

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

Response from the Northern Housing Consortium

About us

The Northern Housing Consortium (NHC) is a membership organisation based in the North of England. We are the 'Voice of the North' working with councils, housing associations and ALMOs to develop insight, influence and solutions to create better homes and places.

The NHC continues to work with professional bodies, as well as the Government, to discuss possible solutions on improving housing standards, including those relating to damp and mould.

Introduction

We fully support the introduction of Awaab's Law.

We know from speaking with our members that social landlords are determined to ensure that where a resident raises an issue their concerns are quickly and satisfactorily addressed.

Despite social housing offering better condition homes than other tenures, repairs are the main reason tenants seek redress. The latest England-wide statistics suggests that 10.4% of all social rented homes fail to meet the Decent Homes Standard, compared to almost double that number at 21.1% in the private rented sector.¹ Whilst social landlords want to see all homes meeting the Decent Homes Standard, there are recognised challenges in improving property conditions including housing type and build, the age of the property, and stock types with less space and higher occupancy rates.

For landlords to effectively manage a new regulatory framework we believe they would benefit from local flexibility to enable them to work with their tenants on suitable response times. Smaller or less-resourced landlords face challenges such as limited staff and specialised training.

We support a clear, standardised framework to reduce ambiguity and ensure a consistent application of regulations with a level playing field for residents. However, we feel there is scope for recognising cases where collaborative working with a resident will be the best solution.

Effective regulation should also support business innovation as many landlords are working towards predictive tools for their stock management. The role of technology

¹ English Housing Survey Headline Report 2023 Annex Table 4.3

and innovation will be pivotal in achieving the consistent application of regulations. Preventive measures can be cost-effective, and landlords are also investing in tools and innovations in stock management. Data analytics used for monitoring and evaluation of stock can enhance the efficiency and effectiveness of regulation, enabling better compliance tracking and more informed decision-making, but that requires time and resources.

Our detailed response is below.

Scope of Awaab's Law: Hazards

Question 1. Do you agree that Awaab's Law should apply to all HHSRS hazards, not just damp and mould?

YES

Addressing risks to the health and safety of residents should reasonably require an assessment of all risks, not just category 1 hazards. If a hazard presents a significant risk to the resident, then it should be within scope.

While there was strong support for the validity of including the 29 hazards, there was also a strong view amongst our members that the application of the procedure will be more applicable to some hazards and will be problematic for others.

The top two most prevalent Category 1 hazards are excessive cold and falls.

- Excess cold is recognised as being one of the more complicated hazards to assess. Fuel affordability will impact on this assessment and our members report that some residents have gone without heating in cold weather to save money.
- 60% of category 1 hazards in social housing is due to falls. The most common types of fall hazards in social rented homes were falls on stairs (7%), falls on the level (5%), and falls between levels (3%).² Some falls hazards will be relatively inexpensive to prevent, but mitigating all falls hazards where these are related to the layout of the property is unlikely within the timescale.
- The crowding and space hazard is unlike the other 28 hazards, in as much as it does not consider defects and deficiencies of the property itself but looks at the way the property is occupied. Evidence shows that overall, households that were overcrowded were more likely to have damp present in the home compared with those that were not overcrowded.³ It is valid to assess the crowding risk under Awaab's Law but unlike other hazards, 'remedial works' may well not be the answer. Decanting people would remove the immediate hazard for the individual(s), but this does not provide a long-term solution. There was a view amongst our members that this hazard should be

² English Housing Survey Quality & Condition 2022

³ English Housing Survey Annex Table 3.2

considered separately as the remedy of 'remedial works' is not a suitable response.

- We agree that noise is a reasonable risk to assess within the scope of Awaab's Law as excessive and prolonged noise can be detrimental to health and well-being, particularly affecting mental health. However, the noise assessment process is likely to be outside of the timeframe as gathering evidence will often require assessing the noise levels within the property over a period of time to measure the number of occurrences of the noise in a given time period and the duration of the noise. Noise meters may be required over a period of time to confirm the subjective assessment.

In the North of England just over 12% of social housing has a Category 1 hazard – that is nearly 85,000 social homes with the most serious category of hazards.⁴ This largely reflects the age of properties and stock types, but it is a useful indicator of the likely scale of including all hazards in the timeframe.

We are aware that the HHSRS process will be made simpler and more streamlined, which will help with assessment. We note that the volume of Awaab's Law cases that reach the county courts will be monitored, and we think this will be essential to assess the scale of the impact and that new burdens are appropriately funded.

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?

YES

According to our research 16% of the residents of social housing in the North live with a long-term health condition or disability⁵ so there is most certainly a case for assessing risk where vulnerable tenants are the occupiers.

This will be supported by changes proposed to the HHSRS, particularly the proposal for baseline standards that will make it easier for landlords and tenants to know whether hazards are present and replace the complexities of the risk assessment process.

Question 3. 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.

N/A

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.

⁴ Northern Housing Monitor 2023

⁵ Northern Housing Monitor 2023

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

YES

The 14 day time scale is within the bounds of current landlord procedures, which means that landlords are already engaging with residents and conducting investigations in order to assess the works required within a 14 day period.

Greater resources are being put in triaging requests to ensure that responses to reports of damp and mould are timely and reflect the urgency of the issue.

Although the framework for the timescales is within the parameters of existing procedures, there are factors which influence achieving the timescales, many of which are beyond the control of the landlord. These include periods of high demand, supply chain limitations, access issues and weather conditions. Currently, any of these could require timescales to be arranged with the individual tenant for each case. It is anticipated that, with flexibility removed, and with a fixed timescale, civil litigation will increase. This will lead to greater costs for providers, but these costs don't remedy the repair.

Concerns have been expressed that an unintended consequence of a higher quantity of requests within fixed timeframes will impact on other maintenance work, so that greater regulation in one part of the business will negatively impact on other parts of the business such as non-urgent and planned repair work and turnaround times of void properties.

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

YES

Question 6. 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.

N/A

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.

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

YES

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

YES

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

YES

We support providing residents with a written summary of the findings of the investigation. However, the requirement to provide the summary 'within 48 hours of the investigation concluding' may cause practical issues at certain times where there are constraints on staff availability, for example, if the time period falls on a bank holiday weekend. On that basis, two *working* days may be more practical.

Some repair work will require consultation with a sub-contractor, such as structural issues where a specialist engineer or architect should be consulted about the extent of work to be carried out correctly and safely. In cases where this specialist input is needed it may be necessary to produce a partially completed report in the interim.

Question 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.

N/A

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.

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 7 days of the report concluding?

YES

If, as anticipated, the quantity of notifications increases substantially a requirement to begin repair works within 7 days will pose issues for compliance. A significant number of registered providers reported a continuing high demand for damp and mould works, either as a result of increased tenant awareness or from carrying out proactive property inspections.

It should be noted that the pool of specialist surveyors for remedying damp issues is limited. The availability of contractors is unlikely to be able to keep pace with the demands of the timeframe. Many providers continue to report delays or changes to repairs and maintenance programmes, with limited access to contractors leading to repairs and maintenance programmes being reassessed and, in some cases, postponed.

Beginning the repair within 7 days will be workable in most cases, but there are cases whereby landlords will need to work with the tenant on achieving the best solution in as short a timeframe as possible to actually resolve the issue. For example, cases which are more complex such as those involving structural issues, electrical problems, or major plumbing repairs may require specialised expertise and longer turnaround times.

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?

YES

Landlords respond to all reports of damp and condensation and complete any repair work or measures in line with their responsive repairs procedures. Specialist surveyors investigate when there is a repeat instance of damp and mould. Landlords are also using remote monitoring sensors to monitor the risk of damp and mould in properties where there has been a pattern or history of damp and mould linked to the property archetype. Landlords have also deployed the recommendations in the Ombudsman's Spotlight Report to review and assess their approaches and policies to dealing with damp and mould cases and to identify any ways these could be improved.

Most of the landlords we consulted aim to move to more proactive management of potential risks and promptly diagnosing and preventing issues which may arise from damp and mould in their properties. For example, damp surveys are included in void inspections. Also, enhanced training is provided to ensure that any visit to a property fixing a separate problem will look for evidence of condensation damp and mould.

Landlords are aware that due to the cost of heating, energy affordability is a critical issue. Fuel poverty has increased in recent years among social housing residents. Many landlords reported that residents are understandably and sadly forced to leave their heating turned off during the winter months. However, this carries the consequence that damp and mould cases increase in during colder weather.

Our evidence is that fuel poverty is exacerbating the likelihood of dampness occurring. The root cause of mould growth is damp and where residents feel anxious about fuel costs, damp and mould are the inevitable outcomes of colder homes, especially in older housing.

While landlords are aware of their responsibility to tackle health hazards quickly by removing any mould spores as soon as possible it is much better to prevent the problem than deal with the consequences. We would advocate that tenants in fuel poverty must be the focus of any support alongside these proposals as this is integral to creating healthy homes with good ventilation, air quality and adequate warmth.

Question 13. Do you agree with the proposed interpretation of 'begin' repair works?

YES

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.

N/A

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.

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?

YES

Question 16. If you have answered 'no' to the question in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion (free text)

N/A

Proposal 5. 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?

YES

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?

YES

Landlords already employ quick response teams where a hazard poses an immediate risk to a tenant. Many of our members felt that timescales should be indicative, working with the tenant to agree an approach to repair. The proposed response time will be challenging if demand increases. Landlords may also need to increase the size of rapid response teams with the consequence this could be felt across other routine repair services.

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.

N/A

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

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?

YES

There is significant variation in the type and cost of temporary accommodation that different local authorities use, reflecting their local housing markets.

The local authorities that we spoke to expressed concerns about increasing pressure on the availability of temporary accommodation. There were 10,790 Northern households in temporary accommodation in June 2023, an increase of 50% since 2019. In the North, 1,760 households were relocated to temporary accommodation in another local authority area⁶ with the consequent impacts on education, family support, isolation and often, poor quality living conditions.

We understand the benefits of decanting a resident where there is an immediate risk and the fixed timescales for repair may not be met, however, the supply of alternative accommodation is currently extremely limited. Properties with specific requirements such as disabled access and adaptations may be outside the immediate local area for schools and work and the current supply of temporary accommodation is in demand to meet homelessness duties.

Question 21. If you have answered 'no' to the question in this section, please provide an explanation (with evidence where possible) and/or an alternative suggestion.

N/A

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?

YES

Our members felt that non-compliance with Awaab's Law, even where the circumstances are beyond the control of the landlord, will carry significant legal consequences.

Prioritising urgent repairs may be impeded by many factors. Delays can occur if there are supply chain disruptions, for example, shortages of materials, delays in deliveries, or difficulties in scheduling contractors. Repairs which are structural issues or require major electrical or plumbing work could require specialised expertise.

⁶ Northern Housing Monitor 2023

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

N/A

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?

NO

Question 25. If not, please can you provide additional information?

Proposals 1, 3 and 4 (Timescales)

Registered Providers have been proactively reviewing their policies and processes in responding to and dealing with potential hazards, such as damp and mould, in readiness for Awaab's Law. The timescales proposed are therefore in line with those in current use as *target* timescales.

Standardising fixed timescales and applying this to all hazards with binding deadlines will almost certainly give rise to additional costs in a number of ways:

- additional capacity required in repairs teams.
- cost of engaging contractors is likely to increase as the demand and the imperative to meet a timescale creates a high demand for a limited supply of inspection, surveying and repair services.
- an expected increase in compensatory claims through legal action
- meeting the cost of an increased use of alternative accommodation

It is essential to consider the above factors as generating additional costs.

The shortage of skilled workers, including repair teams, surveyors and contractors in the sector will impede timely investigations and funding will be needed to boost capacity.

This necessitates a transition period to allow for capacity to match demand in trades and surveying roles, potentially through enhanced apprenticeship programmes.

Government support to increase qualified tradespeople through enhanced apprenticeship programmes, would be welcomed to address this.

Proposal 5 (emergency repairs)

The most common hazards found in homes are excess cold, damp and mould, fire, falls on stairs, and electrical hazards. Using estimates of the current cost to resolve

Category 1 hazards as of July 2023⁷, pro rata, the remedial costs would be about £3.15 billion in the North (all tenures).

Compliance with fixed timescales on emergency repairs will require an assessment of current capabilities, matching resources to fixed timescales, expertise, and budget to improve or replace existing processes or introduce entirely new ones. To meet fixed timeframes landlords are likely to recruit greater numbers of repair operatives and specialist building surveyors to tackle damp, and mould in emergency conditions. Landlords have reported to us that specialist surveyors are in short supply and access to contractors means prices increase when services are in demand.

It is unlikely that repair teams for Registered Providers are comprehensively trained on the full operating procedure for use of HHSRS. Therefore, costs of assessing against the full system are likely to include additional training to those operatives who will carry out investigations using HHSRS and are required to make recommendations as to necessary works to deal with hazards.

Proposal 6 (alternative accommodation)

We can understand the benefits of decanting a resident where the fixed timescales may be unlikely to be achieved, however, the supply of alternative accommodation is currently limited, and it is likely the demand will increase leading to additional costs associated with this proposal.

Proposal 7 (record keeping)

Investment will be required to introduce new ways of working. Record keeping must be sufficiently accurate and robust to communicate effectively with the resident and support a risk-based approach, particularly for damp and mould repair work.

Training will be required for staff from those in the call centre, to schedulers, to those inspecting and assessing potential hazards in homes.

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

NO

Question 27. If not, please can you provide additional information?

We anticipate a larger increase in additional costs than those estimated in the impact assessment.

The additional requirements of producing the written summaries and, in future, investing in automating the process with software upgrades and staff training will be greater than the estimate.

⁷ BRE The Cost of Ignoring Poor Housing Helen Garrett, Molly Mackay, Susie Margoles and Simon Nicol 2023

This proposal should also be seen within the context that the social housing sector is facing significant financial challenges and balancing future budgets to continue to build new homes and retrofit existing homes.

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

NO

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

We anticipate a larger increase in additional costs than those estimated in the impact assessment.

We estimate there will be additional costs required to add to the capacity in repair teams, contractor costs are likely to increase, disrepair claims will increase, and investment in digital services will be needed. In addition, meeting the cost of an increased use of alternative accommodation could be substantial.

Overall, the financial commitment to maintain decent standards is continuing to escalate.

The investment needed to sustain the decency of existing homes varies across providers. There is evidence that investment in existing homes has already increased to a record £7.7 billion spent on repairs and maintenance, a 20% increase on the previous record level of £6.5 billion reported in 2022. Some landlords report that they have redirected resources to manage the increase in responsive repair demands including on demand in damp and mould issues. Over the next five years providers are projecting average spend on repairs and maintenance of £9 billion.⁸

The sector has experienced a notable increase in reports of dampness and mould and while we acknowledge that repairs related to Awaab's Law would be necessary regardless of the new framework, the fixed timescales are likely to create a financial burden which is significant.

We firmly believe these investments are essential, but it is crucial to recognise the financial strain they place on landlords.

We therefore advocate for a longer transition period to allow the sector to build capacity and welcome government support to increase the number of qualified individuals in trades and surveying roles, potentially through enhanced apprenticeship programmes.

⁸ 2023 Global Accounts of Private Registered Providers