

**March 2025**

## **Paper 1108 Landlord & Tenant Problem Areas**

**A free help sheet not intended as legal advice**

**Written by Jeff Charlton**

This paper has been written to assist the tenant with mould problems, which are usually considered the landlord's responsibility.

While we can work for you, a professional survey may be an unnecessary expense, and you can provide the necessary information to assist your landlord in recognising your issues.

You should gather information on all relevant mould-related health issues, explain a mould growth and provide photographic evidence. If that doesn't get a response, you might consider DIY testing with analysis to assess your risks and hazards from mould.

Armed with this evidence, you may be successful in litigation if your landlord refuses to assist.

Landlords have been plagued with incompetent advice about mould for decades. Some government departments and quasi-professional organisations that represent them are ill-informed and still provide magic mould solutions that don't work. Unfortunately, many still feel mould is a tenant's fault. The new Awaabs law mentioned below has changed that in legal terms.

### **The most important paragraph**

*Building-related illness is often and usually associated with water or condensation damage in a home. Symptoms range from brain fog to Chronic fatigue and a host of other symptoms too long to describe here. If your health is suffering and/or when you leave the property briefly and feel a health improvement, you should consider building-related issues. You are the best judge of this, and DIY sampling before and after any landlord action will provide you with independent assessments. Remember, it's not the visible mould that affects your health but the invisible particles you inhale.*

*If you look at our review of Awaabs Ishak's post-mortem (Link), you will notice he died from suffocation as his throat swelled, which caused inflammation in the air. Not what he could see. It is important that the objective of mould removal is the removal of health risks.*

The following are issues I have seen over many years, and while many will argue that my statements are wrong, NONE will provide evidence.

**The landlord intends to send in a contractor to remove mould. These are the issues which must be complied with before the visit:**

1. Mould removal from surfaces is not adequate when or if the moisture source which caused mould growth is not remediated or rectified, because it will simply grow again and usually more allergenic or toxic, after fungicidal treatment
2. It should be understood by those undertaking mould remediation that no single product or methodology destroys mould.

3. The two most common substances used to remove mould are bleach and borax. Bleach is not a registered fungicide, and both can leave carcinogenic residue (Wilson et al 1979)
4. Any person attending any property during their work duties will be covered by the HSWA 1974, as amended. This means the worker will be under a duty to comply with all relevant workplace legislation, which includes COSHH
5. COSHH has identified airborne mould spores and fragments (dead mould) as carcinogenic, skin and respiratory sensitisers and Asthmagen. This means these hazards MUST be removed and reduced to the lowest practical level, regardless of cost.
6. Before anyone undertakes work, the law requires a suitable risk and hazard assessment to be undertaken. This will include the need for suitable PPE. The law clearly states that any work which the employer or employee undertakes must include risk and hazard assessments for occupants and or visitors to that workplace (home)
7. The law requires only products suitably assessed and legally can be used in the workplace (Home). This means the products must comply to REACH and provide both MSDS and Coshh statements
8. The level of mould removal must be identified before the operation, and as can be seen, airborne mould will likely increase during physical removal.
9. Engineering controls should be implemented before any works where hyphal fragments may be released.

### **Mould in the air is more hazardous**

10. From the foregoing, it will be identified that mould on a surface is only a minor part of the task, and under COSHH and HHSRS, the larger hazard of inhalation and skin absorption must be addressed. This means the air must be cleaned.
11. Whatever works are undertaken, there are British Standards for verification of clearance, and typically, these include PAS 64 and BS 16000:16-17-18-19-20-21
12. It may appear that, as contamination from the air is most likely, it must be assumed that this contamination will partly settle on furniture and contents. In the UK and European law, a hazard that may exist must be presumed to be present unless proven to the contrary. As the contamination is microscopic, this may require scientific assessment in line with British Standards.

### **13. Landlord support by Environmental Health Officer**

The Environmental Health Officer may implement the Housing Health and Safety Rating System (HHSRS). The EHO or enforcing officer is required to maintain credible knowledge and follow innovations in an attempt to reduce risks and hazards faced by tenants.

While the logarithmic assessment of the HHSRS of visible hazards may be acceptable to assess significant visible mould contamination, the same criteria cannot possibly be applied to the microscopic inhalation hazard of mould, which is below visible detection limits. If you have visible mould, you have airborne mould, too, so even without equipment, logic might take a step closer to a more accurate assessment. The Operational Guidance document of HHSRS states explicitly in its appendix D page 49 ("Not to be used for Biological assessments" )

The only method of measuring possible health risks and hazards is by scientific sampling and analysis. NOT visuals or a white glove test

## **Awaab Law from October 2025: Excerpts taken from Airflow**

This new law provides the tenant with solid legal support to a degree

Awaab's Law will require social housing landlords to adhere to strict time limits to address dangerous hazards such as dampness and mould in their properties, forming part of the Social Housing (Regulation) Act.

Awaab's Law came about following the death of two-year-old Awaab Ishak from Rochdale, who died due to a respiratory condition brought on by extensive mould in the social housing he was living in. Despite the family reporting the mould to the landlord, no action had been taken to treat the issue in the three years between the notification of the mould and Awaab's death.

This enforceable legal requirement (Oct 2025) aims to help prevent future tragedies and protect the health and safety of others. Social landlords must take swift action to remedy any reported dampness or mould and show every attempt to comply within the given timescale.

Under the government's new guidance on the health risks of dampness and mould for landlords, tenants will not be held accountable for mould or moisture in their homes. It will no longer be blamed on the tenants' 'lifestyle choices', and it is recommended that landlords investigate and carry out repair work as soon as possible within a fixed period.

## **What does Awaab's Law mean for landlords?**

The Department for Levelling Up, Housing and Communities (DLUHC) has published [guidance to social landlords](#). This guidance urges landlords to ensure all properties meet the [Decent Homes Standard](#), gain awareness of any properties that don't meet the standard and undertake rapid maintenance where necessary.

Landlords are expected to assess of:

- Damp and mould issues within the property, including the prevalence of categories 1 and 2 damp and mould hazards
- A required action for any damp and mould issues.
- If, through these assessments, you become aware that you may breach regulatory standards, you should self-refer to the Regulator of Social Housing.

### **Awaab's Law will mean that social housing landlords must:**

- Begin investigating known or reported hazards within 14 calendar days.
- Provide a report in writing within the 14-day timeframe that includes information about the hazard, the solution to address the hazard, and a clear timeframe to remedy the issue.
- Repair work should begin within 7 calendar days if the hazard is defined as a significant risk to the health or safety of the tenants
- ([Government guidelines help define this](#)), considering tenants' vulnerability and age.
- Repair work should be completed within a 'reasonable period' as defined in the Landlord and Tenant Act 1985.
- 24 hours is the timeframe for emergency repairs.
- Social housing landlords should offer alternative accommodation if repairs cannot be completed in the above timeframes.
- Social housing landlords must keep a clear record of all correspondence between residents and contractors.
- These new rules should form part of a tenancy agreement so tenants can hold landlords accountable by law.

### **How landlords may meet the requirements of Awaab's Law**

The landlord is now responsible for identifying and addressing the underlying causes of dampness and mould. This could relate to inadequate ventilation or structural issues, so finding a solution is crucial, be it a ventilation system or adjustments to the property to rectify any problems.

Proper ventilation and good-quality air flow should be assessed to ensure compliance with Awaab's Law and avoid mould and damp issues in social housing.

Although reactive maintenance is essential, proactive planning should also be a key focus for social landlords and social housing providers to avoid mould and dampness in future social housing developments, keep compliance front of mind, and, of course, ensure the well-being of residents.

### **Some additional legal information**

What about the enforcement of Awaab's Law?

Once enforceable, residents can sue social landlords if they do not meet the timeframes specified in Awaab's law.

Although a specific timeframe for its implementation has yet to be established, it is likely to be enacted before the end of 2024.

However, the Social Housing (Regulation) Act 2023 became law in 2023. It gives tenants stronger powers and rights to hold landlords accountable. The Regulator will be given the power to issue unlimited fines and enter properties with 48 hours' notice if emergency repairs are required.

## Other Landlord & Tenants Laws Regarding Mould

### 1. Overview

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

### 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:** The law mandates that all rental homes meet specific health and safety benchmarks, directly addressing risks associated with mould and dampness.
- **Enforcement and Compliance:** The proposal 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:** This 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.Buildingforensics.co.uk](http://www.Buildingforensics.co.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 maintaining the property in a safe and habitable condition, including addressing mould issues. Here's a step-by-step guide on what legal actions a tenant can follow against a landlord failing to control mould in the UK:

- 8.1. Tenant Legal Action. Document the Mould Issue:** Take clear photographs of the mould and record any health symptoms you or other occupants experience. Document all attempts to clean the mould and any communication with your landlord about the issue.

**8.2. 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 offers these services, we recognise that professional surveys are out of reach for most budgets and recommend DIY. These products can be purchased from: [www.mouldlab.co.uk](http://www.mouldlab.co.uk)

**8.3. Notify the Landlord in Writing:** The first step should always be to inform your landlord about the mould 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.

**8.4. Environmental Health Department:** If your landlord does not appropriately deal with the mould, 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.

**8.4.1.** This may not be as helpful as it may sound. The local authority employs the Environmental Health Officer (EHO), 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](http://www.buildingforensics.co.uk) web site

**8.5. 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 an 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.

**8.6. 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 mould issue is resolved.

**8.7. 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 mould has caused health problems. Compensation might be sought for damage to personal property, health issues, and inconvenience.

**8.8. 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.

**8.9. 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.

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

**9. 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.

**9.1. 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.buildingforensics.co.uk](http://www.buildingforensics.co.uk)

**9.2.** Cleaning the air is a significant risk reduction factor after visual mould removal (see [www.airscrub.co.uk](http://www.airscrub.co.uk))

#### **10. 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 the priest gave 4000 years ago is almost the same today.

This information was written to help those who lack the budget to take action themselves.

The links are there to help you.

**Building Forensics can provide open and detailed proposals for the benefit of landlords and tenants.**

**Hope it helps to keep you safe**

**Jeff Charlton**

