

# Breaking the Mould: Water Ingress Building Defects and the Scourge of Black Mould

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1. 'Black mould' is a very serious, sometimes deadly, consequence of water ingress building defects. Water ingress building defects are prolific, and issues and effects of mould growth are disturbingly common, particularly coming to the end of winter in Britain.
2. Sadly, since the 2017 fire at London's Grenfell Tower, the problems arising from water ingress defects have tended to be eclipsed by those arising from the proliferation of combustible aluminium composite panel (**ACP**) façade cladding. The ACP problems have been the focus of intensive legislative, regulatory, and community attention. This is largely because the risk of catastrophic fire is dramatic, easy to understand, and spectacular so as to generate widespread fear and panic. The ACP problem arises because of the prolific use of ACP.
3. Water ingress defects and their consequences, on the other hand, can be complex. The significance of the problem is mundane rather than dramatic, and can be difficult to detect and for the community to understand. In the case of mould, it is often difficult to differentiate a building defect from a question of home maintenance.
4. It can be difficult to distinguish a case of dangerous mould from the relatively mundane instances of mould, fungus, and mildew that are part and parcel of normal living. Further, although mould multiplies and grows quickly, it can be contributing to health effects for a long time before its presence is detected. Further still, the health effects can present gradually, and are often mistaken for other conditions – such as colds, asthma and hay fever and the like, meaning that detection and action can be long delayed, and in many instances, overlooked.
5. There is, however, a growing realisation that the problems arising from the mould growth consequent on water ingress, substandard ventilation, and poor design are very serious.

It is a serious, and in some instances, deadly, health concern. Sadly, exactly how serious these problems are was shown in the tragic death of 2 year old Awaab Ishak in 2020.

6. Awaab lived with his family in Rochdale in council accommodation when he died from severe breathing problems caused by the effect of mould to his blood and lungs. The sad passing of this young boy led to a government response directed to council authorities that provide such accommodation. However, the problems of water ingress, poor design, and the consequent presence of black mould is not limited to council housing.
7. Of the 300,000 odd types of mould or fungus in the normal environment, a many can be found in the home and, whilst none are particularly good in concentration, a handful of these are truly dangerous. Moulds can present in a variety of ways with different appearance and textures. They can be in a variety of colours such as blue, green, white, black or even yellow. Sometimes the presence of mould on a surface can be mistaken for a stain, a discolouration, or even shadow.
8. The term 'black mould' can cover several mould types, most commonly 'Aspergillus Niger' and 'Stachybotrys chartarum'. It need not always be black. Sometimes, black mould presents as dark green, and sometimes with a blueish hue.
9. In most cases, black mould in a home grows in a cold, wet, humid environment having sub-optimal air circulation. Accordingly, water ingress building defects, by definition, involves the entry of moisture into a home environment in uncontrolled ways. Water entry during a cold, wet winter, where the inhabitants keep windows closed and orient around a heater provides an ideal environment for mould growth.
10. As a rule of thumb, mould grows more often where you least often look. It often appears in basements, in roof spaces, behind walls, under carpets, in crevices, corners, and cornices, behind refrigerators and white goods, in bathrooms & laundries, in attics, cupboards and wardrobes – particularly backing on to bathrooms. Very often it appears behind furniture or in the top corners of rooms.
11. It can grow on a wide range of surfaces including wood, paper, fabric, glass, and even plastic. It has a particular attraction for cellulose products such as wood where it can penetrate and effect far below the surface of the product. Because these products can absorb water, they can create a particularly rich growth environment for mould, making cleaning and removal an extensive, and expensive, exercise. Mould in wood products can add to, and even accelerate the rot and degradation of the material itself. The mould and

decomposition can also provide a hospitable environment for household pests, such as termites, and other vermin.

12. From a building defect perspective, black mould can be the product of water ingress defects as well as design deficiencies, relating to water and ventilation management. Water ingress and mould is no respecter of legal title, a water ingress problem in one apartment or adjacent house can lead to a problem emerging next door, or upstairs or downstairs.
13. In very general terms, the best known health effects of mould arises from the release of microscopic spores into the air and the production of mycotoxins, which can enter the body through breathing or through the eyes, nose, wounds, and even the skin. This can cause breathing problems, coughs, and headache. Mould growth can also lead to the growth of microbes and bacteria which, themselves, can lead to serious health problems.
14. At greater risk for these conditions are the elderly, the very young, as well as people with compromised health conditions – including those suffering from Covid-19 infection, and pulmonary conditions deriving from smoking.
15. Detecting and treating a serious instance of black mould can require specialist treatment with protective clothing and eyewear, as well as breathing apparatus. Improper attempts at cleaning and removal can make matters worse, disturbing and so generating even more dangerous mould spores.
16. For those concerned with building development, these serious consequences of water ingress building defects are yet another example of the pervasive effects of diminished quality of building work. In that sense, water ingress building defects have the same ultimate cause as the ACP problem, namely diminished building standards, diluted oversight & responsibility, the law's gaps in allowing those that suffer from poor quality buildings to seek compensation from those actually responsible for the poor quality all of which led to a culture of short term opportunism and the commercial benefits available to those that are prepared to take short-cuts in the building process, where both the short-cut and the consequences of that short-cut are not immediately known.
17. Claims involving the effects of mould in buildings is already a common feature of building defect litigation in Australia and in the United States. It surely will not be long before it becomes a prolific feature of building defect claims in Britain. The health effects and the expense in rectification make the issue a significant one in money terms.

18. Accordingly, the problems associated with water ingress and ventilation defects, should be of great concern to builders, architects & designers, developers, purchasers, investors, as well as being an issue for mortgagees, banks, and financiers. In one instance, in current litigation in Australia, the mould component of the claim far exceeds the direct cost of rectification of the water ingress defects themselves. The mould problem can have a devastating effect upon a building's value.
19. Strangely, the answer might well lie in popularising such claims. History and experience tells against the broad and lasting success in arming a building regulator with the sort of vaguely cast, draconian powers that are seen in the *Building Safety Act 2022*. Once those who incur the real cost of addressing water ingress defects and cleaning and removing mould can visit those consequences upon those that had the ability to prevent such problems, there will be both proper compensation for shoddy works and lazy short cuts and a real, commercial incentive to have the work done properly in the beginning.

The problems of water ingress and mould, as well as those posed by ACP cladding, are not new. The ACP problem did not start in 2017. The seriousness of the mould problem did not start in 2020. It is appalling that it took the devastating death of 2 year old Awaba together with the tragic deaths of 72 people in the Grenfell Towers to cause the authorities to take notice. What more is required before we see reasoned, effective, long-term action?

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