

# Damp and Mould Escalation Flow Chart

This medical letter should be clear enough letter that highlights relevant issues for the landlord to realise there could be an expensive legal case and therefore they should take action quickly.

Does patient have a medical condition caused/ made worse by damp and mould in home ?

Yes

Evidence to support both the disrepair and the impact upon health is crucial, and to gather as early as possible:  
eg. photos of the disrepair; records of complaints made;  
medical letters and reports (explicitly linking housing and health where possible)

The letter should make the medical impact of the mould and damp exposure as clear as possible

Does patient live in social housing or housing association accommodation?

No

Is patient a private tenant?

Yes

Any such landlord will have various repairing obligations under law, including s.9A and/or 11 of the Landlord and Tenant Act 1985, s.4 Defective Premises Act 1972, common law nuisance and negligence, as well as the express or implied terms of a tenancy agreement/ lease.

Yes

STEP 1: Tenant should raise a service request with landlord, citing damp and /or mould, with landlord by process outlined on landlord website. This may be via online form, council account, phone or email for example. Recommended complaint made in written format.

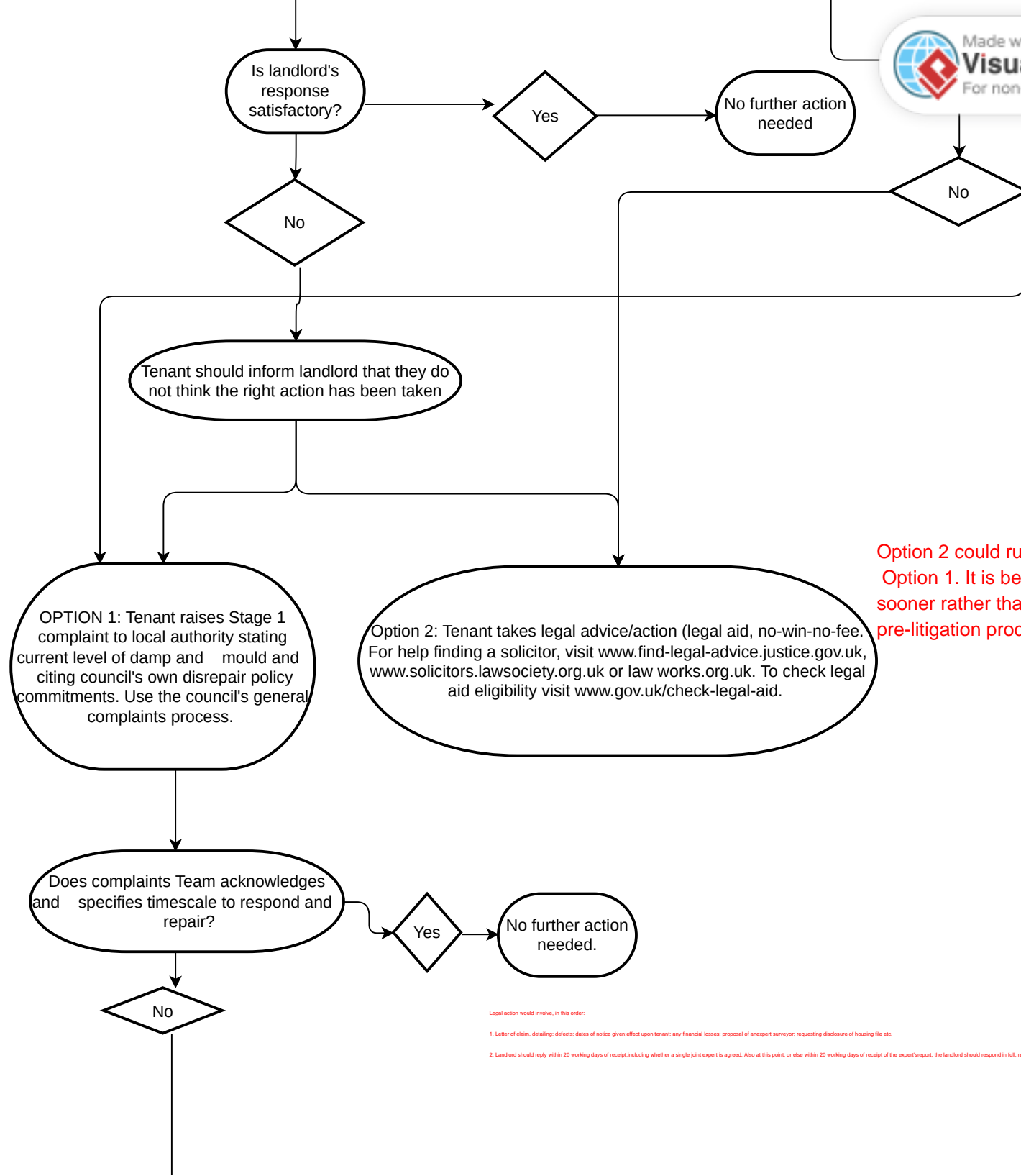
Tenant raises concern to landlord or managing agent by process outlined in tenancy agreement (assume Assured Shorthold Tenancy agreement).

STEP 2: Landlord acknowledges complaint and indicates timescales to respond/ outlines steps to investigate and rectify.

Does landlord acknowledge and indicate timescale to respond and rectify?

Yes

No further action.

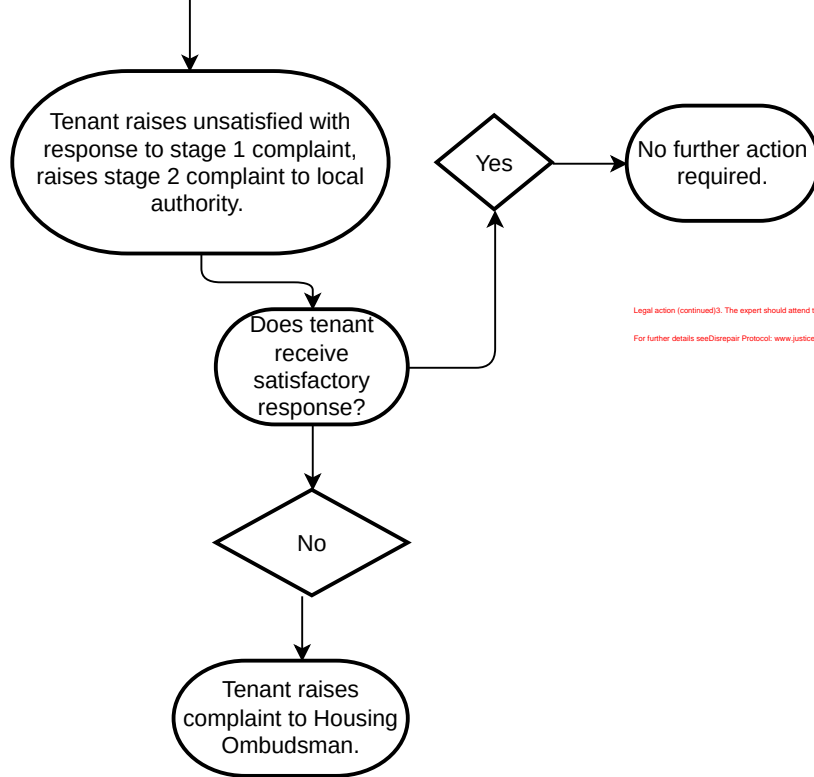


Option 2 could run concurrently with Option 1. It is better to begin Option 2 sooner rather than later, to start the pre-litigation process.

Legal action would involve, in this order:

1. Letter of claim, detailing: defects; dates of notice given; effect upon tenant; any financial losses; proposal of an expert surveyor; requesting disclosure of housing file etc.

2. Landlord should reply within 20 working days of receipt, including whether a single joint expert is agreed. Also at this point, or else within 20 working days of receipt of the expert's report, the landlord should respond in full, regarding liability; any proposed schedule of works and compensation;



Legal action (continued)<sup>3</sup>. The expert should attend the property within 20 working days of the landlord's response. Access should be provided<sup>4</sup>. If landlord fails to respond substantively or within the set time, the tenant can proceed to issue court proceedings.

For further details see Disrepair Protocol: [www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot\\_hou](http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_hou)

<sup>3</sup> From October 2020, Area's Law (which inserted section 15A into the Landlord and Tenant Act 1985) will, in a staged way, begin to be implemented. The specifics are yet to be confirmed, but it is expected that:

<sup>4</sup> From October 2020, social landlords will have to investigate and fix dangerous damage and mould in set time periods, as well as repair all emergency hazards within 24 hours.

<sup>5</sup> In 2008, requirements will expand to apply to a wider range of hazards with this second stage of implementation likely to include hazards such as excessive cold and unsafe heat, falls, structural collapse, fire, electrical and explosions, and hygiene hazards. (i) From 2007, the aim is that Area's Law will expand to the remaining hazards as defined by the Housing Health and Safety Rating System (England) Regulations 2002 (HHSRS) (including overcrowding).