

# Mould & Minimum Standards

## Evaluating legal protection for social tenants in Ireland and the EU

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### Abstract

This Spotlight describes the current legislative and regulatory context relating to the prevention of black mould in rental & social housing in Ireland and describes the multiple ways in which Irish social housing is provided, through both state-owned housing and via interaction with the private rental sector.

It then outlines how mechanisms of redress for defects in social housing differ depending on whether this housing is state-owned vs housing provided through the private rental sector.

Finally, we describe the equivalent regulatory contexts present in selected EU Member States.



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## Glossary

Abbreviation	Definition
<b>AHBs</b>	Approved Housing Bodies
<b>CALF</b>	Capital Assistance Leasing Funding
<b>DHLGH</b>	Department of Housing, Local Government, and Heritage
<b>HAP</b>	Housing Assistance Payment
<b>LA</b>	Local Authority
<b>MTR</b>	Mortgage to Rent
<b>RAS</b>	Rental Accommodation Scheme
<b>RTB</b>	Residential Tenancies Board
<b>SHCEP</b>	Social Housing Current Expenditure Programme

## Summary

Black mould (the microfungus *Stachybotrys chartarum*) can appear in buildings when there is indoor dampness and a lack of indoor ventilation. Mould presence in buildings has been associated with poor health outcomes<sup>1</sup>, increases the risk of chronic conditions such as asthma<sup>2</sup> and is more common in social housing<sup>3</sup> and those households experiencing fuel poverty<sup>4</sup>.

As black mould (and the factors that contribute to mould growth) are potential health risks, particularly for vulnerable cohorts, policy measures supporting effective detection, mitigation and remediation of mould are warranted.

This Spotlight describes the current the current legislative and regulatory context that relates to the prevention of black mould in rental & social housing in Ireland and describes the multiple ways in which social housing is provided in Ireland, through both housing directly under the control of public bodies and via interaction with the private rental sector.

We then outline how the mechanisms of redress for defects in social housing differ depending on whether this housing is directly provided by the public sector versus housing provided through the private rental sector.

Finally, we describe the equivalent regulatory contexts present in selected EU Member States, and discuss point of similarity and difference to the Irish context.

## Introduction – Black mould: what is it, why does it appear and what are the health implications?

### What is black mould?

Black mould is the common name for the microfungus *Stachybotrys chartarum*. While rare in nature, this fungus can often occur in poorly ventilated and damp buildings growing in cellulose-rich building materials (e.g. gypsum-based plasterboard, wallpaper, etc.).<sup>5</sup> It usually appears in a spotted pattern (spots being the area where spores have germinated), with these spots growing into each other and forming a solid covering on the surface if not treated (see Figure 1).

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<sup>1</sup> Al Hallak M, Verdier T, Bertron A, Roques C, Bailly JD. [Fungal Contamination of Building Materials and the Aerosolization of Particles and Toxins in Indoor Air and Their Associated Risks to Health: A Review](#). *Toxins* (Basel). 2023 Feb 25;15(3):175. doi: 10.3390/toxins15030175. PMID: 36977066; PMCID: PMC10054896.

<sup>2</sup> Moses, L., Morrissey, K., Sharpe, R.A. and Taylor, T., 2019. [Exposure to indoor mouldy odour increases the risk of asthma in older adults living in social housing](#). *International Journal of Environmental Research and Public Health*, 16(14), p.2600.

<sup>3</sup> Patino, E.D.L. and Siegel, J.A., 2018. [Indoor environmental quality in social housing: A literature review](#). *Building and Environment*, 131, pp.231-241.

<sup>4</sup> Sharpe, R.A., Thornton, C.R., Nikolaou, V. and Osborne, N.J., 2015. [Fuel poverty increases risk of mould contamination, regardless of adult risk perception & ventilation in social housing properties](#). *Environment international*, 79, pp.115-129.

<sup>5</sup> Andersen, B., Frisvad, J.C., Søndergaard, I., Rasmussen, I.S. and Larsen, L.S., 2011. [Associations between fungal species and water-damaged building materials](#). *Applied and environmental microbiology*, 77(12), pp.4180-4188.



Figure 1 Example of untreated black mould. Source: [Irish Mirror Irish dad-of-two “fears for family”s health” in house with damp, black mould covering walls](#). Jan 22, 2020

## Why does black mould appear?

Mould caused by dampness is often found in areas of high humidity, like bathrooms and kitchens. This kind of dampness is easily preventable with appropriate ventilation measures such as fans, vents and ensuring windows are open. However, it can appear in any room in the house and is closely associated with rising damp and penetrating damp.

## What are the health implications of the presence of black mould in a building?

Exposure to black mould has been suggested as a contributing factor to “sick-building” syndrome, whereby occupants experience acute health effects or discomfort that seem to be linked to the amount of time spent in the building in question, **though there is significant debate as to whether exposure to mould spores is the actual**

**cause of ill health.**<sup>6</sup> Nevertheless, **the presence of black mould is always associated with indoor dampness** and often with poor indoor air quality, and poor indoor air quality has been widely associated with increased incidents of asthma and other respiratory disease.<sup>789</sup>

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<sup>6</sup> Terr, A.I., 2009. [Sick Building Syndrome: is mould the cause?](#). *Medical Mycology*, 47(Supplement\_1), pp. S217-S222.

<sup>7</sup> Tuomainen, A., Seuri, M. and Sieppi, A., 2004. [Indoor air quality and health problems associated with damp floor coverings](#). *International Archives of Occupational and Environmental Health*, 77, pp.222-226.

<sup>8</sup> King, N. and Auger, P., 2002. [Indoor air quality, fungi, and health. How do we stand?](#). *Canadian Family Physician*, 48(2), pp.298-302.

<sup>9</sup> Norbäck, D., 2020. [Future directions of research on indoor environment, indoor air quality \(IAQ\), and health](#). *Indoor environmental quality and health risk toward healthier environment for all*, pp.321-333.

## Irish Context

### What is Social Housing

#### Key Messages – What is Social Housing

**No universally accepted definition:** Different stakeholders define the term in a variety of ways, making international comparisons difficult.

**Local Authorities have primary responsibility for the repair and maintenance Irish social housing:** In addition, Local Authorities are usually responsible for the direct provision of social housing. They are tasked with identifying housing needs within their jurisdiction, developing plans to meet those needs, and implementing them.

**Irish social housing is through multiple means:** Social housing in Ireland is provided in three primary ways;

1. Direct provision of accommodation by Local Authorities
2. Allocations to Approved Body Homes
3. Financial assistance in the private rented sector

There is no universally accepted definition of social housing. In Ireland, the Housing Agency describes social housing support as housing provided by a local authority or an approved housing body to people who are assessed as being unable to afford housing from their own resources.<sup>10</sup>

Elsewhere, it may be referred to as social or subsidised housing (Australia, Canada, Germany), public housing (Australia, United States) or general housing (Denmark). In many countries including Ireland, social housing comes in multiple forms, for example in Austria, Latvia and Lithuania, social housing is provided alongside municipal housing.<sup>11</sup> The OECD (2020) has noted that in Ireland it can be difficult to distinguish social housing from other housing tenure as traditional social housing has been supplemented by dwellings that are publicly leased from private owners and allocated to recipients of housing allowances.<sup>12</sup>

The State of Housing in Europe Report 2023 calculated that social housing accounts for a low of 4 per cent in Hungary to a high of 29 per cent in the Netherlands, with Ireland towards the low end at 9 per cent<sup>13</sup>. More recently, the ESRI estimated that in Ireland the “percentage of housing that is socially supported” was about 15%<sup>14</sup>. Determining the exact number of social housing units in Ireland can be difficult because, as noted by the Parliamentary Budget Office, “Information relating to total social housing stock (owned by Local Authorities) is not collected by the Department of

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<sup>10</sup> [Social Housing Support Overview | The Housing Agency](#)

<sup>11</sup> OECD (2020), <https://www.oecd.org/social/social-housing-policy-brief-2020.pdf> Employment, Labour and Social Affairs Policy Briefs, OECD, Paris.

<sup>12</sup> Ibid p.8

<sup>13</sup> Housing Europe, “[The State of Housing 2023](#)” p3.

<sup>14</sup> Corrigan, Eoin; Watson, Dorothy (2018): Social housing in the Irish housing market, ESRI Working Paper, No. 594, The Economic and Social Research Institute (ESRI), Dublin

Housing, Local Government and Heritage nor presented to Members in the context and impact indicators in the Revised Estimates for Public Services”.<sup>15</sup>

### Legislative Framework relating to Social Housing

On the national level, the government sets policies, frameworks, and provides funding for Local Authorities (LAs) to implement social housing projects. The Department of Housing, Local Government, and Heritage (DHLGH) develops housing policy and law and allocates central government funding for social housing to LAs and Approved Housing Bodies (AHBs) who are then responsible for the direct provision and maintenance of social housing. DHLGH operates the Social Housing Current Expenditure Programme (SHCEP) which funds the current payments for properties leased by LAs and AHBs.

LAs are usually responsible for the direct provision of social housing. They are tasked with identifying housing needs within their jurisdiction, developing plans to meet those needs, and implementing them. This can include:

- Constructing new housing,
- Renovating existing properties and,
- Managing the allocation of these homes.

LAs have primary responsibility for the repair and maintenance of the public housing stock, as well as enforcement of the relevant regulations and legislation.

### How is Social Housing provided?

Social housing support in Ireland is provided in three main ways:

- 1) **Direct provision of accommodation by LAs:** the dwelling belongs to the LA and the rent is a differential rent with the amount payable depending on the household's means.
- 2) **Allocations to Approved Body Homes (AHBs):** There are [four different leasing models in operation](#)<sup>16</sup> –
  - a) AHB direct lease from a private owner
  - b) AHB direct lease from [National Asset Residential Property Services D.A.C.](#)
  - c) AHB-owned units (e.g. Capital Assistance Leasing Funding (CALF)<sup>17</sup>)
  - d) AHB Mortgage to Rent (MTR)<sup>18</sup>

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<sup>15</sup> Parliamentary Budget Office (2022) Housing Ireland: Trends in Spending and Outputs of Social and State Supported Housing 2001-2020, Oireachtas Publication, Dublin

<sup>16</sup> The DHPLG operates the Social Housing Current Expenditure Programme (SHCEP). SCHEP is used to facilitate the provision of social housing by giving financial support to AHBs to allow them lease, on a long-term basis, housing units from the private sector.

<sup>17</sup> CALF (Capital Assistance Leasing Funding) provides access to private or Housing Finance Agency (HFA) loan finance for the purchase or construction of property that will be made available for Social Housing by an AHBs. The AHB can claim up to 30% funding from a LA.

<sup>18</sup> The Mortgage to Rent (MTR) scheme is a government scheme to help homeowners who are at risk of losing their homes due to mortgage arrears. It lets homeowners in mortgage difficulty switch from owning their home to renting their home as social housing tenants. The scheme is overseen by the Department of Housing, Local Government and Heritage and is administered by the Housing Agency.

- 3) **Financial assistance in the private rented sector**<sup>19</sup>: support for private renting through schemes administered by:
- the [Rent Supplement scheme](#) (RS) operated by the Department of Employment Affairs and Social Protection and is an income support.
  - the Local government sector schemes
  - [Rental Accommodation Scheme](#) (RAS) is a social housing support provided to households through the private sector. Landlords can put their properties forward for a period of 4 to 10 years and the local authority will nominate a household to that property. The tenant pays a differential rent to the local authority and the local authority will make payments to the landlord on behalf of the tenant.<sup>20</sup> Circular 36/2014 noted that with the introduction of HAP in 2014, it was intended that RAS would be gradually phased out and HAP would be the preferred method of Social Housing through the rental market.<sup>21</sup>
  - [Housing Assistance Payment](#) (HAP) is a form of social housing support provided by local authorities. HAP enables local authorities to provide housing support for households that qualify for social housing support in privately owned houses and who have a long-term housing need.<sup>22</sup>

A summary of the different ways social housing is provided in Ireland is provided in Appendix 1 (Table 1).

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<sup>19</sup> [Social Housing Support Overview | The Housing Agency](#)

<sup>20</sup> If a person is in receipt of Rent Supplement for a long period and they need of long-term housing, they may be eligible for the Rental Accommodation Scheme (RAS). The scheme is run by LAs. The LA makes the final decision about who is eligible for the scheme. In general, people who are in receipt of Rent Supplement for more than 18 months are considered for RAS. A significant difference between RAS and Rent Supplement is that tenants who take up full-time employment can stay in the RAS scheme, with a recalculated rent.

<sup>21</sup> [Social Housing Options | The Housing Agency](#)

<sup>22</sup> Housing Assistance Payment (HAP) is a form of social housing support provided by all LAs. Under HAP, LAs can provide housing assistance to households with a long-term housing need, including many long-term Rent Supplement recipients.



## Legislative Requirements

### Key Messages – Legislative Requirements

**No Explicit Legislation:** Ireland lacks specific laws addressing mould in rented housing, but regulations on structural repair and ventilation indirectly address factors contributing to mould growth.

**Minimum Standards Apply to All:** The Housing (Standards for Rented Houses) Regulations 2019 set minimum standards for all rented dwellings, including social housing, to ensure they are safe and habitable.

**Enforcement by Local Authorities:** Local Authorities (LAs) are responsible for enforcing these standards through inspections and can issue improvement or prohibition notices to non-compliant landlords.

**Social Housing in Ireland is provided in multiple forms,** and the legislation framework is complex with multiple stakeholders involved.

**Redress for Social Housing Tenants:** Social housing tenants have varying avenues for redress depending on their housing provider. Local Authority tenants can use the Customer Complaints Procedure, while those in AHBs or receiving HAP/RAS can also utilize the Residential Tenancies Board (RTB).

**Legal Action as Last Resort:** Tenants can take legal action against housing providers, but this is generally a last resort due to the costs and complexity involved.

In Ireland, there are no explicit legislation addressing the issue of mould in rented housing. Regulations which enforce minimum standards govern the environmental factors leading to its growth. These standards are set out in the [Housing \(Standards for Rented Houses\) Regulations 2019](#) which apply in general, to dwellings rented from private landlords, LAs and AHBs.<sup>23</sup> These standards aim to ensure that rented homes are safe, efficient, and habitable.<sup>24</sup>

### Minimum Standards for all rental housing

**Structural Repair:** Section 4 of the 2019 Regulation provides for the structural condition of the rental house and states that a house “shall be maintained in a proper state of structural repair”, meaning that the “roof, roofing tiles and slates, windows, floors, ceilings, walls, stairs, doors, skirting boards, fascia, tiles on any floor, ceiling and wall, gutters, down pipes, fittings, furnishings, gardens and common areas maintained in good condition and repair and not defective due to dampness or otherwise”.

**Ventilation:** Proper ventilation is one of the most critical aspects of preventing mould growth.

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<sup>23</sup> However, they do not apply to holiday homes or to communal housing being let by the Health Service Executive or an approved body.

<sup>24</sup>Not all standards apply to homes let by LAs, by ABHs and for a minimum lease period of 10 years under a tenancy agreement.

Section 8 of the 2019 Regulation provides that all houses are adequately ventilated and that all means of ventilation is maintained in good repair and working order and states:

1. Every room used, or intended for use, by the tenant of the house as a habitable room shall have adequate ventilation.
2. All means of ventilation shall be maintained in good repair and working order.
3. Adequate ventilation shall be provided for the removal of water vapour from every kitchen and bathroom.

In addition, the [Housing \(Miscellaneous Provisions\) Act, 1992](#) and [Residential Tenancies Act 2004](#) have relevant provisions.

Section 18 of the 1992 Act states “a proper state of structural repair’ means essentially sound, with roof, floors, ceilings, walls and stairs in good repair and **not subject to serious dampness** or liable to collapse because they are rotted or otherwise defective.”

Section 12 of the 2004 Act specifies that the landlord of the dwelling must carry out “all such repairs as are ... necessary and ensure that the structure complies with any standards for houses for the time being prescribed under [section 18](#) of the [Housing \(Miscellaneous Provisions\) Act 1992](#)”.

## Responsibility for Enforcement

[The Irish Housing Act 1966 as amended](#) allocates responsibility to Housing Authorities <sup>25</sup> for the enforcement in their localities of the regulations prescribing minimum standards for rented accommodation. These are supplemented by the [Residential Tenancies Act 2004](#) (as amended by the [Housing \(Miscellaneous Provisions\) Act, 1992](#)).

## Inspections

LAs are empowered to carry out inspections of rental properties to ensure compliance with the regulations. If the LA is not satisfied with the standard of the accommodation, it may seek to resolve the matter by written communication with the landlord.

Where a breach of the standards occurs (or the informal approach is unsuccessful), the LA may give a written Improvement Notice to the landlord (copied to the tenant) directing the remedying of the contravention within a specified period.

Where an Improvement Notice is not complied with, nor successfully appealed, the LA may then serve the landlord with a Prohibition Notice (copied to the tenant) directing that the landlord shall not re-let the house after the end of the existing tenancy until the contravention of the Regulations has been remedied.

If a property is found to be non-compliant, the landlord can be directed to remedy the defects, and where they fail to act, the LA can engage a series of sanctions against the landlord up to and including prosecution in the District Court. Failure to comply with the minimum standards can result in a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both, along with a daily fine of €400 for a continuing offence.

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<sup>25</sup> In the Acts, a “housing authority” is a reference to a Local Authority and references to the functional area of a housing authority shall be construed accordingly.

Tenants who believe their rented property does not comply with the standards, including issues related to mould, can report the issue to their LA.

In addition, LAs also carry out inspections of units proposed for inclusion in the RAS prior to a tenancy commencing and within the first eight months of tenancy of all rented accommodation under the HAP.<sup>26</sup> This is because a requirement of both schemes is that the accommodation concerned is compliant with the Standards for Rented Houses Regulations.

### Minimum Standards in Social Housing

As noted above, the presence of mould in any type of rented housing is a breach of the minimum standards for rented residential accommodation provided for in the Regulations 2019. All landlords, including LAs and AHBs, have a legal obligation to ensure that their rented properties comply with the standards set down in the Regulations.

Additionally, the [Housing Acts 1966 to 2022](#) allocate responsibility to Housing Authorities (i.e. LAs) for the enforcement, in their areas, of the regulations prescribing minimum standards for rented accommodation.

## Complaints, Dispute and Redress for Social Housing tenants

### Key Messages – Complaints, Dispute and Redress for Social Housing tenants

**Irish social housing is delivered through multiple mechanisms;** a mix of state-owned accommodation, AHB housing and several financial assistance mechanisms to allow tenants access the private rental sector.

**Social tenants have access to different complaint and redress mechanisms,** depending on what form of social housing they receive.

**Inspections;** Properties owned by the LA are not subject to mandatory inspections, and tenants of such housing do not have access to redress through the RTB.

**Case law in the area has identified repeated failures** by LAs to provide their tenants with social housing that meets minimum housing standards.

Social housing tenants have different access to mechanisms of redress, depending on how their social housing is provided. A summary of this information is provided in Appendix 1 (Table 2). The following applies to Local Authority tenants.

### Customer Complaints Procedures

The Housing Acts 1966 to 2019 govern tenancies in LA owned housing. Social housing tenants can avail of the Customer Complaints Procedure that is in place in all LAs and which can be availed of regarding any issues they may have in dealing with their LA related to their housing situation.

**Written Procedures:** Housing providers should have a written complaints procedure which outlines the steps tenants should take if they wish to lodge a complaint.

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<sup>26</sup> [NOAC-Private-Rented-Sector-Review.pdf](#)

- **Initial Complaint:** Generally, the first step is to make a formal complaint to the housing provider. This is usually done in writing and should clearly outline the nature of the complaint, the facts surrounding it, and any desired resolution.
- **Internal Review:** Housing providers should have a system for internally reviewing complaints and should be completed within a specified timeframe.
- **Escalation:** If the tenant is not satisfied with the initial response, the tenant escalate the complaint, either within the housing provider's organizational structure or to an external body.

## Residential Tenancies Board (RTB)

While primarily focusing on the private rental sector, the Residential Tenancies Board (RTB) also plays a role in social housing. The [Residential Tenancies Act 2004](#) (RTA) has created a range of implied terms in every private rented lease together with special dispute resolution machinery outside the courts.

### What type of tenancies apply

The RTA does not apply where a dwelling is let directly by a LA but does apply to all people receiving Housing Assistant Payment (HAP) or the Rental Accommodation Scheme (RAS). Both types of tenancies are required to be registered with the RTB. In addition, the [Residential Tenancies \(Amendment\) Act 2015](#) brought tenancies of AHBs under the remit of the RTB.

### RTB's Role

**Registration:** The RTB is responsible for maintaining a [national register](#) of all private rented residential tenancies and some AHB tenancies but not LA tenancies.

**Dispute Resolution:** The RTB offers dispute resolution services that can apply to social housing tenants if they're living in homes provided by AHBs, or receive HAP or RAS.

**Standards:** The RTB helps enforce minimum standards in rented accommodation, which can affect AHB, HAP and RAS tenancies.

**Information:** The RTB provides information to both landlords and tenants on their rights and obligations, and this can be useful to social housing tenants, in AHB, HAP or RAS tenancies.

When the RTA 2004 does not apply (i.e. to tenants in LA owned housing) the only opportunities to seek redress for violations in respect of social housing tenants are the courts, the Office of the Ombudsman, or—in cases of discrimination—the Equality Tribunal.

## Ombudsman

Following the making and processing of any such complaint, if a LA tenant still considers that they have been adversely affected by a LA action, or lack of action, that they consider to be unfair or unreasonable, it is open to them make a complaint to the Ombudsman. The Ombudsman can examine complaints about how LAs carry out their everyday executive and administrative activities. These include complaints about delays or failures to take action.

- **Types of Complaints** Common complaints may relate to failure in service provision, administrative issues, or unfair decision-making processes.
- **Procedures** Before approaching the Ombudsman, tenants usually have to exhaust all available complaint procedures with the Local Authority or housing provider. The

Ombudsman generally takes complaints that haven't been satisfactorily resolved through those internal mechanisms.

- **Investigation** Upon receiving a complaint, the Ombudsman can investigate the issue. This usually involves collecting evidence, speaking with both parties, and making an assessment based on the facts and the law.

## Legal Options for redress

If all else fails, tenants may have the option to take legal action. However, this is generally seen as a last resort due to the costs, time, and uncertainty involved.

- **Civil Cases:** As a last resort, social housing tenants can take their housing provider to court. However, this is often a lengthy and expensive process and usually comes after all other avenues have been exhausted.
- **Injunctions and Judicial Reviews:** In certain cases, tenants may seek court orders to prevent a particular action (like an eviction) or to challenge the lawfulness of a decision made by a housing provider.

## Case Law

In *Humphrey v Dublin City Council* [2018] IEHC 193, the High Court held that the plaintiff was entitled to damages as the premises were not fit for human habitation under the Housing Act, 1966 due to dampness and mould growth, due to inadequate ventilation and poor insulation. A tenant of LA estate Dolphin House in Dublin was awarded damages.

The Court considered the case of *Siney v. Dublin Corporation* [1980] I.R. 400, which awarded damages for 'interference with the ordinary comfort and convenience' of the plaintiff. In that case O'Higgins CJ stated that 'damages may be recovered for physical inconvenience and discomfort.' Noonan J found "that to expect a young woman with two small children to reside in a dwelling which is subject to unacceptable levels of dampness and consequent mildew and mould growth is, in the early part of the 21st century, unacceptable. In my view therefore, the defendant is in breach of the implied covenant in the tenancy agreement that the premises be fit for human habitation" and awarded €25,000 in damages to the plaintiff.

## Collective Complaint

In October 2017, the European Committee of Social Rights (ECSR) published a [decision](#) on a [collective complaint](#) taken by International Federation for Human Rights (FIDH) as to conditions in LA housing across 20 communities in Ireland, including Dolphin House. The decision found that Ireland had failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for many families living in LA housing around the country. In particular, the Committee found Ireland in violation of Article 16 of the [Revised European Social Charter](#), which protects the right of the family to social, legal and economic protection, including the provision of family housing. The ECSR found that the presence of sewage, contaminated water, dampness, and persistent mould raised 'serious concerns' for habitability. It particularly noted 'the high number of residents in certain estates in Dublin complaining of sewage invasions (for example the Dolphin House complex) years after the problems were first identified'.

In light of these findings, "the Committee finds that the Government has failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for a not insignificant number of families living in Local Authority housing and therefore holds that there is a violation of article 16 of the charter".

In summary, it finds that the Government has:

1. Failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for a not insignificant number of families living in LA housing,
2. Failed to collect complete statistics on the condition of Local Authority housing since 2002,
3. No national timetable for the refurbishment of Local Authority stock,
4. Not completed a significant number of regenerations programmes, leaving many Local Authority tenants in substandard housing conditions.

It found four other complaints, including the lack of an independent complaints body for local-authority tenants, had not been proven to breach charter rights.

In a briefing note the committee says: “All member states are obliged to take steps to address any violations found by the ECSR.

“The Committee of Ministers will now discuss this decision with a view to adopting a formal resolution to the Irish authorities based on the findings. The committee will follow up on a regular basis to see what steps are being taken to address the problems identified”. Within the [collective complaint](#) , tenants also raised the need for an independent complaints body separate to complaints made to the Local Authority in its role as landlord. The ECSR further found that assessments of the conditions of local housing are carried out at ‘*considerable intervals*’ with the last being in 2002, and that ‘*no national timetable for the refurbishment of Local Authority housing stock exists*’.

In 2021 the Council of Europe [found](#) that that the State remains in breach of its obligations under the European Social Charter to provide appropriate accommodation to Travellers and social housing tenants in Ireland and that the situation has not been brought into conformity with Article 16 of the Charter.

## Summary

Social housing in Ireland is delivered through a dynamically changing mixture of mechanisms, with an increasing proportion of non-state actors providing social housing, and an increasing number of social tenants living in private rental accommodation. This mixture of delivery is difficult to navigate, which can be an issue for tenants attempting to obtain redress & difficult for landlords understanding their obligations.

Within this context, even though there’s a generalised criticism of the complaints and redress mechanisms for social housing, there’s also an imbalance between redress mechanisms provided to tenants in LA owned housing and social housing provided by third parties.

## Examples of social housing systems in Europe

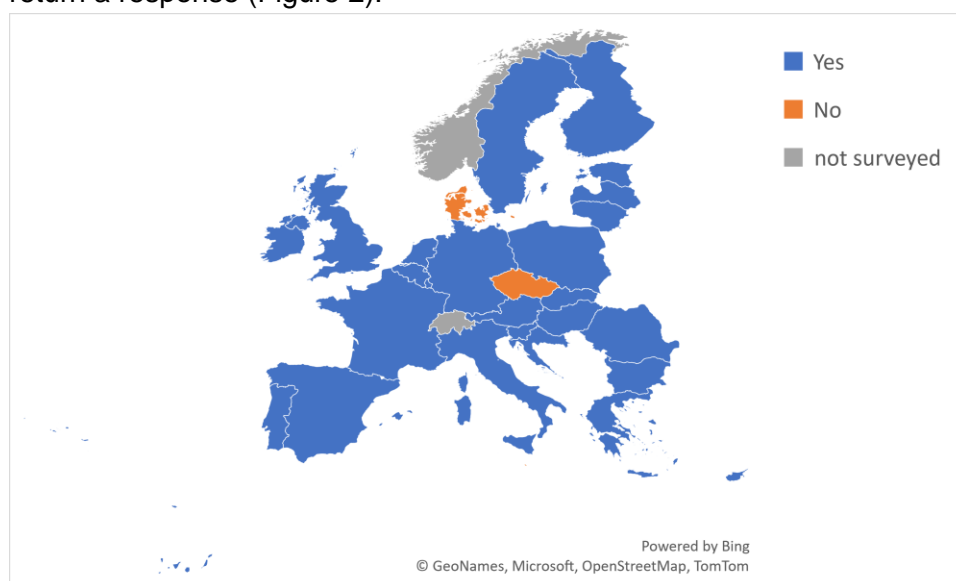
The next section of this Spotlight gives selected examples of social housing systems in other European countries. We provide these examples as way of comparison and areas for discussion; however this section **is not** a definitive and comprehensive summation of social housing systems across Europe.

### The European Centre for Parliamentary Research and Documentation

To investigate the legislative status concerning this issue in other European countries, a request for information was sent to the [European Centre for Parliamentary Research and Documentation](#) (ECPRD). The ECPRD's members are Parliaments where the President is a member of the European Conference of Presidents of Parliament. It is a community of parliamentary knowledge and has become an extremely useful mechanism for or inter-parliamentary cooperation and information exchange. The ECPRD network consists of the members of the European Parliament, the Parliamentary Assembly of the Council of Europe and parliamentary chambers where the President is a member of the European Conference of Presidents of Parliament. For this study, a request for information was sent through the ECPRD to the parliaments of the 26 other EU countries and the UK.

### Overview of responses received

Of these 27 countries, 24 responded with information and three (Czechia, Denmark, Malta) did not return a response (Figure 2).



**Figure 2. Countries which responded to the ECPRD request for information.**

Of the 24 responses received, the quality varied quite widely; some responses (e.g. Bulgaria) consisted of a simple paragraph stating that legislation and/or regulations in that country did not directly address the issue, while others (e.g. Finland) provided ample information including links to the text of relevant legislation and an overview of legal situation. For the purposes of this Spotlight, 10 responses were deemed sufficiently detailed to provide points of comparison to the Irish context, while the remaining 14 did not provide sufficient detail (see Table below). It should be noted that the data from other parliaments is provided by their parliamentary research services or

non-specialist parliamentary staff (who may not necessarily be experts in the subject area in question).

### Information quality in ECPRD responses

	Sufficient Information	Insufficient Information
1	Austria	Bulgaria
2	Belgium	Croatia
3	Finland	Cyprus
4	France	Estonia
5	Germany	Greece
6	Luxembourg	Hungary
7	The Netherlands	Italy
8	Slovakia	Latvia
9	Slovenia	Lithuania
10	UK	Poland
11		Portugal
12		Romania
13		Spain
14		Sweden

## Results

The responses from the 10 countries providing sufficient information were examined under the following headings:

- Does the country have specific legislation and/or regulations relating to social housing?
- What obligations regarding presence of mould do social housing providers have?
- What forms of redress are available to social housing tenants in these countries?

### Regulation of Social Housing

Dealing with mould in social housing across European countries involves a combination of national regulations, standards for housing quality, and specific measures aimed at preventing and addressing mould issues. Most European countries have comprehensive building codes and housing standards that apply to all types of housing, including social and private rentals. These standards typically cover ventilation, insulation, and moisture control to prevent mould growth.

Regular inspections and maintenance are crucial components of ensuring compliance with these standards, and landlords (both private and social) are usually responsible for maintaining the property in a habitable condition.

**Austria:** In Austria, 24% of housing stock is social housing<sup>27</sup> and there are no specific legal provisions specifically for social housing. Instead, the regional construction law and federal tenancy law are applicable to all tenancies.

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<sup>27</sup> [State of Housing in Europe 2023](#)



**Belgium:** In Belgium, social housing constitutes about 7% of the total housing stock. The responsibility for social housing primarily rests with the regional authorities or federated states. There are no specific regulations that address particular impairments or deficiencies in rental properties, such as black mould and damp. However, general rules are in place that apply to all types of housing.

**Finland:** Social housing represents about 13% of the housing stock.<sup>28</sup> Social housing is not regulated separately from other housing in Finland.

**France:** In France, 17% of housing stock is social housing.<sup>29</sup> The Code de la Construction et de l'Habitation (CCH) indeed imposes penalties for failing to maintain housing free from black mould and dampness. These penalties are not exclusively aimed at social housing providers; rather, they apply to any owner or occupier of the property, making them responsible for ensuring a mould- and damp-free environment.

**Germany:** Total social housing in Germany is 4% of the total housing stock. The main provisions regarding German tenancy law can be found in [Civil Code \(Bürgerliches Gesetzbuch, BGB\)](#), and there are no special provisions for social housing under German law.

**Luxembourg:** In Luxembourg, social housing accounts for 3.2% of the total housing stock.<sup>30</sup> There is “social housing” and “private housing used for social purposes”. Luxembourg subsidises the building of social housing through direct government support to publicly owned property developers and municipalities, and its [National Affordable Housing Strategy](#) is intended to increase the number of such properties available. Properties that have benefited from these supports are offered for rent by the [Fonds du Logement](#) (Housing Fund) are aimed at low-income households or non-profit associations which make housing available for vulnerable individuals.

Legal residents of Luxembourg can access social housing either directly from the state/third-party provider (e.g. [Société Nationale des Habitations à Bon Marché](#) (SNHBM)) or apply for [rent subsidy](#) which can be used to pay for some of the monthly rental costs. The subsidy amount varies depending on the applicant's domestic situation (e.g. single, married, number of children, etc.) and annual income of the applicant.

**The Netherlands:** Total social housing in the Netherlands is 29%. [Social housing](#) is defined as homes for which the initial monthly rent is under the then rent limit for [liberalised tenancy agreements \(private sector\)](#) (in Dutch).

Minimum requirements for existing housing stock in the Netherlands are provided in the Building Order which contains the minimum requirements to be met by newly built housing and by existing housing.

The Dutch Housing Act allows local authorities to set supplementary requirements in local building regulations. Most local authorities follow the model building regulations formulated by the Dutch Local Authorities Association. These include requirements on the availability of drinking water and energy, (fire) safety and the hygienic use of dwellings and other buildings.

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<sup>28</sup> Social Housing accounts for 23% of the housing stock in Austria

<sup>29</sup> [State of Housing in Europe 2023](#)

<sup>30</sup> Social Housing accounts for 23% of the housing stock in Austria

**Slovakia:** The percentage of social housing in Slovakia is 3-4%.<sup>31</sup> Slovakia has [specific definitions](#) for what social housing is, being housing provided by public funds or financed with the use of public funds. This housing usual takes the form of apartments, or another building for housing, if a special regulation so provides.

**UK:** Social housing accounts for 17% of the total housing stock. Social Housing is defined in the [Housing and Regeneration Act 2008 \(as amended\)](#). The UK have several statutory requirements under which social landlords have obligations for dealing with any reported instances of damp and mould in their stock.

[The Social Housing \( Regulation\) Act](#) 2023 amends the Housing and Regeneration Act 2008 and grants the Regulator of Social Housing (RSH) increased powers and introduces new measures to improve the standards, safety and operation of social housing. The bill was introduced in the House of Lords on 8 June 2022 and received royal assent on 20 July 2023. Many provisions need regulations before they can come into force and these are expected to be published in 2024.

## Legislative Requirements

### Austria

The Austrian Civil Code ([Allgemeines Bürgerliches Gesetzbuch – ABGB](#)). Section 1096 mandates landlords to provide the property to the tenant in a usable condition and maintain it in the same condition thereafter. This provision is particularly relevant when considering issues such as black mould, as the property's condition must be habitable and free from health hazards.

[Section 1117](#) provides tenants with the right to terminate the contract if there are defects in the rental property that pose a health risk.

The “Mietrechtsgesetz 1982” (MRG, Tenancy Statute) sets out the rights and responsibilities of tenants and landlords. Under this law, landlords are obligated to ensure that rented properties meet basic health and safety standards, which include addressing mould issues.

[Section 3](#) stipulates that landlords are required to rectify significant damage to the building and eliminate any health hazards emanating from the rental property.<sup>32</sup>,

In addition each of Austria's federal states has its own building codes, which set standards for construction and maintenance of buildings. Though black mould and damp are not mentioned in these requirements, they include requirements for ventilation, insulation, and moisture control to prevent mould growth. Compliance with these codes is mandatory, and failure to meet these standards can result in fines or other penalties for property own.<sup>33</sup>

### Belgium

Social housing companies must respect the right to decent housing under Article 23 of the Constitution. In addition, the Housing Lease Act (([Flemish Decree of 14/7/1997](#)) requires landlords to provide housing that is fit for habitation and to carry out necessary repairs to maintain this standard.

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<sup>31</sup> [State of Housing in Europe 2023](#)

<sup>32</sup> [AustriaBrochure\\_09052014.pdf \(uni-bremen.de\)](#)

<sup>33</sup> <https://www.stateofhousing.eu/#p=36>

Social housing falls within the competence of the regional authorities (federated states). For example, according to Article 20 of the Flemish Housing Code ([Flemish Decree of 14/7/1997](#)) it is a crime when a house or apartment that does not meet specific requirements and standards is put up for rent or made available for the purpose of living in it.

## Finland

There are no specific laws that directly address the issue of black mould and/or damp. The following however may be relevant and apply to all types of housing:

The Health Protection Act (763/1994) has wide ranging requirements for housing; accommodation or other residential space must not cause any “health harm” to residents.

Under Section 26 of the Health Protection Act, the indoor conditions of a dwelling, including cleanliness, temperature, humidity, noise, ventilation, light, radiation, and the presence of animals or microbes, must not pose a health hazard.

Section 27 of the Act specifies that if any conditions in the dwelling may cause a health hazard, then immediate measures shall be taken to investigate, remove or limit the harm and the factors that led to it. The responsibility for addressing the issue lies with the person(s) causing the issue; this is building owner if issues are caused by building structures, insulation or basic systems under their control, while tenants are responsible for remediation if the issue is caused by the unconventional use of the dwelling or other residential area.

In addition, the Decree on Health Protection (1280/1994) and the [Housing Health Decree](#), also have relevance.

## France

In French law, a distinction is made between the minimum comfort standards provided for in landlord and tenant rights and responsibilities, and the safety or hygiene rules that apply to everyone and are the responsibility of the public authorities.<sup>34</sup>

Under French tenancy law, landlords are obliged to provide tenants with decent accommodation where no obvious risks to the physical safety or health of the tenants exist. The right to decent housing has been enshrined in the constitution since 1995<sup>35</sup>. France’s decent homes Decree of 2002<sup>36</sup> defines the criteria that a dwelling shall meet in order to be rented out.

In 2000, France’s Law on Solidarity and Urban Renewal (SRU) and National Action Plan Against Substandard Housing were adopted<sup>37</sup>. The National Action Plan Against Substandard Housing means landlords can be held to account for housing that violates human dignity, and guarantees protection for the occupants. Regulations stipulate obligations on landlords, but also on local authorities, who are responsible for ensuring the safety and health of citizens.

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<sup>34</sup> Law no. 89-462 of 6 July 1989 on relationships between landlord and tenant (Article 6): [https://www.legifrance.gouv.fr/loda/article\\_lc/LEGIARTI000037670751/](https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000037670751/).

<sup>35</sup> Constitutional Council, Decision 94-359 DC of 19 January 1995.

<sup>36</sup> Decree no. 2002-120 of 30 January 2002 on decent housing features implementing Article 187 of Law no. 2000-1208 of 13 December 2000 on solidarity and urban renewal.

<sup>37</sup> Law no. 2000-1208 of 13 December 2000 on urban solidarity and renewal: <https://www.legifrance.gouv.fr/loda/id/LEGITEXT000005630252/2020-10-23/>

## Germany

Under German law, if any rental property, whether social or private, is found to have a defect or a defect arises during the lease period that makes the property unsuitable for the agreed use, then “the lessor [landlord] has an obligation to the lessee [renter] to remedy the defect”. A “defect” is defined simply as deviation of the actual state of the leased property from the contractually agreed desired state to the detriment of the lessee<sup>38</sup>, with the German courts having decided on what constitutes a defect on many occasions for individual cases. Renters are entitled to several redress measures where landlords fail to remedy these defects (see next section).

## Luxembourg

Black mould is not specifically mentioned in Luxembourgish legislation and regulations; however, there are several pieces of legislation and regulations in Luxembourg that have relevance to the prescribed standards for housing, both private and social housing, including specific mention of “damp” or “dampness”.<sup>39</sup>

[Article 4 of the Grand-ducal Regulation of 20 December 2019](#) stipulates that:

Dwellings, rooms and communal areas shall be protected against damp, cold, heat and draught.

No dwelling, room or collective space may have:

- 1° contamination of the air or dust with chemical contaminants or physical factors; or
- 2° a high concentration of micro-organisms caused by water leakage or infiltration, a thermal bridge, rising damp or a mechanical ventilation or air treatment system;

which may be detrimental to the health of the occupants.

## The Netherlands

Article 1a of the Housing Act provides for a ‘duty of care’ of property owners to ensure that no threat is posed to the health or safety of tenants.

Article 1b of the Housing Act is explicit; it forbids property owners from violating the Buildings Decree 2012 which stipulates detailed requirements and regulations regarding health, safety, usability, energy efficiency, waste disposal and the environment.<sup>40</sup>

The ‘Improvement of the Housing Act’s Enforcement Instruments Act’ introduced in January 2015 gave local authorities a number of ‘instruments’ to better tackle violations of the Housing Act. Through this new Act, local authorities can use a larger number of instruments under Administrative Law, which mostly include the imposing of remedial sanctions. These range from imposing Incremental Penalty Payments, and can escalate to more drastic actions such as expropriation.<sup>41</sup>

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<sup>38</sup> Häublein, in: Münchener Kommentar zum BGB, 9. Auflage 2023, Kommentierung von § 536 BGB.

<sup>39</sup> <https://legilux.public.lu/eli/etat/leg/loi/2019/12/20/a882/jo>

<https://legilux.public.lu/eli/etat/leg/rgd/2019/12/20/a883/jo>

<sup>40</sup> Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2012.

<sup>41</sup> [Report Unfit Housing EN Final.pdf \(housingrightswatch.org\)](#)

## Slovakia

Slovakia's [Act no. 355/2007 Coll.](#) contains multiple sections concerning health protection in the internal environment of buildings (not just housing), specifying in some detail the environmental specifications for building interiors. Building providers that operate buildings intended for public use are obliged to ensure indoor air quality does not pose a risk due to the presence of physical, chemical, biological and other health-damaging factors.

## UK

Currently all landlords (both social and private) have a duty under [section 11 of the Landlord and Tenant Act 1985](#) to keep in repair the structure and exterior of the dwelling house and keep in repair and proper working order the installations in the dwelling house for the supply of water, gas, electricity, sanitation, space heating, and heating water. Damp and/or mould arising from disrepair, such as a leaking roof, might amount to a breach of section 11.

Under the [Homes \(Fitness for Human Habitation\) Act 2018](#) all landlords have a statutory duty to ensure their properties are fit for human habitation at the start and throughout the tenancy. One of the factors considered in determining if a property is unfit is "freedom from damp". Properties must also be free of hazards as defined by the [Housing, Health and Safety Rating System \(HHSRS\)](#). Damp and mould and excess cold might amount to a category 1 hazard. Tenants can take legal action against their landlord for breaches of this statutory duty.

[The Environmental Protection Act 1990](#) applies where a tenant's home is suffering from a 'statutory nuisance'. The Act sets out circumstances which might give rise to a statutory nuisance, including: "... any premises in such a state as to be prejudicial to health or a nuisance". Dampness, condensation or mould growth are examples of defects in premises which are considered prejudicial to health. Housing association tenants can request an inspection by a local authority environmental health officer (EHO). Where a statutory nuisance is identified, the EHO must serve an abatement notice requiring the nuisance to be addressed. Tenants have the option of pursuing a private prosecution for statutory nuisance in a magistrate's court under section 82 of the 1990 Act. The magistrate's court can order the abatement of the statutory nuisance.

[The Decent Homes Standard](#) (DHS) is a non-statutory standard which was introduced by the 1997 Labour Government. Registered providers of social housing are required to meet the [Home Standard](#). This is one of four consumer standards set by the Regulator of Social Housing (RSH). The Home Standard refers to the DHS.

The Social Housing Regulation Act 2023 (known as Awaab's Law) is a recent UK law that significantly strengthens the rights of social housing tenants regarding mould and damp issues. Section 42 of [the Social Housing \(Regulation\) Act](#), requires social housing landlords to investigate and fix damp and mould in their properties within strict new time limits. Awaab's Law amends the implied repairing obligations in the Landlord and Tenant Act 1985. A new section 10A is inserted in respect of social housing tenancies only. It implies a term that the landlord will comply with 'all prescribed requirements that are applicable to that lease'.

In addition the [Regulator of Social Housing](#) (RSH) has been given greater powers to inspect properties, issue unlimited fines to landlords who fail to meet standards, and even intervene directly to carry out repairs if necessary. The RSH plays a role in ensuring registered providers of social housing adhere to the relevant consumer standards, including the Home Standard

The act also emphasizes the importance of tenant engagement and empowerment, ensuring that tenants have a greater say in the management of their homes and can hold landlords accountable for their performance.

## Dispute and redress

### Austria

[Section 39 of the Austrian Tenancy Act](#) (MRG) establishes the provision of a conciliation board by the municipality free of charge. This board serves as a mediator in disputes between landlords and tenants and are run by the respective municipal authority. They have been established in more than ten cities.

When the landlord does not implement a final decision by the conciliation board (or by a court), the tenant may apply for enforced administration under [section 6 of the Austrian Tenancy Act](#) (MRG).

[Section 27 \(6\) of the Austrian Tenancy Act](#) (MRG) provides that tenants can request the landlord to repair the mould issue and may be entitled to compensation for any damages caused by the mould. Penal provisions that may be applied in cases of non-compliance with court orders concerning repair works.

The tenant is entitled to a reduced rental cost under [section 1096 of the Austrian Civil Code](#) (ABGB). According to jurisprudence, no reduction is granted in cases of only superficial mould infestations that can be removed with commercial cleaning agents. In more severe cases, the reduction granted might be up to 100 percent of the rental costs.

### Belgium

Every resident of a rented building can apply to the municipality for an investigation into unsuitability or uninhabitability. The municipality itself can take the initiative in this regard as well.

Before submitting a complaint to the municipality, it is advisable to first submit a complaint to the Social Housing Company or Social Rental Office itself.

If this complaint does not yield the desired result (technical intervention to remove and prevent the fungus), a complaint can also be submitted to the Regional Ombudsman.

### Finland

When a person violates the [Health Protection Act](#) or neglects their obligations under the Act, the supervisory authority can oblige the person to rectify the unlawful action or neglect within a specified time limit. Under section 53 of the Act, the supervisory authority may, by decision, oblige the person concerned to rectify, within the time limit laid down by law, what has been unlawfully done or neglected. The Regional State Administrative Agency or the municipal health protection authority may intensify the prohibition or order issued under this Act by means of a periodic penalty payment or a threat that the neglected measure is carried out at the expense of the person responsible, or that the harming activity is suspended or prohibited.

A person who intentionally or negligently engages in activities harmful to health in violation of section 26 of the Act or violates a prohibition or restriction issued under section 27 shall be sentenced to a fine (Health Protection Act, section 54).

A person who intentionally or through negligence, in violation of the Health Protection Act or a provision issued under it, fails to submit a statutory notification or violates a prohibition or a regulation issued by an authority, shall be sentenced for a health protection violation to a fine or to imprisonment for at most three months (Criminal Code, ch. 44 section 2, p. 241–242).

A person who intentionally or through gross negligence, in violation of the Health Protection Act or a provision or regulation issued under it, acts in a way that endangers the life or health of another person shall be sentenced for a health offence to a fine or to imprisonment for at most six months (Criminal Code, ch. 44 section 1, p. 240–241).

If remediation works are required, it is possible to receive a “health inconvenience allowance” from the Housing Finance and Development Centre of Finland.

### **France**

If a dwelling does not meet minimum decency standards, tenants may take their case to a court of first instance, which can order the landlord to carry out works, and issue penalties, including, if necessary, a reduction in the rent by way of compensation.

In addition, the National Action Plan Against Substandard Housing means landlords can be held to account for housing that violates human dignity, and guarantees protection for the occupants. Regulations stipulate obligations on landlords, but also on local authorities, who are responsible for ensuring the safety and health of citizens. If there is a danger to the occupants, landlords should carry out remediation works and/or rehouse the occupants. The authorities must do this if the landlord fails to do so.

### **Germany**

When landlords fail to address “defects” that arise in rental properties, renters are entitled to redress. If these defects make the property unsuitable for the agreed use, then “the lessee [renter] is exempted from paying the rent for the period during which suitability is removed.”

For less serious defects, rent reductions apply for the period where the property has “reduced suitability”. German courts have stated that it is reasonable for a renter to expect that using the property is not a health risk, therefore that damp walls and the growth of mould are therefore generally classed as a defect. However, renters have no claims if they are responsible for mould or damp as a result of insufficient ventilation. Where the renters are not at fault then, in addition to remediation and rent reduction, they may seek damages under the Civil Code.

### **Luxembourg**

The law imposes a legal obligation upon the landlord or social housing provider to provide rental premises which are fit for habitation/fit to live in.

Article 4 of the [Law of 20 December 2019](#)<sup>42</sup> allows the Mayor to inspect rental dwellings to ensure they comply with housing standards. Where dwellings are non-compliant, Article 5 of the Law allows the Mayor to order the landlord to remedy the issues within a defined period or order the dwelling to close. Additionally, if a dwelling is closed the landlord is responsible for relocating the tenants, or be liable for the cost of relocation if unable to do so. Relocation costs must be paid up to a maximum of three months.

Article 7 of the stipulates that violations of Articles 2 and 3 are punishable by imprisonment for a period of 8 days to 5 years, a fine of between €251 and €125,000, or both of these penalties.

### **The Netherlands**

Local authorities are responsible for the granting of permits and the enforcement of local building regulations. Local authorities usually intervene in response to complaints from tenants.

The ‘Improvement of the Housing Act’s Enforcement Instruments Act’ empowers local authorities to impose remedial sanctions ranging from imposing Incremental Penalty Payments to

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<sup>42</sup> Full title: Law of 20 December 2019 on the criteria of health, hygiene, safety and habitability of dwellings and rooms rented or made available for residential purposes.

expropriation. A 2015 guide issued by the Dutch government presented an 'escalation ladder' classing the enforcement instruments from least to most severe<sup>43</sup>. The least radical sanction is considered to be the Incremental Penalty Payment where the property owner must pay a monetary sum for each day that the violation has not been undone or corrected (for example repairing an unsafe building). Local authorities are also entitled to issue an Administrative Enforcement Order in which they take matters into their own hands and undo the violation themselves. The property owner must consequently reimburse the local authority the price of this undoing. If these sanctions appears to be insufficient, harsher penalties can be issued such as a Closure Order; a Management Order in which the local authority takes over management of the premises; and finally, an Expropriation Order wherein the owner is dispossessed of the property or premises.

Since 2007, serious breaches of the Housing Act may be treated as 'economic offences' under the Economic Offences Act. These are not just corrective but punitive, and they target habitual or grave violators. Such cases are prosecuted by the Public Prosecutions Office, not local authorities. The intent behind the violation is crucial; deliberate acts are considered misdemeanors, leading to stiffer penalties. Punishments may include imprisonment, community service, fines, or penalties against a business, like suspension or seizure of assets and profits.

Section 257 of the Civil Code stipulates that temporary rent reductions may be used to compensate for defects in rental housing. The details of this form of compensation are laid down in the Rental Accommodation Order. The extent of the rent reduction depends on the severity of the defect. Defects must be reported to the Rent Review Board, which can order the rent to be reduced until the landlord has repaired the defects. In addition the tenant is empowered to have a defect repaired and to submit the bill for the work done to the landlord – as long as the latter was first given the opportunity to repair the defect in question himself within a reasonable period.

### **Slovakia**

Housing providers commit a public health offense if they do not ensure the indoor air quality under Section 57 of the [Act on public health](#). If mould (or other health risks) are detected during tenancy, then the [Public Health Authority](#) or Regional Public Health Authority can order measures such as decontamination of terrain, buildings, material and means of transport, performing mechanical cleaning, disinfection or sterilization of objects or spaces. Failure to remediate the health risk can result in fines of €150 - €20,000 depending on severity.

### **Slovenia**

Building inspectors (officials with specific powers and responsibilities under the Building Act) supervise compliance with the relevant Acts. Building inspectors may impose measures concerning the installation of products and construction products or materials (Article 92), or measures concerning a non-compliant construction (Article 95). The competent inspector first orders the remediation of irregularities within a specified time limit. In the case of forcible enforcement, the first fine imposed for a demanding building is between €50,000 and €200,000.

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<sup>43</sup> Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2015



## UK

Under [section 11 of the Landlord and Tenant Act 1985](#) a tenant can bring a County Court claim against the landlord for breach of an implied or express term in a tenancy agreement in breach of their section 11 obligations. The tenant can ask for an order of specific performance, to get the landlord to carry out work or damages for the breach.

Under the [Homes \(Fitness for Human Habitation\) Act 2018](#) tenants may have the right to take court action for breach of contract. If the court decides that the landlord has not provided their tenant with a home that is fit for habitation, then the court can make the landlord pay compensation to their tenant and/or make the landlord do the necessary works to improve their property

Under [the Environmental Protection Act 1990](#) tenants have the option of pursuing a private prosecution for statutory nuisance in a magistrate's court under section 82 of the 1990 Act. If the magistrates' court is satisfied that a statutory nuisance exists, it has the authority to order that the nuisance be abated (resolved) and/or award compensation to the affected party.

The Regulator of Social Housing (RSH) has been granted significantly enhanced enforcement powers under the Social Housing Regulation Act 2023. These powers can be exercised against registered providers of social housing (including housing associations and local authorities) who fail to meet regulatory standards.

### Enforcement Powers

1. **Unlimited Fines:** Section 94 of the Act provides that the RSH can impose unlimited fines on non-compliant landlords. This is a significant increase from the previous cap of £5,000 per breach. This power acts as a strong deterrent for landlords who may have previously considered minor fines as an acceptable cost of non-compliance.
2. **Public Notice of Non-Compliance:** Section 95 of the act provides that the RSH can issue public notices identifying landlords who have breached standards. This can damage a landlord's reputation and put pressure on them to improve.
3. **Performance Improvement Plans:** Under Section 96 of the act, the RSH can require non-compliant landlords to implement performance improvement plans, outlining specific actions and timelines for improvement. Failure to adhere to the plan can result in further enforcement action.
4. **Emergency Remedial Action:** In cases where there is a serious and immediate risk to tenants, section 97 of the act provides that the RSH can step in and take emergency action to rectify the situation. This could involve carrying out repairs, relocating tenants, or even taking over the management of the property.
5. **Prosecution:** In the most serious cases, Section 98 of the Act provides that the RSH can prosecute landlords for criminal offenses under the Act. This could result in further fines or even imprisonment for responsible individuals.

## Overview

Country	% Social Housing	Avenues for Tenant Complaints re breach of minimum standards	Redress Options
Ireland	9%	Local Authority (LA) Customer Complaints; Ombudsman, Residential Tenancies Board (RTB) for HAP/RAS	Repairs, rent reduction, relocation, court action (last resort)
Netherlands	31%	Tenants can report issues to the landlord/housing corporation, internal complaints procedure, independent complaints committee, or the municipality.	Incremental Penalty Payments, Administrative Enforcement Order, Closure Order, Management Order, or Expropriation Order.
Austria	24%	Tenants can terminate contracts if defects pose health risks. Conciliation boards mediate disputes, and tenants can apply for enforced administration or rent reduction with the Rent Review Board and/or Court	Repairs, rent reduction, termination of contract, damages.
France	17%	Tenants can report issues to local authorities (mayor, prefect).	Repairs, relocation, fines, potential prison for landlords
UK	17%	Tenants can bring claims for breach of contract, request inspections by environmental health officers, or pursue private prosecutions. The Regulator of Social Housing, Housing Ombudsman can also take action.	Relocation costs, repairs, compensation, court action, fines or imprisonment for landlords
Finland	17%	Municipal health protection authority, Regional State Administrative Agency	Investigation, removal of hazard, fines, imprisonment for landlords
Belgium	7%	Residents can request investigations into unsuitability or uninhabitability. Complaints can be made to the Social Housing Company, Social Rental Office, or Regional Ombudsman Social Housing Company, Regional Ombudsman, municipality	Investigation, potential technical intervention
Germany	4%	Tenants can request repairs, rent reduction, or termination of the contract if the landlord fails to address the issue.	Repairs, rent reduction, damages, termination of contract
Slovakia	3-4%	Tenants can report issues to Public Health Authority, Regional Public Health Authority, building inspectors	Decontamination, fines for landlords
Luxembourg	Data not provided	Tenants can report issues to the municipality, which can inspect housing for compliance	Repairs, fines, imprisonment for landlords

The UK and France both have a high percentage of social housing per total housing stock and appear to have the strongest protections for social housing tenants dealing with mould.

France also has a strong legal framework to combat inadequate housing, known as "habitat indigne", which includes provisions for addressing mould and dampness. The Public Health Code and the Housing Code outline landlords' obligations to maintain safe and healthy living conditions, and local authorities have the power to enforce these regulations. Tenants can report mould issues to local authorities, who can then investigate and compel landlords to take remedial action. In cases of non-compliance, landlords can face fines and even potential prison sentences.

The UK has a robust framework of laws and regulations to protect tenants including "Awaab's Law," which sets strict timelines for social landlords to address reported damp and mould issues. In addition the RSH is generally regarded as a positive force in the social housing sector, providing tenant protection and consumer regulation. The criticisms of the RSH focus on its limited scope<sup>44</sup> and insufficient enforcement powers<sup>45</sup> and advise strengthened its powers to enable it to protect tenants more robustly.

While Ireland does have a legal framework for addressing mould in social housing, the UK and France. have more explicit regulations and robust enforcement mechanisms. Ireland does not have a direct equivalent to the RSH. The Approved Housing Bodies Regulatory Authority (AHBRA) was established in 2021 to regulate approved housing bodies (AHBs), not covering other forms of social housing.

There is much to be learnt from the UK's approach, including the stricter timelines for addressing mould issues, enhanced enforcement through increased inspections and penalties for non-compliance. In addition, there is a need to ensure that all social housing tenants are treated equally, with access to an inspected dwelling and access to a complaints forum and redress.

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<sup>44</sup> <https://www.smith-institute.org.uk/>, <https://neweconomics.org/>

<sup>45</sup> A report by the Housing, Communities, and Local Government Committee (2019) criticizes the RSH's enforcement powers as insufficient, Shelter, a housing charity, advocates for stronger enforcement powers for the RSH: <https://england.shelter.org.uk/>

## Appendix 1

**Table 1: Forms of Housing Support for Low-Income Households. Source: Corrigan, Eoin; Watson, Dorothy (2018): *Social housing in the Irish housing market*, ESRI Working Paper, No 594, The Economic and Social Research Institute (ESRI), Dublin<sup>46</sup>.**

Name	Description	Administered by
L.A. completions & acquisitions	Dwellings owned by the LAs through direct build or acquisition under Part V of the Planning & Development Acts 2000-2015) or otherwise (e.g. purchase of second-hand dwellings).	L.A. (DHPCLG)
AHB completions & acquisitions	Dwellings owned by the AHBs. AHBs have been required to register tenancies with the Residential Tenancies Board since 2015.	Charity, registered with RTB
Local Authority or AHB long-term leased dwellings	Dwellings acquired on a long-term lease by LAs or AHBs and let to households assessed by LAs as in 'housing need' (i.e. on the 'waiting list'). Funded by the DHPLG through the Social Housing Current Expenditure Programme (SHCEP, formerly known and the Social Housing Leasing Initiative). Leases can last from 10 to 20 years (10 to 30 years for leasing by AHBs) or a Rental Arrangement of up to 10 years may be put in place. AHB's may lease units they own to LAs.	L.A. & AHBs. Funded by DHPLG
Medium- to long-term financial support for renting in private sector (RAS)	The Rental Accommodation Scheme (RAS) was introduced in 2004, to provide housing through the private market for long-term recipients of Rent Supplement (RS) that had been assessed as needing social housing. The scheme is delivered by LAs which source accommodation from the private market and enter into a tenancy agreement with the landlord and the RAS recipient. There are tenancies which are linked to the current tenant only and there are also agreements based on availability over a defined period, typically 4 years. The LA makes a monthly payment to the landlord linked to market rates (typically 8% lower than market rate, to represent the level of risk transferred to the LA). The tenant pays differential rent to the LA, which takes account of their ability to pay. Each contract includes a periodic rent review, typically every two years. As the RAS is now deemed to be a social housing support, LAs retain the responsibility to source further accommodation for a RAS household, should the dwelling that the household is living in become unavailable through no fault	L.A., DHPLG

<sup>46</sup> Corrigan, E. and Watson, D., 2018. [Social housing in the Irish housing market \(No. 594\)](#). ESRI Working Paper.

	of their own. Households may source alternative accommodation themselves, subject to it meeting their needs and conforming to standards for rental accommodation. RAS will be gradually replaced by HAP	
<b>Medium- to long-term financial support for renting in private sector (HAP)</b>	Housing Assistance Payment (HAP) was introduced on a phased basis to replace long-term RS and RAS. Like RAS, dwellings are provided through the private sector, the tenant must be assessed as being in housing need, the rent (which is subject to limits depending on the area) is paid directly to the landlord by the LA and the tenant pays the relevant 'differential rent' to the LA. HAP tenants may take up full-time employment while retaining the support. RS recipients who are assessed as being in long-term 'housing need' will be transferred to the HAP on a phased basis. Tenants source their own accommodation; once approved for HAP the LA expects tenants to remain in the property for at least two years.	L.A. (DHPCLG)
<b>Short-term financial support for renting in private sector (RS)</b>	Rent supplement (RS), first introduced in 1977, provides financial support for renting in the private sector to existing tenants who have a short-term difficulty in affording the rent. The tenant must have been living in the rented or homeless accommodation for at least 6 months of the last year; have been able to afford the rent at the beginning of the tenancy and have difficulty affording it now due to a substantial change in circumstances (e.g. unemployment). RS is administered by the DEASP. It is not available to people who are in full-time employment and is typically paid to people who are receiving a social protection payment.	Department of Employment Affairs and Social Protection (DEASP)

Table 2: Main forms of provision for broadly Social Housing from Corrigan, Eoin; Watson, Dorothy (2018): *Social housing in the Irish housing market*, ESRI Working Paper, No 594, The Economic and Social Research Institute (ESRI), Dublin.

Type of Tenancy	Direct Provision by LA/Leased by LA	Direct Provision by AHB/Leased by AHB	HAP – dwelling provided by the private sector paid by LA	RAS – dwelling provided by private sector paid by DEASP
Landlord	LA	AHB	Private Landlord	Private Landlord
Responsibility for maintaining minimum standards	<p>S 58 of the Housing Act, 1966 <b>Local Authorities are legally responsible for the management and maintenance of their housing stock.</b></p> <p>Social housing tenants should report relevant maintenance issues to their Local Authority.</p>	<p>Under AHB Leasing arrangements - <b>internal maintenance and repairs</b> of leased properties are the <b>responsibility of the AHB.</b></p> <p><b>Structural maintenance</b> of the property remains the <b>responsibility of the property owner.</b></p>	<p>The <b>landlord has the primary responsibility</b> for ensuring that the rental property meets the minimum standards as set out in the Housing (Standards for Rented Houses) Regulations.</p> <p><b>Local Authority's Role:</b> With HAP and RAS the LA makes the payment directly to the landlord on behalf of the tenant. Before doing so, the <b>LA usually requires the landlord to confirm that the property meets the minimum standards.</b> While this self-declaration is a part of the HAP process, <b>LAs also have the power to inspect rental properties to ensure compliance.</b> If a property is found to be non-compliant, the Local Authority can take enforcement actions against the landlord.</p>	
Tenant Complaint	<b>Customer Complaints Procedures</b>	<p><b>Residential Tenancies Board (RTB)</b></p> <p>Dispute resolution service</p> <ul style="list-style-type: none"> <li>➤ Adjudication or</li> <li>➤ Telephone Mediation.</li> </ul> <p>Damages can be awarded to case parties in a dispute.</p> <p>Or/and</p> <p>If dwelling not meeting <a href="#">minimum physical standards</a>, you can complain to the Environmental Health Service of your <a href="#">Local Authority</a>, which is responsible for ensuring that private rented accommodation <a href="#">meets these standards</a>.</p>		
If the Complaint not resolved	<b>Ombudsman</b> High Court Collective Complaint via the			

	European Committee of Social Rights (ECSR)	
<b>Inspections</b>	No inspections	<p>Housing Authorities <b>are responsible, through inspection, for determining whether a property meets the standards for rental accommodation and, where the property does not, for ensuring compliance through the use of improvement and prohibition notices and legal proceedings.</b></p> <p>A requirement of RAS and Hap is that the accommodation is compliant with the Standards for Rented Houses Regulations, and it should be inspected by the LA.</p> <p>Landlords and tenants are required to allow the Housing Authority access to the property to undertake inspections.</p> <p><b>A HA</b> may issue an <b>improvement notice/Improvement Letter</b> when a property is found to be non-compliant.<sup>47</sup></p> <p><b>A Prohibition Notice</b> is served when a landlord fails to comply with an Improvement Notice. It requires that a house shall not be re-let until the Improvement Notice has been complied with. It does not require the tenant to vacate the property nor can it be used as a reason for the landlord to terminate a tenancy</p> <p>S34 H(MP) Act 1992 provides that any person who by act or omission <b>contravenes</b> the Regulations or fails to comply with an improvement notice, or re-lets a house in breach of a prohibition notice shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both.</p>

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<sup>47</sup> Data from Dublin City Council show its environmental health officers (EHOs) issued 2,029 improvement letters to private landlords in the first six months of 2022 from the Irish Times 25<sup>th</sup> July 2022

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