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Ariane Burgess MSP, Convener  
Local Government, Housing and Planning  
Committee

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28 July 2023

Dear Convener,

Thank you for your letter of 23 June 2023 and for the opportunity to attend the committee session on 16 May 2023 to consider what actions we can take together to address damp and mould.

I have responded to each of the points in your letter as they were raised setting out the views of the Scottish Government.

Starting with what we are doing to establish the extent of damp and mould, our current data collection allows us a good understanding of the issue. I have provided a document with additional analysis from the 2019 survey which has been prepared by Scottish Government statisticians. You will see that this provides more information on condensation, damp and mould by tenure, dwelling age and dwelling type, as well as information on prevalence by Local Authority area, from the 2017-2019 dataset. For the 2022 Scottish House Condition Survey to be published in January 2024, we will provide detailed analysis on this topic as part of our key findings report.

You asked about increasing the urgency with which we are building new homes. We are committed to delivering our target of 110,000 affordable homes by 2032, of which at least 70% will be available for social rent and 10% will be in our remote, rural and island communities.

Recently published quarterly statistics show that in the year to end March 2023, a total of 10,458 affordable homes were completed, an increase of 7% (701 homes) on the previous year and 61% (3,979 homes) higher than in the year to end March 2021. This is the highest annual completions figure since the start of the series in 2000.

We continue to collaborate with all our partners to achieve our shared goal of delivering more affordable homes for Scotland and we will ensure the committee is kept up to date with our progress during this session.

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In relation to the timescales and effectiveness of repairs being carried out, our expectation would be, in keeping with best practice, that landlords regularly review and continue to improve how they meet existing obligations in relation to the reporting of repairs. Regular communication between landlords and tenants can help to encourage tenants to report problems as soon as possible, with an easy process including complaints handling where tenants are not satisfied with the response. The current requirements on landlords are to ensure that all necessary repairs to meet with minimum standards are completed within 'reasonable' timescales which will of course vary from case to case. This is especially true when it comes to the repairs necessary to address issues of damp and mould, where the causes are often complex. I therefore share the concerns expressed by stakeholders during Panel 1 on 16 May 2023 around setting out prescribed timescales in legislation for dealing with this type of issue.

However, it is important that when tenants raise the issues of damp and mould within their home, landlords must take swift action to mitigate any damage at the earliest opportunity to ensure the health of the occupants is safeguarded. This is why both the [Repairing Standard: Statutory Guidance for Landlords](#) and [Putting Safety First: a briefing note on damp and mould for social housing practitioners](#), highlight the importance of responding promptly. Action taken early can help to prevent problems of damp and mould developing. Any proactive approach must of course be balanced against the right of tenants to be able to benefit from quiet enjoyment of their home without constant checks from their landlords.

In terms of amending the definition in the Tolerable Standard, as the committee has noted, the Tolerable Standard, which covers all homes including those in the rented sector, requires homes to be substantially free from rising or penetrating damp and have satisfactory provision for ventilation, heating and thermal insulation. Although condensation and mould are not specifically mentioned as building faults that would lead to a home being considered sub-standard, the underlying causes that lead to damp and mould are covered by these existing elements and housing providers would be required to address any failings leading to damp and mould appearing.

We recognise that the causes of damp, condensation and mould can often be complex, which is why the guidance and advice that is provided to landlords is so important. This is why I was delighted to see the joint briefing note on damp and mould for social housing practitioners. The Scottish Government has also issued new statutory guidance for private landlords on 1 March 2023 which gives detailed advice on dealing with issues of damp. We will continue to work with stakeholders to ensure that the guidance provided for landlords sets out clearly what they are required to do when responding to reports of damp and mould. As we continue to take forward work on cross-tenure standards, we will also review what changes are required to ensure that the issue of condensation and mould is comprehensively covered in legislation as well as in advice and guidance.

We will continue to work constructively with stakeholders to ensure that we are able to meet the dual agenda on maintenance of existing housing stock and the building of more affordable homes.

While it is for social landlords to decide what is best for their business in terms of balancing their priorities, both aims of maintaining existing stock and delivering new build homes can be achievable without compromising tenant affordability, albeit that capacity will vary between social landlords dependent on their stock profile and business plans.

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We worked intensively with social landlords to develop an agreement on below-inflation rent increases for this financial year. These voluntary agreements have kept rents well below what they are in the private market and have limited rises this year, while allowing social landlords to continue investing in essential services such as home improvements and maintenance. The agreements were also based on the consultations which all social landlords have with tenants in advance of any rent changes.

Our Affordable Housing Supply Programme operates a flexible grant system, and we are making £3.5 billion available in this Parliamentary term towards the delivery of more affordable and social homes. We have also allocated Resource Planning Assumptions for the full five-year period of this current Parliament to ensure as much certainty as possible for the affordable housing sector.

I share the committee's disappointment that often tenants' lifestyles are cited for issues of damp and mould within the home. As previously noted, the causes of damp and mould in housing are often complex and I can understand that those addressing the issue want to look for a simple solution. However, assuming damp and mould is being caused by the way tenants live is not appropriate and detracts from dealing with the underlying issues that may be present in the property. I was therefore delighted to see this highlighted in the joint briefing note on damp and mould for social housing practitioners and to hear this view shared by stakeholders across the rented sector when they spoke to the committee. We will continue to ensure that this message is embedded in guidance that is available to landlords to help them respond appropriately to these issues.

As the committee notes, with a record budget of £30 million this year, our Fuel Insecurity Fund continues to provide a crucial source of direct support to households struggling with their energy costs who were at risk of severely rationing, or self-disconnecting entirely. Anyone can be supported regardless of which home they live in or fuel type through one of our partners. In addition, our Winter Heating Payment, launched earlier this year, will again provide an annual payment to some 400,000 low income households this coming winter, when the value of the support will be increased from £50 to £55.

With energy markets policy remaining reserved though, we will continue to call on the UK Government to take the additional, targeted action necessary to help those most in need of support with high energy bills. Following the two Energy Summits held last year by the former First Minister, the first meeting of the vulnerable energy consumers working group, chaired by the Minister for Energy and the Environment took place on 4 July 2023. The group agreed to take forward a range of collaborative actions, within our limited powers, to help mitigate the impact of high energy costs on consumers living within vulnerable circumstances. This group will explore any collaborative actions we can take within the limited powers available to Scotland as well as considering the calls for further action we want to make upon the UK Government ahead of the Autumn Statement.

In relation to the tribunal process for private tenants, I recognise that taking a dispute to a judicial body can be a stressful and difficult time. That is one of the reasons why the Housing and Property Chamber was designed to be accessible with no fees being charged, allowing people to engage directly with the First-tier Tribunal, where legal representation is not the norm.

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The Housing and Property Chamber enables a less adversarial approach in comparison to the Sheriff Court and the Tribunal makes provision for different types of representation to support parties. For example, depending on the party's circumstances, tenants may wish to instruct legal or lay (non-legal) representation (sometimes a friend, family member or third sector representative). A party may also have a supporter in attendance.

It is right that we continue to ensure that tenants are aware of their right to escalate issues relating to repairs. This is why we ran a Renters Rights marketing campaign in 2022 which aimed to raise awareness of the rights that PRS tenants have, particularly amongst more vulnerable groups. This campaign included information on rights in relation to repairs and maintenance, alongside information on landlord registration, rent increases and illegal evictions. As we continue to develop and strengthen tenants' rights, we will engage with stakeholders to understand what more can be done to ensure that private tenants are empowered to realise their rights in relation to the standard of their home.

On the subject of compensation for tenants whose homes have suffered from damp and mould, although there are currently no provisions to allow for this within the Repairing Standard legislation, the First Tier Tribunal (Housing and Property Chamber) does have the ability to issue a Repairing Standard Enforcement Order (RSEO). Where a landlord fails to comply, The Tribunal may also issue a Rent Relief Order (RRO) which restricts the rent payable until the RSEO has been complied with. In the social sector, although tenants have the right to compensation where qualifying repairs are not completed within set timescales, this does not necessarily include the issue of damp and mould. This acknowledges that repairs to address the root causes can be complex, that the timescales involved can vary greatly from case to case and that setting out prescribed timescales can encourage a practice of short term fixes rather than action to address root causes. While we have no current plans to introduce additional rights to compensation for tenants, we will continue to monitor what is necessary to ensure that landlords comply with the minimum standards.

With regards to the ongoing work to identify and promote good practice in the management of mould and dampness and how the Scottish Government can contribute, this project is being led by the Scottish Housing Regulator (SHR) under its statutory objective to protect the interests of tenants and other service users. I most recently met with SHR CEO, Michael Cameron, and Chair, George Walker on 22 June 2023 and will continue to meet with them on a regular basis to identify if further support is needed for this work. My officials are also in close contact with their SHR counterparts. Given the importance of this regulatory work, we will continue to keep in close touch for updates and I will be happy to offer any support that they need in relation to this.

Finally, as we progress towards our long-term vision set out in Housing to 2040, it is important that we are aware of the pressures that household budgets are facing due to the current cost crisis. This is why we have prioritised measures to protect households from the worst impacts. We will shortly set out our plans to move forward with work on cross-tenure housing standards and I look forward to updating members in due course.

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As Housing Minister, I am determined to ensure we continue to make progress in improving Scotland's housing, including eradicating the serious issue of damp and mould. I will ensure that this issue continues to be given high priority. I look forward to continuing to work with the committee and with our stakeholders to ensure that the condition of our housing continues to improve.

Yours sincerely,

**PAUL MCLENNAN**

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