



DLUHC

**Consultation and call for evidence on electrical safety in
the social rented sector**

**Submission from the Chartered Institution of Building
Services Engineers (CIBSE)**

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About the Chartered Institution of Building Services Engineers (CIBSE)

The Chartered Institution of Building Services Engineers, CIBSE, is the professional engineering institution that exists to 'support the Science, Art and Practice of building services engineering, by providing our members and the public with first class information'. With its main office in London, CIBSE has over 20,000 members, with around 75% operating in the UK and many of the remainder in the Gulf, Hong Kong and Australasia. CIBSE accredits building services engineering courses in the UK and overseas.

CIBSE is the sixth largest professional engineering Institution, and along with the Institution of Structural Engineers is the largest dedicated to engineering in the built environment. Our members have international experience and knowledge of life safety requirements in many other jurisdictions and work extensively on the systems that control the various engineering systems that keep buildings safe, comfortable and healthy.

CIBSE members design, install, operate, maintain and refurbish life safety and energy using systems installed in buildings. They include specialists in digital engineering, the Society of Digital Engineering, a Division of CIBSE, who specialise in digital information management. We also have a Special Interest Group in IT and Building Controls, which works closely with the Building Controls Industry Alliance (BCIA) to provide events and activities on this topic.

CIBSE publishes Guidance and Codes providing best practice advice and internationally recognised as authoritative. These include the Digital Engineering Series of guidance and templates has been produced to assist the full built environment supply chain in tackling the practical challenges, specifically of the BIM processes, of digital engineering more widely.

The CIBSE Knowledge Portal makes our Guidance available online, where CIBSE members can access the guidance as a benefit of membership. The knowledge portal is the leading systematic engineering resource for the building services sector, used regularly by members to access the latest guidance material for the profession. Currently we have users in over 170 countries, demonstrating the world leading position of UK engineering expertise in this field.

CIBSE operates a number of Special Interest Groups covering a range of technical topics and themes. The CIBSE Electrical Services Group has contributed significantly to the preparation of this response.

CONSULTATION RESPONSE

Executive summary

This is the Institution's formal response to the consultation¹ issued by the Department of Levelling Up, Housing and Communities on electrical safety in social housing.

The institution broadly welcomes the proposals, although we have some detailed comments, as set out in our full answers below.

Consultation questions

Question 1 (a): Do you agree that mandatory inspection and testing at least every five years of electrical installations should be a legal requirement in the social rented sector?

Yes. If yes, please answer question 1 (b).

Please provide supporting details.

Mandatory inspection and testing at least every five years of electrical installations is already a requirement for the private rented sector and should also apply to the social rented sector. CIBSE supports the requirements of BS 7671 and the guidance on inspection and testing given in IET Guidance Note 3 and other guidance published by Competent person scheme operators.

Question 1 (b): If yes, should it be a requirement that a copy of the EICR report be issued to social residents within 28 days, or to any new tenant before they occupy the property?

Yes

Please provide supporting details.

Issuing the full report will keep tenants informed and show that the report has been obtained – it will also detail any recommendations made. This will contribute to the government's objective of making residents feel safe in their homes. It is unlikely that residents will understand all the details of the report, but this should not be used by interested parties to argue against providing the full report to tenants – as is already required for EPCs and Gas Safety Certificates, neither of which tenants may understand in full.

¹ <https://www.gov.uk/government/consultations/electrical-safety-in-social-housing-consultation-and-call-for-evidence/consultation-and-call-for-evidence-on-electrical-safety-in-the-social-rented-sector>

Consideration should also be given to adding the EICR report to the EPC and Gas Safety Certificates in landlord and tenant legislation relating to serving of notice on tenants where an EPC or Gas Safety Certificate are not provided prior to a tenant occupying accommodation.

Question 2 (a): Do you agree that PAT testing of appliances provided by social landlords should be a legal requirement?

No. If yes, please answer 2 (b).

Please provide supporting details.

CIBSE agrees that landlord provided electrical appliances should be inspected and tested in accordance with authoritative published guidance on a risk based schedule.

We also agree that the frequency of inspection and testing should be determined according to risk assessment. However, this is separate from an EICR and should remain so.

There is a need to consider carefully the potential for unintended consequences of introducing this as an explicit legal duty on landlords. It could trigger the removal of such appliances from accommodation. This would have significant cost implications for tenants, who are very unlikely to get any replacement that they purchase, probably second hand, PAT tested – so the result could be to undermine tenant safety and not improve it.

Paragraph 52 of the consultation notes that the Building Safety Act 2022 creates a new class of higher risk building. Some social housing will fall into that class, and will therefore come under the new regime for such buildings in use as defined by Part 4 of the Act. DLUHC is currently consulting on the principles of implementation of Part 4 in a separate consultation exercise. This will introduce a full risk based safety case regime for social housing in HRBs, which will need to address safety of appliances, whether landlord or tenant owned. Any legal requirement on landlords to carry out PAT on appliances would duplicate this aspect of the new regime for HRBs.

It is also worth noting that section 21 of the Building Safety Act requires the HSE to address this topic, as follows:

“21 Report on certain safety-related matters

Before the end of the period of three years beginning when this section comes into force, the regulator must:

(a) carry out a cost-benefit analysis of making regular inspections of, and testing and reporting on, the condition of electrical installations in relevant buildings;”

It is important that the two regimes are aligned and not imposing overlapping duties. In non HRBs there is already a duty on landlords to provide safe accommodation and avoid Category 1 hazards – they should already have a plan in place for assessing safety of any appliances that they provide. Making regular PAT a legal requirement may not only cause

unintended consequences, but may create challenges for landlords seeking to gain access for the testers – at what point would they have a reasonable defence that they had tried to arrange the testing and not had the co-operation of the tenant? And could an awkward tenant use this to make mischief?

Question 2 (b): Do you agree that the frequency of PAT testing should be determined according to risk assessment, but that evidence of PAT testing must be provided with an EICR certificate to ensure PAT testing is completed at least every five years?

Yes, where testing is a requirement then the frequency should be risk based.

Please provide supporting details

Social landlords must provide evidence of a reasonable risk based approach to managing the safety of landlord supplied appliances, which could include PAT and other measures.

Question 3: Do you agree that PAT testing of residents' personal appliances should not be a legal requirement?

Yes

Please provide supporting details.

The safety of resident's electrical equipment is not the landlord's responsibility, but residents could be provided with some written guidance on electrical equipment safety. The Building Safety Regulator may take the view that tenant appliances are a risk to be addressed by the Appointed Person in relation to HRBs and this should be left to the Regulator and landlords to address outside the scope of this consultation.

Providing residents with guidance on appliance safety would be a good thing, but some thought may need to be given about how this information is provided. The landlord may not be the best provider, as information from the landlord may not be viewed as sympathetically as information from the local fire and rescue service. The route to distribution also needs thought – it may be more readily accepted from other sources such as GPs, pharmacies, Citizens Advice and those who provide advice and legal support to tenants, or similar routes.

Question 4: Do you think a legal requirement for electrical safety checks would improve landlord access to properties to carry out checks?

No.

Please provide supporting details.

Unco-operative tenants will make a meal of this – it might make matters worse – its another thing that could be seen as the landlord hassling the tenant.

Question 5: Do you think there is more that government could do to ensure social landlords are able to access properties and carry out these checks?

Yes, but not by more regulation on this point.

Please provide supporting details and/or recommendations.

There is already legislation to provide for access to undertake gas safety checks and indeed landlord and tenant law allows a landlord to access a property where there are reasonably evidenced safety concerns. This probably needs better relationships not more regulation, and better relationships work two ways.

Question 6: Do you agree that the Guide for landlords offers suitable advice for landlords to identify competent and skilled inspectors, and could be applied to the social rented sector?

No.

Please provide supporting details and recommendations.

It is very difficult for a landlord to identify decent competent inspectors from the many companies that advertise their services. Competent person scheme providers should assist any selection process further.

Question 7: Should any requirements be introduced in a phased way as exemplified above?

Yes.

Please provide supporting details.

Providing an adequate number of qualified inspectors may take several years.

Question 8: Would 28 days be a sufficient period for social landlords to complete any remedial works?

Yes, subject to caveat below

Please explain further and/or recommend what would be a sufficient period.

Generally yes, subject to access and materials availability

Question 9: Should any regulations introduced be enforced by local housing authorities?

Yes AND No

Please provide supporting details

For those buildings that are not higher risk buildings, yes, the local housing authority is the most appropriate body – although they may need access to relevant skills to undertake the task. But for HRBs a new regulator is being introduced and so for HRBs enforcement should fall to the Regulator as part of the wider safety case based regime. It is important that any regulations are clear and enforceable, which means that there must be clarity about what compliance and non-compliance look like. Regulators also need sufficient powers to obtain the information that they need to undertake enforcement.

Question 10: Do you agree that the penalty for non-compliance of any regulations introduced should be a civil penalty of up to £30,000?

Yes/No.

Please provide supporting details.

This is not within scope of CIBSE expertise, but the penalty regime must be aligned with the Building Safety Act regime for HRBs.

Question 11: Would you support the introduction of a mandatory requirement for electrical installation checks in owner-occupier properties within social housing blocks?

Yes.

Please provide supporting details.

What does the question mean by “mandatory”? Earlier questions use the term “legal requirement”. Is that intended here? If so, how will it be enforced? Will the local authority be sending people round to knock on doors asking to see test reports for owner occupiers? What will this cost, and how feasible will any enforcement action really be?

Is regulation the answer here, or would it be better to approach this from an information provision campaign, using trusted sources of information, and in the case of owner occupiers insurers may be willing to support provision of information about appliance testing. Again, it must be risk based – there will be no support for a suggestion to test everything regardless of age, for example.

If the property is an HRB then it will be covered by the Building Safety Act and Safety Case, which will mandate various actions, so any further measures not cover HRBs. For non HRBs there is a strong engineering case that if the social units have their fixed installations checked then so should the owner occupied units. But is this best covered by regulation?

This mandatory requirement should be covered as a condition of the lease and the owner occupiers should be as strongly encouraged as they can legally be to use the same provider as the landlord is using for the common parts and social units. On that basis we support mandating inspections on a risk based basis so that in any mixed tenure block all properties should be periodically inspected and tested, along with the landlords' common parts and services.

Question 12: If yes, do you agree this requirement should apply every five years?

No

Please provide supporting details.

The inspection and testing periods for owner occupiers and the landlords' common parts should be based on a risk assessment.

Question 13: What are your views on whether this requirement should be placed on owner-occupier leaseholders or their freeholders?

Please provide supporting details.

The earlier answers should make clear our views on making this a requirement.

Question 14: If this requirement were to be placed on the owner-occupier, do you have any views on how it should be enforced?

Please provide supporting details.

This bears comparison with the regulations that require air conditioning systems over a certain threshold to be inspected and to have an air conditioning inspection (ACI) report. Enforcement falls to the local trading standards team. They have the enforcement power, but no powers to enter a property. So if they call a building operator and ask to see their ACI and the operator says "I don't have any AC system, so I don't have any ACIs, there is almost nothing that the enforcement body can do.

In this case, to enforce a legal requirement on a homeowner to have appliances tested would be potentially similar – unless the enforcer has the power to enter a home and point at an appliance that is in scope and demand to see a test report then this will not work. Demanding entry will immediately create a hostile environment and potentially put the enforcer at some risk of abuse or harm.

Is that proportionate? How will the headlines play out – local authorities have resources to employ the fridge police, but are closing nurseries, or libraries, or cutting services? Or will comparisons be drawn with recent crime statistics suggesting stolen bicycles are never recovered and many burglaries are not investigated or solved?

Question 15: Do you have any views on how best to minimise the cost burdens of extending these requirements to owner-occupying leaseholders in social housing blocks?

Please provide supporting details.

The really obvious way is not to introduce these requirements in the first place but to adopt an information based public safety approach. Since the primary risk is of fire incidents then it would be far better to support local FRSs to deliver more fire safety guidance and activity.

Question 16: Do you have any other comments that have not been captured elsewhere in this consultation?

Yes

Please provide supporting details.

This is a difficult and challenging topic. Improving the safety of portable appliances in homes has potential to improve fire safety and reduce deaths and serious injuries. However, the balance between stick and carrot needs to be carefully considered. CIBSE considers that there is too much stick and not enough carrot being considered here, and recommends an early conversation with the National Fire Chiefs Council about this work.

There must also be some mechanism in place to ensure that inspection and testing and the provision of EICR reports is properly carried out by properly experienced, competent and insured inspectors.

END

Please do not hesitate to contact us for more information on this response.