

Bristol City Council - Decision on approach to Damp and Mould issues Winter 2022/23 –

In the action plan submitted to the Secretary of State 1/12/22 there are two decisions that the Council need to make in relation dealing with Damp and Mould under the Housing Act 2004 over the Winter of 2022/23.

Action plan points

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| 15. Decide whether it is <i>appropriate this winter</i> to take a formal first approach to damp and mould, bearing in mind that the combined factors of the cost of living crisis, high rent levels in Bristol and exceptionally high energy costs is likely to lead tenants to reduce the level of heating their homes and that <i>formal action where the landlord is responsible for taking some action should be the normal approach where there is no immediate agreement to act</i> [within a reasonable time period] |
| 16. Category E Damp and Mould hazards – <i>For this winter</i> , in light of the unprecedented direction from the Secretary of State, combined factors of the overall cost of living crisis, high rent levels in Bristol and exceptionally high energy costs – <i>we will, where resources allow it, consider taking action on hazards below our normal intervention levels</i> by exercising the exceptional circumstances clause 2.2 in our Housing Act Part 1 policy . |

For the purposes of this decision the Winter of 2022/23 is from the date of this decision in December 2022 until 31st March 2023 but may be extended if it is found significant issues with damp and mould cases continue into the Spring of 23.

Both these decisions can be made by officers under the current policies:

1. **Decision – Taking formal action in relation to Damp and Mould issues** - [Private Housing Enforcement Policy 2016 \(revised 2017\)](#)

The Council's view is that where Damp and Mould issues are identified, if, after issuing an informal schedule of works there is ***no reasonable progress*** by the responsible person to carry out the works ***within a reasonable period***, formal enforcement action can be taken straight away. This is in accordance with our existing policy framework.

In practice, this will mean that after an initial visit to assess the damp and mould hazard and where appropriate, with agreement from the tenant to contact their landlord, a schedule of works will be issued and formal notice given for a return visit within 21 days. At the time of that visit an assessment on reasonable progress will be made. If reasonable progress has not been made and where appropriate, a formal notice will be served immediately. A charge for the notice will be made which is normally in the region of £350, unless there are reasons under the policy not to charge (see below exceptional circumstances).

The Council still may take formal action for any of the other reasons set out in our policy.

Current policy which sets out when the Private Housing Service can take formal action.

“12.2 In most cases, officers will endeavour to seek the desired improvements or protection of the public’s health and safety in relation to private housing by working initially on an informal basis with those involved. Informal action may take a variety of forms, for example:

- *verbal requests;*
- *letters or e-mails;*
- *schedules of work.*

*The advice will make clear what is expected to be done to meet a legal requirement and what is a recommendation which does not legally require action. It will be made clear that formal action could follow if there is a failure to meet informal requests to carry out works to meet legal requirements. **However, where the circumstances of the case justify it, officers will be expected to take a formal approach in the first instance.** Formal action will also be taken where compliance with a statutory requirement has not been achieved by informal action.” [Emphasis added]*

The key factors include:

- *there is an actionable hazard which puts at risk a person’s health and safety due to :*
 - *no heating and or lack of insulation in cold weather;*
 - *the Energy Performance Certificate is rated “F” or “G”*
- *a person refuses to or is likely not to carry out the works informally;*
- *there is history of failure to meet requests to carry out legally required works;*
- *there is history of a failure to manage a property in line with legal requirements;*
- *there is a record of criminal convictions for failure to comply with housing related offences (including offences that are likely to affect housing management);*
- *it is necessary to safeguard and protect health and safety in the future;¹*

Formal Action includes:

¹ [Bristol City Council](#)

- Service of an improvement notice under the Act which legally requires works to be carried out in minimum of 28 days.
- Commencement of a formal investigation for failure to meet legal duties under the Management Regulations² or Licensing Conditions which could lead to prosecution or a Financial Penalty Notice.

Charges for Improvement Notices

- Cost chargeable in relation to deciding to serve an improvement notices will be demanded unless in line with our policy there are exceptional personal circumstances for reducing or waiving the charges. (para 5.4 Housing Act Part 1).
- The cost for an improvement notice is typically around £350.

2. Decision - Taking Action on Damp and Mould hazards down to Band E of the Housing Health and Safety Rating System (HHSRS) – Housing Act Part 1 Policy³

The Council currently exercises its discretion to use its *power* under the Act to take action on hazards rated as Band D as well as those in Band A-C where the Council has a *duty* to take action. This means we would normally take appropriate action on Hazards rated Band D or above.

Under this policy (para 2.2) certain officers may in exceptional circumstances authorise appropriate action on Category 2 hazards.

It is the view of the Council that there are exceptional circumstances in place this Winter which justify, exercising our powers to take appropriate action on Category 2 Band E Damp and Mould hazards.

3. Justification for exceptional circumstances

The Council's justification for these two decisions this winter are:

- In November 2022 The secretary of state for the Department of Levelling up and Communities has directed Councils under section 3 of the Housing Act 2004 to have particular regard to Damp and mould hazards under the Housing Act 2004.
- There is a current “cost of living crisis” due to the high levels of inflation⁴.
- The UK economy is in recession⁵

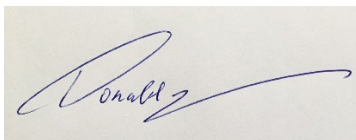
² [The Management of Houses in Multiple Occupation \(England\) Regulations 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2006/2639/contents/made)

³ [Bristol City Council Enforcement Policy for the Housing Health](#)

⁴ [Consumer price inflation, UK - Office for National Statistics](#)

⁵ [Economic and Fiscal Outlook - November 2022 \(obr.uk\)](https://obr.uk/economic-outlook/)

- In particular, the cost of heating houses is exceptionally high this winter, leading to the Government putting in place support towards heating.⁶
- The rent levels in Bristol are disproportionately higher than average rent levels in England⁷

A rectangular box containing a handwritten signature in blue ink. The signature is cursive and appears to read 'Donald Graham'.

Signed:

Name: Dr Donald Graham

Post: Director Housing and Landlord Services

Date: 22.12.2022

⁶ [Energy Price Guarantee - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁷ [Tackling the rent crisis \(bristol.gov.uk\)](https://bristol.gov.uk)