

National Housing Federation response to the consultation on proposed extensions to the regulations governing smoke alarms and carbon monoxide alarms in domestic properties

Consultation response to MHCLG

11 January 2021

Summary

The National Housing Federation (NHF) is grateful for the opportunity to respond to the consultation on proposed extensions to the regulations governing smoke alarms and carbon monoxide alarms in domestic properties.

The NHF represents housing associations in England. Our members provide more than two and a half million homes for around six million people. And each year they invest in a diverse range of neighbourhood projects that help create strong, vibrant communities.

The consultation asks a number of specific questions, to which we provide detailed answers below. However, we also want to take this opportunity to make some more general points about the safety of domestic premises.

We strongly support the general thrust of the consultation in removing existing distinctions based on tenure. We accept that there may be grounds, in some instances, for treating owner-occupied homes differently from rented homes, based on the proposition that tenants have less control over the property than owner occupiers and are therefore, in the absence of regulation, reliant on the approach of the landlord. We see no grounds for imposing statutory requirements on rented homes as these would vary depending on whether the property is owned by a local authority, a housing association, or a private landlord.

We therefore regard it as illogical that under the present law, social landlords are excluded from a number of requirements to which private landlords are subject. But as we know from working with our members, housing associations are, of course, totally committed to the safety of residents, and we wish to point out that the government's data shows that social landlords (both housing associations and local authorities), despite their exclusion from some key requirements, have working smoke alarms in 95% of their stock, compared with 88% in the private rented sector.

Across all tenures, including owner-occupation, the proportion of dwellings with a working smoke alarm increased from 84% to 91% in the ten years from 2008/09 to 2018/19. This is a welcome increase, reflecting not only stronger regulation but also greater public awareness of the hazard of domestic fires. However, we agree that more remains to be done, not only to remove unjustified distinctions between tenures, but also to strengthen regulation in all sectors.

We answer the detailed questions below (except for the two directed specifically to local authorities which we have noted).

Smoke alarms in rented homes

1. Do you support the proposal to extend the smoke alarm requirements as set out in the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 to the social rented sector?

Yes

2. Please give your reasons.

We argue that safety-related statutory obligations on residential landlords should be the same regardless of tenure. We see no rationale for the current exclusion of social housing from the regulations, which appears to have arisen because the regulations refer to pre-existing statutory definitions that were originally framed for other purposes.

3 and 4. Do you think that the guidance on where smoke alarms should be situated requires updating? Please give your reasons.

The question of where best to place alarms can be a complex one, depending on considerations that may be specific to various designs of property. It would be challenging to try to capture all the possibilities in regulation; and the risk is that landlords and fitters would then focus on whether the siting of an alarm complied with the regulations, rather than on whether it was optimal in the context of the particular property. However, landlords and fitters would welcome specialised guidance on factors they should consider in the placement of alarms. We are not, however, in a position to comment on the adequacy of the current guidance.

5. Do you agree with the proposal that landlords should not be required to test smoke alarms during the life of the tenancy?

Yes.

6. Please give your reasons.

Based on our members' experience of working with residents, we agree that testing alarms is a reasonable expectation of tenants as part of their normal responsibility to take care of the home. Moreover, it would be intrusive for landlords to enter the premises to carry out tests on the monthly basis recommended by guidance.

7. Please provide examples of how social landlords could best support residents to test their smoke alarms regularly and safely.

Landlords should ensure that tenants have access to information about their alarms, including how to service them. Landlords should communicate with tenants to stress the importance of this.

A related point concerns the smoke alarm batteries: based on our members' experience of working with residents, we think it is reasonable for the tenant to replace the battery, when this becomes necessary. But it is important that the alarm fitted should allow easy access for this purpose.

8. Do you agree with our proposal that legislation be amended to create an obligation for social landlords to repair or replace smoke alarms, once informed that they are faulty?

Yes, we agree this duty should apply to any repair or replacement that goes beyond changing the battery. We should welcome the support of government to ensure that all tenants, whether of social landlords or in the private sector, are aware of landlords' duties in this respect and of the importance of reporting a defective alarm promptly to the landlord.

9. Please give your reasons.

The smoke alarm is provided in accordance with the landlord's responsibilities for the safety of the property. It is supplied and fitted by the landlord and remains the landlord's property, so it is reasonable to expect the landlord to take responsibility for repairing or replacing it.

10. Do you agree with our proposal that legislation be amended to create an obligation for private landlords to replace alarms once informed that they are faulty?

Yes. See the response to question 8. The requirement should be the same for all residential landlords regardless of tenure.

11. Please give your reasons.

Please see the response to question 9. The same argument applies to all residential landlords regardless of tenure.

12. Do you agree with our proposal to update our guidance document to ensure the choice of alarm meets relevant product standards?

Yes.

13. Please give your reasons.

Based on feedback, we suggest a key point is the ease of replacing batteries when necessary. Members report that with some designs of alarm, tenants find it very difficult to access or replace the battery; alarms have had to be replaced because of damage caused in an attempt to change the battery.

14. Do you support the proposal to commence the regulations as soon as practicable following the laying of regulations?

Yes.

15. Please give your reasons.

There is no reason for delay. This is an important issue for resident safety, and it has been well known that regulations are likely in this area, as landlords in all sectors will be aware.

We are aware that many of our members have already acted without awaiting formal regulation, and we are confident that the same is true of landlords in other sectors, but it is important that this commitment to resident safety is now backed up by regulation and clear guidance so that protection extends to all tenants.

16. Omitted as applicable to local authorities only.

Carbon monoxide alarms upon installation of combustion appliances

17. Do you support the proposal to amend the statutory guidance (Approved Document J) supporting Part J of the Building Regulations to require carbon monoxide alarms to be fitted alongside the installation of fixed combustion appliances of any fuel type (excluding gas cookers)?

Yes.

18. Please give your reasons.

For reasons of resident safety. This should apply to owner-occupied homes as well as to all rental homes regardless of tenure.

19 and 20. Do you think that the guidance in Approved Document J on where carbon monoxide alarms should be situated requires updating? Please give your reasons.

Please see our response to questions 3 and 4 above.

21 and 22. Do you think that the guidance in Approved Document J on what type of carbon monoxide alarm should be installed requires updating? Please give your reasons.

We agree that clear guidance, based on expert advice to ensure it is reliable and up to date, will be welcomed by landlords as well as by builders and renovators of homes, but we are not in a position to comment in detail on the adequacy of the current guidance.

Carbon monoxide alarms in rented homes

23. Do you support the proposal to amend the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 to require private landlords and social landlords to install a carbon monoxide alarm in any room used as living accommodation where a fixed combustion appliance of any fuel type (excluding gas cookers) is used?

Yes.

24. Please give your reasons.

We recognise the risk to residents posed by carbon monoxide. We agree that the proposed requirement should apply to all residential landlords regardless of tenure.

25 and 26. Do you think that the guidance on where carbon monoxide alarms should be situated requires updating? Please give your reasons.

Please see our response to questions 3 and 4 above.

27. Do you agree with the proposal that landlords should not be required to test carbon monoxide alarms during the life of the tenancy?

Yes.

28. Please give your reasons.

For the same reasons as given in our response to question 6 above.

29. Please provide examples of how landlords could best support residents to test their carbon monoxide alarms regularly and safely.

Please see the response to question 7 above.

30. We are proposing that legislation be amended to create an obligation for landlords to repair or replace carbon monoxide alarms, once informed that they are faulty. Do you agree?

Yes.

31. Please give your reasons.

For the same reasons as given in our response to question 9 above.

32. Do you support the proposal to commence the requirements as soon as possible after laying amended carbon monoxide alarm regulations?

Yes.

33. Please give your reasons.

There is no reason for delay. The same comments apply as for question 15.

34. Omitted as applicable to local authorities only