

Damp & Mould

Date: 8 February 2023

Report of: The Director of Communities, Housing and Environment

Report to: Executive Board

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

This report provides Members of Executive Board with information on the subject of damp and mould within council managed homes. The report provides an update on the approach being taken to tackle damp and mould issues in council managed homes and provides assurance that robust measures are in place to deal with the issue ensuring that the safety of residents is appropriately prioritised. Whilst the council has taken a proactive approach to damp and mould for some time, the report sets out how the council has introduced further proactive measures through its response to the Housing Ombudsman's report, 'A spotlight on Damp and Mould – It's not Lifestyle', which was published in October 2021 as well as reviewing our approach following the recent tragic case of Awaab Ishak, who died due to prolonged exposure to excessive mould growth in his Rochdale home. The report outlines what changes have been put in place since; including revised governance arrangements to oversee the overall damp and mould strategy, the formation of a dedicated team to respond to tenant's damp and mould reports and improved support to tenants in fuel poverty who are less able to heat and ventilate their homes. The issue of damp and mould in the private rented sector Housing has also been raised by the Secretary of State for Levelling Up, Housing and Communities. He has written to all councils instructing them to do more to address damp and mould in private rented homes. This instruction goes over and above the existing statutory duty to mitigate category 1 hazards which are those hazards that provide a serious and immediate risk to health and safety, and now gives councils the power to also address the most serious category 2 hazards, which are deemed lower risk to occupiers. Sitting alongside this duty; the Secretary of State has also imposed a duty on councils to provide information on how they have addressed damp and mould in the private rented sector including the level of enforcement action taken.

Recommendations

That Members of Executive Board:

- a) note the contents of this report, and;
- b) support the measures which have been put in place to reduce damp and mould in tenant's homes and improve how reports of damp and mould in tenant's homes are managed.

What is this report about?

- 1 Damp and mould is one of the 29 hazards listed under the Housing Health & Safety Rating System (Housing Act 2004) which the council, as landlord, has a legal duty to mitigate where any hazard found is duly assessed as a category 1 hazard. This responsibility is fully understood and the council has taken a proactive approach to dealing with damp and mould in homes for many years. This approach is embedded into operational procedures and wider strategies to make sure that all reports of damp and mould are assessed in a timely manner and that proactive prevention work contributes towards damp and mould reduction.
- 2 Category 1 hazards under the Housing Health and Safety Rating System (HHSRS) are those hazards that pose a serious and immediate risk to a person's health and safety. Other hazards which are less serious or less urgent are classed as category 2 hazards.
- 3 Despite the proactive work that has been undertaken, damp and mould continue to be an area of huge concern right across the social housing sector and is an area where further improvements have been introduced over the last twelve months. These improvements continue to be introduced. There are numerous challenges that the council and other social landlords face in combatting damp and mould which are set out in this report. However, this report is intended to give assurance that the council's approach to damp and mould is robust and that the health and safety of residents is being prioritised.
- 4 In October 2021, the Housing Ombudsman Service published a report titled 'A Spotlight on Damp and Mould'. The report contained 26 recommendations for landlords and was developed as a result of the Housing Ombudsman's observations of increased maladministration from landlords in dealing with damp and mould cases. All 26 recommendations have been accepted and adopted by Housing Leeds and the service has worked hard to develop and implement these since. A link to the Housing Ombudsman's report can be found within the background documents to this report.
- 5 In November 2022, we learnt about the tragic death of Awaab Ishak, the toddler who died from severe respiratory condition caused due to prolonged exposure to mould in his home environment. The death of Awaab has served as a tragic reminder to all that a 'Zero Tolerance' approach to damp and mould must be taken across the sector and that more must be done to prevent damp and mould in homes and improve the response to reports. As a direct result of Awaab's death and the Coroners comments that "action to treat and prevent the mould was not taken" the Social Housing Regulator wrote to all social landlords requesting written assurance around the robustness of their approach to damp and mould. The Secretary of State for Levelling Up, Housing and Communities has also called on all landlords to improve their approaches to dealing with damp and mould and has stated that landlords are now 'on notice' to improve conditions and responses to damp and mould.
- 6 As a result of these events, there has been significant media attention around damp and mould nationally. This media attention has been helpful in that it has raised awareness of damp and mould with tenants and encouraged increased reporting. This activity, however, has led to a significant increase in damp and mould reports which has caused unprecedented pressure on frontline teams, particularly as the colder, winter months has drawn in. This position has been heavily compounded by the current cost of living crisis and the fact that more people are falling into fuel poverty and cannot afford to heat their homes effectively (or run mechanical extractor fans) which is leading to higher than normal levels of condensation damp and mould within homes. In November 2022, the service saw a circa 120% increase on normal levels of damp and mould reports and whilst winter demand is always the highest for this type of activity, it is heavily anticipated that future damp and mould reporting will remain significantly higher than it has in the past.

- 7 In addition to the pre-existing controls, the following measures have been introduced within the past twelve months to strengthen the council's position:
- a) A Damp & Mould Prevention Board has been created. This board, chaired by the Chief Officer for Housing and members of the housing senior management team, are responsible for overseeing the strategic development of all damp and mould activity.
 - b) The development of a new Damp & Mould policy. This document sets out the scope of the council's approach to damp and mould and provides a framework for the handling of damp and mould cases.
 - c) Damp and mould training has been rolled out to frontline staff across Housing Leeds. A revised, more in-depth package is to be rolled out to all frontline staff and contractors in early Spring 2023.
 - d) In December 2022, a Damp & Mould Team was launched. The team assess all new damp reports, providing a triage service, and have increased the service's capacity to assess and diagnose damp and mould reports.
 - e) Linking to the new Damp & Mould team, channels for reporting damp and mould have been redesigned. Tenants now have the option to report directly to the Damp & Mould Team without having to go through the telephone Contact Centre or a Community Hub. Tenants are encouraged to provide photographic images directly in-order to speed up the process and help identify the highest priority cases.
 - f) Improved monitoring of live damp and mould related repairs.
 - g) A review of the collection and use of stock-condition data has taken place. This will ensure that data relating to damp and mould can be used more robustly to influence planned preventative work and future investment option appraisals.
 - h) Re-emphasis has been placed on identifying and reporting Damp and Mould issues during Annual Tenancy Contact discussions.
 - i) Damp and Mould prevention information has been shared with all elected members and frontline staff. *Appendix a* includes an all members briefing that has been shared in relation to the new damp and mould team and improved reporting channels. This will help promote reporting through the correct channels and also help to provide residents with practical advice to reduce the risk of condensation and how to remove mould before it becomes a serious issue. Similar information has been updated on the repairs webpage as well as being proactively sent to tenants in social media posts and newsletters. *Appendix b* provides an example of communications which are being shared with tenants through newsletters on a regular basis. This example was included within the January 2023 digital newsletter.
 - j) Frontline staff have been equipped to have supportive conversations with tenants about fuel poverty in light of the current cost of living crisis. This includes tools to help signpost to support and access free energy vouchers, through the British Gas Energy Charity which has made £100,000 of vouchers available, over the winter for tenants in fuel poverty.
 - k) We are one of the first authorities to have trialled the use of environmental sensors through the covid-hit GovTech project. We are now taking what we have learnt (both positive and areas to be improved) into a further review of the use of this digital technology as part of a longer term solution.
- 8 Further ongoing work is taking place to:
- a) Increase the Technical Officer and contractors/service providers capacity in-line with increased levels of demand;
 - b) Develop a proactive communication plan which includes proactive self-help advice and effective 'after care' to tenants who have had damp and mould works carried out, and;
 - c) Ensure that the capital investment programme activity keeps in-line with damp prevention work. £85m has already been invested since 2019 in preventative measures including

heating, ventilation and insulation with scheduled works to improve a further 15,000 properties.

- 9 It does need to be recognised that there are a number of challenges which are currently impacting on the ability to deliver this approach. These challenges are in the main due to the current challenges facing the construction industry, both in the supply and availability of materials and in the labour market. This is impacting on the council's ability to recruit and retain suitably skilled technical staff and trade operatives. Also, the current financial climate which is impacting the ability of the council to attract additional, appropriately skilled supply chain partners. The current financial climate is a double-edged sword in that not only is this a significant challenge to the council's resources; the cost of delivery of some elements of the repairs and maintenance service has increase by up to 40%, but equally the impact of the cost of living crisis on tenant's own finances is exasperating the problem of condensation damp and mould within homes. These challenges are ubiquitous amongst social housing landlords at present. The key risks are set out within the *Key Risks* section of this report.
- 10 At the end of December 2022, no homes in the management of Housing Leeds contained Category 1 damp and mould. This information was gathered utilising a combination of asset data obtained through stock condition surveys and via repairs data. Some 54 properties have been assessed as containing Category 1 damp and mould in the 3 years to December 2022, with all cases receiving emergency repairs / treatments. In some cases tenant's have been temporarily decanted from properties to allow these works to be safety completed.
- 11 At the same period (December 2022), 1692 homes (3.41% of stock) contained Category 2 damp and mould. Again, in all cases work is either now complete or is ongoing to ensure the symptom (mould) and the root cause is accurately diagnosed and resolved at the earliest opportunity.
- 12 The Secretary of State for Levelling Up, Housing and Communities wrote to all councils in November 2022 requiring them to consider damp and mould in the private rented sector. A link to this letter can be found in the Additional Documents to this report. The letter sets out that councils must ensure that where serious damp and mould incidents come to light, they appropriately use their enforcement powers to require the landlord to take action. This responsibility now extends beyond the existing duty to take action against all category 1 damp and mould hazards and extends to the most serious category 2 hazards which are deemed the more serious risks to people's health and wellbeing under category 2 assessments.
- 13 In Leeds our private sector housing enforcement policy already sates that we will address high level category 2 hazards either in conjunction with category 1 hazards or separately. As such the council already complies with the requirement of the Secretary of State instruction.
- 14 The letter of 19 November 2022 also requests that councils provide data on their enforcement activity and how they are addressing damp and mould in the private rented sector. The council has responded to that request as well as being party to discussions with Government on the impact of damp and mould to address issues moving forward.
- 15 In Leeds the level of damp and mould in the private sector is around 3% for category 1 hazards based on both the outcome from the private sector stock condition surveys and from actual inspections of properties. From those assessed as category 2 hazards it is around 8% of the private rented sector based on actual inspections undertaken.

What impact will this proposal have?

- 16 The council's approach to damp and mould will ensure that homes are maintained safely and are free from damp and mould related health hazards as far as possible, and that reports of damp and mould are handled promptly and professionally and appropriate action taken as a priority.
- 17 The health and safety of residents is our number one priority. However, it should be highlighted that an effective and efficient approach to damp prevention is directly linked to the efficiency of resources, spending money wisely and also to tenancy satisfaction levels.
- 18 Executive Board members will note the direct link between the effective management of damp and mould in council homes and costly disrepair claims against the council where damp and mould has not been addressed in a timely manner.
- 19 Similarly, the deployment of effective damp and mould procedures will reduce the risk of fines and reputational damage from the Housing Ombudsman Service due to maladministration or claims brought under the Environmental Protection Act 1990 for poor housing conditions which are a statutory nuisance.
- 20 The effective collection and use of stock condition data will ensure that the council are able to inform future planned works and investment programmes and target the worst performing housing stock first.
- 21 Frontline staff are able to offer support to vulnerable tenants who are impacted by the financial crisis by providing practical advice on how to control damp and mould, signposting to support agencies and applying for free fuel vouchers for tenants in fuel poverty. This will help ensure that tenants in fuel poverty do not suffer disproportionately due to damp and mould in their homes.
- 22 Better use of data and a targeted approach through Annual Tenancy Contacts will help to identify those tenants who do not ordinarily engage with the service and report damp and mould issues and therefore will help to identify the 'silent sufferers'.
- 23 The development and implementation of a Tenants Communication Plan specific to damp and mould will encourage tenant engagement based on the diverse needs of the Housing Leeds communities and not a one size fits all approach.
- 24 In the private rented sector, the council continues to address all hazards including damp and mould as per the Secretary of State for Levelling Up, Housing and Communities' instruction. Our enforcement policy already covers the requirement and officers continue to assess properties and take action in relation to all hazards. The main impact on the private rented housing sectors service, as a result of the letter, has been the increase in referrals following the coroner's report.
- 25 The Government are currently reviewing the guidance on damp and mould, as well as other hazards, for assessments under the Housing Act 2004.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 26 Ensuring that homes are free from damp and mould relates directly to the Health and Wellbeing Best City Ambition. Damp and mould is one of the 29 hazards listed under the Housing Health & Safety Rating System (Housing Act 2004) which the council, as landlord, have a legal duty to mitigate.
- 27 Effective heating, ventilation and insulation are key components to the prevention of damp and mould within homes and therefore this type of prevention activity undertaken through the capital investment programme contributes positively to the councils Zero Carbon target.

What consultation and engagement has taken place?

Wards affected: All

Have ward members been consulted? Yes No

- 28 This paper forms part of consultation with elected members.

What are the resource implications?

- 29 The resource implications are currently under assessment. Any additional resource requirements will be subject to separate consultation / decision(s).

What are the key risks and how are they being managed?

- 30 There are several key risks aligned to this approach:

- a) Resources – Internal and Contracted. As a result of key events set out within this report (Housing Ombudsman report publication and national media coverage around damp and mould), the profile of damp and mould issues within the social housing sector has risen significantly. This is positive in that it has helped raise the profile of the issue and has driven forward improvements. The increased volume associated with this however has happened at a pace that the service has struggled to adapt to. This has been mitigated through the actions set out in Section 6 of this report.

The current Construction Industry labour market is making it incredibly difficult to be able to recruit and retain suitably skilled technical staff and trade operatives to work in the social housing sector. The shortage of skilled labour is perhaps the biggest single risk at present and is restricting the capability of the service to expand capacity to meet current demand. In mitigation of this risk, extensive efforts are ongoing to recruit to posts innovatively and to review current working procedures in-order to create additional capacity through improved efficiency.

- b) Reputational Damage – As a result of the raised profile of damp and mould within the sector; landlords have come under increased scrutiny from the Regulator of Social Housing and Housing Ombudsman Service. Whilst this scrutiny is positive in that it is helping to drive up housing standards; the consequences of poor service delivery and maladministration of damp and mould reports has risen significantly. Cases are now regularly published nationally, and reported in the media, which is causing significant reputational damage to Local Authority landlords. The council have adopted the Housing Ombudsman Service's recommendations around damp and mould, and have reviewed the approach to damp and mould, in-order to mitigate against this.
- c) Cost of Delivery – A severe hike in inflation across financial markets has resulted in significant increases in the cost of the delivery of works. In some areas, price increases of 40% have been seen, meaning that in real terms, budgets have shrunk. This is impacting

significantly on the repairs service. Mitigation measures have been put in place including the review of activity and review of specifications. However, given that the lion's share of repairs and maintenance activity is statutory provision, there is little scope to cut back on services. The council will continue to prioritise essential repairs and maintenance work (including damp and mould treatments).

- d) Cost of Living Crisis – The cost-of-living crisis is heavily compounding damp and mould problems within council homes, and adding additional burden to council resources and budgets. Steep increases in energy costs over the last twelve months has resulted in more and more homes falling into fuel poverty which in turn means that less tenants are able to heat their homes efficiently and/or run mechanical extractor fans. This is leading to more instances of condensation and mould. Frontline staff are equipped with tools to support and signpost tenants, who are in financial difficulty, such as signposting to financial support, referrals to The Green Doctor (who can help implement energy efficiency advice and ensure best energy deals) and make applications for free energy vouchers. This is going some way to helping to ensure that those in fuel poverty are not disproportionately affected by damp and mould
- e) Tenant Expectations – A key message within the Housing Ombudsman Service's Spotlight on Damp & Mould is that landlords should no longer blame damp and mould within homes on 'Lifestyle Issues'. Whilst the council fully support this message in terms of understanding it's landlord responsibilities for making sure that repair factors are not contributing to damp and mould, ensuring that hazards are identified and removed, and sharing information with tenants so that they can take practical steps within their home to reduce the chances of condensation damp and mould occurring; the message is more unclear for tenants and other stakeholders. Lifestyle issues do contribute heavily to condensation and damp mould within homes and therefore Housing Leeds has reviewed the information it provides, and language used, to encourage tenants to work together and put in place simple and practical measures to help reduce the risks of damp and mould and in doing so, protect the finances of both tenants and the council.

What are the legal implications?

- 31 The council has a legal duty to maintain council homes in-line with Section 11 of the Landlord and Tenant Act (1985). Duty, which is set out in the Tenancy Agreement states that:

The landlord must keep in repair the structure and exterior of the dwelling house and keep in repair and proper working order the installations in the dwelling house for the supply of water, gas, electricity, sanitation, space heating, and heating water

This duty includes ensuring that and structural damp issues are repairs in a timely manner.

- 32 The council also have a legal duty under Part 1 of the Housing Act 2004, to ensure that appropriate action is taken to remove any Category 1 Hazards, as defined under the Housing Health and Safety Rating System (HHSRS). Damp and mould is one of the 29 hazards listed under the Housing Health & Safety Rating System.
- 33 The Secretary of State for Levelling Up, Housing and Communities letter dated 19 November 2022 states that councils now need to ensure that they enforce the most serious category 2 damp and mould hazards in the private rented sector, in addition to enforcing against all category 1 hazards. This is a legal requirement which requires us to action properties assessed as such. The enforcement policy already covers this requirement.
- 34 Under s9A of the Landlord and Tenant Act 1985 there is also a legal obligation on the Council for all tenancies from 20 March 2020 that the property is fit for human habitation at the time the

lease was granted or otherwise created and it will remain fit for human habitation during the term of the lease.

- 35 Failure by the council to treat damp and mould, in-line with this section 11 of the Landlord and Tenant Act 1985, and also to claims brought under Fitness for Human Habitation Act leaves the council open to costly litigation claims (Housing Disrepair). It can also give rise to proceedings in the Magistrates court due to a “ statutory nuisance”.
- 36 Homes which contain Category 1 Hazards (HHSRS) cannot be reported as ‘Decent’, under the Governments Decent Homes Standard.
- 37 All tenants have the right to challenge all landlords who fail to address poor standards under the Homes (Fitness for Humana Habitation) Act 2018 and may be liable to the payment of compensation.

Options, timescales and measuring success

What other options were considered?

38 N/A

How will success be measured?

- 39 A number of key success measures will be used to monitor the success of the approach being taken to address damp and mould. These include:
- a) Tenant’s satisfaction levels with the quality of the home.
 - b) Time taken to resolve damp and mould repairs.
 - c) The volume of new damp and mould cases reported.
 - d) Complaint levels relating to damp and mould.
 - e) Decent Homes Standard monitoring / Level of damp and mould prevention investment
 - f) Levels of successful disrepair claims received relating to damp and mould
 - g) The number of complaints (reactive/proactive reporting) received from the private rented sector.
 - h) Number of homes with category 1 and 2 hazards relating to damp and mould including those where the hazard has been addressed and reduced.

What is the timetable and who will be responsible for implementation?

40 The approach to damp and mould is ongoing.

41 The Chief Officer, Housing Leeds, is responsible for the approach to damp and mould

Appendices

- Appendix A – All Members Briefing – Damp & Mould
- Appendix B – Example of communication with tenants (January 2023 newsletter)

Background papers

None

Additional documents

- [Spotlight on Damp & Mould report](#)
- [Department for Levelling Up, Housing & Communities, Letter – Housing Standards in Rented Properties in England](#)