Consultation and call for evidence on electrical safety in the social rented sector response – Wandsworth Council

Dear Department for Levelling Up, Housing and Communities,

Thank you for the opportunity to respond to this consultation. Please see below our response on behalf of Wandsworth Council. As a stock holding Local Authority with over 35,000 tenanted and leasehold stock, we look forward to the outcome of the consultation and embedding these measures into our housing services.

For any queries or follow up questions, please get in touch with Wandsworth's Housing and Regeneration department through michael.liu@richmondandwandsworth.gov.uk

Regards, Wandsworth Council

Proposal A: Mandatory Checks on Electrical Installations for Social Housing at least every five years

There are two questions in this section. Please provide your responses here.

1. Do you agree that mandatory inspection and testing at least every five years of electrical installations should be a legal requirement in the social rented sector?

Yes, or when the property is relet, whichever comes first. Five years has been established as the recommended interval for testing for occupied residential dwellings.

Wandsworth Housing's overall tenure split is near to 50:50 between tenants and leaseholders, meaning a significant proportion of building occupants will be leaseholders. As proposed in the later part of the consultation, we believe that mandatory testing must be consistent across all tenures for any building safety programme in a building to be effective. Although there may be differences between tenures in the maintenance, care and protection of electrical installations in their properties, we feel that five years is a reasonable period between inspections to capture any deterioration or safety risks of the installations.

2. If answered Yes to Q1, should it be a requirement that a copy of the EICR report be issued to social residents within 28 days, or to any new tenant before they occupy the property?

No

Tenants will have an assumption and expectation that their electrical installations are safe. We do not feel that residents receiving ongoing certificates or reports to verify this have any practical use cases and would add administrative burdens to the landlord. We would recommend that this may be included in the new tenancy starter park at the point of a new letting and subsequent inspection and testing reports to be available if a tenant requests a copy.

Proposal B: Mandatory Portable Appliance Testing (PAT) on all Electrical Appliances that are provided by Social Landlords as part of a tenancy

2a. Do you agree that PAT testing of appliances provided by social landlords should be a legal requirement? If Yes, please answer 2b.

No

This cannot be a consistent regime so would not be effective – e.g., electrical appliances supplied will vary by landlord and tenure, personal appliances, wear and tear caused by resident's care and use of appliances will be different.

2b. Do you agree that the frequency of PAT testing should be determined according to risk assessment, but that evidence of PAT testing must be provided with an EICR certificate to ensure PAT testing is completed at least every five years?

(Does not need to be answered if answered No to question 2a)

We agree that the requirement to carry out PAT testing should be determined by risk as the electrical appliances supplied by the landlord will vary. For example, Wandsworth let their properties unfurnished. White goods and appliances may be provided and gifted to the resident on occasion, for example, as a downsizing incentive, but these should remain a tenant's responsibility, in line with their tenancy agreements.

However, installation testing and PAT testing are two separate specialisms so would require different programmes and inspectors. A cyclical PAT testing and certificate regime that mirrors installation testing may not be appropriate. Appliances should be confirmed as safe if new or at the point of supply.

3. Do you agree that PAT testing of residents' personal appliances should not be a legal requirement?

Yes

It would be impossible to enforce PAT testing on resident's personal possessions and electrical items. In addition, if an appliance fails, then the landlord's recourse is limited. We would not be able to remove such items from the property and even if we advise the tenant accordingly, there is no way to stop the use of a failed appliance. We would not be able to, especially in the current financial climate, mandate that residents replace their failed appliances.

We would also be unable to repair such an item as the landlord would become liable for any subsequent failure.

Implementation and Enforcement Considerations for Proposal A and Proposal B

4. Access to Properties Question: Do you think a legal requirement for electrical safety checks would improve landlord access to properties to carry out checks?

Yes

We agree that it should be a legal requirement to carry out electrical safety checks, but a legal requirement must be introduced alongside strengthened powers for access to properties to minimise the barriers for landlords to carry this out. This may mirror the provisions of the Gas Safety Checks regime, such as the ability to compel access or use other routes such as injunctions and tenancy enforcement for non-compliance.

5 Access to Properties Question: Do you think there is more that government could do to ensure social landlords are able to access properties and carry out these checks?

Yes

As indicated in our response to question 1, we would encourage access to properties to be of an equal footing to gas safety. Alongside the legal routes, the Courts must be advised so that successful request are to be made.

Another benefit of mandating electrical safety checks is that if residents were made aware of these requirements as they are with gas safety checks, access would by default be improved over the current situation.

Workforce Capacity and Skills

6. Workforce Capacity and Skills Question: Do you agree that the Guide for landlords offers suitable advice for landlords to identify competent and skilled inspectors, and could be applied to the social rented sector?

Yes

Generally, the publications that exist tend to align more now with the private sector recommendations. It makes sense to align the two entirely from an electrical standpoint. Not only will this make it easier for all concerned parties to determine, but also improve on electrical safety in general.

Implementation of Timing

7. Implementation of Timing Question: Should any requirements be introduced in a phased way as exampled in the consultation document?

Yes –

We would encourage a phased introduction over 5 years. This would also align with existing contracts and programmes for five-yearly testing currently in use in the social housing sector.

Timing: Remediation

8. Remediation of Timing Question: Would 28 days be a sufficient period for social landlords to complete any remedial works?

No

Other than Category 1 faults (faults that present an immediate danger that should be rectified or isolated before test engineer leaves the property), 28 days is too short a period. Based on experience with our testing contract, re-booking for remedial works following the test and in many cases to get access letters out which can be up to three attempts prior to threat of enforcement, appointments booked and completion of works, 28 days is too short. Residents require sufficient notice themselves but also the landlord to enable the process and record attempts to book and gain access. In the current climate, 28 days would be difficult to achieve, with works under Category 1 taking on average 2 to 3 months to complete.

Enforcement

9. Enforcement Question: Should any regulations introduced be enforced by local housing authorities?

No

If mirroring the gas safety check regime, then the Health and Safety Executive and the Regulator for Social Housing should retain overall regulatory authority for compliance. Local authorities, through their environmental health sections, should have the power to issue closure orders or to carry out prosecutions for unsafe properties, however there is a conflict if local authorities have to enforce against themselves if they are also the landlord.

10. Enforcement Question: Do you agree that the penalty for non-compliance of any regulations introduced should be a civil penalty of up to £30,000?

No

Unless there is blatant negligence on the part of the landlord it is unreasonable to expect landlords that have tried but failed due to access related issues & such like to be unfairly penalised. If a landlord can evidence all reasonable attempts to fulfil their obligation, there needs to be some personal responsibility on the part of the resident to allow landlord obligations to be fulfilled. Unless mandated like gas safe & therefore backed by legal requirement, it's unreasonable that the landlord is penalised for failing to meet their obligation.

Call for Evidence: Mandatory checks on electrical installations for Leasehold Properties within Social Housing blocks at least every five years

11. Would you support the introduction of a mandatory requirement for electrical installation checks in owner-occupier leasehold properties within social housing blocks?

Yes

We would support a mandatory requirement to have a consistent approach to installation testing inside mixed tenure blocks. If mandated that the landlord/building owner/freeholder was to undertake such tests in a leaseholder's property for and on behalf of the leaseholder, landlords must be able to recover the costs through the service charge. Primarily legislation must be introduced to ensure consistency across all leases.

The real-world application of such a requirement would need to be considered, including fully informing owner-occupiers of their responsibilities and requirements.

It would not be workable for the leaseholder to commission and provide their own EICR certificate, due to a lack of oversight in the quality of commissioning testing and the quality and risks of any remedial works.

12. If answered Yes to Q11, do you agree this requirement should apply every five years?

Yes

This should be consistent with tenanted properties.

13. What are your views on whether this requirement should be placed on owner-occupier leaseholders or their freeholders?

It would be better for the freeholder to take responsibility. The leaseholder must be aware at the time of purchase and such requirements must be written into the leases or the requirement will not be enforcement.

14. If this requirement were to be placed on the owner-occupier, do you have any views on how it should be enforced?

We do not believe owner occupiers should commission their own testing. Even if this were written into the leases, policing and enforcement would have additional cost implications that would not necessarily guarantee any success.

15. Do you have any views on how best to minimise the cost burdens of extending these requirements to owner-occupying leaseholders in social housing blocks?

Leasehold units should be included as part of any tenanted testing contracts. In most cases, volume equates to lower costs for the landlord, leaseholder and tenants. This should include all costs

relating to administration, legal responsibilities and testing. These costs could then be part of the block service charging.

16. Do you have any other comments that have not been captured elsewhere in this consultation?

Yes

Various landlord portfolios vary wildly in terms of owner occupier versus tenants. For example, Wandsworth now have higher proportion of owner occupiers then tenants compared to similar landlords. Therefore, the monitoring and enforcement of owner occupiers in providing their own commissioned EICRs would significantly vary between each social landlord.