

Agenda Item IMD8

INDIVIDUAL EXECUTIVE MEMBER DECISION

REFERENCE IMD: 2024/08

TITLE	IEMD: Awaab's Law Consultation on timescales for repairs in the social rented sectors)
DECISION TO BE MADE BY	Leader of the Council and Executive Member for Housing - Stephen Conway
DATE, MEETING ROOM and TIME	2 April 2024 LGF4, 02/04/2024, 10:30-10:45
WARD	(All Wards);
DIRECTOR / KEY OFFICER	Director, Place and Growth - Giorgio Framaliccio

PURPOSE OF REPORT (Inc Strategic Outcomes)

To approve Wokingham Borough Council's Interim Position Statement submitted on the 5th March 2024 to the Government's consultation titled 'Awaab's Law Consultation on timescales for repairs in the social rented sectors. The consultation seeks input on proposed requirements and timeframes for repairs in social housing, aiming to enhance safety and living standards for residents.

RECOMMENDATION

That the Executive Member for Housing authorises Wokingham Borough Council's response to this consultation as set out in Enclosure I of this report. This response was submitted as an Interim Position Statement on 5th March 2024.

SUMMARY OF REPORT

The Council indicatively supports the aim of Awaab's Law proposals. We recognise the importance of these issues and the need to address them effectively. As a caring authority committed to the well-being of our residents, our observations are focused on ensuring that all policies are implemented to support our ambition of safeguarding the health and safety of our community. To this end, our consultation responses focus on how we can best implement these changes. For example, there is a need for clearer policy wording regarding defining "significant risk to health or safety." Concerns also include inconsistencies in hazard classification, outdated datasets informing assessments, and implications for addressing various hazards. Additionally, challenges arise with enforcing tight timelines for repairs, potential cost implications, and alignment with existing allocations policies. Addressing these questions will enable the Council to effectively implement these important new measures.

Background

On 21 December 2020, Awaab Ishak passed away because of a severe respiratory condition due to prolonged exposure to mould in his home. His parents had complained to their landlord, who not only failed to take action to address the hazards in the Ishak family's home but blamed the family for the extensive mould in the property. The death of Awaab brought to light the urgent need to eradicate these hazards from social homes and improve standards across the sector. The aim of this policy change is to ensure that this tragedy never occurs again, and that all social renters have access to the safe and decent social homes they deserve. According to the English Housing Survey, around 935,000 of all homes in England had damp problems in 2021, with 4% of these homes are in the social rented sector. Damp and mould growth not only poses health risks but also impacts mental well-being, particularly among vulnerable groups.

Following the death of Awaab, Manchester Evening News, Shelter and the Ishak family led a campaign for 'Awaab's Law'. The Secretary of State for Levelling Up, Housing and Communities gave his backing to campaigners' calls for Awaab's Law, and the department has worked carefully through the campaign's recommendations, discussing them with representatives of the Ishak family and campaigners.

The Regulator of Social Housing received numerous referrals for breaches of the Decent Homes Standard due to damp and mould. Housing Ombudsman data shows a significant increase in complaints related to damp, mould, and leaks, indicating the severity of the issue. Efforts to address damp and mould include new guidance developed by health authorities and ongoing reviews of housing regulations, such as the Housing Health and Safety Rating System (HHSRS).

On 20 July 2023, Awaab's Law entered the statute book through Clause 42 of the Social Housing (Regulation) Act. Awaab's Law effectively inserts into social housing tenancy agreements a term (called an implied term) that will require landlords to comply with new requirements, to be set in detail through secondary legislation. This means all registered providers of social housing (also referred to as 'social landlords') will have to meet these requirements and, if they fail to do so, tenants will be able to hold their landlords to account by taking legal action through the courts for a breach of contract.

This consultation seeks views on the specific requirements to be set and how these obligations will impact on residents and landlords. Government is consulting on proposals for:

1. timescales for initial investigations of potential hazards.
2. requirements to be placed upon landlords to provide written summaries of investigation findings.
3. timescales for beginning repair works.
4. timescales for completing repair works.
5. timescales for emergency repairs.
6. the circumstances under which properties should be temporarily decanted to protect residents' health and safety
7. requirements to be placed upon landlords to maintain adequate record keeping throughout repair works.

Business Case (including Analysis of Issues)

Implementing Awaab's Law Proposals –

The Council broadly agree with the proposals outlined in this consultation; however, more clarity is needed on hazard definition. The proposal lacks specificity on what constitutes a significant risk which could potentially lead to confusion in hazard identification. Additionally, it is important to note that the HHSRS assessment was created using data from the early 2000s from NHS admissions data relating to national public health and the causes of hospital admissions. In addition, there seems to be contradiction in Point 140 regarding its application to all Category 2 hazards, necessitating the need for clear definitions to avoid ambiguity. Furthermore, if overcrowding is considered a hazard under the HHSRS, mandating its resolution within specified timeframes may strain local authorities' resources to provide suitable alternative accommodations. This obligation conflicts with existing allocations policies, complicating the housing needs assessment process.

Proposal 1 proposed an **Investigation Timeline and Medical Evidence**. The Council agrees with the 14-day investigation timeline and the absence of a requirement for medical evidence. However, concerns are raised regarding funding for issuing written summaries within 14 days.

Proposal 2 discusses the **requirements to be placed upon landlords to provide written summaries of investigation findings**. While acknowledging the necessity of these summaries, concerns arise about about funding constraints hindering timely issuance of written summaries within 14 days. Without additional funding for administrative tasks, issuing reports within 14 days becomes challenging. We suggest extending the permitted period for issuing summaries beyond 48 hours if additional funding is not provided to ensure feasibility and compliance.

Proposal 3 addresses **Commencing Repair Works**. While agreeing to begin repairs promptly, enforcing commencement within 7 days poses challenges. There is an issue with legally enforcing registered providers to commence repair work within 7 days or risk a legal penalty because forcing commencement within a short time does not permit detailed assessment of complex issues whereby a more considered approach may be required. In addition, access issues could mean that despite the registered provider's best efforts, outside factors mean that the work will not be able to start. It would be a concern that, in these instances, registered providers were penalised for factors outside their control.

The Council also agrees with Proposal 4 regarding **Completing Repair Works within a reasonable time**, ensuring resident needs are considered. However, more clarity on the definition of "reasonable time period" is required.

Moving to Proposal 5 **timescales for emergency repairs** within 24-hour timeline. We are concerned about operational challenges in addressing emergency repairs within 24 hours as there should be clear guidance as to what a registered provider should do if, for valid reasons, they are not able to action the emergency repairs within 24 hours. Additionally, more clarity on what constitutes an 'emergency repair' would be beneficial to ensure all registered providers are working to the same standards.

Proposal 6, **the circumstances under which properties should be temporarily decanted to protect residents' health and safety**. We agree on providing temporary accommodation if the property cannot be made safe within specified timelines. However, cost implications require careful consideration.

Finally, Proposal 7 on **Compliance Records and Defence Provision**. We understand and agree with maintaining compliance records and providing a defence for non-compliance due to genuine reasons beyond control as it ensures transparency and fairness.

Regarding the **Impact Assessment about Cost and Benefits on providers**. We believe that the proposals outlined in these proposals will incur significant additional costs. This is because the scope of the proposals is vast and includes electrical hazards, broken boilers, other emergency repairs as well as damp and mould to be completed within 24 hours of identification. Therefore, the scope of these proposed policy changes will have a significant impact on the operational cost of identifying and remedying any faults that are classed as high-risk. This additional cost will be incurred at a time when registered providers are already experiencing mounting financial pressure, especially regarding asset management and cyclical and responsive repair maintenance as well as energy efficiency measures.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces unprecedented financial pressures as a result of; the longer-term impact of the COVID-19 crisis, Brexit, the war in Ukraine and the general economic climate of rising prices and the increasing cost of debt. It is therefore imperative that Council resources are optimised and are focused on the vulnerable and on its highest priorities.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	N/A	N/A	
Next Financial Year (Year 2)	N/A	N/A	

Following Financial Year (Year 3)	N/A	N/A	
-----------------------------------	-----	-----	--

Other financial information relevant to the Recommendation/Decision

It is a consultation response thus there will be no financial implications. However, should the changes come into effect, more information is required from government as to the impact this will have on local government finances. Further impact analysis will be carried out when there is more clarity of the legislative requirements from Government. The proposed legislative changes are likely to have an impact on both resource and finances for the Council

Cross-Council Implications (how does this decision impact on other Council services, including property and priorities?)

The business case outlined above, while focusing on improving the response to housing hazards through Awaab's Law, has several potential impacts on other council services and priorities, particularly in property management and resource allocation:

1. **Resource Allocation:** Implementing Awaab's Law requires allocating resources for increased administrative capabilities to meet the proposed timelines for hazard investigation and reporting. This could potentially divert resources from other council services, impacting their efficiency and effectiveness.
2. **Property Management:** The proposed requirement for social landlords to investigate hazards within 14 days and provide written summaries of findings could strain property management resources. It may necessitate reshuffling priorities and reallocating staff to ensure compliance, potentially impacting other property management tasks such as routine maintenance and tenant services.
3. **Emergency Repairs:** While Awaab's Law aims to improve response times for hazard repairs, concerns have been raised regarding the feasibility of addressing emergency repairs within 24 hours. This could impact other council services if resources are diverted to address emergency repairs at the expense of planned maintenance or other priority projects.
4. **Financial Impact:** The additional costs associated with implementing Awaab's Law, such as increased administrative expenses and expedited repair works, may strain the council's budget. This could potentially lead to trade-offs between funding Awaab's Law initiatives and other council priorities, such as social services or infrastructure projects.
5. **Policy Alignment:** The proposals outlined in Awaab's Law may necessitate alignment with other council policies, particularly those related to property management, housing allocation, and service standards. Ensuring consistency across policies and practices will be essential to avoid conflicting priorities and ensure effective service delivery.

Overall, while Awaab's Law aims to improve housing safety and tenant well-being, its implementation may have ripple effects on other council services and priorities, requiring careful consideration and strategic planning to balance competing demands and resource constraints.

Public Sector Equality Duty
As part of this decision, due regard has been taken to the Public Sector Equality Duty. The equalities implications of the recommendation were discussed, and an Initial Equality Impact Assessment (Stage 1) document has been completed accordingly as per Enclosure 2.

SUMMARY OF CONSULTATION RESPONSES	
Director – Resources and Assets	
Monitoring Officer	
Leader of the Council	

For Highways use only	
<i>If your item is not about highways matter you do not need to complete the Town and Parish Council information or the Local Ward Member information</i>	
Town and Parish Councils	
Local Ward Members	

Reasons for considering the report in Part 2

List of Background Papers
Enclosure1- Stage 1 - EqIA - IEMD Awaab's Law

Contact Ruby Shekhawat	Service Place Commissioning
Telephone No 01182378501	Email ruby.shekhawat@wokingham.gov.uk