

Damp, Mould and Condensation Policy: Privately Rented Homes

The Fairer Housing Unit

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1. Introduction

Living in a damp property is generally unpleasant, what's more it comes with known health risks. Damp often leads to mould, which can have a detrimental effect on the occupant's health. Children, the elderly, and people with skin or respiratory conditions are particularly at risk from moisture build-up in the home.

This policy relates specifically to privately rented housing within the city, which includes housing rented from housing associations.

Council tenants living in a property managed by Your Homes Newcastle (YHN) are referred to YHN's Damp Condensation and Mould Policy which provides advice and guidance on the approach taken by YHN and your rights as a tenant in relation to damp, condensation and mould in Council properties.

Further advice and information on damp and mould for private renters can be found via the following link to the council's online portal: [Problems with damp and repairs | Newcastle City Council](#)

2. Key aims and principles of the Damp, Condensation and Mould Policy

The policy aims to:

- Provide information to tenants in the private and housing association sectors on their rights and responsibilities when it comes to the presence of damp, condensation and mould within their home
- Ensure that tenants have access to and/or are provided with comprehensive advice and guidance on managing and controlling damp, condensation and mould.
- Comply with statutory requirements and good practice.
- Ensure that the fabric of the property is protected from deterioration and damage resulting from damp and condensation

3. Legislation and regulation

All landlords have a statutory duty under the Landlord and Tenant Act 1985 (as amended by the Homes (Fitness for Human Habitation) Act 2018) to ensure their properties are fit for human habitation at the start and throughout the tenancy. One of the factors considered in determining if a property is unfit is "freedom from damp".

Properties must also be free of hazards as defined by the [Housing Health and Safety Rating System \(HHSRS\)](#). Damp and mould and excess cold might amount to a category 1 hazard.

The local Authority (City Council) is obliged to take action if it identifies a Category 1 Hazard in rented accommodation.

Tenants can take legal action against their landlord for breaches of this statutory duty. Guidance relating to this can be found here: [Guide for tenants: Homes \(Fitness for Human Habitation\) Act 2018 – GOV.UK](#). Under this guidance the Council also has other powers that it may be able to use to get repairs done quickly, at no cost to the tenant, and also may be able to help protect the tenant against being evicted because the tenant has complained.

See also *Section 10* for a list of links to legislation relating to damp, condensation and mould.

4. Causes of Damp, Mould and Condensation

Mould and damp can be caused by **excess moisture** building up within the home, with very little means for this moisture to escape. Moisture can arise due to activities within the home, such as: cooking, bathing and drying of clothes. Tenants are responsible for making sure that the way they live their lives does not cause significant amounts of condensation that results in mould growth.

Dampness in buildings can also be caused by leaking pipes, rising damp or rain seeping in through the exterior of the property, for example because of damage to the roof or around window frames.

Condensation is caused by:

- Humidity of indoor air
- Low temperature and / or Poor ventilation

Causes of Damp in Houses

- Excess moisture. Moisture gets into the air in homes through everyday activities like cooking, washing, showering and drying clothes. ...
- Poorly heated homes
- Poor ventilation
- No damp proof course (DPC)
- No damp proof membrane (DPM)
- Inadequate DPC or DPM
- Plumbing issues
- Building faults
- Inadequate gutters

Mould caused by condensation is usually black and typically grows in bathrooms, kitchens and bedrooms.

5. How to report Damp and Mould

If a structural defect is the cause of damp and mould, and not that of daily household activities, then this should be reported to the landlord.

A landlord is required under legislation to fix any defects that lead to damp and mould.

If the landlord fails to rectify the problem, then the tenant could report this to the Council. The council has legal powers they can use to get repairs done quickly, at no cost to the

tenant, as well as providing protection against the tenant being evicted due to the complaint arising from damp and mould.

The council could issue an improvement notice to the landlord to deal with mould as a health hazard. If the council issues such a notice, then the landlord and not the tenant must carry out and pay for improvements.

Housing association tenants can also follow the complaints process for their housing provider and where necessary escalate this to the [Housing Ombudsman](#).

6. Landlord responsibilities

The landlord has a duty to repair any problems in the home in a reasonable amount of time. This amount of time will depend on what the problem is and how serious it is. If the tenant lives in social housing, then the landlord can be held accountable by [The Housing Ombudsman](#) for the length of time taken to fix or repair any problems that arise within the homes they manage.

If the tenant believes the landlord has taken too long to fix a problem which makes the house or flat unfit, then the tenant can take action using the Landlord and Tenant Act 1985 (as amended by the Homes [\(Fitness for Human Habitation\) Act 2018](#)). See *Guide for tenants: Homes (Fitness for Human Habitation) Act 2018 – GOV.UK* for more detail.

Those carrying out retrofit works to make homes more draft and condensation free are asked to view guidance issued by the Retrofit Academy titled: “*Ventilation for Domestic Retrofit*”. Email: info@retrofitacademy.org

“If we retrofit any insulation or airtightness measures, then we must compensate for the lost infiltration and air leakage by assessing the existing ventilation (if any) and upgrading (if necessary), to an adequate system. The maxim is, ‘No Insulation Without Ventilation’.”

Dr Peter Rikaby, Technical Director, The Retrofit Academy

7. Tenants’ Rights

Under The Landlord and Tenant Act 1985 (as amended by The Homes (Fitness for Human Habitation) Act 2018), tenants can take the landlord to court if their rental home is troubled with damp. This means landlords have an obligation to ensure their rental properties are free from significant damp throughout the tenancy.

If the tenant has not already told the landlord, then this should be done immediately.

The landlord must fix problems in the home, but the tenant must inform the landlord as soon as the tenant becomes aware of the problem so that repairs can be carried out in a timely fashion. The tenant should make a request for the problem to be fixed, in writing if possible (this includes by email or text) to the landlord. The landlord should be allowed access to the property and given a reasonable amount of time to fix the problem.

If the tenant has informed the landlord but is still concerned about the problem of damp and mould in the home, or if the tenant is unable to contact the landlord, then the tenant should contact the council who may be able to assist in making contact with the landlord.

More information can be obtained from the city council via the following methods:

- Write to Public Safety and Regulation, City of Newcastle upon Tyne, Civic Centre, Newcastle upon Tyne, NE1 8QH
- Phone 0191 2787878
- [email our public safety and regulation team](#)
- Visit the website: [Problems with damp and repairs | Newcastle City Council](#)

Note:

- Tenants are advised to check their tenancy agreement for contact details. If the tenant has not been provided with a tenancy agreement by their landlord, then it may be harder for the landlord to initiate eviction proceedings.
- If the tenant is in doubt about their rights as a tenant then they should speak to the council's Private Rented Service for more information. Further information and contact details can be found in the following link: [Private Rented Services Newcastle](#). Alternatively, you can ring: **0191 277 1438 to speak to someone.**
- Tenants are advised to keep a record of any correspondence (emails, texts) they have with their landlord. These may be relied upon at a later date should the tenant need to take further action.

Can a tenant withhold rent due damp and mould?

Tenants are advised that they **do not** have the right to withhold rent because of their landlord's failure to carry out repairs. If a tenant withholds rent, then the landlord may start possession proceedings that will put the tenant at risk of eviction.

8. The Council's responsibility to the private rented sector

If the landlord does not respond in a satisfactory manner, (typically between 7-10 days would be sufficient time for a landlord to respond), support may be provided to the tenant by the council. The Council has statutory powers to intervene which it may use where appropriate.

Where the council assists with placing an applicant into the private rented sector, the council will provide support and assistance that may involve carrying out a site inspection, identifying the cause of the damp and condensation and notifying the landlord of the findings.

9. Reviewing this policy

This policy is effective from 4th August 2023

A review will be undertaken every three years, or sooner dependent on changes to legislation, regulation, good practice and tenant feedback.

10. Links to legislation relating to damp, condensation and mould

External links

- [Housing Act 1985 \(opens in new window\)](#)
- [Landlord and Tenant Act 1985 \(as amended by the Homes Fitness for Human Habitation Act 2018\) \(opens in new window\)](#)
- [Housing Act 2004 - Housing Health and Safety Rating System \(opens in new window\)](#)
- [Decent Homes Standards \(opens in new window\)](#)

The following recommendations are taken from the Housing Ombudsman’s report into damp and mould and best practice for landlords titled: “*Spotlight on damp and mould: its not lifestyle*”. October 2021

[Housing Ombudsman Spotlight report on damp and mould \(housing-ombudsman.org.uk\)](https://housing-ombudsman.org.uk)

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.

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