



Electrical Safety in the Private Rented Sector consultation

Response by CIEH

April 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.

Chartered Institute of Environmental Health were part of the **electrical safety standards in the private rented sector working group**.

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Question 3 The Working Group has recommended that landlords should be required by law to arrange safety checks of the electrical installation in private rented sector residential properties. Do you agree with the recommendation?

Yes, we agree with this recommendation. There are, on average, 56 deaths from electrical fires per year in the UK, with 18 deaths caused by an electrical distribution fault in the home. Within this subset, the biggest single cause of death is faulty cabling.¹ As the working group report highlights, a number of good practice guides already recommend electrical safety checks, yet the gap between electrical safety checks in private rented sector (PRS) and social rented or owner occupied homes is still very wide. Tenants have a right to have some assurance that the dwelling they are renting is safe from electrical hazards that can kill, severely injure and cause extensive damage to their belongings.

Environmental health professionals use the Housing Health and Safety Rating System (HHSRS) to assess potential hazards and take action to make the dwellings safe for tenants. However, Environmental health professionals are not competent to test the electrical installation and will only know if there is a problem if they have concerns that are sufficient for them to call in support from a qualified electrical engineer. Hidden faults are not likely to be discovered during a routine HHSRS assessment unless there is a physical or visual indicator of the defect. This is why regular electrical checks by qualified electricians in regular intervals are so important.

In some areas, local authorities have introduced selective licensing schemes to improve conditions in the PRS. However, a recent court decision in the case of Paul Brown vs Hyndburn Borough Council² has highlighted the difficulty that some councils face in enforcing the requirement for a landlord to provide an Electrical Installation Condition Report (EICR) certificate for a licenced property. During an appeal by the landlord (Paul Brown), the local authority's request for an electrical safety certificate was dismissed by the Judge, raising doubts over whether this requirement can be enforced by using a local licensing scheme [see attached case]. As a result, we strongly recommend a clear requirement for a five-yearly inspection and test of the electrical installation to be undertaken at all PRS properties with a further requirement that all remedial work, identified by that inspection and testing, to be completed within a specified period of time.

Question 4 The Working Group has recommended that mandatory electrical installation checks should take place at least every five years. Do you agree with the recommendation?

Yes, we agree with this proposal. This is a simple requirement for both tenants and landlords to understand. The introduction of mandatory five-yearly electrical safety checks in Scotland further highlight that this requirement has worked in practice in another nation of the UK.

¹ Electrical Safety First briefing, Parliamentary Briefing: Renters' Rights Bill, House of Lords, 9 June 2016

² Paul brown -v- Hyndburn Council [2018] EWCA Civ 242

Question 5 The Working Group has recommended that that a report should be issued to the landlord which confirms that an Electrical Installation Condition Report (EICR) has been completed along with confirmation that any remedial work necessary has been undertaken satisfactorily. Do you agree with the recommendation? If no, please provide details.

A copy of the EICR report should be provided to the landlord, which details a breakdown of the C1, C2 and C3 remedial measures recommended or completed. All C1 and C2 hazards, which are serious and require immediate attention should be identified be remedied quickly, preferably by the electrician carrying out the inspection, before an EICR report is issued.

We note that no guidance is proposed in the consultation as to what an appropriate length of time is to remedy the electrical hazards identified. A C1 hazard means that there is a 'Danger present. Risk of injury. Immediate remedial action required.' And C2 is 'Potentially dangerous. Urgent remedial action required'. Both of these hazards present a serious danger to the occupants so should be remedied immediately. Tenants should also be warned about any potential dangers.

Question 6 The Working Group has recommended that a copy of the report outlined in question 5 should be issued to the tenant at the beginning of the tenancy. Do you agree with the recommendation? If no, please provide details.

Yes, we agree.

Question 7 The Working Group has recommended that a copy of the report outlined in question 5 should be made available to local authorities on request. Do you agree with the recommendation? If no, please provide details.

Yes, we agree. Making a report of electrical safety available to local authorities would help with enforcement of safe housing conditions.

Question 8 The Working Group recommended that legislative requirements should be phased in, beginning with new tenancies, followed by all existing tenancies. Do you agree with the recommendation? If no, please provide details

Yes, we agree that implementation should be phased in to allow time for landlords to comply and to spread out the work for the electrical engineering sector, however we would like the implementation period to be short. We would therefore recommend using the timescales from Scotland, where there was only a year in between the requirement to obtain an EICR certificate for new tenancies and existing tenancies.

Question 9 The Working Group has recommended that a private rented sector electrical testing competent person scheme should be set up which would be separate from existing Building Regulations competent

person schemes. Do you agree with the recommendation? If no, please provide details.

We agree with this recommendation.

Question 10 Do you agree that the best approach to recognising competent and qualified persons would be to introduce a scheme under ISO/IEC 17024, which would allow one or more UKAS accredited scheme operators to certify the competence of individual electrical inspectors and testers? If no, please provide details.

We agree with this recommendation.

Question 11 The Working Group has recommended that visual checks of the safety of the electrical installation by landlords at a change in tenancy should be encouraged as good practice and set out in guidance? Do you agree with the recommendation? If no, please provide details.

Yes, we agree.

Question 12 The Working Group has recommended that landlord supplied electrical appliance testing and visual checks of electrical appliances by landlords at a change of tenancy should be encouraged as good practice and set out in guidance. Do you agree with the recommendation? If no, please provide details.

No. This is already an implied requirement, insofar as a landlord has a duty to provide safe electrical appliances, which is outlined in the Landlords and Tenants Act 1985.³ We would support regular testing of any larger equipment supplied by the landlord, including fridges, electric ovens and hobs, washing machines etc.

Question 13 The Working Group has recommended that the installation of residual current devices (RCDs) by landlords should be encouraged as good practice and set out in guidance. Do you agree with the recommendation? If no, please provide details.

No. We would like the installation of residual current devices (RCDs) to be a requirement rather than being set out as good practice. The working group report highlights that 62% of PRS properties already have RCDs installed. It would make sense for the remaining 38% of properties to do the same in order to level the playing field between landlords and protect tenants.

RCDs are designed to constantly monitor the electric current flowing along a circuit and almost instantaneously switch off the circuit if they detect electrical faults, such as somebody touching a live part or wire. Fitting such a device into a consumer unit is the most effective

³ The Landlords and Tenants Act 1985 requires that the electrical installation in a rented property is: safe when a tenancy begins and maintained in a safe condition throughout the tenancy. SOURCE: Landlords' Guide to Electrical Safety, Electrical Safety Council, 2009.

way to protect against dangerous electric shocks and reduce the risk of electrical fires.⁴

Question 14 Should any regulations introduced be enforced by local housing authorities? If no, please provide details?

Yes, we believe that these regulations would sit well with local housing authorities.

Question 15 Do you think that the penalty for non-compliance of any regulations introduced should be:

We believe that the local housing authority should be able to apply the following enforcement actions, using its local policy and judgement:

- Remedial notice (eg. where no check has taken place)
- Improvement notice (eg. where faults are not rectified)
- A civil penalty of up to £30,000 (where no check has taken place or where faults have not been rectified)

Question 16 If local housing authorities are the enforcement body for any regulations introduced, should they retain any monies recovered through financial penalties and use these for future enforcement in the private rented sector? If no, please provide details

Yes, we would like enforcement bodies to retain the money collected from penalties so that further regulatory work in respect of housing can be funded. This would align with other housing-related offences and ensure that local areas have adequate resources to enforce.

Question 17 Should landlords be restricted from evicting tenants using a Section 21 notice if they have not given the tenant a copy of electrical installation safety documentation? Please provide details

Yes. This new requirement should be closely aligned to the penalties attached to failing to provide a gas safety certificate to a tenant. This is a criminal offence and landlords can face fines of up to £6000 or 6 months in prison for failure to provide a gas safety certificate to their tenants. Similarly, they are also prevented from using Section 21 to evict their tenants. This gives the tenant an opportunity to raise a complaint with the local authority without fear of eviction.

Whilst it sounds counter-intuitive to prevent the eviction of tenants when there may be a dangerous hazard present at the property, a lack of an electrical safety certificate does not necessarily mean that there is a HHSRS Category 1 hazard. It is however, indicative of poor property management, which is an essential part of good quality housing in the PRS.

Question 18 Do you consider that any of the Working Group recommendations would impact on people who share a protected

⁴ Home Improvement: Tackling poor electrical safety in the private rented sector, Shelter and Electrical Safety First, 2014.

characteristic, as defined under the Equalities Act 2010, differently from people who do not share it? If yes, please provide details.

No.

Question 19 (optional) Yes+Answer/No Do you have any other comments that have not been captured elsewhere in this consultation? If yes, please provide details.

We have no further comments to make.