additional powers to license private rented properties and attach conditions to those licenses, in addition to the existing powers in the Act.

## **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.

8.2 There are no Human resources implications from this paper relating to the Council's private sector housing enforcement functions.

## **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 The presence of mould within homes can disproportionately affect people with protected characteristics including younger children, older adults or someone with a health condition. The presence of mould may also have an impact on an individual's mental health. The housing service prioritises the response time for anyone with a vulnerability towards damp and mould to enable it to be dealt with sooner.

10.2 Tenants have a right to reside in a home which is fit for habitation.

## **11. Implications for CO<sub>2</sub> Emissions and Climate Change**

11.1 Additional visits to properties by Technical Officers and damp and mould contractors due to the increase in demand and to reflect our pro-active approach may result in an increase in vehicle emissions and waste generated through treatment works.

11.2 However, the Housing Service is carrying out investment to the housing stock to improve the thermal efficiency of properties which positively contributes to the reduction of CO<sub>2</sub> emissions and climate change agenda.

## **12. Implications for Partners**

12.1 There are specialist contractors currently contracted to deliver mould eradication works.

## **13. Risks and Mitigation**

13.1 The key risk is to the health of tenants who are living in properties with damp and mould which can lead to respiratory problems, infections, allergies or asthma. There are robust processes in place to prioritise a response based on the increased vulnerabilities to exposure to mould spores.

- 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. The policy sets out the zero-tolerance and proactive response to reports of damp and mould.
- 13.3 The Damp, Condensation and Mould Policy addresses the requirements of the legislation and Housing Ombudsman recommendations.

14. **Accountable Officer(s)**

James Clark, Assistant Director of Housing Approvals obtained on behalf of:

	<b>Name</b>	<b>Date</b>
Chief Executive	Sharon Kemp	04/09/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	30/08/2023
Assistant Director of Legal Services (Monitoring Officer)	Phil Horsfield	25/08/2023

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