The impact of Awaab's Law on RP maintenance operations

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About the author

HQN's specialist in asset management, repairs and maintenance, **Wayne Hughes** has experience as a consultant and director of property and building services which spans two decades. As well as many years of working as a consultant in this area he also has hands on practical experience of delivering and overseeing the repairs and maintenance service, having worked for several councils and associations.

Introduction

The Department for Levelling Up, Housing and Communities has initiated a consultation on Awaab's Law, which is set to redefine the approach to health and safety hazards in social housing. This law, part of the Social Housing (Regulation) Act 2023, was introduced following the tragic death of Awaab Ishak due to mould exposure.

Awaab's Law aims to address all of the current 29 health and safety hazards outlined by the Housing Health and Safety Rating System. Notably, it broadens the definition of hazards to include any that pose a significant risk to residents, regardless of their category level.

The consultation period lasts for eight weeks from 9 January 2024, and further DLUHC guidance for registered providers is to be issued prior to implementation.

Key proposals impacting social housing maintenance operations

- **Prompt hazard investigation:** Landlords must investigate reported hazards within 14 days. Investigations can be remote, but physical inspections must be provided if requested by the resident
- **Detailed written summaries:** Within 48 hours of the investigation, landlords must provide residents with a summary including findings, risk assessments and a timeline for repairs
- **Commencement of repairs:** Repairs must start within seven days if a significant risk is identified, with 'significant risk' being subjectively assessed
- **Completion of repairs:** All works should be completed within a reasonable period, reflecting the nature of the issue
- **Emergency repairs:** The consultation suggests legislating specific timescales for emergency repairs.

As always, the devil is in the detail.

Notification and initial investigation of potential hazards

The proposal is that within a maximum period of 14 calendar days of being notified of a hazard, the registered provider (RP) should investigate the potential hazard. Notification of concerns can be made by telephone, letter, email or as a result of any RP instigated visits, such as inspections and surveys. It is unclear as to whether this applies to agents operating on the landlord's behalf, such as third-party surveyors and contractors.

The person carrying out the investigation must have the right skill set to be able to make a determination. Interestingly, the proposals do not offer any insight into what constitutes the 'right skill set'.

Physical investigations of the property are not essential to comply, and remote investigations using digital means such as videos and photographs are allowed. Should the resident require a physical investigation, however, regardless of whether the RP feels it is unnecessary, **it must be provided.**

If a hazard is "affecting or likely to negatively affect a resident's health and safety" it will be within the scope of Awaab's Law.

Written summaries

A written summary by an *"investigator confirming identity, skill set and findings"* must be provided to the resident within **48 hours** of completion of the investigation. The summary should include details of whether:

- A hazard was found
- Details of any follow-up investigations that are required
- Whether the hazard will pose a significant risk to the resident's health and safety
- Next steps
- Anticipated timeline for repair
- A schedule of works.

Where the hazard does pose a risk, the summary must also state what temporary repairs are needed to make the property safe until it can be permanently rectified, and also what works are needed to permanently rectify the hazard, together with a timescale for completing the works.

Temporary repairs can be completed, or the tenant decanted, in advance of the report.

If for any reason the RP cannot comply with the 48-hour deadline, they must inform the resident when they can expect a full schedule of works.

Where specialist input is needed, the written summary is still required, and an estimate for the time to complete works must be given.

Beginning repair works

RPs must begin work within seven days of the written summary being provided if a hazard which poses a *"significant risk to the health and safety of the resident"* is identified. This is a subjective term and should be assessed on a case-by-case basis.

Where the RP is unable to determine if it poses a *"significant risk of harm"* it should take a cautious approach.

Completing repair works

It is proposed that works should be completed within a *"reasonable period"*. Timescales should reflect the nature of the issues. This is in line with existing section 11 Landlord and Tenant Act 1985 principles.

Timescales for emergency repairs

There is a proposal that the timescale for emergency repairs should be set out in legislation. This would include things such as gas leaks, broken boilers, loss of water supply, exposed electrical wiring, significant leaks, broken external doors/windows that present a risk to security, and prevalent damp and mould that is affecting the health of the resident.

The consultation suggests that emergency repairs should be completed within 24 hours of notification, or sooner if possible.

Impact on RP maintenance operations

The proposals will impact on RP maintenance operations to a significant extent, and the scale and type of issues will be influenced by the operating model adopted by individual landlords. In HQN's opinion these issues fall into three broad areas:

Capacity and capability

For many RPs, especially those that have adopted a 'lean client' approach to asset management, recruiting additional inspection resource with the required skill set will be a priority and will be a particular workload challenge for those already struggling to inspect disrepair and damp and mould cases in a timely manner. The extension of Awaab's Law into all 29 HHSRS hazard areas will undoubtedly add to the resource requirement.

IT/IS

Reconfiguring landlord and contractor systems are likely to cause headaches. Measuring calendar days rather than working days where this is the norm is going to require reconfiguration work, as is making sure data is sufficiently robust to report on compliance. Add to the mix the issues that will arise for those landlords that have placed the responsibility for taking repair calls with their contractors, and you potentially have a situation where, if left unchecked, contractor systems and operating models can inadvertently put the landlord's reputation in serious legal, regulatory and reputational jeopardy.

Recourse to legal action for no access

Where access is a problem, there will be more potential for injunctions to be sought promptly to protect the landlord's position.

Conclusion and recommendations

In summary, Awaab's Law will have a significant impact on the way RPs manage their maintenance operations. It will require them to:

- Respond quickly and effectively to reported hazards, taking into account the specific circumstances and needs of each household
- Provide clear and timely communication with residents, informing them of the investigation, findings, risks and repair plans
- Ensure that they have adequate resources and capacity to meet the deadlines for investigations and repairs, especially for emergency cases
- Ensure that they have skilled and competent staff who can carry out investigations and assessments of hazards and provide accurate and comprehensive written summaries
- Ensure that they have robust systems and processes to record and monitor notifications, investigations, repairs and communications with residents
- Ensure that they have contingency plans to provide alternative accommodation for residents who cannot remain in their properties due to safety reasons, or who request to be decanted
- Ensure that they comply with the legal and regulatory requirements of Awaab's Law, and that they are prepared to face potential legal action from residents who are dissatisfied with their response to hazards.

RPs are advised to:

- Respond to the consultation and share their views and concerns on the proposals, as well as any suggestions for improvement or clarification
- Make sure stock condition information is kept up to date and is used to minimise the risks that can give rise to an Awaab's Law issue
- Consider the use of more formalised and regularised property inspection regimes
- Ensure household vulnerability information is updated at every opportunity (note - medical evidence is not required to be provided by residents)
- Review their current policies and procedures on repairs and maintenance and identify any gaps or areas for improvement
- Assess their current resources and capacity, and plan for any additional investment or recruitment that may be needed to meet the new requirements
- Engage with their staff and contractors and provide them with training and guidance on the new requirements and expectations
- Engage with their residents and stakeholders and inform them of the changes and how they will affect them
- Stay informed and updated on the development and implementation of Awaab's Law and prepare for the potential implications and challenge.

Note

- The briefing is based on the current consultation and may change as the law is finalised
- RPs should stay informed and prepare for the potential implications of Awaab's Law
- The consultation period lasts for eight weeks from 9 January 2024
- Further DLUHC guidance for registered providers is to be issued prior to implementation.

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