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16th April 2018

Consultation Response – Electrical Safety in the PRS

About the RLA

The RLA represents the interests of landlords in the private rented sector (PRS) across England and Wales. Representing over 50,000 landlords managing over a quarter of a million, the RLA is the leading voice for the PRS.

The RLA provides support and advice to members, and seeks to raise standards in the PRS through its code of conduct, training and accreditation and the provision of guidance and updates on legislation affecting the sector. Many of the RLA's resources are available free to non-member landlords and tenants.

The Association campaigns to improve the PRS for both landlords and tenants, engaging with policymakers at all levels of Government, to support our mission of making renting better.

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?

Our view is that this statutory duty should “prevent” licence conditions placing more onerous requirements on licence holders. Under a residential tenancy there is already an existing statutory requirement for the landlord to keep the electrical installations in good repair and proper working order. The Housing Health and Safety Rating System's Operating Guidance shows that the average risk to the occupiers from dangerous electrics is very low being even less than half of the risk from noise and significantly less than impact of overcrowding, dampness and the risk from radon. If safety is the primary reason for placing this duty on landlords, then there are much more cost-effective requirements which could be imposed

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

The view of the association is that a five-yearly test regime is not appropriate for single occupancy properties and small blocks of flats, particularly if electrical safety features are present, such as PVC wiring and RCDs. There should be no discretion when it comes to inspectors choosing when inspections take place. This is because once inspectors realise that they can secure more work by requiring more frequent inspections some will never recommend 5 or 10 years. In some areas of London for example where discretion has been included in licensing conditions, annual inspections have become the norm. The Health and Safety Executive is also strongly against inspectors having discretion partly because they have a financial interest in more regular periods and also under the risk rating requirements it is the responsible person who decides the inspection periods not the inspector.

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?

The prime concern with this recommendation is what would happen in the instance where an existing tenant only allows part of the premises to be inspected or in HMO bedsits. Would repeated attempts need to be made or would only a part inspection be satisfactory? As it would be the landlord who would arrange the testing, it is assumed that the landlord would automatically retain a copy of the EICR. In some cases, council officers misunderstand the codes used in the EICR and as default request that all works highlighted in the report be completed despite C3 just being a recommendation. C1 & C2 are works which require urgent action. Guidance for local councils stating that they shouldn't automatically require all C3 works to be carried out (as some currently do) would be welcome. With the new edition of wiring regulations due to come onto effect soon, some councils could require every existing premise to be rewired due to potential non-compliance with the new requirements, which could result in unnecessary financial costs for landlords.

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?

This would be consistent with other requirements such as gas safety certificates.

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?

This would be consistent with the way other recent changes to PRS legislation has been implemented.

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?

It is important that landlords are confident that the contractors who would carry out such inspections are qualified and competent, as this would eliminate any rogue contractors who would charge landlords for work that wasn't necessary.

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?

There is the potential for confusion here, as "visual checks" referred to by the Working Group have not been specified. Guidance must clearly outline the requirements needed to satisfy such visual checks.

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?

The RLA already recommends members carry out such checks.

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?

The Association has publicly supported the installation of RCDs in domestic premises and recommends that this becomes regular practice by landlords. They provide a significant safety feature to prevent electric shock and a report by the DTI titled "Consumer Safety Research-Residual Current Devices-Added Value for Home" estimates that 20% of electrical fires themselves have been prevented by the presence of RCDs which is an additional preventative feature. A legitimate point can be made that the presence of RCDs reduces the need for an electricity safety report, and protects from fires and shocks caused by appliances or their wiring.

Should any regulations introduced be enforced by local housing authorities?

The local authority already can act to enforce electrical safety in residential accommodation under the Housing Health and Safety Rating System (HHSRS).

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

- **Remedial notice (eg. where no check has taken place)**
- **Improvement notice (eg. where faults are not rectified)**
- **A civil penalty of up to £5,000**
- **A civil penalty of up to £30,000**

Although the Association welcomes the introduction of a civil penalties system as a way of tackling rogue landlords, there are concerns about how it will be operated. It would need to be made clear that fault relates to a failure to abide to health and safety (defect codes C1 & C2) not just non-compliance which are technical requirements

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?

Generally, yes. However, there are concerns that councils may become “overzealous” with serving notices and fining landlords for the sake of making easy money and that councils will continually fine landlords who should be prosecuted instead.

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

The RLA objects to this recommendation until the current requirements are amended so they show clearly how/when documentation would need to be produced to evict tenants under a Section 21 notice. There is a possibility that unless there are clear requirements set out, landlords would have difficulty administrating the correct documentation due to vague wording of current legislation.

Do you consider that any of the Working Group recommendations would impact on people who share a protected characteristic, as defined under the Equalities Act 2010, differently from people who do not share it?

The view of the association is that there are no concerns about the impact on people who share a protected characteristic and those do not share it.

**Samantha Watkin
Policy Officer**