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Joanne Kearsley
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Floors 2 and 3
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13 January 2023

Dear Joanne,

RESPONSE TO PREVENT FUTURE DEATHS REPORT: INVESTIGATION AND INQUEST INTO THE DEATH OF AWAAB ISHAK

Awaab Ishak's death was a tragedy that should never have occurred. People across the country were horrified to hear about the terrible circumstances that led to it. Awaab's case has thrown into sharp relief the need for renewed action to ensure that every landlord in the country makes certain that their tenants are housed in decent homes, and they are treated with dignity and fairness. It is my (Secretary of State for Levelling Up, Housing and Communities) relentless focus to restore the right of everyone in this country, whatever their race or cultural background, to live somewhere warm, decent, safe and secure.

On behalf of the Department for Levelling Up, Housing and Communities ("DLUHC") and the Department of Health and Social Care ("DHSC") we now want to outline our response to the Regulation 28 Report to Prevent Future Deaths concerning the death of Awaab Ishak ("the Report"), sent on 16 November 2022.

The Coroner's Report followed the investigation and the inquest into the death of Awaab Ishak that commenced on 27 December 2020 and concluded on 15 November 2022. The conclusion of the inquest was that Awaab Ishak died as a result of a severe respiratory condition due to prolonged exposure to mould in his home environment. Action to treat and prevent the mould, was not taken. His respiratory condition led to a respiratory arrest. The medical advice given to his parents led to Awaab receiving sub-optimal airway ventilation which was unable to prevent his cardiac arrest.

In providing this response to the Report, we offer our sincere condolences to Awaab Ishak's family and emphasise the Government's commitment to addressing the matters of concern raised by the Coroner.

The matters of concern identified in the Report are as follows:

1. The 2006 document, "A Decent Home: Definition and Guidance for Implementation" does not give any consideration to the issue of damp and mould. Nor does it provide any guidance as to the need for a property to be adequately ventilated.

2. The HHSRS data sheet relating to damp and mould, is used to calculate risks of the incident and the spread of harm is not reflective of the current known risks of damp and mould and harm to health.
3. There was no evidence that up-to-date relevant health information pertaining to the risks of damp and mould was easily accessible to the housing sector.
4. The evidence highlighted a "policy" amongst the housing associations, in cases where a disrepair claim has been brought of waiting for agreement from the claimant (or their legal representative) before rectifying any recognised disrepair.
5. The private landlord sector does not have access to the Housing Ombudsman for their complaints to be investigated independently.

Our responses to the matters of concern are set out below in turn.

First matter of concern: The 2006 document, "A Decent Home: Definition and Guidance for Implementation" does not give any consideration to the issue of damp and mould. Nor does it provide any guidance as to the need for a property to be adequately ventilated.

We agree this is a matter of concern. Damp and mould can have a serious impact on the health of tenants, and it is unacceptable for anyone to have to live in such conditions. While the requirement to deal with them is implicit in the current Decent Homes Standard ("DHS"), it is clear that the review of the standards which is currently underway is necessary.

The DHS, which was introduced in 2001 and last updated in 2006, plays a key role in providing a minimum quality standard that social homes must meet.¹ The DHS sets out four criteria for evaluating decency – it requires that homes are free of serious hazards (criterion A), are in a reasonable state of repair (criterion B), have reasonably modern facilities and services such as kitchens and bathrooms (criterion C), and have efficient heating and effective insulation (criterion D). The Regulator of Social Housing ("the regulator") requires that social rented homes are maintained by landlords to at least the quality set out by the DHS.² Good progress has been made on ensuring that social rented homes meet the DHS.

The current DHS does not explicitly mention damp and mould but it is covered by the Housing Health and Safety Rating System ("HHSRS"). Criterion A of the DHS states that a home should meet the statutory minimum standard for housing; that is, being free of category 1 hazards as defined by the HHSRS. The HHSRS includes damp and associated mould as a hazard to be considered in assessment.

We are reviewing the ^{3,4}extent to which the current DHS is the right ask of the social housing sector today; to consider the case for change; and to assess the strategic, economic and management case for different criteria. Part 1 of the Review concluded in Autumn 2021. Feedback from part 1 of the DHS review made it clear that we need updates. Ventilation was one of the areas highlighted and considered as part of criterion B (reasonable state of repair) and will form a key element of part 2 of the DHS Review.

We engaged with the sector on part 2 of the DHS review in 2021, including a series of roundtables. We have also worked towards introducing a DHS in the private rented sector, on which a formal consultation ran in the Autumn of 2022. We are committed to continuing the DHS review and will set out next steps on this in due course.

On 19 November 2022, I (the Secretary of State for Levelling Up, Housing and Communities) wrote to all providers of social housing in England⁵, drawing attention to your Report, and underscoring my expectation

¹ <https://www.gov.uk/government/publications/a-decent-home-definition-and-guidance>

² In some instances, the Regulator of Social Housing will grant exemptions for social landlords meeting the DHS. This is outlined in the Regulator's Home Standard (2.1.1):
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/914576/Home_Standard_2015.pdf

³ <https://www.gov.uk/government/publications/the-charter-for-social-housing-residents-social-housing-white-paper>

⁴ <https://www.gov.uk/guidance/decent-homes-standard-review>

⁵ <https://www.gov.uk/government/publications/secretary-of-state-calls-for-action-on-housing-conditions>

that it would be read in full and the lessons absorbed. I also set out my expectations, not only that all social homes must meet the DHS, but that in light of the tragic case of Awaab Ishak that I expected providers to go further than the letter of the Standard and have particular regard to damp and mould. Damp and mould are not 'lifestyle issues' as the Housing Ombudsman Service underscored recently. A copy of that letter is attached.

We are also taking more immediate action to ensure landlords understand the risks of damp and mould and act swiftly when necessary. Following the Manchester Evening News and Shelter campaign for 'Awaab's Law', we will table an amendment to the Social Housing Regulation Bill relating to hazards in social homes.

Our intention, subject to further discussion with the representatives of Awaab's family, is to commit me (the Secretary of State for Levelling Up, Housing and Communities) to publishing a policy statement on approaches to tackling serious hazards (including damp and mould) in the social rented sector. The policy statement would specify time limits which landlords must meet regarding investigating hazards and acting where there are health concerns. I intend to direct the Regulator of Social Housing to implement the approach set out in this new policy statement in its standards. If this amendment is approved by Parliament we will implement any new measures as soon as possible and within six months of Royal Assent of the Bill.

Second matter of concern: The HHSRS data sheet relating to damp and mould, is used to calculate risks of the incident and the spread of harm is not reflective of the current known risks of damp and mould and harm to health.

We agree this is a matter of concern. Our current review of the housing health and safety rating system ("HHSRS") will support a better understanding of the known risks of damp and mould to health.

The HHSRS is a risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from any deficiencies identified in dwellings.⁶ It was introduced under the Housing Act 2004 and applies to residential properties in England and Wales. The HHSRS does not set out minimum standards. It is concerned with avoiding or, at the very least, minimising potential hazards. This means that landlords should review conditions regularly to try to see where and how their properties can be improved and made safer.

HHSRS inspections are conducted by trained assessors who will look for any risk of harm to an actual or potential occupier of a dwelling, which results from any deficiency that can give rise to a hazard. They judge the severity of the risk by assessing two things: the *likelihood* of an occurrence that could cause harm over the next twelve months, and the *range of harms* that could result.

The HHSRS review follows an initial scoping exercise that concluded in 2019, where landlords, tenants, agents, local authorities and academics told us they appreciated the link the HHSRS makes between housing and health and how it allows individual properties to be assessed on their merits, but that they found it complicated and inefficient to use. Ministers decided that work should be undertaken to clarify and modernise the HHSRS assessment and consider whether some hazard profiles could be removed or combined and to improve the guidance given to landlords and tenants.

As such the full review has focussed on the primary issues raised in the scoping review, around making the tool easier to use, and updating the *range of harms* was not in scope.

Our existing review will go some way to addressing the concern noted. Current research is being used to update estimates on the *likelihood* of harm due to dampness and mould alongside other hazards, and more broadly the review will improve the HHSRS to make it more up to date (including updated guidance and information on the health effects of damp and mould). It will make the tool easier for landlords and tenants to understand, easier for local authorities to use and better connected to other legislation. The review is nearing completion and the Government will publish a summary of the findings and set out next steps by the spring.

⁶ <https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals>

Alongside this work already underway as part of the HHSRS review, we are also exploring other options focussed on addressing damp and mould, including the merits of a standalone damp and mould standard. We will consider these carefully and set out any further steps in due course.

Third matter of concern: There was no evidence that up-to-date relevant health information pertaining to the risks of damp and mould was easily accessible to the housing sector.

We agree this is a matter of concern. It is crucial that the housing sector has the full access to relevant and up-to-date information, including in particular on the health risks of damp and mould. The sector must be able to deliver services effectively for its residents.

A number of documents on the health risks of damp and mould have been produced by the government, other public sector bodies and housing providers. This material varies in its level of detail, quality and accessibility, and there is a specific gap in guidance tailored to the housing sector.

The Department of Health and Social Care (DHSC), with the Department for Levelling Up, Housing and Communities (DLUHC), will lead a rapid review of existing guidance on the health impacts of damp and mould in homes, and then – engaging widely with interested parties – develop new consolidated guidance tailored to the housing sector. We will publish this new guidance by the summer. DHSC will lead this process and contribute expertise on the relevant health impacts, working closely with the UK Health Security Agency (“UKHSA”). DLUHC will contribute its expertise on the needs of the housing sector and how best to disseminate guidance to housing providers and tenants.

Once completed, I (Secretary of State for Levelling Up, Housing and Communities) will write to social housing providers and local authorities to highlight the new guidance. I (Secretary of State for Levelling Up, Housing and Communities) will also make sure that it is available for landlords and tenants, working closely with stakeholders to ensure it is widely available, including in the future ensuring this is accessible for private landlords via the Privately Rented Property Portal.

While components of the guidance will necessarily be technical in nature and directed at housing practitioners, we will ensure that its key messages on the need to understand the risks posed by damp and mould and the need to act appropriately and swiftly are packaged and provided in clear and accessible language for all.

Fourth matter of concern: The evidence highlighted a "policy" amongst the housing associations, in cases where a disrepair claim has been brought of waiting for agreement from the claimant (or their legal representative) before rectifying any recognised disrepair.

We agree this is a matter of concern. While the policies which Housing Associations set for disputes are not of course controlled by the Government, the ‘policy’ highlighted in Awaab Ishak’s case as a matter of concern is wrong. In Awaab Ishak’s case, the legal proceedings by Awaab’s family with respect to mould led to the landlord slowing down its response to the disrepair.

Housing associations should take rapid action to address residents’ concerns. On 19 November 2022, I (the Secretary of State for Levelling Up, Housing and Communities) wrote to all providers of social housing setting out my expectation that “where people complain about damp and mould, you must listen; where you find them, you must take prompt action. To keep tenants safe, you must not hide behind legal process”.

The Housing Ombudsman’s *Guidance for Pre Action-Protocol for Housing Condition Claims and Service Complaints* stresses the importance of landlords inspecting properties as soon as a claim is raised and to completing the repairs needed as soon as is practicable.⁷ The guidance is clear that if a landlord receives

⁷ <https://www.housing-ombudsman.org.uk/landlords-info/guidance-notes/guidance-on-pre-action-protocol-for-housing-conditions-claims-and-service-complaints/>

correspondence initiating the Pre-Action Protocol, it is important that they do not disengage from either their internal complaints procedure or the repair issue itself.

Since the death of Awaab Ishak, I (the Secretary of State for Levelling Up, Housing and Communities) have also written to leading legal bodies requesting their help directing social tenants with concerns about their housing to the Housing Ombudsman and making clear that it was wrong of the landlord in Awaab Ishak's case to let the intimation of legal proceedings get in the way of doing the right thing. Access to the law is a vital right for all residents, but legal proceedings are adversarial and can be costly and time-consuming for residents. A copy of that letter is attached.

On 29 November 2022 the Housing Ombudsman also wrote to all landlord members outlining clearly his expectations and the role the Housing Ombudsman Service (HOS) can play in resolving landlord and tenant disputes.⁸

Fifth matter of concern: The private landlord sector does not have access to the Housing Ombudsman for their complaints to be investigated independently.

We agree this is a matter of concern. Everyone has a right to safe and decent housing, and it is important that private tenants should be able to challenge poor practice and standards in their homes.

The Government announced plans to introduce a new Private Rented Sector Landlord Ombudsman in the *A Fairer Private Rented Sector White Paper*.⁹ The proposal is for all private landlords in England to be required to be members of this Ombudsman. This will ensure that all tenants, regardless of whether they rent socially or privately, have access to redress where they have a legitimate complaint about their home.

The new Ombudsman will help both tenants and landlords better understand their rights and obligations and will allow for earlier and quicker resolution of complaints. This will reduce the need to escalate issues to court and untimely evictions which can be more costly to both landlords and tenants.

Our intention is to create the new Private Rented Sector Landlord Ombudsman through the upcoming Renters Reform Bill. We are committed to bringing forward legislation on this, and our wider reform package, in this Parliament. If the legislation is passed, we will seek to establish an Ombudsman as soon as practical and in tandem with our wider reforms.

Other Government actions of relevance

As set out above, in November, I (Secretary of State for Levelling Up, Housing and Communities) wrote to all providers of social housing to make clear my expectation that complaints about damp and mould are taken seriously, and that swift action must be taken to rectify issues of damp and mould. I also wrote to Local Authority Chief Executives and council leaders setting out my expectation that they will take action to resolve poor housing conditions in their area and directing them to provide information on current housing conditions to the department. Local authorities who do not hold this information were asked to explain why.

In November the Regulator of Social Housing wrote to chief executives of registered providers of social housing to highlight landlords' responsibility to take action to protect tenants from hazardous damp and mould, and to request information on the extent of damp and mould issues in their homes.¹⁰

I have suspended £1million of funding to Rochdale Boroughwide Housing that was allocated under the Affordable Homes Programme 2021-2026, until they can demonstrate that their stock is fit for purpose and

⁸ <https://www.housing-ombudsman.org.uk/wp-content/uploads/2022/11/Open-letter-to-member-landlords-November-2022.pdf>

⁹ <https://www.gov.uk/government/publications/a-fairer-private-rented-sector>

¹⁰ <https://www.gov.uk/government/publications/letters-to-registered-providers-about-damp-and-mould>

does not pose any risks to tenants. I also announced that other providers who are subject to a regulatory notice will be prevented from bidding for new funding through the Affordable Homes Programme.¹¹

Government has awarded a share of £14 million for seven areas with high numbers of poor privately rented homes to crack down on rogue landlords and test new approaches to driving up standards.

Conclusion

We hope that this response has addressed the concerns raised in the Report and has made clear how seriously the Government has taken this tragic case of Awaab Ishak's death. If you require any further information or clarification, please let us know and we will do our best to provide this.

Thank you for your letter and report.

Yours ever,



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*Secretary of State for Levelling Up, Housing
and Communities
Minister for Intergovernmental Relations*



Rt Hon Steven Barclay MP

Secretary of State for Health and Social Care

¹¹ [https://www.gov.uk/government/news/government-to-block-failing-social-housing-providers-from-new-housing-funding#:~:text=Rochdale%20Boroughwide%20Housing%20\(RBH\)%20will,it%20is%20a%20responsible%20landlord.](https://www.gov.uk/government/news/government-to-block-failing-social-housing-providers-from-new-housing-funding#:~:text=Rochdale%20Boroughwide%20Housing%20(RBH)%20will,it%20is%20a%20responsible%20landlord.)