

Addressing damp and mould issues in the private rented sector 2023 - 2026

Following the tragic death of Awaab Ishak in December 2020, from respiratory conditions caused by damp and mould in his home in Rochdale, the Secretary of State for the Department of Levelling Up, Housing and Communities (DLUHC) recently reaffirmed that each council has a legal and regulatory requirement for managing damp and mould. The Regulator of Social Housing also require that local authorities check that the homes they provide are well-maintained and of a decent standard.

The Department of Levelling Up, Housing and Communities (DLUHC) directs that Council's will:

- Have regard for high-scoring Category 2 damp and mould hazards.
- Supply the DLUHC with an assessment of damp and mould issues affecting privately rented properties in the Borough, including the number of Category 1 and Category 2 damp and mould hazards. (see HHSRS)
- Supply the DLUHC with an assessment of what actions may need to be taken to address damp and mould issues affecting privately rented properties in the Borough.
- Provide information about specific actions taken to address damp and mould hazards in the private rented sector over the last three years. This information should include the amount and nature of remediation, enforcement activity, Civil Penalty Notices, and prosecutions.
- Provide information about plans in place to prioritise the enforcement of housing standards. There should be a particular focus on how we will ensure there is enough capacity to drive up standards in the private rented sector.

Housing standards (HHSRS)

Housing has a huge impact on people's physical and mental health and on children's development and life opportunities. Homes may contain hazards which are sometimes hard to recognise.

The Council has a mandatory legal duty to apply the [Housing Health and Safety Rating System](#) introduced by the Housing Act 2004. This system is applied to all housing regardless of tenure.

The Council will assess 29 different hazard types and consider the likelihood of an accident or ill health resulting from it, and the likely severity of that harm. They include:

- dampness and mould
- excess cold
- fire
- electrical safety
- falls
- asbestos
- security and hygiene.

Each significant hazard will be scored and a significantly high score will require the Council to take a course of action (a Council's legal **duty**), but others scoring a more moderate score can still be addressed (a Council's legal **power**). [National enforcement guidance](#) and our local enforcement policy will direct the Council to particular courses of action so that what we do is proportionate, transparent, consistent and fair in accordance with the principles of good enforcement in the national regulators code.

Damp and mould

Requests for assistance due to damp and mould over the colder months have increased. There are several causes of damp and mould including penetrating and rising damp which may require repairs to the property, however in many cases where condensation is the issue advice is available that can help improve conditions. This information can be found on the Council's website [Damp, mould and condensation \(solihull.gov.uk\)](http://solihull.gov.uk)

Housing standards and disrepair

The Council's Private Sector Housing Team will risk assess any housing defects (including damp and mould) in line with the Housing Health and Safety Rating System (HHSRS).

In the first instance Landlords will be given an opportunity to deal with defects on an informal basis. Where landlords fail to address significant hazards, the Council has the authority to take enforcement action.

Enforcement action would typically involve service of an Improvement Notice (requiring works) or a Prohibition Order (to prevent use or occupation). Subject to the Council's Enforcement Policy, non-compliance could then result in a prosecution or a civil penalty.

Category 1 hazards are the most serious hazards and banded A-C. The Council has a duty to take action in respect of these.

Category 2 hazards banded D-J are less serious and the Council has discretion whether to take action in these circumstances but will generally only consider enforcement action for hazards which are banded D-E.

More information on enforcement issues can be found on the Council's website [Regulatory-Services-Enforcement-and-Prosecution-Policy.pdf \(solihull.gov.uk\)](http://solihull.gov.uk)

Energy Performance Certificate (EPC)

All private sector housing inspections carried out are required to see an Energy Performance Certificate (EPC).

An EPC shows the energy efficiency of a building. It uses an A to G rating system which allows prospective owners and tenants to consider the affordability of a property in terms of the likely space and hot water heating and lighting energy costs. Landlords must provide tenants a free copy of the EPC rating for the property. It is important that an EPC survey is carried out by an accredited Domestic Energy Assessor.

All rented and leased properties must meet The Minimum Energy Efficiency Standards (MEES) regulations which require homes to have an EPC rating of A-E if they are to be let. Anything below this rating (F-G) cannot be rented out without obtaining an exemption.

Better energy efficiency:

- reduces the risk of damp and mould, which protects tenants' health, but also better preserves the home's structure and decoration.
- Improving internal levels of thermal comfort improves health and wellbeing.
- Saving money on energy bills is important for tenants and also reduces the risk of rent defaults, particularly if the cost of energy rises sharply.
- Reducing carbon emissions (if using fossil fuels as a source of energy) is important for all.

If landlords have properties with an EPC of F or G, they must carry out works to improve its energy efficiency, so improving living conditions for the tenants. There is a cap, and landlords are not required to spend more than £3,500 on energy-efficient improvements. If landlords cannot improve their property to an EPC rating of A-E for less than

£3,500, they should make all the improvements they can before registering their property for an all-improvements-made exemption. In doing this, landlords remain compliant with the MEES regulations.

An EPC is not required, and MEES therefore not enforceable, on any property that was occupied before 1 October 2008 and continues to be occupied by the same tenant.

Government guidance on MEES can be found here: <https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

Proactive Private Sector Housing Inspections

The Department for Levelling Up Housing and Communities (DLUHC) has introduced regional 'Private Rented Sector Pathfinder Programmes'. Solihull is one of six West Midlands Councils participating in the programme.

All six authorities have agreed an approach which promotes a proactive approach to enforcement, but each with a local 'flavour'. It is intended that this will maximise the potential for sharing good practice and learning about effective approaches.

The overall aim over the life of the Pathfinder will be to improve the quality of homes for people in the focus areas which is Chelmsley Wood and Olton, with the outcome of improved property conditions, management standards, visual amenity and reduced transiency, resulting in stronger more resilient communities.

As part of the project councils will:

- Tackle poor quality private rented sector properties in the areas of greatest need.
- Raise the profile of successful enforcement, changing expectations and driving improvement in pilot areas and beyond through using a single approach to inspections.
- Build an understanding of what is needed to bring PRS properties up to the proposed Decent Homes Standard, and how landlords respond to enforcement.
- Develop an evidence base of effective approaches to enforcement and share best practice.
- Test the extent to which more rigorous enforcement can become self-funding, through licensing income and fines – all enforcement action will be recorded, and the learning shared quarterly across the pilot.

Solihull's Focus in the Pathfinder Programme

The Council will be focusing on improving the energy performance of the private rented stock, including the effective enforcement of the MEES. This complements our objective to work with private landlords to promote 'housing retrofit' to deliver affordable warmth and help meet climate change targets and reduce damp and mould.

In addition, a full Housing Health and Safety Rating System (HHSRS) will be carried out on each Private Rented Property identified to be inspected, approximately 600 properties. This Pathfinder pilot should provide evidence to help raise standards in the sector and understand how to deliver these benefits more effectively.