

The Landlord & Tenants Law Regarding Mould

Guidance Sheet written by Jeff Charlton and www.Buildingforensics.co.uk

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1. Overview

This guidance sheet offers an overview of the UK's legislative framework addressing mould in rental properties, emphasizing both current statutes and proposed changes. It is designed to inform landlords and tenants about their rights and duties, fostering a safe and healthy living environment.

While this paper describes the legal route regarding visible mould it does not provide information regarding the legal issues and evidence pertaining to health effects and potential claim success regarding personal injury and perhaps replacement of contents.

Following the law may see the court fine a landlord and order them to paint over the mould. The main claim issue should, however, be respiratory and dermal exposure to inflammagens and toxins, often referred to as "Toxic Mould". These inflammagens can cause a multitude of symptoms, and if you have a legal team, they will need professional guidance and data driven evidence which Building Forensics can provide.

2. Legislative Context

The UK's legislative landscape is undergoing significant reforms aimed at strengthening tenant protections. These reforms include the Renters (Reform) Bill, the fairer private rented sector white paper, and the forthcoming Healthy Homes Act proposal for 2024. Together, these initiatives represent a substantial evolution in the private rented sector's regulatory framework.

3. Proposed Legislation

3.1 Renters (Reform) Bill

Key provisions include reviewing possession grounds and abolishing "no fault" evictions, enhancing tenancy security.

3.2 Fairer Private Rented Sector White Paper

Introduces the Decent Homes Standard to the private sector and addresses rental practices discriminating against families, benefit recipients, and pet owners.

3.3 Healthy Homes Act (Proposal for 2024)

- **Objective:** To establish a comprehensive set of standards for rental properties, focusing on health and safety, including stringent requirements for mould prevention and remediation.
- **Health and Safety Standards:** Mandates that all rental homes meet specific health and safety benchmarks, directly addressing risks associated with mould and dampness.
- **Enforcement and Compliance:** Proposes a robust framework for local authorities to enforce standards, with significant penalties for non-compliance, ensuring that rental properties offer safe and healthy living conditions.
- **Tenant Protections:** Strengthens tenants' rights to report inadequate conditions without fear of retaliation, and provides clear pathways for redress, including expedited dispute resolution processes.

4. Existing Legislation

4.1 Landlord and Tenant Act (1985)

Addresses landlords' duty to maintain property structure and exterior, indirectly covering damp and mould prevention.

4.2 Housing Act (2004)

Introduces HHSRS for assessing residential hazards, including mould growth, enabling local authority intervention.

4.3 Homes (Fitness for Human Habitation) Act (2018)

Explicitly includes damp and mould as criteria for determining a property's fitness for habitation, empowering tenants to take legal action for non-compliance.

5. Landlord Compliance

To comply with these laws, landlords must perform regular property maintenance, ensure adequate ventilation and heating, and promptly address mould or dampness reports. Educational efforts about mould prevention and moisture control are also crucial.

6. Mould: Risks and Responsibilities

Mould presents significant environmental and health risks, necessitating joint efforts by tenants and landlords to prevent its occurrence. The document outlines specific preventive measures and responsibilities for each party. More information on health issues can be found on www.mouldillness.uk

7. Tenants' Rights and Courses of Action

Legislation enables tenants to directly address poor housing conditions, including taking legal action against landlords failing to maintain properties adequately. The Healthy Homes Act proposal further bolsters these protections.

8. In the UK, tenants have rights and landlords have obligations regarding the maintenance of property in a safe and habitable condition, including addressing mold issues. Here's a step-by-step guide on what legal actions a tenant can follow against a landlord failing to control mold in the UK:

9. Tenant Legal Action

9.1. Document the Mold Issue: Take clear photographs of the mold and keep a record of any health symptoms you or other occupants experience. Document all attempts to clean the mold and any communication with your landlord about the issue.

9.2. Mould sampling It may be beneficial to take samples of air and surfaces to identify levels and possible hazardous species such as Aspergillus, Stachybotrys, Trichoderma etc. While Building Forensics offer these services, we recognise professional surveys are out of reach for most budgets and recommend DIY. These products can be purchased from: www.mouldlab.co.uk

9.3. Notify the Landlord in Writing: The first step should always be to inform your landlord about the mold problem in writing. This could be via email or

letter. You should describe the issue in detail, how it affects you, and request repairs. Keep copies of all communications as evidence.

9.4. Environmental Health Department: If your landlord does not take appropriate action to deal with the mold, you can contact your local council's Environmental Health Department. They can conduct an inspection and, if they find the property to be hazardous to health (under the Housing Health and Safety Rating System, HHSRS), they can take enforcement action against your landlord.

9.4.1. This may not be as helpful as it may sound. The Environmental Health Officer (EHO) is employed by the local authority and they may refuse to survey their employer's property. If the EHO does survey the property it will be a visual appraisal only and their risk assessment will be a logarithmic (summed up) opinion based on the Housing Health & Safety rating System. (HHSRS). The HHSRS has major failures not least it should not be used for assessing biological contamination which of course mould and bacteria are. Get more information from www.buildingforensics.co.uk web site

9.5. Repair and Deduct: This is not a widely recommended option in the UK due to the potential for legal complications. However, in some cases, after giving the landlord reasonable notice and opportunity to fix the issue, tenants might pay for the repairs themselves and deduct the cost from their rent. Legal advice is strongly recommended before taking this step.

9.6. Rent Withholding: Withholding rent is risky and could lead to eviction proceedings against you. It's essential to get legal advice before considering this option. A better approach may be to pay your rent into an escrow account demonstrating that you're willing to pay, but are withholding the funds until the mold issue is resolved.

9.7. Legal Action: As a last resort, tenants can take legal action against their landlord. This can include suing for breach of the tenancy agreement (if it specifies that the landlord must keep the property in repair) or for negligence if the mold has caused health problems. Compensation might be sought for damage to personal property, health issues, and inconvenience.

9.8. Terminate the Lease: If the property is in a severe state of disrepair, you might have the right to argue that the landlord has breached the contract, allowing you to leave before the end of the lease without penalty. Legal advice is recommended to ensure this is done correctly.

9.9. Legal Advice and Support: It's crucial to seek advice from a solicitor specializing in housing issues or contact organizations like Citizens Advice, Shelter, or a local law centre for guidance tailored to your situation. They can provide specific advice, support you through the process, and help ensure you're taking the correct legal steps.

9.10. Remember, the laws and procedures can be complex, and professional advice is key to navigating this process successfully in the UK.

10. Decontamination The removal of mould and its inherent health risk is not simply visual or aesthetic. Visual mould will enter the air to be inhaled and this is the highest risk and hazard.

10.1. Coroners review A review of the coroner's report for the two cases heard in 2023 show inhalation and inflammatory response was the main issue, NOT what was on walls. www.mouldillness.uk

10.2. Cleaning the air is a significant risk reduction factor after visual mould removal (see www.airscrub.co.uk)

11. Note from Jeff Charlton the author.

Mould is not a phenomenon or new health risk and its consequences can be seen in the Old Testament 4000 years ago (*Leviticus 13-15*)

Incredibly the advice given by the priest 4000 years ago is almost the same today.

This information was written in the hope it may help those who don't have the budget to undertake action themselves.

The links are there to help you.