

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

The Property Care Association (PCA) is the UK's leading representative organisation for the protection of buildings. Championing high standards of professionalism, providing guidance, expertise, and advice for homeowners and professionals.

Our skilled and audited membership operates across domestic, commercial and civil sectors in the structural repair, structural waterproofing, timber preservation, damp protection, flood remediation, residential dwelling ventilation and invasive weed control industries.

With strict membership criteria, comprehensive training programmes and a wealth of information for professionals and homeowners, the PCA and its members help protect the integrity and comfort of existing buildings and new build providing a reliable source of guidance and expertise.

### Overview of Awaab's Law

The proposal will see the introduction of a legally implied term for the undertaking of an assessment and remedial repairs within reasonable timescales for Category 1 hazards – Health and Safety. If approved, the legislation is to be incorporated into tenancy agreements, giving the tenant legal protections for breaches of health and safety issues.

### Executive Summary

We support the proposal to introduce Awaab's Law and believe it will have a positive impact on the health, safety and wellbeing of residents in social housing.

However, this is an opportunity to be ambitious and make change across all rental and government-owned dwellings. Whether privately rented, military or social housing, everyone deserves to live in a safe, secure home.

Although we support the law in principle, there are still several areas which need further refinement. This includes ensuring there are clear processes in place for instances where the landlord and surveyor disagree on the problem(s) and proposed solution(s) or where the tenant does not allow access to the surveyor or for works to be undertaken in reasonable timescales.

Clearly defining "beginning works" to ensure the root cause of the problem is found before any enabling works begin. In a surveying sector which is experiencing skills shortages, and where it is essential that qualified, competent surveyors and contractors are used, the law should also clearly define competence, in line with the guidance provided in [\*Understanding and Addressing the Health Risks of Damp and Mould in the Home\*](#).

Where hazards are directly linked with damp and mould we propose mandatory post occupancy testing and sign off by the Building Safety Regulator either via Building Control or an extended competent persons scheme.

Finally, timeframes for the commencement of specified works should be extended to ensure that contractors are able to comply with construction regulations for example the CDM regulations otherwise landlords will seek unqualified contractors to meet a defined period.

## Awaab's Law – Responses to the seven proposals

### **Question 1: Do you agree that Awaab's Law should apply to all Housing, Health and Safety Rating System (HHSRS) hazards, not just damp and mould?**

We support the recommendation and agree that housing providers should provide rented homes that are fit for purpose and do not pose harm to the physical and mental health of occupants. Providers have a duty of care and therefore all hazards which can cause harm to tenants should be covered by Awaab's law.

### **Question 2: 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?**

There are a range of risks which could pose harm to tenants. However proper evaluation of those risks should always be carried out by a competent surveyor who is familiar with the Housing, Health and Safety Rating System (HHSRS). The initial survey should report on not only the actual or potential hazard(s) but its causation, the risk of harm as a result of the untreated risk and next steps for its remediation.

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

**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.**

### **Question 4. Do you agree with the proposal that social landlords should have 14 calendar days to investigate hazards?**

We agree that 14 days is a reasonable timescale for a landlord to appoint a competent and qualified surveyor and to acknowledge a recognised hazard.

Landlords must be required to use qualified surveyors who meet a minimum competence standard agreed by government and industry. There could otherwise be a risk that in pursuit of meeting the hazard investigation timeframe, a surveyor without expertise could impact on the outcome of the investigative survey.

Tenants should be kept advised of the process via any appropriate communication method. It must however be recorded and provide notification of the proposed next steps.

### **Question 5. Do you agree that medical evidence should not be required for an investigation?**

We agree that medical pre-action notification should not be necessary for a hazard investigation to be undertaken by the registered provider. The investigation by a qualified and competent person to evaluate the hazard should establish the risk potential to do harm.

Damp and mould can affect individuals' health in diverse ways. However, damp and mould also damage belongings, which could have a severe impact on the mental wellbeing of occupants. A medical certificate would not be deemed necessary to instigate an investigation.

If there is an identifiable health condition, the hazard has progressed too far and the timescale should be reduced to seven days.

**PROPOSAL 2: Written summaries of investigation findings**

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.

**Question 7. Do you agree with the proposal for registered providers to provide a written summary to residents of the investigation findings?**

All residents have the right to understand any activity intended to be taken on the property they live in. An outlined written summary of the risks, identified hazards, remedial works and timescales would support tenants' understanding whilst meeting the landlord's legal requirements and supporting it to maintain its housing stock over the long-term.

The written summary should clearly state next steps, including proposed timescales.

It may be that the landlord does not agree with the assessment and a clear process should be established to ensure residents are not disadvantaged due to disagreements between the landlord and surveyor.

**Question 8. Do you agree with the minimum requirements for information to be contained in the written report?**

Written reports should be easily understood by tenants of all abilities and where required, be available in other languages.

The reports provided do not need to be lengthy. They must however show an acknowledgement of the hazard(s) and the intent by the landlord to undertake any required remedial works. A statement of findings and a suggested timeline for the scheduling of remedial works would provide a clear directive, which the tenant may use to hold the landlord to account.

**Question 9. Do you agree registered providers should have 48 hours to issue the written summary?**

Before issuing any written summary to the tenant, the landlord must have the opportunity to discuss the main findings of the report with the surveyor. To allow this to take place, it is proposed that registered providers have three working days, rather than 48 hours, to issue the final, written report.

The written summary should clearly state next steps, including proposed timescales. It may be that the landlord does not agree with the assessment and a clear process should be established to ensure residents are not disadvantaged due to disagreements between the landlord and surveyor.

### **PROPOSAL 3: Beginning repair works**

**If the investigation indicates that a reported hazard poses a significant risk to the health or safety of the resident, the housing provider must begin repair works within seven calendar days of the written summary being issued**

**Question 11. 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?**

As set out in the paper, we have assumed that ‘beginning works’ also includes undertaking more detailed assessments. For example, after the initial investigation has identified damp and mould problems, a survey by a recognised professional with specific skills, will be required before works can begin.

Enabling remedial works can be quite difficult to establish depending on the findings of the assessment, investigative or exploratory work. For risks where the hazard is considered low, a seven-day commencement period would appear reasonable.

Government has already agreed the skills which damp and mould surveyors and contractors should have in its report, [Understanding and addressing the health risks of damp and mould in the home](#) and we would recommend that these minimum requirements continue under Awaab’s Law. However, there is a risk that with a seven-day timescale, and if extensive works are required, contractors could not meet the requirement for contractual works i.e CDM regulations.

Surveyors and contractors with the specific skills required to competently review and undertake buildings work, are increasingly in demand. Although as a sector we have implemented robust training and certification programmes, our members still report a challenge in recruiting into the industry. The urgency of the works should be considered against the need for competent people to carry out the works. There is a risk that a short timeframe would lead to only unqualified people available to undertake remedial works, leading to later problems.

We suggest a maximum timescale of eight weeks (56 days) for commencement of works to bring this law in line with other construction regulations. However, all parties should aim to begin works as soon as possible.

**Question 12. 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?**

It is always advisable to remove mould at the earliest opportunity. Concurrently, the causation and source of damp and mould growth would need to be investigated as part of the initial assessment.

**Question 13. Do you agree with the proposed interpretation of ‘begin’ repair works?**

Although mould and damp may have been identified in the initial assessment, repair works must include a specific damp and mould assessment, and any other investigations required. We believe that this should form part of the repair works: to ensure a thorough understanding of the problem and proposed solutions before remedial activity takes place.

As set out in our answer to question 11, to ensure a qualified damp and mould specialist was able to thoroughly assess and recommend remedial treatment, works (including the damp and mould assessment) should begin within eight weeks (56 days). However, all parties should aim to begin works as soon as possible.

Planned start dates and property access should always be confirmed with the tenant. They should be made aware of the outlined remedial works and when they will take place. Consent for access should be obtained.

**Question 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**

Enabling remedial repairs, such as erecting scaffolding, may necessitate longer periods before work on the actual problem can begin. We believe that the first date that work starts to address the hazard, whether further investigative works, temporary works, or the remedial works themselves, should be the date the work ‘begins’.

#### **PROPOSAL 4: Completing repair works**

**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.**

**Question 15. 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?**

We agree that the registered provider must be held to account and deliver the works in line with the programmed schedule of works. The tenant should be notified of the extent and timescales of works and where possible, the works should be undertaken with their consent. We recognise that there may be occasions when a tenant does not give their consent for the work to be undertaken due to for example, the length of time or the disruption that the works will cause. In these situations, there must be mechanisms to balance the short and longer term health and wellbeing of the tenants, without jeopardising the remedial works or penalising the registered provider for non-completion.

Prior to beginning, a schedule of works including enabling works and remedial repairs, and a timescale should be recorded and agreed between the surveyor, landlord and lead contractor. Where the work is necessary to prevent harm, there must be an obligation for the landlord to undertake the agreed work. Although the landlord may wish to find the most competitive price from a competent contractor, the works must be completed to the schedule set out by the surveyor.

Before being designated as completed, these detailed works must be signed off by a qualified person. Where this is linked to the damp mould and ventilation, we propose that mandatory post-occupancy testing and sign off takes place under the Building Safety Regulator, either via Building Control or an extended Competent Persons’ Scheme.

**PROPOSAL 5: Timescales for emergency repairs**

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

**Question 17. Do you agree that timescales for emergency repairs should be set out in legislation?**

When informed of a repair which is classified as an emergency or urgent, the landlord should have maintenance policies in place which cover these eventualities. For example, in the instance of mould spores being seen, the maintenance policy may mandate removal of the visible mould within 24 hours. Following this, the landlord should follow the proposed legislation set out in this document, to thoroughly investigate and remediate against the causes of the mould.

**Question 18. 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?**

If an emergency arises in relation to Awaab's Law providers should have separate emergency policies to manage these situations. Acute repairs should be undertaken within 24 hours. It is not considered that this timescale is necessary to include within Awaab's law.

**Question 19. 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**

When informed of a repair which is classified as an emergency or urgent, the landlord should have maintenance policies in place which cover these eventualities.

Bringing these acute repairs under this legislation does not appear to be of benefit. Social landlords continue to meet their duties and responsibilities under HHSRS to keep homes free of Category 1 Hazards when the hazard is considered an emergency.

**PROPOSAL 6: Decanting if the property cannot be made safe immediately.**

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

**Question 20. 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?**

If repairs cannot be undertaken with immediate effect, there may be a prolonged exposure to the risk. If there is an immediate, harmful risk to any tenant, or the works will be particularly invasive and disruptive, they should be accommodated in an alternative, safe environment at the landlord's expense whilst the hazard is eliminated.

#### **PROPOSAL 7: Record-keeping**

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.

**Question 22. 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?**

There may be instances where landlords are unable to meet the timescales set out due to circumstances beyond their control. Good records should be maintained by landlords, surveyors and contractors to demonstrate where challenges do occur and solutions are put in place to mitigate them.

On further investigation and in situations where unforeseen defective works are discovered during the planned works, the scope of the works may be extended and the focus should be on remediating against the underlying works effectively. Where repair schedules change, landlords should provide the tenant (whether currently living in the property or not) with as much notice as possible, particularly where additional access would be required.

However, all possible steps should be taken to ensure the works begin and end on target, to avoid unnecessary stress and increased costs.

#### **4. Impact assessment - assessing the costs and benefits of Awaab's Law**

**Question 24. Do you agree with the assessment that proposals 1, 3, 4, 5, 6 and 7 will create small net additional costs to the sector?**

It is understood that these proposals will lead to small additional costs to the sector. However, residents' health, safety and wellbeing should be the priority of landlords at all times.

**Question 26. Do you agree with the assessment of the net additional costs of proposal 2?**

It is understood that these proposals will lead to small additional costs to the sector. However, residents' health, safety and wellbeing should be the priority of landlords at all times.

**Question 28. Do you agree with the assumptions we have made to reach these estimates?**

It is understood that these proposals will lead to small additional costs to the sector. However, residents' health, safety and wellbeing should be the priority of landlords at all times.



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For further information on our response, please contact:

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