Landlord maintenance responsibilities for damp and mould

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What is rising damp and mould?

Damp is something that affects many homes across the UK and it takes several different forms. Rising damp occurs when water from below a building rises up through porous materials, such as bricks and mortar. This can be due to the property's damp course failing. The damp course itself is a layer of waterproof material in the building's wall near the ground and is meant to prevent rising damp.
If the damp problem isn't properly diagnosed by an expert and solved, mould can grow. Mould is a fungus that can adversely affect people's health and reduce the value of a property.
Penetrating damp is caused by structural failures, such as leaking guttering, allowing water to seep through into a property. But what many people don't realise is that the biggest cause of damp and mould is actually condensation. This occurs when the temperature hits a level called the 'dew point', where excess moisture in the air causes water droplets to form inside a property, resulting in condensation and surface mould.

Tenant or landlord: who is responsible for mould and damp?

There is a lot of confusion about who's responsible for mould and damp in a property. Most of the misunderstandings occur because tenants and landlords

don't appreciate there are different causes of damp and, without a professional to diagnose the problem, it's hard to provide the right fix.
From a legal perspective, if the diagnosis suggests the cause is rising or penetrating damp, this means it's the landlord's responsibility to solve the problem. This is because both of these are caused by issues with the property's structure.
Usually, where arguments occur between landlords and tenants, it's when damp is caused by condensation, which is often a result of the tenant's lifestyle. For example, every time we cook, hang washing inside, have a shower or even boil a kettle, we create lots of moisture. Plus, the more people there are in a property, the more moisture is produced. If this moisture can't escape, and a well-insulated home without proper ventilation will prevent it from doing so, then condensation forms. This can quickly lead to damp and mould.
It can be tricky to know who's responsible for resolving a damp issue. This is because if the tenants are causing the excessive moisture, some landlords may feel it's their responsibility to adjust their lifestyle accordingly.
Some easy ways to keep condensation under control are to open windows, dry washing outside and make sure the property is heated evenly. However, I tend to find that tenants aren't keen to open windows during winter months and many don't want to pay to heat the property while they're out and about.
The reality is that although condensation can be minimised by the tenant changing their lifestyle, it may be impossible for them to prevent it altogether, especially in well-insulated properties. That means it's better for landlords themselves to invest in ventilating the property to eradicate condensation, regardless of who's to 'blame'. Not doing anything could result in damage to the property's structure and reduce its value.

What does Section 11 of the Landlord and Tenant Act 1985 cover?

Not only is it a good idea for a landlord to take responsibility for solving any damp issues, it's also a legal requirement under the 'repairing obligations' set out in Section 11 of the Landlord and Tenant Act 1985. The Act states that the "structure and exterior of the dwelling-house" as well as "the supply of water, gas and electricity" and "heating and heating water" need to be kept in working order.
As rising and penetrating damp are caused by structural issues, landlords must secure a correct diagnosis and get the problem fixed. If condensation is a major problem, especially if mould is forming, it can also be considered a structural issue. This means moisture clearly can’t escape from the property. Ventilation should therefore be installed to prevent mould from forming, because that can be harmful to the tenant.

In March 2019 there was an amendment to the Landlord and Tenant Act 1985 called the Homes (Fitness for Human Habitation) Act 2018 in England. This Act reinforces the need for properties to be 'fit for human habitation' at the start of and during the tenancy. Although this hasn't introduced any new obligations when it comes to damp, condensation and mould, it does give you, as the landlord, easier access to a property to make repairs, while tenants can apply to the court directly if the property is believed to be 'unfit for human habitation'. Clearly, making sure there aren't any damp, condensation and mould problems would fit into this requirement.
Finally, remember that with the Deregulation Act, if a tenant complains about damp, condensation and/or mould you have to respond in writing within a reasonable amount of time, investigate the problem and if necessary, fix it.

Landlord responsibilities for damp

The key responsibilities a landlord has when there are damp issues is to make sure a correct diagnosis is obtained and to carry out the treatment if it's their responsibility. This is because treating damp is a mandatory repair under the Housing Health and Safety Rating System (HHSRS).
If landlords adhere to the HHSRS it will help keep them on the right side of the law, protect the property's value and ensure the tenant can live in the property safely.

Landlord responsibilities for mould

When mould forms in a tenanted property it's important to make sure you deal with it quickly and effectively, once you have accurately identified the cause. The HHSRS, which landlords need to abide by stresses that landlords must ensure mould doesn't affect a tenant's physical and mental health. Mould is a nasty fungus to live with and is known to cause breathing difficulties. Tenants who suffer from asthma or rhinitis conditions, or are taking any cancer treatment, may suffer serious health problems if exposed to it, so it is best to tackle it quickly and correctly.

Landlord property management and repairs

A landlord's duty to repair and maintain a property should be set out in the tenancy agreement. Obviously, a landlord can't carry out repairs unless they know there is a problem, so the tenant has a responsibility to highlight issues as soon as they notice them.

If the tenancy started after 1 October 2015, once a problem has been reported, the landlord is legally obliged to respond to the tenant within 14 days. In writing they are required to state what they're going to do and by when.
If the landlord doesn't respond, the tenant can report the problem to their Local Authority, who can issue the landlord with a notice to fix the damp and mould.
Under the new Retaliatory Eviction and the Deregulation Act 2015, if a landlord tries to evict the tenant within six months of a problem being reported in writing and not fixed, then it's likely any Section 21 notice served can't be enforced.
Due to the Habitation Act (sometimes referred to as the Homes Act), tenants can now take landlords to court directly and don't necessarily have to involve the Local Authority. Courts can insist the landlord fixes the problem and can require compensation to be paid, so it's best to sort the problem out sooner rather than later.

How to prevent damp and mould

The key to preventing damp and mould in a tenanted property is making sure that the property is well maintained and well ventilated. In terms of general prevention, you should ensure that the roof, guttering and drains are all kept in good working order, particularly after heavy rain, storms or snow.
However, if, despite your best efforts, damp, condensation and/or mould do appear in your rented property, it is essential to act and do so quickly. Although there are many products on the market that suggest they can get rid of mould, unless you identify and fix the cause, the mould will quickly come back.
According to the government's How to Rent a Safe Home, landlords need to tackle dampness caused by the property's structure and exterior and make sure the property is properly ventilated, while tenants need to look out for "damp patches, peeling wallpaper and condensation on windows" and check if the property is "adequately ventilated" e.g. they can open windows safely and securely.

How to find a damp and mould expert

There are lots of companies that claim to be damp and mould experts, but not all are qualified. There are two main ways to secure help which will identify the problem.
The first is to contact a local Royal Institution of Chartered Surveyor (RICS) or a Residential Property Surveyor (RPSA). This may cost a few hundred pounds or more, but you will receive a quality report which explains the issues.
Alternatively there are companies that employ surveyors to carry out the

assessments and some of these will do so for free. Check these companies are members of HEVAC or the Property Care Association.
Finally, check any work they do has a guarantee and that this will still be valid if they go bust. This is usually achieved through their insurance policy.

How to get rid of mould and damp

This really depends on the diagnosis. Sometimes it is incredibly simple to sort. For example, if it's penetrating damp, it could be a matter of fixing a leak from the roof or guttering and then making good any damage to walls or ceilings.
More complicated and time consuming are problems caused by rising damp. This may well require a new damp proof course and that could mean taking off the plaster on walls to a metre height, treating the problem and then it may be months before you can re-plaster.
If the problem is condensation, it is typically a matter of fixing the problem with better ventilation. This could just be opening windows or heating the property more, but may need the addition of an extractor fan or a more sophisticated ventilation system, such as those supplied from Envirovent.
From a mould perspective, once the cause is identified and fixed, remove any damage to the wall from flaking, ideally with a brittle brush. Then clean the wall with a 'mould remover', allow to dry and then consider using an anti-mould paint or if wallpapering an anti-mould paste.

What does landlord insurance cover me for?

Things like damp and mould caused by condensation are very much down to landlords and tenants to resolve. This is because it's considered a maintenance issue and is therefore highly unlikely to be covered by landlord insurance.
If the problems occur because proper maintenance wasn't carried out and the damp was caused by faults such as holes in the roof, a leaky gutter or an out-of-date damp-proof course, again it's unlikely to be covered by insurance.
Insurers have to look at the circumstances of each claim and the cover that's been chosen. If the property has been maintained properly then from a landlord perspective it’s more likely insurers will pay to get the damp and mould issues fixed if they're due to an ingress of water into the property following an insured incident, such as a storm, flood or damage to drains or underground pipes.

Your duty as a landlord

As a landlord, it's both your legal responsibility and a duty of care to your tenants to make sure your property is free of damp and mould.

To do this properly, you need an expert to diagnose the problem and then, ideally, secure a fix that also has a quality warranty. That means if there are any further problems - even if the company goes bust - the work is still covered. Living with damp and mould isn’t only miserable, it also endangers a tenant's health. Even if it costs thousands to fix, it's worth it to make sure you are acting within the law. And because damp and mould can wipe thousands off a property's value, tackling the problem at the earliest stage will help ensure your investment isn't adversely affected.