

DAMP, MOULD AND ASTHMA IN YOUR HOME – A GUIDE FOR TENANTS

After the tragic death of Awaab Ishak the public have become more aware of the dangers of mould within the home. This fact sheet sets out information about mould, ways to mitigate mould growth, what your rights are as a tenant and what you can do if your house is mouldy and your landlord is not resolving the issue.

What are my landlord's legal obligations?

The Homes (Fitness for Human Habitation) Act 2018 brought in new obligations for landlords. Previously, the structure, exterior and services in the building had to be fixed if they were broken which limited the scenarios in which tenants could claim for housing conditions. Since 20 March 2020 there is a new additional requirement that homes be fit for human habitation which means that it must be capable of occupation for a reasonable time without risk to the health or safety of the occupants, and without undue inconvenience or discomfort to the occupants. You can read more about this on our blog <https://anthonygold.co.uk/latest/blog/fitness-for-human-habitation-act/>.

What causes mould?

Mould is caused by moisture; this is why you will often hear the words 'damp and mould' together; damp is usually the first indicator of mould. The most common causes of mould in homes are water entering the home and condensation. Water can enter the home from multiple sources such as a roof in disrepair, windows that are not properly sealed, leaking pipes, blocked guttering, poorly fitted bathrooms, neighbouring properties as well as many others. Condensation can be caused by overcrowding, inadequate ventilation and improper heating as well as some other methods. Damp and mould can be caused by any number of combinations of these issues, it is not uncommon for a mouldy home to have more than one cause of the damp and mould.

It is important to note that your landlord is probably not liable for mould in your home if it is as a result of condensation caused by overcrowding or 'tenant behaviours'. However, the cause(s) must be properly investigated by a suitable professional and landlords are known to attribute 'condensation' as the cause for mould developing without undertaking suitable investigations. You should be able to live in your home conducting usual day to day activities without significant mould developing. You should notify your landlord of mould when you first become aware of it.

What can I do to mitigate mould in my home?

Mould grows best in wet and humid conditions so there are a few things you can do to limit moisture in your home:

- Wash off the mould regularly, preferably with a specific anti-mould product.
- Do not dry washing inside the home.

- Keep windows and trickle vents open as much as possible.
- When bathing and until the water vapour has cleared afterwards keep internal doors closed and open windows where possible.
- Turn heating on regularly in cold weather.
- Cover pans with lids when cooking.
- Turn on extractor fans in the bathroom and kitchen when bathing and cooking.
- Do not place furniture right up against external walls, particularly large pieces such as wardrobes, where possible leave a small gap between furniture and all walls.
- Wipe condensation from surfaces, a window vacuum is especially helpful for this, but a cloth will suffice.
- If you can afford or borrow one use a dehumidifier.

These activities should be done to the extent you are reasonably able. They should not have to be done to the extent it is significantly detrimentally affecting your life. If there are some of these activities you are unable to or will find difficult to complete due to disability or other socio-economic factors you should let your landlord know, as well as medical professionals and council/social services; help and assistance may be available to you.

These small changes in your day to day living should not have a noticeable negative impact on your living as you should be able to conduct reasonable activities in your home without mould developing.

My home is still mouldy, how do I tell my landlord?

If you have tried the suggestions previously mentioned and your home is still mouldy or there is an apparent leak or damp causing mould your landlord should take action.

You may have a preferred method of contacting your landlord, but it is always best to make or follow up complaints in writing, preferably by email. If you prefer to report repairs by telephone, we recommend sending a short follow up email after the phone call i.e. 'I called at [date and time] and spoke to [name] I told them [the problem] and they advised [next steps and turnaround time]'. That way you have a written record of your correspondence and what you understand to be happening. If possible, take photos and videos of the problem and email them to your landlord as well as keeping them for your own record. You may find it helpful to make a separate photo album and/or email folder for housing matters on your device. You can also keep a diary of your contact with your landlord, this does not have to be detailed simply what problem you reported to your landlord on what day and what they said. A lot of large landlords have been targeted by cyber-attacks in recent years and therefore you have your own record if your landlord's records are lost, damaged or incomplete. This will help any professionals who assist you in the future if you are unable to resolve the problems with your landlord directly.

The cause or origin of some leaks can be very hard to trace, therefore it may be easier for your landlord and professionals to locate the source if you keep a diary of when leaks and damp are worse, where they start, how long they go on for etc. Helpful information will include the weather, time of day, whether it corresponds with any daily activities, if it happens when it rains or a day after it rains. It is also useful to attach photos to these diary entries. This diary can be made by hand or on your electronic device.

If you live in a flat, maisonette, semi-detached property or terraced property you may wish to ask your neighbours if they are experiencing similar issues. If you have the same landlord as your neighbours, it may help your landlord to identify the problem by comparing the similarities. You can also start a WhatsApp group or email chain with your neighbours to share your experiences, who you've contacted and what advice has been given; this will hopefully result in all tenants being better informed.

Any problems with ventilation, windows and heating should also be mentioned in the correspondence to your landlord relating to water ingress, damp and mould. This is because problems with these facilities may exacerbate mould problems as the property will dry slower.

You are obliged to grant your landlord access for inspections and works after they give you 24 hours' written notice. If you will not be at home due to work or other commitments propose another time, or preferably a few times, for your landlord or their contractors to attend. Landlords do not usually hold you to giving access on 24 hours' written notice but if you can't give access on a particular date then you must arrange to give access on another occasion as soon as possible.

It is frustrating and upsetting to live in a home in disrepair and frequently chase your landlord. Where possible keep to the same email chain, if your landlord is emailing you on new email chains you can reply to them on your main chain and attach their new email to your reply. Keep the emails focussed and factual where possible, you can use bullet points, an email could say 'I am reporting a new issue x which occurred on x, you will see from my emails below I am waiting on your reply/action for x since x ... (repeat for each outstanding issue), as you know I live with x ..., the health conditions in the home are x'.

Unfortunately, it is not uncommon to hear that contractors for repairs either arrive at tenants' properties without notice or do not arrive at all but say they did, and no one was home, or they were refused access. Ways to protect yourself from this are to ask that all appointments are emailed to you at least 24 hours before the attendance with the time and date, details of who is attending, what they are attending for and intend to complete, a time estimate and anything you need to do to prepare for the visit such as moving furniture. You can also email your landlord 15-30 minutes before the appointment to confirm you are at home, your telephone is home, and you are waiting for the contractors to arrive.

If you believe your housing conditions are having an impact on your health and wellbeing you should report it to your GP or healthcare professional immediately.

What if my landlord is not doing anything?

Your landlord should investigate water ingress and mould growth and take steps to remedy the problem. Your landlord may ask a surveyor, plumber, roofer or other trade professional to inspect your home, give their opinion on the issues and recommend works; your landlord will hopefully follow the professional's advice. You should take steps to allow professionals to inspect your home at your landlord's request, you will likely find it helpful if you are present and can engage with these professionals whilst they are undertaking their inspections and works as they may be able to give you some information on the problems in your home.

If your landlord is not taking action you should still continue to report new problems, keep them updated on the existing problems and keep a diary/take photos.

If you feel your landlord is not dealing with your matter efficiently and effectively there are steps you can take and places you can turn to for help. If you are a council tenant you should follow your council's complaints procedure. If, after following your complaint you feel your council have still not dealt with the problem effectively we advise you escalate your complaint to stage 2. If following your stage 2 complaint you are still unhappy with the outcome see if your council has a third and final review stage.

If your landlord is a private company or housing association, you should look at their complaints procedure which will likely be on their website and a two stage process. You should follow their complaints procedure. If you are unsure you can ask your landlord to send the

complaints procedure to you. If they do not have a complaints procedure you can send them an email titled 'formal complaint', outline your complaint and ask they respond within 28 days.

If the matter is still unresolved and you are a social housing tenant you can raise it with the Housing Ombudsman <https://www.housing-ombudsman.org.uk/residents/make-a-complaint/>. For the Housing Ombudsman to investigate you must have completed your landlord's complaint procedure, however if your landlord is not responding to your complaint the Housing Ombudsman has a team who can assist you in obtaining a response.

There is currently no overarching Housing Ombudsman for the private sector however the Government have committed to a new single Ombudsman that all private landlords must join under the Renters Reform Bill. You can look on the Commons library website and search 'how to complain about rented housing' and several sources and Ombudsman's for different issues will appear, you can select the one that best suits your problem. If you have a complaint about a managing agent you can complain to their redress scheme.

You can ask the council to inspect your home under the Housing Health and Safety Rating System (HHSRS). This should be done by an environmental health officer (EHO) from your local council. At that inspection the EHO will assess any hazards in your home and consider the chance of harm, how serious it is/could be and any additional risk to vulnerable people. If any hazards are found they will either be rated as a category 1 or category 2 hazard. Your council must take action for a category 1 hazard, they can choose whether to take action for a category 2 hazard. If your council is not undertaking these actions as for a copy of their housing enforcement policy and complaints procedure and then make a complaint. If their response to your complaint is unsatisfactory you can escalate this to the Local Government and Social Care Ombudsman <https://www.lgo.org.uk/>.

You do not have to, but you may find it helpful to also make a complaint to a 'designated person' i.e., your MP or a local councillor or tenant panel.

If your health is suffering as a result of your housing conditions your GP or clinician may be willing to write to your landlord on your behalf. Likewise, your employer, children's school, your university or other professionals involved in your life and wellbeing may be willing to write to your landlord about the negative effects your housing conditions are having on you and/or members of your household.

Does mould cause asthma?

In short, yes mould can cause asthma or make it worse. At this time there is no research to support that damp without mould causes asthma or makes it worse (exacerbates it).

Asthma is a common chronic lung condition that causes inflammation in the airways and can make breathing difficult, requiring medication to treat breathlessness and other symptoms. In severe cases asthma can require hospital treatment and in the most severe cases can be fatal. Asthma is commonly found in those with an 'atopic' family history which means a family history of allergies, hay fever and asthma. Asthma can be exacerbated by smoking and vaping, allergies, exercise, infections, cold air and airborne pollutants including mould.

Children living in mouldy conditions are three times more likely to develop asthma. Mould can cause and/or exacerbate asthma whether or not there is an allergy to mould. Those with asthma are often allergic to dust mites and dust mites are more common in damp and mouldy homes. Those without asthma or allergies can experience allergic symptoms in a mouldy home such as itching and irritated airways.

Asthma is a chronic condition, meaning those living with it can suffer from the detrimental symptoms every or most days. This can be especially damaging to children's education, adult's ability to work and general quality of life. Fatigue is commonly associated with asthma. When living with asthma a person may suffer disturbed sleep, more severe and prolonged illnesses meaning increased time off school and work, unable to or limited engagement in exercise and active play, interrupted and slower speech due to breathlessness, time off school or work for medical appointments, difficulty breathing in cold weather meaning asthmatics remain indoors at risk of isolation, stunted growth, alopecia, bullying, as well as many more including the financial impact and costs of having a chronic medical condition.

As asthma is a common condition also developed by those who do not live in mouldy homes, it can be difficult to show whether mould has caused and/or exacerbated asthma. Medical professionals are best placed to provide an opinion on causes and exacerbations, this is why it is important to liaise with medical professionals regarding any symptoms, changes in health and wellbeing, and your housing conditions. Medical professionals can help alleviate symptoms, they can also advise whether other symptoms or conditions are related to poor housing conditions.

As asthma affects the immune system there are other conditions that can be caused by asthma, the average person is not expected to know the cause of their symptoms, but a medical professional will investigate this. Medical professionals can also conduct tests and investigations to determine how asthma is progressing, as well as any changes in seasons and lifestyle – these monitoring measures help medical professionals find the best treatment for medical conditions.

If your asthma clinician is of the opinion your asthma is caused/exacerbated by mould, and your asthma symptoms continue deteriorating despite your continued compliance with medication (because your home remains mouldy) your medical professionals may offer to write to your landlord on your behalf, you should where possible accept this offer as these letters can be an incentive for your landlord to remedy the mould. You should, where possible, show pictures of your housing conditions to your medical professionals so that they understand your situation and how it impacts your health and keep them updated of your housing situation as well as other significant factors in your life.

Do I have a legal claim?

If you have suffered leaks, heating and hot water issues, infestations and other repair problems that have not been fixed within a reasonable time despite your landlord being aware of the problem(s), then you quite possibly have a disrepair claim. Each case is assessed individually.

If your housing conditions have significantly worsened your, or a member(s) of your household's, health and wellbeing either by causing asthma, physical injury, or substantially exacerbating a preexisting health condition(s), then you quite possibly have a personal injury claim. Again, each case is assessed individually.

You do not need to go through the steps listed above before contacting a solicitor apart from notifying your landlord of the defects and problems in your home for which you are contacting a solicitor to help resolve.

My neighbours and I all have the same landlord and similar problems, can we bring a group claim?

Probably, if we receive enough enquiries from people whose issues are similar enough then we will run the claims together as a group and start them in court together. However, you will receive individual sums in compensation and individual works orders.

Injury claims are usually run on an individual basis.

What can a solicitor do for me?

A solicitor can assist in having your home inspected by a surveyor, be repaired and enforce the agreed repairs if your landlord does not comply. A solicitor can also assist in claiming monetary compensation for housing conditions and associated injuries.

Who are Anthony Gold?

Anthony Gold is a south London based solicitors' firm with special expertise in claims by tenants and leaseholders against their landlords. Our website is www.anthonygold.co.uk/services/housing-and-property-disputes. In the Legal 500 directory we are quoted as being "*the very best in housing disrepair claims*". You can see our Trust Pilot reviews here <https://uk.trustpilot.com/review/anthonygold.co.uk> and meet the team here <https://anthonygold.co.uk/people#105>. We are committed to being at the forefront of housing law and tenant and leaseholder rights.

What can I claim for?

There are two parts to any claim. The first is to make sure that ongoing works and any repairs are all done and done properly within a set period of time, including having the quality of the works checked by an independent expert. You would be asking the court to make an enforceable order that specific works be done within a specific period of time.

The second is for compensation for the time you have had to put up with the defects in the building. You are also compensated for additional expenses you have gone to such as increased energy bills and items damaged by leaks.

An injury claim will compensate for the pain, suffering and loss of amenity you have suffered as a result of the negligence, any costs you have incurred and costs you will incur for the same.

Will I have to go to court?

Probably not. The vast majority of cases end in "out of court" settlements.

How will the case be funded?

Solicitors offer "No win, no fee" agreements in appropriate cases. This means they will act for people with good claims without charge as the case is going along. The reason they can do that is because if you win your landlord will have to pay our legal costs. They will have to talk to you individually to explain more about the 'No-win, no fee' agreement.

In disrepair cases, legal aid is only available to get certain works done and is not available to get compensation. Solicitors may use legal aid in conjunction with the 'no-win, no-fee' agreement at the early stage but they cannot rely only on legal aid and get compensation.

How long will it all take?

In our experience claims for repairs usually takes between six and eighteen months but that is just an estimate.

Claims for personal injury as a result of housing conditions can take a bit longer and we usually start investigating injury claims 3 to 6 months after we begin investigating the housing

conditions claim. Therefore, injury claims can take between 1 to 5 years depending on the injury, whether the repairs have been completed and how old the Claimant is.

What are the next steps if I am interested in instructing Anthony Gold?

If you would like to speak to Anthony Gold regarding a potential claim you can contact us at hne@anthonygold.co.uk or on 020 7940 4060.