

Welsh Government Consultation: Renting Homes (Wales) Act 2016 – Fitness for Human Habitation

Response from ARLA Propertymark

January 2018

Background

1. ARLA Propertymark is the UK’s foremost professional and regulatory body for letting agents; representing over 9,000 members. ARLA Propertymark agents are professionals working at all levels of letting agency, from business owners to office employees.
2. Our members operate to professional standards far higher than the law demands, hold Client Money Protection and we campaign for greater regulation in this growing and increasingly important sector of the property market. By using an ARLA Propertymark agent, consumers have the peace of mind that they are protected and their money is safe.

Questions

Q1. Determination of whether a dwelling is FFHH. 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?

3. Yes, we agree with the Welsh Government’s approach to determining whether a dwelling is FFHH.

Q2. Landlord requirements – carbon monoxide. Do you agree with the requirement for a landlord to install a carbon monoxide alarm?

4. Yes, we agree with the requirement for a landlord to install a carbon monoxide alarm. Carbon monoxide is known as the “Silent Killer” because you can’t see it, taste it or smell it and it can kill quickly with no warning. Each year carbon monoxide poisoning affects over 4,000 people in the UK.¹ Therefore, it is vital that all privately rented homes in Wales have a carbon monoxide alarm.

Q3. Landlord requirements – smoke alarms. Do you agree with the requirement for a landlord to install a smoke alarm?

¹ <http://www.policyconnect.org.uk/appcog/research/carbon-monoxide-poisoning-saving-lives-advancing-treatment>

5. Yes, we agree with the requirement for a landlord to install a smoke alarm. The London Fire Brigade warn that people are four times more likely to die in a fire in the home if there is no smoke alarm.² Therefore it is vital that every privately rented home in Wales has a fire alarm fitted.

Q4. If 'yes' to question 3. Should there be any additional requirements on the type of smoke alarm installed?

6. We do not think at this stage there should be any additional requirements on the type of smoke alarm installed. However, the Welsh Government should monitor the effectiveness of the regulations and upon evaluation potentially seek to bring in additional requirements.

Q5. If yes to question 4 which type of alarm should be installed?

7. Should an evaluation of the effectiveness of the regulations demonstrate a strong need for additional regulation, we believe that sealed unit lithium battery-powered smoke alarms with 10-year lifespan should be specified.

Q6. Landlord requirements for electrical safety testing. Do you agree with the requirement for a landlord to undertake electrical safety testing?

8. Yes, we do agree with the requirements for a landlord to undertake electrical safety testing. ARLA Propertymark supports measures to increase the standards of electrical safety in order to benefit tenants without introducing excessive regulation and costs for landlords and letting agents. We were a key member of the Department for Communities and Local Government Working Group which was set up to look at how electrical safety testing in England should be implemented and helped shape the recommendations. The private rented sector has undergone rapid growth in the last 10 years and in 2015-16, 14% (201,782) of households in Wales were renting privately.³ Therefore it's imperative that electrical safety standards reflect the growing importance of the sector. At present electricians in private rented sector properties just have to be "safe" with no definition as to what this means. Therefore, electrical safety testing rules will give a clear and unambiguous requirement that brings electrical safety more in line with the regulations that apply to gas safety.

² http://www.london-fire.gov.uk/news/LatestNewsReleases_landlords-urged-to-snap-up-free-alarms.asp#.WliSrq5I_IU

³ <http://gov.wales/docs/statistics/2017/170427-dwelling-stock-estimates-2015-16-en.pdf>

Q7. Landlord requirements – electrical safety testing. Do you agree that the maximum period between electrical safety testing should be five years?

9. Yes, we agree that the maximum period between electrical safety testing should be five years. This would make the checks consistent with electrical safety standards for Houses of Multiple Occupation and align with standards in Scotland and proposals for England. Checks every five years would also spread the costs for landlords. They would create the right balance between being too burdensome, such as at the start of every tenancy or annually, and not achieving its aims, such as every ten years.

Q8. Specific requirements imposed on landlords. 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?

10. Yes, we do agree that three specific requirements imposed on landlords address the most important concerns.

Q9. Draft guidance on fitness for human habitation. Do you agree that the draft guidelines on fitness for human habitation adequately explains: a) the nature of the 29 matter and circumstances b) the specific requirements placed on landlords by the regulations?

11. Yes, on the whole we agree that the draft guidelines on fitness for human habitation adequately explains the nature of the 29 matters and circumstances. However, in relation to Noise and the Potential Landlord action - “Bathrooms/WCs in flats not sited above living rooms/bedrooms”, this does not take into consideration the locality of these facilities in flats and nearly all houses. Therefore it would be impossible for landlords to move facilities in houses and impractical for landlords to make adjustments in flats where they do not own the apartment above as well. This action needs to be better explained or removed altogether.
12. In relation to the specific requirements placed on landlords by the regulations, particularly for the installation of smoke alarms and carbon monoxide detectors, the draft guidelines need to clearly define and explain what agents need to do to ensure that the alarms are in “proper working order”. When similar rules were introduced in England concerns were raised by letting agents and inventory providers that there were no guidelines and so agents have just been pressing the test button. However, it is not clear whether this is enough. Clearer guidance is particularly important for

carbon monoxide detectors because by pressing the test button this only tests the circuitry of the detector, it does not test the actual sensor that lets you know if there is carbon monoxide in the air. Therefore, guidance in Wales needs to be clear and specifically state whether testing the button is sufficient. To this end, to do anything more would put massively onerous requirements on agents, such as using detector testers with an aerosol smoke dispenser. To reduce the chance of confusion in Wales, the guidelines need to provide specific information on what is required.

13. The specific requirements placed on landlords by the regulations should be adequately phased in. The implementation date must ensure that there are sufficient alarms available for landlords to comply fully. The timetable must also ensure that it is practical for letting agents, many of whom manage large property portfolios, to gain access to the properties and to install these alarms on behalf of their clients in the time frame allotted. To this end, the rules should be brought in for new tenancies first and then all existing tenancies by a later date.

14. The draft guidelines also do not outline when testing of smoke alarms and carbon monoxide alarms should be carried out. To ensure that landlords and letting agents can adequately carry out the tests we believe that there should be a requirement for the alarms to be tested either a fortnight prior or post the start of each new tenancy. This is because agents have large portfolios, many tenants move in on Fridays and they simply cannot get round all the properties they are checking-in. Letting agents must be given a realistic period of time to both be informed of the regulations and also to ensure they are able to implement the rules.

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

15. We do not have any further comments to make on the draft regulations.

Q11. Welsh Language Impact: Whilst this consultation paper is being made available in Welsh, please can you suggest how the proposed 'Fitness For Human Habitation Guidance' document can be formulated or changes 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.

16. In light of the impact of recent legislation, tax changes for landlords and the Welsh Government's announcement that they will ban letting agent fees to tenants, agents need to cut costs so will be unwilling to go to additional expense of making everything bi-lingual. Therefore, without a free translation service provided by the Welsh Government to help with legislative changes there will be a negative impact on the Welsh language as agents will only deal in English.