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The Rt Hon Michael Gove MP
Minister for Intergovernmental Relations
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Sent via E-mail: housingstandards@levellingup.gov.uk

25 January 2023

Dear Michael

Housing Standards in Rented Accommodation

I trust this letter finds you well and managing a productive start to 2023.

I am writing today further to my letter dated 30 November 2022 which provided an interim response to your correspondence from 19 November 2022 and which is in reference to matters of damp and mould within housing.

By way of background, since the coroner's judgment was announced, we have seen a large increase in residents reporting matters of damp and mould within their properties. As typical for us during the winter season, we have seen an increase in requests for service concerning damp and mould and have focused our resources on dealing with the cases that have been brought to our attention. Very few of the cases we are receiving have previously been reported to the Council, and many are from tenants within the social housing sector and not from the private rented sector.

Buckinghamshire Council does not hold any social housing stock, and our approach to enforcement of the Housing Act, or any other related environmental health legislation, does not differentiate between that which is private or socially rented. What we have learnt in Buckinghamshire is that tenants in any rented accommodation are often not aware that they are able to approach the Council for assistance when landlords fail to correct defects. We know that tenants can fear reporting issues to the Council, or other agencies, as they perceive it may lead to retaliatory eviction and homelessness. Consequently, we plan to raise awareness of the remit of environmental health services for tenants, especially those in social housing and the legal protection available to them.

You may recall from our previous conversations that Buckinghamshire Council was formed on 1 April 2020 when we united the county's former five previous councils. Since then, we have evaluated our information and harmonised services and processes. Some harmonisations for private sector housing enforcement took place ahead of vesting day. Medium to long-term strategic priorities have not, however, been fully developed due to us responding to the immediate external challenges of the past three years.

The Environmental Health Service (EHS) covers a broad range of functions including food hygiene, environmental protection, public health enforcement, investigation of infectious diseases, caravan site licensing, health and safety in the workplace, as well as enforcement within the rented housing sector. EHS has been at the forefront of enforcing the Covid-19 restrictions that affected businesses during the pandemic, as well as undertaking the required Home Safety Checks as part of the Homes for Ukraine programme and facilitating swift hospital discharge to appropriate homes both through enforcement and innovative means to reduce pressures on the NHS. Consequently, many of our interventions related to mould and damp have been reactive rather than proactive in nature.

Despite these challenges, we would like to reassure you that the service has been dealing with requests for assistance based on risk. Cases have been triaged so that those that pose the highest risk to residents are quickly addressed. We are developing an approach for meeting longer term need, based on risk, health needs and inequalities.

In reference to the three directives outlined in your 19 November letter, please can I draw your attention to the enclosed appendix, which outlines the actions we have taken, and which includes further information on activity we are undertaking to address wider issues related to housing.

We will also complete the survey as requested in your letter dated 22 December 2022. It should be noted the information has been provided as accurately as possible. Currently the EHS operates using three different customer databases for which data entry is completed differently. It is important to note that local authorities have not historically been asked to provide such data. Consequently, it has not been recorded in a way that allows us to extract information regarding the category of each hazard outlined in the Housing Health and Safety Rating System. We have recently procured a new customer database that is in the early stages of being designed and scoped prior to implementation and it is not envisaged that we will be on a single platform for at least another two years.

In summary, Buckinghamshire Council is saddened to have learned about the death of Awaab Ishak. We have made it a priority to deal with any service requests concerning issues of damp and mould in any property, irrespective of tenure, during the current winter period. Furthermore, we are going to review resources with respect to housing standards to ensure we meet current and future demand. We want to work with residents and landlords to ensure they have the right information to manage moisture and deal with structural issues in their properties and, importantly, to take action to ensure that standards increase. This maybe via enforcement and/or the utilisation of a more strategic approach which involves working with partners.

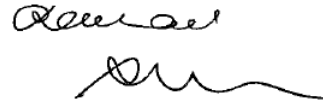
As a new Council we have an opportunity to take a strategic look at how we address housing standards across the county to ensure we prevent avoidable tragic deaths such as Awaab Ishak's.

I hope the above information is of interest. As ever, if it would be helpful to discuss in further detail, please contact Ian Thompson (ian.thompson@buckinghamshire.gov.uk) who will be more than happy to work with your team to arrange a suitable time and date.

Yours sincerely

A handwritten signature in black ink that reads "Martin Tett". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Martin Tett
Leader
Buckinghamshire Council

A handwritten signature in black ink that reads "Rachael Shimmin". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Rachael Shimmin
Chief Executive
Buckinghamshire Council

cc Cllr Mark Winn, Cabinet Member for Homelessness and Regulatory Services
Ian Thompson, Corporate Director, Buckinghamshire Council

Appendix I – Buckinghamshire Council’s response to the directives given under section 3(3) of the Housing Act 2004

- 1) *have particular regard to high scoring (bands D and E) category 2 damp and mould hazards, as outlined in the guidance ‘Housing health and safety rating system (HHSRS) enforcement guidance: housing conditions;*

Buckinghamshire Council’s current Enforcement Policy specifically recognises that all Category 2 hazards that present a risk to health (including Excess Cold and Damp and Mould Hazards) would, by default, usually result in the Council utilising enforcement powers to formally secure improvements to the dwelling when the property is rented.

Although all issues are dealt with on a case-by-case basis, the majority will result in an Improvement Notice if the owner does not immediately and swiftly engage to remedy any defect. It should be noted that there are often cases that are dealt with under the Excess Cold hazard (perhaps due to heating or insulation defects) that may also remedy secondary Damp and Mould hazards but will be recorded differently under the system. Buckinghamshire Council is confident it is addressing these hazards effectively.

- 2) *supply the department with an assessment of damp and mould issues affecting privately rented properties in your area, including the prevalence of category 1 and 2 damp and mould hazards;*

Damp and mould complaints range from penetrating or rising dampness, which can be easily pinpointed to a specific defect and a remedy applied, to more challenging cases, often due to condensation, which has a complex set of interacting variables, and which can lead to optimum conditions for associated mould growth.

Placing occupational arrangements above structural defects as leading factors in the presence of damp and mould is problematic because this will not always be the cause. The Council is keen not to place blame on occupiers, but to explore all causes of damp and mould. The range of housing stock (age and design) can present a challenge in pinpointing a solution, and as such inspectors require the appropriate competency to understand and apply solutions to individual circumstances. Furthermore, some blocks of properties, prevalent in the social housing sector, were built in the 1960s era of concrete construction, meaning large blocks of housing have similar design flaws that lead to cold bridging and extensive condensation issues. The prevalence of poor workmanship, fraud and inadequate private building control sign off for new build properties remains a serious concern in housing stock constructed and converted in the last 15 years, and the Council can foresee a risk that further significant defects could be identified in this sector of the housing stock in the future.

The current exemption of Houses in Multiple Occupation (HMO) from the Energy Performance Certificate requirement also disadvantages those living in these properties and does not identify improvements that HMO landlords can make that would reduce the likelihood of cold damp homes.

Each year, the Council receives an increase in service requests concerning damp and mould or malfunctioning heating systems during the winter months. Whilst it is recognised that some issues are related to occupancy and are outside a landlord’s/owner’s control, on several occasions there are either matters of disrepair or poor design that are exasperating the situation. The Council is often able to get matters resolved through informal contact with the landlord/agent or by providing advice to tenants, negating the need for enforcement.

Apart from the issues associated with HMOs, all the above apply to any property irrespective of tenure.

We will be reviewing all requests for service received over recent winter periods to note if there are trends with respect to issues identified, the method used to resolve the issue, and the tenure of the property. A Housing Stock Condition survey has not been undertaken for some years in any legacy council so there is no current data concerning the prevalence of conditions within housing stock in Buckinghamshire. Based upon information currently available to us, it is not felt that there is an unusually high level of issues associated with damp and mould in the private rented sector. However, a more detailed analysis is required to confirm this view.

We will be using information from a variety of sources including the 2021 Census, which was published on 5 January 2023, to help identify areas with high levels of rented accommodation where proactive interventions may need to be targeted. The most recent breakdown of housing stock indicates that in Buckinghamshire on 1 April 2021 there were 230,039 residential premises. 29,497 (13%) were in the Registered Provider category and 15.8% privately rented.

- 3) *supply the department with an assessment of action you have identified that may need to be taken in relation to damp and mould issues affecting privately rented properties in your area.*

The Council has identified that further resources will be necessary to address this concern and to meet current and future demand. Our EHS has been under increasing workload to assist in preventative interventions to avoid hospital admissions and to assist discharge. In recent months, the service has also been key to the re-settlement programmes for the Afghan and Ukraine refugees. Preventative interventions can significantly reduce the burden on NHS and social care budgets through the reduction of ill health.

Since the coroner's judgment, we have tried to identify themes as to the cause of the cases most recently reported to the Council. Currently, it is acknowledged issues concerning cost of living and rising fuel costs is making it difficult for some people to heat their homes, further exacerbating the problem. In new housing developments, the types of heating systems may differ between the properties designated for private ownership, social housing, and affordable housing.

In addition, a number of properties have become overcrowded and there is, therefore, an increase in moisture burden on properties and the facilities within them. It is fundamental that everyone understands what creates moisture in their homes and that simple maintenance will help resolve issues. For example, it is not appreciated how much moisture is created by everyday tasks such as drying washing on radiators, showering, cooking without putting lids on pans etc. Shutting internal doors and opening windows, even for a short time, will help in rooms that have a high moisture burden. Education is key to managing moisture in homes and we will look to undertake some informative campaigns during 2023.

Also highlighted is that several tenants simply do not know how to use the heating systems within their home. Information can be provided at the beginning of a tenancy, but this may not be retained when it comes to the winter months, especially in properties that use systems such as storage heaters rather than central heating. We need to ensure that landlords provide decent advice to tenants upon moving into a property and it would be responsible of them to "check in" during the late autumn to ensure that systems are working correctly. If a property is using gas central heating, the landlord is required to get the boiler checked annually by a

Gas Safe certified person, and this is a good opportunity for landlords to understand any issues a tenant may have (although it is recognised the check may happen at any time during the year).

Education for landlords and tenants is key to maintaining a safe and warm home environment. Our legacy councils co-ordinated Landlord Forums for the private sector but they were suspended during the pandemic. The Council needs to review the effectiveness of these networks and determine if we should resurrect them post-pandemic. It is noted that engagement tends to be by landlords who are generally compliant with legal requirements, and we need to identify how to engage with harder-to-reach landlords and ensure they are provided the appropriate information and support.

The provision of a national landlords database would help local authorities in regulating the private rented sector. A national database would enable local authorities to better use resources to drive up standards and help target rogue landlords who operate in multiple authority areas.

Buckinghamshire Council and housing standards: further information

Innovating for the future

In September 2022, our EHS worked in partnership with NHS colleagues in Acute Respiratory Care to develop a pathway to refer vulnerable patients for grant assistance to improve cold and damp homes. Strategically, working closely with health partners in all sectors of primary care to identify persons at the highest risk in a preventative framework is in place and is the intended way forward over the medium to long term.

Last year, Buckinghamshire Council launched 'Opportunity Bucks – Succeeding for All' in July 2022, developed in response to the national levelling up agenda. Buckinghamshire is often perceived as an affluent county, but areas of deprivation do exist. 'Opportunity Bucks' initially focuses on the 10 most deprived wards in the county, mainly with older housing stock and very high levels of private rented accommodation. It provides a framework for bringing together partners to focus our collective resources on tackling those local priorities that make a difference to the outcomes of residents. There are five key themes, one of which relates to "Standard of Living". An initial workshop has been held to initially scope what the theme may include. The matters raised are broader than those associated purely with the causes of damp and mould. It is, however, hoped that general living standards will increase and will therefore have an impact on the health of residents in the longer term. More detail is available

<https://buckinghamshire.moderngov.co.uk/mgConvert2PDF.aspx?ID=45692>

Historically, issues of damp and mould have been heavily weighted towards how a property has been occupied and potentially putting the onus solely on residents. Some years ago, one of the legacy councils in Buckinghamshire created an educational approach to damp and mould. Information was provided on their website and when a person contacted the council to request assistance with respect to their housing conditions relating to mould, they would be directed to the website and asked to complete a questionnaire. The purpose of this was not to blame residents, but to educate them and to try and influence behavioural change which may improve the situation for them. This meant that when the matter was referred to an enforcement officer, they had background information and could offer more bespoke advice and determine if the likely issues were occupancy or structural related. This approach was rolled out across the county in early November when pages on our website were updated as part of the harmonisation process:

<https://www.buckinghamshire.gov.uk/housing-and-benefits/housing/housing-conditions/report-poor-housing-conditions/keep-your-home-free-from-damp-and-mould/>.

In reference to issues concerning supporting residents who are experiencing financial hardship, the Council has a Helping Hands scheme to which people are directed to for information about available support. This has been in place for some months and builds upon support given during the pandemic. Residents can apply for assistance and the scheme has proved to be a necessary lifeline for some: <https://www.buckinghamshire.gov.uk/cost-of-living/contact-helping-hand/>

Staffing

The EHS underwent a service structure in 2021 as part of the harmonisation of services following the vesting of Buckinghamshire Council. Since that structure was implemented a year ago, we have been able to get a better understanding of the demands on the service post pandemic and to also horizon scan forthcoming demands and pressures such as the future provision of the 'Decent Homes' standard across all rented accommodation and the Private Members' Bill associated with exempt accommodation. In reaction to the recent increase in requests for service concerning damp and mould, we have secured additional funding to get agency staff for four months over the winter period. In the longer term, we will look at the staff resources available and decide whether our current staffing levels are sufficient to cope with demand in a timely manner.

Obtaining suitably qualified staff has been a challenge. The service has unsuccessfully advertised for Housing Enforcement Officers several times this past year. Unfortunately, there is not enough suitably qualified personnel available or people who have suitable transferable skills to be able to be trained as enforcement officers. We are currently exploring apprenticeship roles, but we must acknowledge that there is a time lag before someone is deemed competent. It appears that this is not an uncommon issue for local authorities.

At present, there is no nationally recognised competency framework for housing enforcement officers unlike in the other environmental health areas of food and health and safety enforcement. It is not uncommon for graduates to follow careers in these areas as there are specific standards laid down by Food Standards Agency and Health and Safety Executive with an ongoing requirement to undertake annual CPD (training) to maintain competency. This lack of requirement of qualification to operate within the housing standards field maybe a barrier to obtaining competent staff to enforce standards.

Enforcement

We are robust with respect to undertaking enforcement to secure safe homes and employ competent officers to ensure this. Much of the enforcement has focused upon management within Houses in Multiple Occupation (HMOs). We have, however, taken action to address hazards in single family occupied properties in both social and private rented sectors. Enforcement approaches have included using powers under the Housing Act, along with other powers contained within the Public Health and Environmental Protection acts to gain resolution. Prosecutions and civil penalties have been instigated, but not for issues concerning damp and mould as there is no immediate option to do this under the current legislation. In short, we are an authority who will take appropriate action when necessary and appropriate.

Engagement with social landlords

On 9 December 2022, the Council invited registered social landlords (RSLs) who operate in the county to a meeting to discuss how they are addressing issues within their properties. Whilst not all were able to attend, it is noted that some have few properties in Buckinghamshire, many were able to provide feedback on what they have done in light of the Ombudsman decision concerning Rochdale and the challenges they face, especially with respect to tenants who are not engaging with them. The RSLs who attended found this a very useful session as it provided not only an opportunity to say how they were aiming to tackle damp and mould but also to share best practice with respect to engagement with tenants. We have used this as a forum to open channels of communication and will continue to work with RSLs to understand the challenges they face. It is likely some of this intelligence will feed into the Opportunity Bucks strategy highlighted above.