



Chartered Institute of
Environmental
Health

Sefydliad Siartredig
Iechyd yr
Amgylchedd

Renting Homes (Wales) Act 2016 Fitness for human habitation

Consultation response of the Chartered Institute of Environmental Health (CIEH)

January 2018

About the Chartered Institute of Environmental Health (CIEH):

CIEH is the professional voice for environmental health representing over 8,000 members working in the public, private and non-profit sectors. It ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to health and health protection.

For more information visit www.cieh.org

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Response Form

The closing date for replies is Friday 12 January 2018

Returning this form

Please return this completed form by email to: rentinghomes@gov.wales
If you are sending your response by email, please mark the subject of your email **FFHH consultation**

Or by post to:
Renting Homes Team
Housing Policy Division
Ground Floor
Welsh Government
Cathays Park
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CF10 3NQ.

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Publication of responses

Responses to publications may be made public – on the internet or in a report. Normally the name and address (or part of the address) of its author will be published along with the response, as this helps to show the consultation exercise was carried out properly.

If you would prefer your name and address not be published, please tick here

Q1. Determination of whether a dwelling is FFHH	Please Tick	
Do you agree with our approach to determining whether a dwelling is FFHH, in particular referencing the 29 matters and circumstances set out in the guidance?	Yes ✓ (see below)	No
<p>If 'no' please briefly explain why.</p> <p>General Comments</p> <ol style="list-style-type: none"> 1. Linking Fitness for Human Habitation to the 29 hazards in the Housing Health and Safety Rating System is welcomed by the CIEH. 2. CIEH is of the view that consideration should be given to referencing in the regulation the Department of Communities and Local Government's <i>Housing Health and Safety Rating System. Guidance for Landlords and Property Related Professionals</i> (or Welsh Government equivalent revised to provide guidance for tenants) as an alternative to Part 3 Guidance and that this should become 'Statutory Guidance' which is referred to in model tenancy contracts 3. In support of 2 above: <ol style="list-style-type: none"> 3.1 The 'Landlords Guide' should be such that landlords are able to use it to self-assess their properties before the start of a tenancy. Further, it should provide tenants with some assurances prior to entering into any tenancy agreement and during the course of the tenancy. 4. CIEH is of the view that the Regulation should include at Regulation 3 a requirement to have regard to ' any relevant notices served by the local authority under Part 1 of the Housing Act 2004'. 5. A 'Relevant Notice' being: <ul style="list-style-type: none"> • Improvement notice under section 11 and/or section 12 of the Housing Act 2004 • Prohibition Order under section 20 and/or section 21 of the Housing Act 2004 • Emergency Prohibition Order under section 43 of the Housing Act 2004. • Demolition Order under section 265 of the Housing Act 1985, as amended 6. 'Part 2 Regulations' (under Regulation 4) to be a clear list of conditions to include the following: <ol style="list-style-type: none"> 6.1 Provision of interlinked, hard-wired smoke alarms to BS 5839-6 Grade D LD3 as a minimum. 6.2 Provision of hard-wired heat detector in kitchen areas. 		

- 6.3 Where gas and/or solid fuel appliances provided, provision of carbon monoxide alarms to comply with BS EN 50291 and carry a British or European approval mark, such as a Kitemark. CO alarms should be installed, checked and serviced in line with the manufacturer's instructions.
- 6.4 Provision of current Electrical Installation Condition Report confirming electrical installation is satisfactory.
- 6.5 Electrical installation tested every five years, subject to caveats already provided in consultation guidance.
- 6.6 Provide a written fire risk assessment for every new tenancy or every five years and implement its findings, as per Regulatory Reform (Fire Safety) Order 2005.
- 6.7 Provision of current Gas Safety Certificate, where applicable.
- 6.8 In relation to minimum energy efficiency standards meet provisions of Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, where applicable.
- 6.9 Compliance with 'Relevant Notice' served by the local authority under Part 1 of the Housing Act 2004*
- 7. Any failure of one or more of the above conditions would render the property NOT Fit for Human Habitation.

Q2. Landlord requirements - carbon monoxide	Please Tick	
Do you agree with the requirement for a landlord to install a carbon monoxide alarm?	Yes ✓	No
<p>If 'no' please briefly explain why.</p> <p>Carbon monoxide poses a risk to people in their homes from faulty fuel-burning equipment. It is colourless, odourless and the symptoms are often difficult to identify. Often referred to as a silent killer it is important that tenants are protected from exposure to this dangerous gas.</p> <p>CIEH supports the requirement for carbon monoxide detectors in all rented properties which must comply with BS EN 50291 and carry a British or European approval mark such as a Kitemark.</p>		

Q3. Landlord requirements – smoke alarms	Please Tick	
Do you agree with the requirement for a landlord to install a smoke alarm?	Yes ✓ (Go to Q4)	No
If 'no' please briefly explain why, then go to Q6.		

Q4. If 'yes' to question 3	Please Tick	
Should there be any additional requirements on the type of smoke alarm installed?	Yes ✓ (Go to Q5)	No
If 'no' please briefly explain why, then go to Q6.		

Q5. If yes to question 4 which type of alarm should be installed?	Please Tick	
a) Sealed unit lithium battery-powered smoke alarms with 10 year lifespan.	Yes	No
If 'yes' please briefly explain why.		
b) Interlinked sealed unit lithium battery-powered smoke alarms	Yes	No
If 'yes' please briefly explain why.		
c) Interlinked hard-wired smoke alarms	Yes ✓	No
If 'yes' please briefly explain why.		
<p>Standalone alarms are limited in the areas they can detect, and the distance their sound can travel. Consequently there is a risk that tenants may not always hear the alarm unless they are close. This is a cause for concern and in order to safeguard</p>		

tenants, CIEH is of the view that interconnected systems are vital. This triggers all alarms to sound when one detects a problem, so alerting all occupants throughout the house - no matter where they are.

Battery operated devices may be subject to tampering. CIEH believes all tenants should be afforded the highest level of protection from fire provided by interlinked, hard-wired smoke alarms with battery back-up which are compliant with BS 5839-6 Grade D as a minimum.

Q6. Landlord requirements for electrical safety testing	Please Tick	
Do you agree with the requirement for a landlord to undertake electrical safety testing?	Yes ✓	No
If 'no' please briefly explain why.		

Q7. Landlord requirements – electrical safety testing	Please Tick	
Do you agree that the maximum period between electrical safety testing should be five years?	Yes ✓	No
<p>If 'no' please briefly explain why.</p> <p>Testing every five years will be consistent with the requirement for Houses in Multiple Occupation.</p>		

Q8. Specific requirements imposed on landlords	Please Tick	
Do you agree that the three specific requirements imposed on landlords (installing a carbon monoxide detector, smoke alarm, and undertaking electrical safety testing) address the most important concerns?	Yes	No ✓
<p>If 'no' please briefly explain why.</p> <p>Gas safety should also be included. According to the Gas Safe Register, 2.7 million renters live in homes with unsafe gas appliances¹.</p>		

However, as a high proportion of homes in Wales do not receive mains gas (46% of homes in rural Wales use oil to heat their homes) ² consideration should be given to extending the requirement as follows:

Provisions for certificate ensuring all fuel appliances are safe and in good working order – oil boilers, solid fuel appliances etc. This includes HETAS approved installers to assess solid fuel appliances, systems, chimneys & flues, and their maintenance; and OFTEC approved installers assess oil storage, appliances, and supply equipment and their maintenance.

Q9. Draft guidance on fitness for human habitation.	Please Tick	
Do you agree that the draft guidance on fitness for human habitation adequately explains: a. the nature of the 29 matters and circumstances and;	Yes	No ✓
b. the specific requirements placed on landlords by the regulations?	Yes ✓	No
If 'no' please briefly explain why. The CIEH supports the move to align Fitness for Human Habitation with the Housing Health and Safety System. However, the guidance would benefit from providing more detail on the 29 matters so as to avoid the need for interpretation by experts. Consideration should be given to referencing the Department of Communities and Local Government's <i>Housing Health and Safety Rating System Guidance for Landlords and Property Related Professionals</i> ³ (or a Welsh Government equivalent mirroring this Guidance, revised to also provide guidance for tenants). This should be 'Statutory Guidance' and referenced in model tenancy contracts.		

Q10. Do you have any further comments to make on the draft regulations, including any on their cost implications?

- The CIEH welcomes this legislation which will empower tenants to take action to improve their living conditions, and free up local authorities to tackle the very worst conditions in the private rented sector.
- The proposals are good news for social housing tenants. Local Housing Authorities cannot enforce against themselves. This means council tenants

currently have no way to enforce or seek to have enforced basic fitness standards, including fire safety.

- The CIEH is of the view that determinations in connection with fitness for human habitation would be more appropriately made by the Residential Property Tribunal (RPT) than a civil court. RPT could also make decisions in connection with compensation for award of damages.

Q11. Welsh Language Impact.

While this consultation paper is being made available in Welsh, please can you suggest how the proposed 'Fitness For Human Habitation Guidance' document could be formulated or changed so as to have.

i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and

ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

- 1 2.7 million renters at risk from dangerous gas appliances', Gas Safe Register (published October 2016) <https://www.gassaferegister.co.uk/news/news-2016/27million-renters-at-risk-from-dangerous-gas-appliances>
- 2 Living without Gas. Citizens Advice Bureau. <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/Livingwithoutmainsgas.pdf>
- 3 Housing Health and Safety Rating System. Guidance for Landlords and Property Related Professionals. Department for Communities and Local Government. 2006