

# Local Government, Housing and Planning Committee

## 13th Meeting, 2023 (Session 6)

Tuesday 2 May 2023

### Damp and mould in private and social rented housing

#### Introduction

1. The issue of damp and mould in social and private rented housing prompted considerable public concern and media interest following the death of two-year old Awaab Ishak who tragically died in 2020 as a result of a severe respiratory condition due to prolonged exposure to mould in his home.
2. Awaab lived in a housing association home in England. The coroner investigating the case said, “this “should be a defining moment for the housing sector in terms of increasing knowledge, increasing awareness and a deepening of understanding surrounding the issue of damp and mould.”
3. The purpose of this session is to understand the extent of the problem in both private and social rented housing in Scotland and to see whether the regulatory framework is fit for purpose.
4. At this meeting, the Committee will take evidence from—
  - Aoife Deery, Senior Social Justice Policy Officer, Citizens Advice Scotland;
  - Ruth Gilbert, Member and Emma Saunders, National Organiser, Living Rent;
  - Shona Gorman, Chair, Central Scotland Regional Network of Tenants and Residents;
  - Debbie King, Head of Advocacy, Shelter Scotland;

and then from—

- John Blackwood, Chief Executive, Scottish Association of Landlords;
- John Kerr, Co-Chair, Association of Local Authority Chief Housing Officers (ALACHO);

- Carolyn Lochhead, Director of External Affairs, Scottish Federation of Housing Associations (SFHA)
5. Shelter and SFHA have also provided written submissions which can be found at the Annex to this paper.

## Background

### *Causes of dampness and mould*

6. The [type and causes of dampness in the home are varied](#). For example:
- Penetrating damp can happen when water outside penetrates the building. This is most likely to happen from building faults such as broken pipes and gutters, missing roof tiles or poorly installed windows and doors.
  - Rising damp can happen when water rises up from the ground into the structure of the building. This can happen where there is no damp proof course, or an existing damp proof course has failed.
  - Condensation can happen when warm moist air comes into contact with cold surfaces and leaves drops of water on the surface. Poorly heated or ventilated homes can experience condensation. How a resident uses their home can affect condensation levels. [But in a report, It's not lifestyle, the English Housing Ombudsman warned English social landlords](#) to avoid inferring blame on residents due to 'lifestyle' when it is not often solely their issue.
7. Whatever the cause of dampness in homes the impact may be harmful to residents. Living in damp and mouldy housing can [lead to poor health](#).
8. [The latest Scottish House Condition Survey, published in 2019](#), estimated that relatively few of Scotland's homes suffered from dampness and condensation. Ninety-one per cent of all homes in all tenures (social, private rented and owner occupied) were free from damp or condensation. Around 54,000 were estimated to have rising and/or penetrating damp homes and around 192,000 homes were estimated to have condensation.
9. [During a portfolio question time, the Cabinet Secretary for Social Housing, Justice and Local Government said that](#) the survey showed that 99% of social homes were free from damp and 86% were free from any signs of mould.

### *Existing legislative framework in Scotland*

10. Currently, homes in all tenures should meet the Tolerable Standard which includes that the home is "[substantially free from rising and penetrating damp](#)". Councils have duty to ensure that all homes in their area meet the

Tolerable Standard and have powers to make owners undertake necessary work. [Only a small proportion of all homes, around 2% or 40,000 homes](#) are estimated to be below the Tolerable Standard.

11. Social landlords have a legal duty to ensure that the properties they let are wind and watertight and in all other respects 'reasonably fit for human habitation'. In addition, social landlords must ensure that the properties they let meet the Scottish Housing Quality Standard (SHQS), which includes that they meet the Tolerable Standard (including being substantially free from rising and penetrating damp), have adequate ventilation and be suitably insulated.

12. If a tenant is living in a damp property and thinks that their landlord is not taking appropriate action to deal with the problem, they can complain to their landlord. If they are not satisfied with how any complaint is addressed, then they could complain to the Scottish Public Services Ombudsman.

13. The Ombudsman would consider, for example, whether the landlord followed their own procedures and whether their actions were reasonable. The Ombudsman will report on the case and could also make a recommendation to redress a financial loss or cost. Residents could also take a case to the Sheriff court. There is no published information on the number of cases the Ombudsman has considered about dampness in social housing. There are some published [investigation reports](#) and [decision reports](#) that involve in some way damp social housing, although most of these do not appear to be recent cases.

14. Tenants may also take legal action when problems have not been resolved satisfactorily.

15. [The Scottish Housing Regulator \(SHR\) has responsibility for monitoring social landlords' compliance with the Scottish Housing Quality Standard. It does not have a role in dealing with individual complaints from tenants but will investigate if there is a potential 'significant performance failure'](#), such as where the social landlord has failed to take action in a way that puts tenants' interests at risk and this significantly affects a number of the landlord's tenants. It has a range of regulatory powers to intervene where a landlord's performance is poor.

16. [The SHR's most recent report on the Scottish Housing Charter](#) showed that:

- Existing tenants' satisfaction with the quality of their homes decreased to 85% from 87% - LAs 81%, RSLs 86%
- Percentage of homes that meet the Scottish Housing Quality Standard decreased to 75% from 87% - LAs 70%, RSLs 80%
- Percentage of homes compliant with EESSH decreased to 88% from 89% in the previous year - LAs 83%, RSLs 93%

17. The report is not specific about the extent to which dampness might have impacted on SQHS failure rates. The report states that:

“Some landlords reported delays in carrying out electrical safety inspections, installation of interlinked smoke and heat detectors and upgrades to improve energy efficiency; all of which now form part of the SHQS. Landlords told us that they had experienced difficulties both gaining access to tenants’ homes, because of the pandemic, and securing materials to complete the work. Many of the landlords who reported an increased level of SHQS failures confirmed that they have plans in place to address these issues during this reporting year.”

18. [The SHR wrote to all social landlords in December 2022](#) to ask all governing bodies and committee to consider the systems they have in place to ensure that their homes are not affected by mould and dampness and they can identify and deal with any reported cases of mould and damp timeously and effectively.

19. The Regulator has also worked with the Association of Local Authority Chief Housing Officers (ALACHO), the Chartered Institute of Housing Scotland and the Scottish Federation of Housing Associations (SFHA) to [issue a briefing, published in February 2023](#), on how the sector can respond to damp and mould. For example, it encourages landlords to be proactive in addressing problems, focus on the root causes of dampness and encourage tenants to report problems. It also advises on data management.

20. The design of new homes, such as ensuring adequate ventilation and drying spaces, can be an important factor too. For existing homes, social landlords may have already, or will be retrofitting their homes.

### *Private Rented Housing*

21. Private landlords must make sure that their homes meet the “Repairing Standard”, as set out in the Housing (Scotland) Act 2006. This includes that the property should meet the Tolerable Standard. Therefore, privately rented homes should be substantially free from rising and penetrating damp.

22. The Repairing Standard was updated on 1 March 2019 to clarify existing legislation and to introduce new elements. Landlords have been given five years to carry out work to bring housing up to meet these new elements, with a statutory deadline of 1 March 2024. The [Scottish Government published new guidance](#) on the Repairing Standard including advice on dampness.

23. Tenants can apply to the First-tier Tribunal (Housing and Property Chamber) if they think that their landlord has not met the Repairing Standard (tenants must notify their landlord of the problem first and give them time to fix it). Local authorities can also make an application to the Tribunal with, or without the tenant being a participating party to the application.

24. [The Tribunal's Annual Report 2021-22 noted that there were 182 applications \(5% of all applications to the Tribunal\) concerning repairs cases.](#) It's not clear how many of these applications included issues related to dampness. [The Tribunal's 2019/20 report](#) noted that of the 179 Repairing Standard applications made, around a quarter (27%) were from councils as third parties and [only a few councils in Scotland](#) appear to make Repairing Standard applications to the Tribunal.

*Scottish Government plans for a new housing standard*

25. The development of a new common housing standard was outlined in [Housing to 2040](#). The Scottish Government planned to consult and publish a draft standard in 2023 and progress legislation in 2024/25. However, it appears this consultation has been delayed. It is not clear the extent to which any future changes to house condition standards might relate to the issue of dampness.

More information on housing conditions and standards can be accessed via the following link:

[Housing conditions and standards \(updated\) | Scottish Parliament](#)

**Next Steps**

26. Informed by the evidence taken at this meeting, the Committee will hear from the Scottish Housing Regulator, the Chartered Institute of Housing, the Scottish Public Services Ombudsman and the Minister for Housing at its meeting on 16 May.

**Clerks,  
Local Government, Housing and Planning Committee**



## Written EVIDENCE ON damp and mould in social and private rented housing

Shelter Scotland exists to defend the right to a safe home and fight the devastating impact the housing emergency has on people and society. We work in communities to understand the problem and change the system. We run national campaigns to fight for home.

We have experienced decades of underinvestment in our Scottish housing system which has resulted in far too many households struggling to find a quality and affordable home that meets their needs.

This underinvestment has created a housing emergency, which has now been exacerbated by the pandemic, the impact of the war in Ukraine and the on-going cost-of-living crisis.

**The housing emergency is growing.** The latest [homelessness statistics](#) show that almost 14,500 households (40% increase since 2014 ) and over 9,100 children (120% increase since 2014) are trapped in Temporary Accommodation (TA) in Scotland. Households with children are being trapped in TA for longer and longer periods of time - some families who are homeless, can spend two years living in temporary accommodation.

The lives and futures of thousands of children are being damaged as they are being denied their right to a stable, secure and affordable quality home. Without enough quality social homes being delivered, people will remain trapped in homes that damage their health and wellbeing.

**The structural solutions to the housing emergency must be prioritised and urgently implemented as outlined in our Scottish Housing Emergency Action Plan<sup>1</sup>:**

- Buy and build at least 38,500 social homes by 2026 to reduce housing need
- A national acquisition programme should be introduced to support local authorities to quickly procure new social housing stock where it is most needed
- Fully fund local government and local homelessness services, including carrying out a full audit of existing homelessness spend
- Create a new Homelessness Emergency Fund to direct money where it is most needed
- Guarantee the right to a home for everyone experiencing homelessness

### Damp and mould

- 54,000 homes (2.2% of housing stock) in Scotland were recorded as having rising or penetrating damp

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<sup>1</sup> [Scottish Housing Emergency Action Plan](#)

- 192,000 homes (7.7% of the housing stock) in Scotland were recorded as having condensation
- **14% of social tenants surveyed reported having either damp or mould, or both, within their properties.** This corresponds to around 90,000 households<sup>2</sup>

### Health and wellbeing

We regularly see evidence through our housing services of the impact that the lack of quality homes has on households across Scotland. The two examples below highlight the significant impact that living in damp conditions has on families:

- Client C told us of the respiratory and skin problems being developed in their young child due to the mould in their home. C identified eczema being caused by the spores from the mould, with the young child having to take seven different types of medication to treat eczema and asthma. The eczema has become infected to the point he is having to take antibiotics to prevent infection and possible sepsis.
- The situation facing Client V has become so extreme that the entire family are forced to sleep in one bedroom, due to the others being unusable due to damp.

The recent ruling in the tragic case of Awaab Ishak, the two-year old boy in Rochdale who died from a respiratory problem caused by extensive mould in his home, has focused attention on this issue. **Awaab's case is far from an isolated incident, and it shows the dire consequences of not doing enough to tackle the housing emergency and the damp and mould across our housing stock.**

It's not simply about a home being an unattractive and uncomfortable place to live – as we tragically saw with Awaab Ishak, **living with mould and damp can literally be a matter of life and death.**

### Making homes fit for living

There are clear links between energy efficiency and damp and mould issues. Homes that are cold, poorly insulated, hard to keep warm and with badly fitting or single-glazed windows are more susceptible to suffering from damp and mould<sup>3</sup> and can lead to a property being heated inadequately. **With the significant increase in price of energy over the past 18 months, the situation has become worse for many households, who have further struggled to sufficiently heat their homes.**

This issue is not about tenants' lifestyles<sup>4</sup>. For many households, unless structural changes/repairs are made to their home and relevant support is given, for example so people can afford to heat their homes appropriately, then they will continue to struggle with the impact of damp on their health.

<sup>2</sup> [Housing Conditions - Scottish house condition survey: 2019 key findings - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/consultations-published/housing-conditions-scottish-house-condition-survey-2019-key-findings/)

<sup>3</sup> House of Commons Library (2023), [Health Inequalities: Cold or Damp Homes](#)

<sup>4</sup> For example CIH, SFHA, Scottish Housing Regulator and ALACHO (2023), [Putting Safety First: a briefing note on damp and mould for social housing practitioners](#) and Housing Ombudsman (2021), [Spotlight on: Damp and mould - It's not lifestyle](#)

Rising fuel poverty levels and a cost-of-living crisis have further exacerbated the issue. The Scottish Government has said that:

- "come April 2023 half of all households in the social rented sector will be in extreme fuel poverty"<sup>5</sup> and
- 63% of social rented households (and 40% of private rented households) in Scotland were estimated to be financially vulnerable over period 2018 – 2020"<sup>6</sup>.

We recognise the Scottish Government has limited ability to solve the energy crisis and to reduce energy prices, but it does have the ability to ensure that for example the £1.8bn energy efficiency fund<sup>7</sup> is targeted towards those in greatest need, bringing houses up to a required standard to ensure they are easier and cheaper to heat and ensuring homes are mould and damp-free. **Using this fund, or other specific grant funding, to fix damp and mould issues will also ensure that the Affordable Housing Supply Programme (AHSP) remains fully focused on delivering the new social homes required to reduce housing need and tackle the root causes of the housing emergency.**

#### **End victim blaming**

Too often, housing providers do not take responsibility or offer effective solutions to damp and mould issues, instead blaming the tenant for causing a build-up of condensation through normal day-to-day activities. Regular activities such as bathing, cooking or drying clothes do increase levels of humidity and condensation and can lead to increased risk of damp and mould. However, as the recent 'Putting Safety First' briefing note from CIH Scotland, SFHA, ALACHO and the Scottish Housing Regulator states: "Daily living activities can increase the risk of condensation, but tenants, wherever they live and whatever type of house they live in, are entitled to live in a home free of damp and mould." Tenants should be able to complete daily activities "without being blamed for damp and mould developing."<sup>8</sup>

Regrettably, some of this victim blaming is linked to racist and discriminatory attitudes. As was noted in the ruling in the Awaab Ishak case, the local housing authority failed to act appropriately on the basis of assumed 'ritual bathing' on the part of Awaab's family.<sup>9</sup> This unfounded and prejudicial attitude, grounded in racism, ultimately contributed to Awaab's tragic death. The fact that this kind of attitude exists shows the broken and biased nature of the housing system in the UK and should be addressed.

- **Damp and mould should be tackled quickly and effectively to ensure people do not suffer the potential dire consequences of living in a home that is a health hazard**
- **Funding to assist social landlords in tackling damp and mould should be provided but must not detract from the money available to deliver new**

<sup>5</sup> The Cost of Living (Tenant Protection)(Scotland) Act 2022: First Report to the Scottish Parliament, p.11.

<sup>6</sup> [Cost of Living Bill - Key Statistics Scottish Government](#). 'Financially vulnerable' is defined as households with savings which would cover less than one month of income at the poverty line)

<sup>7</sup> [Heat in buildings strategy](#)

<sup>8</sup> CIH, SFHA, Scottish Housing Regulator and ALACHO (2023), [Putting Safety First: a briefing note on damp and mould for social housing practitioners](#)

<sup>9</sup> Housing Ombudsman (2023) [Special Report on Rochdale Boroughwide Housing](#)



social homes: the Affordable Housing Supply Programme Budget must be fully focused on delivering new social homes to address the wider housing emergency

- Landlords must avoid victim-blaming when mould and damp occur. Instead, homes should be made fit for modern living<sup>10</sup> Including improvements to energy efficiency to ensure homes can be adequately heated and ventilated

## Social housing supply is the structural solution

Many people facing severe issues with damp and mould remain trapped in homes that damage their health because there simply isn't anywhere else to go. **Without enough quality social homes, people will remain trapped and unable to move home.**

Increasing the supply of social housing in Scotland is crucial if we are to address the housing emergency. It requires adequate funding in order to ensure enough social homes are delivered to reduce housing need and enable people to move to a home that suits their needs and doesn't damage their health. The large year-on-year cut to the social housing capital budget for 2023/24 (16.2%) poses significant problems for delivering the required number of social homes, particularly when we have seen the cost of building increase over the past year.

**Failing to deliver the new social homes Scotland needs will keep Scotland in the grip of a devastating housing emergency and increase homelessness and housing need, while also leaving people trapped in properties which are not fit for purpose.**

## Evidence from people we have supported in our communities

Every day, we hear from our clients about the severe impact that damp and mould are having on their lives and wellbeing.

Our clients tell us of having their lifestyles blamed for causing damp and mould, being told to dry their clothes outside even when that isn't possible, or to open their windows in the middle of winter. We hear of damp surveys being carried out, but recommendations for repair works not followed through, leaving tenants in homes that continue to damage their health even after the problem is identified.

This is the reality facing far too many people in Scotland in 2023. The photos in Appendix 1, sourced from clients across Scotland, illustrate the problem further.

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<sup>10</sup> Housing Ombudsman (2021) [Spotlight report on Damp and Mould](#)

Appendix 1: images from our clients' homes











**Note:** This client's bathroom ceiling fell down over 4 years ago, due to damp. The local authority has failed to repair this, leaving the tenant to live with this ceiling, which is now infested with insects which often fall onto the client when using the room.



## **Local Government, Housing and Planning Committee: Damp and Mould in Housing Scottish Federation of Housing Associations (SFHA) written evidence**

SFHA is the membership body for, and collective voice of, housing associations and co-operatives in Scotland. Housing associations and co-operatives provide homes for over half a million people in Scotland. Not-for-profit organisations, they don't just build, maintain and rent out homes: they also help their tenants by providing care and support services as well as advice and help on energy efficiency, finances, employment and much more.

### **Summary**

- Most social homes in Scotland are of good quality: almost nine out of ten tenants say they are happy with the homes and services their landlord provides. But where issues with damp or mould do arise, it is imperative that they are taken seriously. The social housing sector has come together to offer practical support and guidance to social landlords on how to treat damp and mould and our members will continue to work alongside tenants to tackle the issue where it arises.
- With more and more tenants simply unable to turn on heating last winter, we strongly welcome the increase to the Fuel Insecurity Fund, through which SFHA has so far been able to allocate funding for projects that support 55,000 households. Given the energy crisis is likely to continue for some years, we believe this should move from emergency to long-term funding.
- Improving our existing homes through retrofit is key to tackling damp and mould. But social landlords must keep rents affordable – that means that funding for retrofitting cannot be funded primarily from rents. While the funding available for retrofit is welcome, there's a clear need to review this.

### **The condition of Scotland's social homes**

Most social homes in Scotland are of good quality: almost nine out of ten tenants say they are happy with the homes and services their landlord provides. But where issues with damp or mould do arise, it is imperative that they are taken seriously. We also know that most social landlords provide a good repairs service, with 88% of social tenants reporting that they are satisfied with this.<sup>1</sup> None of this should of course ever make a housing association complacent: and our members are not.

Social landlords in Scotland have a legal duty to ensure that the properties they let are wind and watertight and in all other respects 'fit for human habitation'. In addition, they must ensure that the properties they let meet the Scottish Housing Quality Standard (SHQS), one aspect of which is that homes must be substantially free from rising and penetrating damp.

The Housing (Scotland) Act 2010 established the Scottish Housing Regulator, who ensures social landlords comply with their duties. The 2010 Act gives the Regulator a single statutory objective, to safeguard and promote the interests of persons who are or who may become homeless, tenants of

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<sup>1</sup> Scottish Housing Regulator, [National Report on the Scottish Social Housing Charter](#), 2022



social landlords, or recipients of housing services provided by social landlords. It monitors, assesses and reports regularly and, where appropriate, makes regulatory interventions.<sup>2</sup>

### **Action to address damp and mould in social housing**

There are distinct and important differences in how social housing is regulated in Scotland and England, but the tragic death of Awaab Ishak is a stark reminder of the need for all housing associations and co-operatives to be fully aware of how serious this issue is and how best to tackle it.

SFHA recently worked with ALACHO (Association of Local Authority Chief Housing Officers), the Chartered Institute of Housing (CIH) Scotland and the Scottish Housing Regulator (SHR) to provide the social housing sector with improved information on how they should respond to damp and mould. This included a practical [guide](#) and an event attended by hundreds of housing professionals. The guide provides an overview for practitioners and landlords about how to deal with damp and mould in a way which is proactive, understanding of tenants' experiences, and most importantly effective in resolving the underlying issue. Importantly, tenants must feel supported and listened to.

### **Long term support is needed for social tenants**

This winter more and more of our members reported they were supporting tenants with access to absolute basics like food and fuel. The cost-of-living crisis has resulted in many simply being unable to afford to turn on heating, which as well as affecting comfort, health and quality of life, can have an impact on the quality of the home. That's why we strongly welcome the increase in the Fuel Insecurity Fund, through which SFHA has so far been able to allocate funding for projects that tackle fuel poverty in nearly 90% of housing associations across Scotland and supporting 55,000 households. However, the high demand for this funding (the most recent round was oversubscribed within 36 hours with total applications reaching around £6m), alongside the unprecedented scale of the energy crisis which is likely to continue means that there is a need to move beyond this emergency approach. **We would therefore like to see a longer-term commitment to an ongoing Fuel Insecurity Fund which can be targeted to those at risk of self-rationing or self-disconnection. It's simply not right that anyone should have to consider not heating their home.**

### **Funding for retrofitting existing properties should be reviewed**

Improving our existing homes through retrofit is key to tackling damp and mould. The social housing sector already has the most energy efficient homes in Scotland but work is always ongoing to improve this further and tackle fuel poverty.<sup>3</sup>

Social landlords must keep rents affordable – that means that funding for retrofitting cannot be funded primarily from rents. Almost 80% of our members told us in a survey that sourcing funding and capital investment for retrofit measures is challenging. While the commitment of £3.2bn in

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<sup>2</sup> <https://www.housingregulator.gov.scot/about-us/what-we-do/how-we-work/framework-agreement-between-scottish-ministers-and-the-scottish-housing-regulator#section-2>

<sup>3</sup> *Over half of Scotland's social housing stock already achieves a good level of energy efficiency, compared to two-fifths in the private rented and owner-occupied sectors. (Scottish House Condition Survey 2019)*

order to deliver 110,000 affordable homes to be over the next 10 years is welcome, the balance of funding for retrofit programmes remains insufficient given the scale of the work needed to upgrade the 600,000 existing properties in the sector.

Feedback from our members also indicates that the Social Housing Net Zero Heat Fund, and other funding schemes, are requiring increasing levels of information, both as part of the application process and ongoing reporting. While we understand the requirement for due diligence when issuing government funds, we are concerned about unnecessary barriers and bureaucracy leading to smaller organisations in particular being unable to access such schemes. We are particularly concerned about the level of spend to date with only £17m of the £200m scheme awarded by October 2022. With only 3 years remaining, we would like to see further incentives to encourage uptake by **further streamlining the process and reviewing the match funding criteria** with higher percentages of funding to be made available to particular projects.