

Richard Blakeway, Housing Ombudsman

Learning from complaints is essential and this podcast analyses a challenging case step by step, identifying valuable lessons from our investigation which could help you as landlords to improve your complaint handling and services. Throughout the key question to ask is: could this happen to us?

The investigation follows the publication of our Spotlight report on damp and mould. The report covered more than 400 individual Ombudsman investigations. It was clear that many cases can be complex, and resolution can take a very long time – and this can cause a resident additional distress and disruption.

This podcast examines in detail a case concerning damp and mould that we have investigated subsequent to that report. This case helps put into context some of the concerns that were highlighted in the report and helps to reinforce some of the learning points for landlords, particularly when it comes to changing cultures around approaches to damp and mould.

During this podcast we will examine what we consider fair and reasonable when we investigate an individual case, and the lessons it provides for landlords to strengthen and improve their services. As you listen, ask yourself: Do I see complaints like this? And if so, what would you have done?

The case is broken down into sections, so that you can reflect on it at key stages. We will highlight learning points and questions that landlords should be asking themselves. We suggest this podcast is used at a team meeting or in a training workshop. It can be paused at any point and considered in relation to your own organisation's policies and procedures, before moving on to the next section.

I'm joined on this podcast by two of our Adjudicators, Kani and Alex, as well as our Sector Development Lead, Dave. I'll hand you over now to Dave to take you through the case.

Dave Simmons, Sector Development Lead

Thanks Ric. The complainant in this case was a housing association tenant. For the purposes of this podcast we'll call her Ms Wade. In December 2019 Ms Wade reported an issue with the windows in her flat to her landlord. A month went by without any response and so Ms Wade told the landlord that she would be withholding rent. This prompted the landlord to inspect the property a week later. A week after that inspection Ms Wade had to chase the landlord for an update. The landlord said it would see whether its Assets Team had any plans to replace the windows.

Alex, what are the learning points so far, and what actions should the landlord now take?

Alexandra Blacknell, Adjudicator

Thanks Dave. There was a delay in responding to Ms Wade after she initially reported her concerns about the windows and the landlord was also slow in updating her. It also didn't share any specific details with her about the outcome of the inspection. The landlord should now make sure that it promptly lets Ms Wade know the response of the Assets Team and its plans for dealing with the situation.

Dave Simmons, Sector Development Lead

At the beginning of February 2020, Ms Wade told the landlord that the condition of the windows was causing damp, mould and condensation in the flat. A fortnight later Ms Wade called to let the landlord know that she had moved in with her mother because her two-year old daughter had been unwell which she believed was because of the conditions in the property. The landlord agreed to look into the situation and later that week sent Ms Wade a text message advising that it was contacting a repairs supervisor and would update her the following week.

An appointment was agreed with Ms Wade for the second week of March. That inspection identified condensation, timber rot, draught and mould affecting two bedrooms. The surveyor recommended that secondary windows were installed and a communal cupboard was checked for a possible leak. The surveyor also gave Ms Wade advice on how to control the condensation and mould in the meantime.

Towards the end of June Ms Wade chased the repairs and was advised by the landlord that it was itself chasing the secondary glazing company and would update her once it had news. At the beginning of September Ms Wade complained that the problems remained, despite around five inspections. She explained that her daughter was unwell with asthma and skin conditions which she attributed to damp and mould.

What are the learning points at this stage Alex and what action should the landlord now take to make sure that the problems were resolved appropriately?

Alexandra Blacknell, Adjudicator

There were further delays during this period and not for the first time Ms Wade was having to chase the landlord to take things forward. The landlord failed to communicate with her effectively or keep her informed of developments with the glazing company. Even if there was no specific information it could provide, it would have been appropriate to let her know that it was making efforts to progress the matter and that it would keep her updated.

Although the landlord provided advice to Ms Wade about how she could help to control the damp and mould, it still had no concrete plan in place to address the source of the problem, despite a number of inspections. I would question why it took this long to have an action plan in place. In the meantime, the situation had led to Ms

Wade having to move out due to her concerns about the impact on her daughter's health.

Dave Simmons, Sector Development Lead

The landlord carried out a further inspection in mid-September during which it noted condensation on the windows in one of the bedrooms and an issue with the gutters overflowing and causing damp. Mould was also present in the other bedroom. The inspection report recommended applying a water sealant, refurbishing the gutters, some pointing work and installing plasterboard, which included a chemical injection.

Towards the end of October, Ms Wade informed the landlord that she was having to wipe surfaces and her bed and furniture had mushrooms growing from them. The landlord arranged for a mould wash in early November and said it was obtaining a further report in relation to the secondary glazing. The landlord's records showed that some plaster work was completed in mid-November.

Around this time Ms Wade made a formal complaint. She said the damp and mould remained unresolved after more than a year, including the wall in her daughter's bedroom. Even allowing for the Covid-19 pandemic, she thought this was an excessive delay which had resulted in her having to throw away furniture and sentimental belongings, and move out for five months on her doctor's advice - due to the impact on her daughter's health. She said the problems had caused her stress and anxiety about her daughter being unwell and she was again having to stay with relatives.

In November 2020 Ms Wade chased the landlord again. She repeated her earlier complaint but added that, although the landlord had cleaned the mould, she was repeatedly having to clean it again because nothing had been done to address the cause of the damp. She also said that she had been advised the problem was being caused by the way she was living and was fed up with being told it was her fault, despite doing everything she could to avoid condensation.

The landlord visited the following day and its inspection report noted the presence of condensation and mould on the windows which themselves were in only a 'fair' or 'poor' condition. The report said that the single glazed units were not providing much heat retention, making the rooms cold. Damp meter readings showed some of the walls to be 'wet.' The report's recommendations included replacing some plasterwork and upgrading the windows. Ms Wade was also given some further advice about drying clothes in the flat.

Towards the end of November, the landlord replied to Ms Wade's formal complaint. It said it had raised a job to renew and damp proof a small section of wall in the second bedroom and that the external wall also needed treatment. It explained how the 'wet walls' in the second bedroom were more extensive than was first thought.

The landlord said it had given Ms Wade advice about drying clothes indoors which would help prevent moisture travelling around the rest of the flat. The landlord acknowledged that it could have done better and that the damp proofing works were

not picked up on the previous visit. It said that in future it would ensure that full surveys were completed and all necessary works were raised.

What do you think of the landlord's response at this stage Alex?

Alexandra Blacknell, Adjudicator

It was appropriate that the landlord acknowledged there had been some failings in how it had handled the situation. It noted how its earlier surveys had not identified the extent of the problem and that it had not been proactive in taking matters forward. The landlord did not go far enough in recognising the extent of its failures. It certainly didn't recognise or address the distress and inconvenience that Ms Wade had been caused up to this point and should have considered what steps were necessary to put things right. This could have included an apology and an offer of compensation, or other actions.

Although it gave Ms Wade advice about how to try and control the damp and mould, it put too much onus on her rather than acknowledging that it had failed to address the main causes of the problem over an extended length of time. Even allowing for a lack of access for a period due to Covid 19, the situation had been ongoing for an unreasonable period without any firm plans and actions in place to resolve it. This includes not providing any clear information about the possible replacement of Ms Wade's single glazed windows. This is something that had been suggested from the outset and raised in successive inspections.

Dave Simmons, Sector Development Lead

In December Ms Wade chased the landlord again about the repairs but there was no progress and so, in January 2021 she escalated her complaint to stage 2 of the landlord's procedure. As well as highlighting the lengthy delay, Ms Wade pointed out that a section of wall was still awaiting replastering a year after the defective plaster had been removed. She was concerned that the work being carried out would not address the extent of the damp and mould, particularly as the landlord kept referring to it as 'condensation'. She said that, despite her best efforts, the whole house smelt of damp and her daughter's health had deteriorated further since moving back in.

The landlord then arranged for scaffolding to be put up so that a temporary repair to the roof could be carried out.

Towards the end of February, the landlord responded to Ms Wade's complaint at stage 2 of its procedure. It agreed to complete a new survey and monitor moisture levels to help establish the cause of the damp. It also agreed to renew the bathroom fan and complete all other outstanding works in a reasonable time, although it had yet to decide whether secondary glazing for the windows was required.

The landlord apologised to Ms Wade for its failure to identify the scope of the works in its initial survey and for the delays in the works and in communication. It offered Ms Wade £150 in recognition of the distress and inconvenience caused. It also said

that the damage to Ms Wade's belongings and the impact on her daughter's health were being considered by its insurers and provided their details.

Alex, what do you think of the landlord's response to Ms Wade at stage 2?

Alexandra Blacknell, Adjudicator

The landlord has gone further in recognising the extent of its failures in its stage 2 response and it also offered £150 compensation. But I would question whether the remedy offered accurately reflects the extent of the landlord's failures and the severity of the impact on Ms Wade, particularly considering the timeframe, the number of visits made, the lack of a clear action plan, and the fact that there was a child involved. There was also no explanation for the landlord's failures and no indication that it had taken on board any learning points, to improve its service in future.

I would also question whether it was appropriate for the landlord to refer the issue of Ms Wade's damaged belongings to its insurers. We have published guidance on handling complaints involving insurance claims which sets out our expectations. In short, if there is evidence to suggest that damage to a resident's belongings has been caused by the actions or omissions of a landlord, we would expect the landlord to investigate this first to establish whether it was at fault. If its investigations establish that it was at fault, we would then expect it to take steps to put things right rather than putting the residents to the added inconvenience of having to go through the insurance process.

Dave Simmons, Sector Development Lead

An inspection took place towards the end of March 2021 which confirmed that work was required to the exterior brickwork and pointing, as well as to the guttering and downpipes. The survey report noted moisture readings and the presence of mould in both bedrooms as well as condensation on one of the windows, which needed adjusting. Ms Wade was again given the same advice about ventilation and heating. Installing additional glazing was again raised as something to consider.

In June, Ms Wade reported that the agreed works still hadn't been completed. In particular, the re-plastering of all affected areas had not been completed and repairs were outstanding to the window. The landlord contacted its contractor, which said that it had completed all the jobs identified.

By this stage the complaints procedure had been exhausted and Ms Wade was at the point of referring the case to the Ombudsman. Alex, what steps should the landlord take to try and resolve the issue without the need for our intervention?

Alexandra Blacknell, Adjudicator

There are a few things. Ms Wade is saying that the agreed repairs had not been completed, which differs from the contractor's opinion that they have. The landlord should double check its records to check what has been completed against what was agreed. If there is a difference, it should set out a clear action plan of how it will get the outstanding jobs completed. It has also made no firm commitment over installing additional glazing despite this having been talked about on numerous occasions over a long period of time.

In light of the further delays that have occurred, the landlord should also consider what further remedy it should provide in recognition of the poor service that Ms Wade has received.

Dave Simmons, Sector Development Lead

In September 2021, the landlord installed a radiator and made a further unsuccessful attempt to access Ms Wade's property. The case was with our service by this point and we attempted to mediate between the parties, to try and reach a resolution. As part of this process, Ms Wade set out a plan and timescales for the landlord to complete any outstanding actions including investigating inside the wall in her daughter's bedroom. Ms Wade also raised concerns that the landlord's sanding and repainting of the windows would not stop the problems from recurring.

The landlord's response was that it had carried out appropriate works to overhaul the windows and that it was still willing to consider secondary glazing. But it would first need to ensure that Ms Wade was managing the humidity levels in the property, and it suggested running two continuous fans in the kitchen and bathroom to see if that helped. The landlord also said that it did not consider it necessary to investigate inside the wall in Ms Wade's daughter's bedroom.

Ms Wade's response to the landlord's proposals was that she already had two working fans running continuously in the kitchen and bathroom and, since the work to her windows, the paint had started to flake off and mould had returned. Mould had also returned to the wall in her daughter's bedroom. Ms Wade said she had to regularly clean the mould and wanted a permanent solution to be found.

The landlord said its monitoring equipment showed an issue with humidity in the property which needed to be managed by Ms Wade. It agreed to install secondary glazing to her daughter's bedroom but asked Ms Wade to commit to heating and ventilating the flat in line with its previous advice. It said that if Ms Wade agreed to have secondary glazing, it would install a data logger to measure the impact of the glazing and whether the condensation was being managed effectively.

Ms Wade explained that she lives in a flat with no option other than to dry her clothes indoors. Although she tried to follow advice and keep windows open, she could not do this all the time as she has a child and the flat is cold. Ms Wade said she was happy for the landlord to install secondary glazing and noted that it agreed to consider this over a year ago and had already taken measurements.

You may want to pause the podcast at this point and consider what findings you would make if you were in the Ombudsman's position. Otherwise, I am now going to hand over to one of our Adjudicators, Kani, to talk through the decision that was reached following our investigation of the case.

Kani Deen, Adjudicator

Thanks Dave, our investigation found there was maladministration by the landlord in how it handled Ms Wade's reports of damp and mould in her flat.

The landlord acknowledged that its earlier surveys had not diagnosed the cause of the problems or the extent of the damp and mould in the property, and there were delays in both communication and in works being completed. In our opinion, the landlord's offer of £250 did not go far enough in recognising the extent of the delays and the landlord's failures, or the impact that this had on Ms Wade and her daughter.

Ms Wade had repeatedly reported issues with damp and mould over a period of nearly two years. Despite the landlord carrying out numerous inspections, the root cause remained unclear. Although the landlord carried out some repairs, there is no evidence that it completed all the repairs identified by its inspections, including those it committed to in its responses to Ms Wade's formal complaint.

Also, its position about the installation of secondary glazing was unclear for a long time, despite it being known at an early stage that the windows had draughts. It was particularly concerning that during the mediation process the landlord unfairly placed blame on Ms Wade for the damp and mould in her property. We were also concerned by some of the advice in relation to condensation on the landlord's website.

Dave Simmons, Sector Development Lead

Thanks Kani, as a result of those findings what orders did we make?

Kani Deen, Adjudicator

We ordered the landlord to apologise to Ms Wade and pay compensation of £900 (including the amount previously offered). We also ordered it to arrange an inspection by an independent and appropriately qualified damp specialist to report on the causes of any ongoing damp and mould in the property, and identify any further repairs that may be required to address this.

We ordered the landlord to provide a copy of the independent report to Ms Wade and to us, setting out any further steps it intended to take and timescales. We also ordered the landlord to ensure that effective processes were in place to monitor

whether repairs recommended following a damp and mould inspection are completed and whether they have been effective.

We were concerned by some of the advice that the landlord published on its website about condensation. We therefore ordered the landlord to make sure it was not unfairly blaming residents or using language that leaves them feeling blamed for damp and mould. In particular, the landlord should review the advice about condensation on its website in light of the Ombudsman's recent Spotlight report on damp and mould.

We also made some recommendations. This included recommending that the landlord should review its handling of the reports of damp and mould in this complaint and consider whether it would be appropriate to introduce a policy to cover how it responds to reports of damp and mould. In doing so, the landlord should refer to the Ombudsman's recent Spotlight report on damp and mould.

Dave Simmons, Sector Development Lead

Thanks Kani. This case builds on some of the issues that we highlighted in our Spotlight report which asked landlords to work with residents to find a solution, rather than put the onus on them to manage their lifestyle. Many properties were not designed with modern living in mind and often residents have no option other than to dry clothes in a living room because there is no alternative available, such as outside space or room for a tumble drier. It's not reasonable to expect someone to keep windows open in the depth of winter and this is likely to become even more of an issue in light of the recent significant rise in fuel costs which is likely to provide a major challenge for the sector. The report also highlighted that the tone of some information provided to residents could be 'blaming' in nature and landlords should review this to make sure it is appropriate.

There were some challenges for the landlord caused by the Covid 19 pandemic, but it still handled the case poorly. There were a few months where, following government guidance, it didn't visit Ms Wade's property but when that guidance changed it still failed to follow up proactively. Our report highlighted that in cases like these, which are complex to diagnose and difficult to resolve, residents are more likely to resort to legal disrepair claims. Landlords should have a clear strategy in place for identifying such cases and making sure they are managed efficiently with good, clear and regular communication being at the heart of that strategy.

Before we finish this podcast, we will take the opportunity to highlight some of the impacts of the damp and mould report since its publication. We are aware that the report is being used to guide investment strategies and that landlords are self-assessing against the 26 recommendations contained within the report. I will hand back to Alex and Kani to round things off by providing some specific examples of

where we are aware the report is already having a positive impact. Over to you first Alex:

Alexandra Blacknell, Adjudicator

Thanks Dave. To begin with the **London Borough of Hammersmith and Fulham**, has announced £600 million spending as part of a 12-year capital strategy, of which damp and mould is a key part. They recognised their poor performance on damp and mould over the last 3 years, fully support the 26 recommendations and have created an action plan to make service improvements.

The London Borough of Lambeth carried out a broad appraisal of damp and mould instances and identified key actions that it will prioritise and complete over the next 12 months. These actions include:

- Introducing a Resident Damp Charter, working in partnership with residents.
- Undertaking a strategic data review to identify trends and 'hotspot' interventions.
- A Preventative Maintenance Programme to include the proactive surveying of 873 homes on one estate in response to resident feedback.
- Additional technical support, specialist training and buddying.

Clarion is undertaking a damp and mould project which is nearing completion with the aim of making improvements in several areas including: resident and stakeholder communication, process, training and equipment, data and technology as well as its investment priorities.

Dave Simmons, Sector Development Lead

Thanks Alex. What other examples are we aware of Kani?

Kani Deen, Adjudicator

A2Dominion is another landlord which has been working with the report's recommendations since its publication. It has a Taskforce in place, chaired by its Executive Director of Operations whose actions include:

- Setting up a working group to look specifically at handling reports and complaints of damp and mould.
- Reviewing contact and complaint handling, addressing culture and language to ensure 'lifestyle' is not used and promote a zero tolerance and zero blame approach.
- Partnership working with residents to address internal environmental factors such as drying laundry and ventilation.
- A review of its complaint handling to help identify risks early, deal with cases more promptly and continue to look at lessons learnt from complaints.

Lewisham Homes has introduced a new plan which includes urgent case reviews, funding of up to £1m, physical inspections of every property on its damp and disrepair logs, dedicated staff training, and proactive surveys of properties at risk of damp. Its target was to survey 1000 out of 2400 'at risk' homes by the end of March 2022.

Metropolitan Thames Valley, has set up a damp and mould working group to work on pre-action approaches. It also set up a new resident welcome pack with window vacuum and lint cloths as well as producing a laminated sheet of information for what residents can do to prevent damp and mould in their homes.

Dave Simmons, Sector Development Lead

Thanks Kani. I hope these examples will inspire other landlords to follow suit and take some positive and pro-active steps to reduce instance of damp and mould in their homes and to move away from a position of acceptance to one of zero tolerance. You can find the report on our website under the useful tools menu.

This brings us to the end of this podcast. Thank you for listening.