Medway Council Damp and Mould Policy

# **Introduction**

* 1. This Policy sets out the activities and responsibilities involved in the control of Condensation, Damp and Mould within Medway Council’s Housing stock. The Council aims to provide a consistently high-quality repairs and maintenance service to ensure that properties are well-functioning, habitable and safe.
	2. This policy has been written to ensure that wherever possible, residents are not adversely affected by the causes of damp and mould. It also outlines how the Housing Service will be proactive in taking the necessary action to tackle/manage the causes of damp and mould.
	3. This policy and associated procedure will consider recommendations made in the Housing Ombudsman Service Report – Spotlight on: Damp and Mould – Oct 2021. Medway Council will take into consideration Awaab’s Law following outcome of consultation.

# **Purpose**

* 1. The aim of this policy is to clearly set out how the Housing Service will tackle any damp or mould found within Medway Council’s housing stock.
	2. This policy will clearly identify what Medway Councils responsibilities are when it comes to damp and mould within the housing stock.
	3. This policy will give guidance and reference points to tenants seeking information on what to do when damp and mould is present in their home.
	4. The key principles of the Damp and Mould policy are:
* To ensure the council provide and maintain dry, warm, healthy homes for our tenants.
* Enhance the understanding of the housing stock in relation to damp and mould and have proactive programmes for managing this issue.
* Ensure that tenants have access to and/or are provided with comprehensive advice and guidance on managing and controlling damp and condensation.
* Focus on working in partnership with tenants ensuring that a safe and healthy internal environment is provided.
* Undertake effective investigations and implement all reasonable remedial repair solutions and improvements to eradicate damp including, managing and controlling condensation.
* That the repairs service is supported by relevant training for operational staff, and that the Policy should be supported by detailed procedures and agreed practices applied uniformly across the HRA service.
* Comply with all statutory and regulatory requirements and with best practice relating to the provision of this service.
* Maximise the available budgets to deal with damp and condensation problems.
* Publicising damp remediation work that we can do.

# **Scope**

* 1. This policy applies all Medway Council Housing Revenue Account (HRA) properties and staff involved in statutory maintenance duties including contractors and sub-contractors used on the Councils behalf.

# **Legislation and Guidance**

* 1. **External**
		1. The Control of Asbestos Regulations 2012
		2. Procurement Regulations
		3. Landlord & Tenant Act 1985 \*
		4. Commonhold & Leasehold Reform Act 2002
		5. Defective Premises Act 1972
		6. Environmental Protection Act 1990 \*
		7. Equality Act 2010
		8. Right to Repair Regulations 1994
		9. Building Regulations
		10. Health & Safety at Work Act 1974
		11. The Housing Acts 1985 & 1996
		12. Housing Act 2004 – Housing Health and Safety Rating System \*
		13. BS7671 – Requirements for electrical installations 2008 (17th Edition)
		14. General Data Protection Regulation 2018 (GDPR)
		15. Data Protection Act 2018
		16. Homes (Fitness for Human habitation) Act 2018 \*
		17. Landlord and Tenant Act 1985 Section 11 – Repairs and Maintenance
		18. Housing Act 2004 – Housing Health and Safety Rating
		19. Decent Homes standards
		20. Housing Ombudsman
		21. PAS2035
	2. **Internal**
		1. HRA Business Plan and Asset Management Strategy
		2. Tenancy Management Policy
		3. Housing Services’ Quality Policy
		4. Housing Services Health & Safety Policy Statement
		5. Secure Tenancy Agreement
		6. Void Policy
		7. Responsive Repairs Policy

Medway Council commit to meeting our regulatory and legal obligations in relation to disrepair in the home. This includes, but is not limited to, the below regulations and legislation.

We will also regularly seek best practice from organisations and services, including the Housing Ombudsman, and adopt any good practices which will help us to tackle the issue of damp and mould.

**Landlord and Tenant Act 1985** (“the Act”) In accordance with s11 of the Act, we are responsible for: • Keeping in repair the structure and exterior of our properties (including drains, gutters and external pipes). • Keeping in repair and proper working order the installations in our properties for the supply of water, gas and electricity and for sanitation. • Keeping in repair and proper working order the installations in our properties for space heating and hot water.

**Environmental Protection Act 1990** A statutory nuisance may exist where a property is in such a state as to be prejudicial to health or a nuisance. Prejudice to health is defined to mean ‘injurious or likely to cause injury to health’ and this can be satisfied where the condition of a property is such that would cause a well person to become ill or the health of a sick person to deteriorate further. Health includes both physical and mental health. Properties suffering with dampness, mould and condensation could be deemed to be statutory nuisance.

Housing Health and Safety Rating System (“HHRS”) & the Decent Homes Standard (“the Standard”). In 2006 the Decent Homes Standard was updated to take into account the HHSRS. According to the Standard, for a home to be considered ‘decent’ it must meet the current statutory minimum standard for housing, be in a reasonable state of repair, have reasonably modern facilities and services, and provide a reasonable degree of thermal comfort.

**Homes (Fitness for Human Habitation) Act 2018** (“HFHHA”). The HFHHA amended the Landlord and Tenant Act 1985 and requires us to ensure our properties are fit for human habitation both at the time a tenancy is granted and during the term of a tenancy. In determining whether a property is unfit for human habitation, regard shall be had to its condition in respect of repair, stability, freedom from damp, internal arrangement, natural lighting, ventilation, water supply, drainage and sanitary conveniences, facilities for preparation and cooking of food and for the disposal of waste water. A property shall be regarded as unfit for human habitation if, and only if, it is so far defective in one or more of those matters that it is not reasonably suitable for occupation in that condition.

**Regulatory Standards** As a Social Landlord Medway Council is required to fulfil requirements of the Regulatory Standards set by the Regulator for Social Housing. Although cross cutting through the Regulatory Standards, this policy is specifically relevant to Home Standard within the Consumer Standards section. The Home Standard sets the expectation for Registered Providers of Social Housing to provide tenants with quality accommodation and an effective repairs and maintenance service. In 2020 the Government published The Charter for Social Housing Residents: Social Housing White Paper, which describes ways to improve things for people living in social housing. Influenced by the direction in the White Paper the Regulator of Social Housing is currently consulting on proposed changes to the Consumer Standards, with new standards expected 1 April 2024.

# **Policy**

# What is Damp, Mould and Condensation?

* 1. Damp and mould issues are generally because of:
* High levels of moisture being present in the air (known as relative humidity).
* Condensation being present – condensation occurs when moist air meets a colder surface like a wall, window, mirror etc. The air can’t hold the moisture and tiny drops of water appear. It also occurs in places the air is still, like the corners of rooms, behind furniture or inside wardrobes.
* ‘Penetrating damp’ is caused by moisture coming into the house through leaking or cracked pipework, a damaged roof, blocked guttering, gaps around window frames and cracked or defective rendering and brickwork. All these problems can be remedied.
* ‘Rising damp’ is due to a defective (or non-existent) damp course. This will leave a ‘tide mark’ about a metre above the floor. Fixing rising damp is a job for a qualified builder.
* Lack residual temperature within the property due to it being insufficiently heated.
* A lack of effective natural or mechanical ventilation being present within the home.

**What is mould and when does it form?**

* 1. Black Mould is a type of fungus that grows and develops in damp or humid conditions. Depending on how serious the mould problem is, it can vary in appearance.
	2. [Black mould](https://www.permagard.co.uk/advice/understanding-black-mould) starts to produce spores - these allow mould to keep reproducing and growing and if not treated correctly, being around mould can lead to health issues.
	3. Most damp and mould causes are because of condensation, and it not being combatted effectively. Condensation will form on a surface when it reaches the dew point. This happens with the moisture in the air reaches 100% and meets a surface that has a temperature of 14 degrees or less.



* 1. Damp and mould can also be caused due to consistently high levels of water or moisture entering the fabric of the building. Rising and penetrating damp will need a construction-based intervention.

# What to do if you identify potential Damp or Mould?

* 1. Everyone has responsibility to report Damp and Mould where it has potentially been identified. This includes but isn’t limited to:
* Tenants
* Officers
* Contractors
	1. Any potential Damp or Mould issues should be reported immediately via the following channels:
* Email – housingrepairs@medway.gov.uk
* Email – housingsafetyconcern@medway.gov.uk
* Tel – 01634 333 601

# What happens once a Damp or Mould repair has been raised?

* 1. Damp and Mould responsive repairs are defined in this Policy as requests which are received by the tenant or staff, where the defect has been identified.
	2. On report of a defect, we will:
		+ Make reasonable attempts to access the property to carry out works.
		+ Complete a property inspection - this may include taking damp and humidity measurements. We will aim to complete this within 5 working days from initial report.
		+ We could install a temporary data logger or other permanent monitoring devices to assist investigating what the potential causes could be. The data logger / device are Medway Councils property and must not be touched or removed once installed. Residents must allow council Officers access to install and collect the devices.
		+ We will evaluate the results of the inspection and data logger if installed and identify any factors that may have led to damp and mould growth.
		+ Put in place the measures to sterilise the areas of the property effected by damp and mould as well as 1m around the visible area.
		+ Undertake any repairs identified that could be contributing to damp and mould forming such as leaks, structural holes or unblocking gutters.
		+ Keep tenants informed of progress.
		+ Put in place more permanent measures such as installing additional ventilation or insulation where deemed required.
	3. Where extensive works are required, the Council may be required to move the tenant/s out of their home for a period whilst these works are completed. The council will provide either alternative or temporary accommodation during this time.
	4. On completion of the work, a technical Officer from Medway Councils Property Services team will post inspect the works. The Officer will determine whether the works completed have been successful. If they are satisfied, then the job will be signed off. If they are not happy with the standard or quality of the works completed, then they will raise a defect and the contractor who completed the works will be asked to return and rectify the issue.
	5. A survey will be undertaken within a 12-month period with a view to reconfirming that the completed works have been successful. Where possible, this will be a physical site inspection however on occasions is could be via a telephone call.

# Proactive and planned preventative works

* 1. The councils housing stock is one of its most valuable assets, and the repair and maintenance cost is the Housing Services biggest liability. The council has and will continue to ensure that the necessary level of investment is spent on the stock to keep it in a state of good repair, safe and compliant.
	2. The council undertakes a rolling stock condition surveying programme. These surveys are undertaken by the HRA Stock Condition Surveyor (SCS). The SCS will assess the condition of the property and give all elements of the property remaining lives which identifies when major elements such as kitchens or bathrooms need to be replaced. The SCS will also look for any significant repairs, damp or mould or any safeguarding concerns. The Council will also undertake specific HHSRS and / or decency surveys in addition to the Council’s stock condition surveying programme.
	3. There are several planned works programmes that are included within the HRA’s 30-year business plan which all play a part in combating damp and mould. This include but are not limited to:
* Boiler replacements
* Kitchen replacements
* Bathroom replacements
* Window replacements
* Pitched and flat Roof replacements
* Front and rear door replacements
* EPC surveys
* Energy efficiency works
	1. The specifications for these programmes are also regularly reviewed to ensure that a holistic approach to maintaining the property is achieved. This includes installing Envirovent Infinity humidistat fans as part of every kitchen and bathroom replacement to assist with ventilation. Loft and roof insulation is also brought up to current standard when pitched and flat roofs are replaced.
	2. The council will continue to explore additional funding opportunities such as the Social Housing Decarbonisation Fund, submitting bids where possible.
	3. The council will always adopt a holistic approach to a property when undertaking any energy efficiency works. Poorly designed and installed energy efficiency works can contribute towards damp and mould forming. The service will work with the necessary specialists to ensure conformity to the requirements of PAS2035.

# Proactive engagement

* 1. It is imperative that there is effective communication between the council, residents and the contractors working on the council’s behalf when it comes to damp and mould. All three stakeholders have a key role to play in the reporting, managing and mitigating damp and mould within council properties.
	2. The council will aim to contact all residents annually as a minimum and proactively ask if there is any damp or mould within the property. This contact will be logged and recorded accordingly. Medway Council’s contractors will also pro-actively look for damp and mould and record this during their works.
	3. If a resident advises that they believe damp or mould is present, then and inspection will be raised in line with point 5.9 of this document.
	4. The council will engage with residents periodically and promote the message of looking for and reporting damp and mould as soon as possible. This could be via social media, email, leaflets…etc.
	5. The council will look to make every contact count when it comes to looking for damp and mould. This includes proactively looking for damp and mould during any visit within the property. This includes but isn’t limited to:
* Stock condition surveys
* Tenancy visits
* Repairs post inspections
* Annual gas safety inspections
* Annual contact call as per point 5.20
* HHSRS inspection
* Decency surveys
	1. Information and support for tenants is available through the Tenancy Sustainment Team and on the [Cost of living: Help for households page](https://www.medway.gov.uk/householdhelp).
	2. Residents can also seek information and guidance via the following communication channels:
* Email – housing.repairs@medway.gov.uk
* Email – housingsafetyconcern@medway.gov.uk
* Tel – 01634 733 499 / 333 601

# Disrepair claims

* 1. The pre-action letters Medway Council receives from Solicitors invariably refer to the Council not being able to undertake any work prior to an inspection, stating that this would be in breach of the protocol, and stating that they will obtain an injunction to prevent the Council from undertaking any works.
	2. Claims for disrepair are generally brought based on a breach of the Council’s obligations under sections 9(a) to 11 of the Landlord and Tenant Act 1985. The act was amended by the Homes (Fitness for Human Habitation) Act 2018. This incorporated the requirement that homes be fit for human habitation and brought in the HHSRS as a means of determining fitness for human habitation. The [Housing Ombudsman produced a report](https://www.housing-ombudsman.org.uk/wp-content/uploads/2021/10/Spotlight-report-Damp-and-mould-final.pdf) stating associating damp and mould as not being a lifestyle issue.
	3. When bringing a claim for disrepair, the claimant and Medway Council are required to comply with the [Pre-Action Protocol for Housing Conditions Claims (England)](https://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_hou).
	4. There is nothing in the protocol that prevents Medway Council from undertaking repairs even where a letter of claim has been sent. Paragraph 7.5 states that an expert can be instructed earlier than the protocol sets out if it is necessary to preserve evidence. (Further, in support of this is the draft letter in the above link to the protocol at Annex A – there is no mention of the landlord not being able to carry out works to the property).
	5. Medway Council has a right of access to carry out repairs to a property providing at least 24 hours written notice is given. A copy should be sent to Medway Council’s Legal team so that it can forwarded to the claimants Solicitors to inform them the Council is intending to access the property and undertake an initial inspection. The HRA will need to inform Legal team of their findings. If the Solicitors or tenant refuse access this can be used to show that the tenant has not acted reasonably.
	6. When inspections are undertaken and scott schedules compiled and agreed, Medway Council will put together the estimated costs that the Council will incur in undertaking these works. If the estimated cost of these works is £1,000 or less, and the damages being claimed from Medway Council are also at this level, then the Council will be able to argue that no costs would be payable. This is in line with case law *Jalili v Bury Council* [2021] 6 WLUK 622.

# Complaint Process

If customers are dissatisfied with the service provided, they can make a complaint to us by following Medway Council Complaints Procedure. The Pre-Action Protocol for Housing Conditions Claims (“PAP”) outlines the procedure and timetable that parties to a case must take before starting a claim at Court. Courts expect parties to avoid unnecessary litigation by complying with the terms of protocols. The PAP promotes ADR, which includes the landlord’s complaints procedure, Housing Ombudsman Service, and mediation. We promote the use of our complaints process and hope that customers do not feel the need to resort to a legal disrepair claim. Benefits of our complaints process include a timelier resolution of the issues, more straight-forward and flexible approach to redress, and it is not limited by scope, unlike a legal disrepair claim.

# Responsibilities

* 1. As listed in point 5.6 of this document, everyone has responsibility to report Damp and Mould where it has potentially been identified. This includes but isn’t limited to:
* Tenants
* Officers
* Contractors
	1. The council’s responsibilities include but are not limited to:
* Proactively looking for damp and mould
* Ensure budgets are available to deal with damp and mould
* Ensuring that the housing stock is invested in and well maintained
* Ensure that there are suitable processes in place to allow residents to raise any repairs.
* Ensure a contractor is in place to deal with any repairs
* Provide a suitable heating system
* Provide adequate ventilation
* Provide adequate insulation
* Deal with any reports of damp or mould timely, adequately, and efficiently
* Investigate reports of damp and mould timely, adequately, and effectively
* Ensure the contractors undertaking the works are doing so timely, adequately, efficiently, and effectively
* Ensure the works completed have been successful
* Provide literature and guidance on how to reduce damp and mould
* Ensure staff are trained and informed to deal with damp and mould
	1. The contractor’s responsibilities include but are not limited to:
* Proactively looking for damp and mould
* Ensuring that reports of damp and mould are logged and given the correct repairs priority.
* Ensure that residents are effectively communicated with through the process.
* Deal with any reports of damp or mould timely, adequately, and efficiently
* Investigate reports of damp and mould timely, adequately, and effectively
* Ensure that operatives and contractors undertaking the works are doing so timely, adequately, efficiently, and effectively
* Provide the necessary tools and materials to be able to undertake the works adequately, efficiently, and effectively
* Ensure the works completed have been successful
* Escalating any no access issues to the council immediately.
	1. The tenant’s responsibilities include but are not limited to:
* Reporting damp and mould as soon as it becomes apparent
* Always allowing access to inspect and complete planned and responsive works.
* Following guidance provided by the council and/or contractor
* Keeping the property adequately heated
* Keeping the property adequately ventilated

Damp and mould caused by condensation could adversely affect the health of our customer and the condition of their home. Customers are responsible for making sure they take appropriate steps to reduce condensation their home that could result in damp and mould growth. Customers should follow all advice and guidance provided by Medway Council on managing and controlling condensation, damp and mould. Customers should regularly check for condensation, damp and mould, and report issues to Medway Council at an early stage. Customers should report any water ingress, damp to internal walls/ceilings, leaks from pipes, faulty heating, or issues with passive ventilation or mechanical extraction when repairs arise. Customers should not store belongings in lofts, which would compress loft insulation and decrease thermal performance. Customers should arrange appropriate household contents insurance, to protect their home from damage caused by damp, mould and condensation. If a customer fails to follow Medway Councils’ advice and guidance and reasonable steps to reduce damp or mould, the customer may be recharged for any resulting repairs, which are considered as a result of neglect. Customer’s are responsible for the redecoration of their home as per Medway Councils tenancy agreements.

# Diversity and Equality

We recognise that different people and communities may have specific needs which may require flexible approaches. We believe that everyone should be treated with dignity, respect and fairness regardless of their characteristics. We do not tolerate unfair treatment and discrimination that cannot be justified. As part of our initial triage with our customer when a new damp and mould case is raised we will consider personal circumstance and any vulnerabilities and adjust our service to support the specific needs of our customer.

# **Roles, responsibilities, and authority.**

* 1. The Assistant Director of Culture and Communities Regeneration retains overall responsibility for the implementation of this policy.
	2. The Chief Housing Officer is responsible for the operational delivery of this policy and the associated procedures.

# **Monitoring, review, and evaluation**

* 1. The Head of HRA Property and Development will monitor this policy and its effectiveness.
	2. This policy will be reviewed biannually or inline with legislative or regulatory changes.

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Next review due: May 2026