

## **Awaab's Law: Consultation on timescales for repairs in the social rented sector**

206/149 (noise nuisance) - On 21 December 2020, Awaab Ishak died as a result 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 in fact blamed the family for the extensive mould in the property. The tragic death of Awaab brought to light the urgent need to eradicate these hazards from social homes and improve standards across the sector. The goal must be to ensure that this tragedy never occurs again, and that all social renters have access to the safe and decent social homes they deserve.

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.

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. In particular, we are 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; and
7. requirements to be placed upon landlords to maintain adequate record keeping throughout repair works.

### **Scope of Awaab's Law: Hazards**

5. Do you agree that Awaab's Law should apply to all HHSRS hazards, not just damp and mould?

Yes

No

6. Do you agree the right threshold for hazards in scope of Awaab's Law are those that could pose a significant risk to the health or safety of the resident?

Yes

No

7. If you have answered 'no' to any of the questions in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion.

Whilst we broadly agree with the sentiment of the proposed changes, there is a need to be clearer in the proposed policy wording as to what will constitute a 'significant risk to the health or safety of the resident'. Specifically, point 140 of the consultation contradicts itself in that it states that Awaab's Law will use the HHSRS assessment to determine which hazards qualify but that the proposal does not apply to all category 2 hazards. We request that this point is clarified in order to ensure that all hazards are clearly defined and that there is no blurred lines when identifying qualifying hazards.

Additionally, the HHSRS assessment was created using data from the early 2000's from NHS admissions data relating to national public health and the causes of hospital admissions. Since then, awareness of the implications of damp and mould has increased leading to significantly more hospital admissions being attributed to poor housing conditions and damp and mould. Therefore, the proposed changes need to be made clearer to ensure there is no confusion as to what amounts to a significant hazard. This includes clarity on what the different levels of individuals health are that would elevate a risk to a Category 1 hazard that would need to be repaired within 24 hours.

In addition, the proposal that all works must be started within 7 days does not permit through investigation of more complicated structural issues that may require more thorough planning prior to commencement. Furthermore, there is a question over whether registered providers will be able to get value for money if outsourcing of complex work is required to specialist contractors as it could be challenging to complete necessary procurement exercises in this timescale. In turn, 'no win/no fee' firms could benefit from the proposals and hamstring registered provider's legal and financial capacity if not able to conform to the legislation and there is not scope for registered providers to avoid punitive measures if processes have been correctly adhered to.

Finally, if over-crowding is deemed a hazard within the definition of the HHSRS, and registered providers are legally bound to resolve these issues within specified time periods, there is concern it will raise costs for local authorities to accommodate affected residents in suitable alternative accommodations. Furthermore, it clashes with local authorities' allocations policies which assess housing need based on factors including over-crowding.

### **Proposal 1: Initial investigations of potential hazards**

Proposal 1: If a registered provider is made aware of a potential hazard in a social home, they must investigate within 14 calendar days to ascertain if there is a hazard.

8. Do you agree with the proposal that social landlords should have 14 calendar days to investigate hazards?

Yes

No

9. Do you agree that medical evidence should not be required for an investigation?

Yes

No

10. If you have answered 'no' to any of the questions in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion.

### **Proposal 2: Written summaries of investigation findings**

Proposal 2. Within 14 calendar days of being made aware that there is a potential hazard in a social home, the registered provider must provide a written summary of findings to the resident that includes details of any hazard identified and (if applicable) next steps, including an anticipated timeline for repair and a schedule of works.

11. Do you agree with the proposal for registered providers to provide a written summary to residents of the investigation findings?

Yes

No

12. Do you agree with the minimum requirements for information to be contained in the written report?

Yes

No

13. Do you agree registered providers should have 48 hours to issue the written summary?

Yes

No

14. If you have answered 'no' to any of the questions in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion.

Unless additional funding for the administration, creation and issuance of these reports is provided, it will be challenging for registered providers to issue written summaries in such a short time period. If additional funding to support increased administrative capabilities is not provided then the permitted period to issue the written summary should be increased beyond 48 hours.

### **Proposal 3: Beginning repair works**

Proposal 3 – If the investigation indicates that a reported hazard poses a significant risk to the health or safety of the resident, the registered provider must begin repair works within 7 calendar days of the written summary being issued.

15. Do you agree with the proposal that if an investigation finds a hazard that poses significant risk to the health or safety of the resident, the registered provider must begin to repair the hazard within seven days of the report concluding?

Yes

No

16. Do you agree that in instances of damp and mould, the registered provider should take action to remove the mould spores as soon as possible?

Yes

No

17. Do you agree with the proposed interpretation of 'begin' repair works?

Yes

No

18. If you have answered 'no' to any of the questions in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion.

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 period 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.

#### **Proposal 4: Completing repair works**

Proposal 4 – The registered provider must satisfactorily complete repair works within a reasonable time period. The resident should be informed of this time period and their needs should be considered.

19. Do you agree that the registered provider must satisfactorily complete repair works within a reasonable time period, and that the resident should be informed of this time period and their needs considered?

Yes

No

20. If you have answered 'no' to any of the questions in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion.

#### **Proposal 5: Timescales for emergency repairs**

Proposal 5 – The registered provider must action emergency repairs as soon as practicable and, in any event, within 24 hours.

21. Do you agree that timescales for emergency repairs should be set out in legislation?

Yes

No

22. Do you agree that social landlords should be required by law to action emergency repairs as soon as practicable and, in any event, within 24 hours?

Yes

No

23. If you have answered 'no' to any of the questions in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion.

We have concerns over enshrining this responsibility in law due to the operational challenges involved with addressing emergency repairs within 24 hours. 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: Decanting if the property cannot be made safe immediately**

Proposal 6 – In the event that the investigation finds a hazard that poses a significant, or a significant and imminent, risk of harm and danger, and the property cannot be made safe within the specified timescales of Awaab's Law, the registered provider must offer to arrange for the occupant(s) to stay in suitable accommodation until safe to return.

24. Do you agree that landlords should arrange for residents to stay in temporary accommodation (at the landlord's expense) if the property can't be made safe within the specified timescales?

Yes

No

25. If you have answered 'no' to the question in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion.

### **Proposal 7: Record Keeping**

Proposal 7 – The registered provider will be expected to keep clear records of all attempts to comply with the proposals, including records of all correspondence with the resident(s) and any contractors. If the registered provider makes all reasonable attempts to comply with the timescales but is unable to for reasons genuinely beyond their control, they will be expected to provide a record of the reasons that prevented them from doing so.

26. Do you agree that Awaab's Law regulations should include provisions for a defence if landlords have taken all reasonable steps to comply with timeframes, but it has not been possible for reasons beyond their control?

Yes

No

27. If you have answered 'no' to the question in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion.

### **Impact Assessment – assessing the costs and benefits of Awaab's Law**

Alongside this consultation, we have published an impact assessment to estimate the costs and benefits of the proposals for Awaab's Law.

28. Do you agree with the assessment that proposals 1, 3, 4, 5, 6 and 7 will create small net additional costs to the sector?

Yes

No

29. If not, please can you provide additional information?

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 in regards to asset management and cyclical and responsive repair maintenance as well as energy efficiency measures.

30. Do you agree with the assessment of the net additional costs of proposal 2?

Yes



No

31. If not, please can you provide additional information?

32. Do you agree with the assumptions we have made to reach these estimates?

Yes

No

33. If not, please can you provide additional information?

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