



Llywodraeth Cymru
Welsh Government

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Registered Social Landlords in Wales Landlord Health & Safety

Sector Overview and Recommendations

October 2018

1. The Regulator in Wales has required a full assurance report on landlord health and safety from every Welsh Registered Social Landlord

Welsh Government's regulation team on 5 June 2018 required every registered social landlord (RSL) in Wales to provide a full assurance report on its landlord health & safety arrangements, approved by its Board, with a deadline of 3 July 2018.

The expected content of the report is explained in detail in the Regulator's letter at Appendix 1. Each report was expected to cover all matters of assurance, including data integrity, policies including key responsibilities, systems and processes and any proposals, and a timeline, for improving the approach to assurance where weaknesses have been identified.

Due to the importance of the subject matter, we set a tight deadline for receipt of the assurance reports. The sector responded commendably to this deadline with all reports but one received by the deadline. That one exception (a very small housing association) was received 10 days after the deadline.

Responsibility for a robust approach to landlord health and safety lies squarely with the Boards of RSLs. In requiring assurance reports, the Welsh Government is in no way assuming any of the responsibility of RSL Boards for ensuring effective arrangements for landlord health and safety. Similarly, in carrying out our analysis of the assurance reports, the Welsh Government is not endorsing or agreeing any organisation's approach to health and safety management.

1.1 Welsh RSLs are seeking to improve their approaches to landlord health and safety

It is clear many RSLs have been prompted by our request, as well as the prevailing current high profile of landlord health and safety, to review their existing landlord health & safety policies and processes. This has resulted in a number of areas for improvement being highlighted by a range of RSLs, including new data validation measures, additional audits and more frequent reviews of policies.

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1.2 A sector overview of key current issues in landlord health and safety and recommendations for further improvement have been developed from an analysis of the assurance reports

We have analysed all the reports and produced this sector overview. The objective of the report is to prompt and support learning and understanding across the sector, enabling further improvements in the sector's approach to landlord health and safety management. With this in mind, we have included a number of recommendations throughout this overview.

1.3 The Regulator will work with the sector to support improved approaches to landlord health and safety

It is clear that there is scope for improvement across the sector. The regulation team will be working closely with Community Housing Cymru to promote improved assurance around landlord health and safety and on Board assurance more generally. Over the coming months, Regulation Managers will be discussing questions and issues arising from the assurance reports with individual housing associations. These discussions will be prioritised according to perceived risk level and timing of upcoming regulatory judgements. We expect to have had a first discussion with all RSLs by late Autumn.

2. Our analysis of the assurance reports highlights a number of areas where there is scope for improvement

2.1. Board ownership of landlord health and safety needs to be clearer

The Regulator's request clearly required that reports have Board approval. Of the 38 reports provided only 23 provided included clear evidence confirming Board approval. Thirteen gave no clear indication of approval and two specifically lacked Board approval when submitted.

Recommendation 1

RSLs need to clearly demonstrate excellent governance and robust Board assurance as to the effectiveness of their landlord health and safety arrangements. They must be able to clearly evidence Board ownership of landlord health and safety performance.

2.2. Governance around landlord health and safety, internal structures and reporting need to be sufficiently clear, frequent, comprehensive and based on expert advice

From the reports it was often difficult to get a clear understanding of the structure of the health and safety committees/groups, the associated lines of delegation/reporting, the frequency of reporting and the key performance indicators (KPIs) used.

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The easiest structures to comprehend were those where a diagram was included. Boards may be familiar with their organisational structure meaning that this lack of clarity may not present a problem in them obtaining assurance. However, clarity regarding organisational responsibilities is important. The delegation of health and safety within RSLs varies with no discernable pattern.

Many RSLs employ dedicated health and safety staff or teams. Some delegate responsibility to different posts across the organisation with others using health and safety consultants to provide specialist knowledge, if RSLs are using consultants they should ensure they are appropriately qualified. Irrespective of any delegation of actions or specific tasks, the Board ultimately remains responsible for health and safety. Many indicated that all staff had a role to play in health and safety, but only a few discussed the culture of the organisation in relation to health and safety, one explaining there was an emphasis on employees 'owning' health and safety.

Our experience at Cardiff Community Housing Association (CCHA) (which will shortly be the subject of a published lessons learned report) highlights the importance of having clear structures and allocated responsibilities for landlord health and safety to avoid key elements "falling through the gaps".

Recommendation 2

RSL Boards should satisfy themselves that their landlord health and safety responsibilities, delegations and structures are clear, fit for purpose and understood across the organisation.

2.3. A robust approach, including use of appropriate external expertise, is needed to ensure adequate Board assurance on landlord health and safety

Our analysis indicated a range of approaches.

External Accreditation

Four (out of 38) RSLs reported that they had achieved external accreditation of their health and safety systems, with a further nine using some other type of recognised guidance/model to organise their health and safety arrangements. The Health and Safety Executive's 'Managing for health and safety (HSG65)' was referenced most frequently. Other RSLs may be using an existing model, but have not stated this in their report.

Recommendation 3

RSLs should consider whether benchmarking their current health and safety arrangements against an existing model or guidance would improve the robustness of their approach. They should also consider seeking external accreditation for their health and safety management systems.

Three lines of defence approach

A theme which emerged from the report was the use of 'three lines of defence' by a number of RSLs, with 15 indicating they use at least some element of this method for their health and safety assurance arrangements. Several mentioned four lines of defence. This is a risk management method now commonly applied by a variety of businesses and organisations, to health and safety and to other areas of business assurance and risk management. In the model, responsibility for managing risk is shared between a first line consisting of frontline staff appropriately applying appropriate polices, a second line comprising risk management and compliance, then a third line composed of external assurance, e.g. internal audit.

Recommendation 4

RSL Boards should ensure that their current arrangements are sufficiently robust to provide a level of assurance comparable to that provided by the three lines of defence approach.

Internal Audit

Internal audit was cited as a means of assurance in 36 of the 38 reports. It's clear that the great majority of RSLs rely on internal audit, usually delivered by a third party, to provide assurance as to the robustness of their health and safety arrangements.

The frequency and scope of these audits was often not clear and it was also unclear, from the reports, how or by whom, the frequency and scope of health and safety audits was determined. In those reports that did provide clarification, the Audit & Risk Committee (or similar group) was often responsible for directing internal audit. The Board input to this process was usually not detailed.

The frequency of audit varied greatly. One RSL reported six monthly compliance audits across all landlord risk areas; another completed only one audit annually covering one specific area. In many reports, the frequency and scope could not be determined. A number of RSLs indicated they had, or soon would be, increasing the number of health and safety audits undertaken.

Recommendation 5

RSLs should consider whether the frequency, scope and robustness of their internal audit of landlord health and safety provides them with adequate assurance.

2.4. Data Integrity – if the data is not accurate, how do you know you know what you think you know?

Data integrity and/or data validation was mentioned in 28 of the 38 reports.

Some RSLs have existing systems in place to ensure the integrity of their data. One described an annual internal audit using specialised software on data extracted from their Housing Management system, covering gas safety, fire risk assessments, asbestos management and legionella. Other RSLs reported they had uncovered deficiencies in their data/records and were now working towards resolving the issue. For example one reported taking action to develop a policy covering data integrity and validation, with another indicating they intend to use ‘external sources’ to verify data in the future.

Another RSL had recently undertaken a data integrity audit at the suggestion of their internal auditors. This had identified errors which had resulted from a lack of integration between IT systems, leading to a reliance on communication between departments and resulting in human error in data input.

Of the 28 RSLs which mentioned data integrity, many did not evidence a clear understanding of how they obtained assurance regarding the accuracy of data. Some simply asserted they had confidence in their data.

Another issue discussed in several reports was the use of spreadsheets to store data. A number RSLs indicated they were moving away from the historic use of spreadsheets to more secure systems, some citing the high operational risk associated with maintaining data integrity on spreadsheets.

Our experience at CCHA highlights the potential for inaccurate data to wholly undermine an RSL’s arrangements for landlord health and safety and to result in tenants potentially being put at risk. If the data being used is not accurate, the most robust arrangements can and do fail.

Also highlighted by the CCHA experience is the related issue of whether Board members understand the potential implications of the data being provided. In a test sample, failure of two out of five samples may superficially seem to provide adequate assurance, particularly when reasonable sounding explanations were provided for those two failures. However, extrapolating a 40% fail rate to the whole housing stock clearly shows there is an issue which requires some further serious scrutiny.

Recommendation 6

RSLs should assure themselves that their data integrity/validation processes are sufficiently robust and fit for purpose.

Recommendation 7

RSLs should consider whether they need to do more to ensure data integrity e.g. through regular data integrity audits.

Recommendation 8

RSLs should consider phasing out any data storage/compliance systems that are easily corruptible and can result in inaccurate data, for example spreadsheets.

Recommendation 9

RSL Boards should consider whether they truly understand the implications of the data they are considering.

2.5. A robust health and safety culture is essential

As mentioned above, very few RSLs mentioned health and safety culture in their reports. An organisation's culture influences employee behaviour and can have a significant influence on safety outcomes. The Health and Safety Executive suggest success normally comes from good leadership, good worker involvement and good communications. They identify the largest influences on safety culture as:

- management commitment and style;
- employee involvement;
- training and competence;
- communication;
- compliance with procedures; and
- organisational learning.

Our experience at CCHA highlights the crucial importance of a robust health and safety culture running through the whole organisation, with ownership of health and safety responsibilities by everyone, in avoiding landlord health and safety being seen as "someone else's job" or as "just an add on". An appropriate health and safety culture is needed to ensure that emerging issues are responded to swiftly and appropriately, not brushed under the carpet.

Recommendation 10

RSLs should consider whether their organisation has an appropriate robust health and safety culture.

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The frequency and scope of reporting to the various different groups (e.g. Senior Management Team, Leadership Team, Audit & Risk Committee, Scrutiny Committee, Health & Safety Team, Health and Safety Committee) used within different RSLs varies greatly. Monthly or quarterly reporting was most common amongst those RSLs which specified a frequency. The scope of these reports was not usually detailed.

The frequency with which the reports specify Boards receive health and safety reports varied from monthly to annually. It is clear that, in some organisations, Board members sit on other groups within the structure that receive reports more frequently, notably the Audit & Risk Committee (or similar). This arrangement may provide sufficient assurance to the Board as a whole, however it would be prudent to consider whether current arrangements are adequate. Often the detail of what the Board received was not clear from the report. Some appear to get limited information - for example only data on gas certificates outstanding and significant health and safety breaches. A number of RSLs indicated they are currently considering whether the current KPIs were adequate and were considering developing new KPIs for future reporting. One Board that currently only receives performance data on gas servicing and fire risk assessments, is expanding this to include data on smoke alarms, electrical testing, asbestos management, legionella and lift servicing.

Our experience at CCHA indicates that there are pitfalls also in receiving too much information on landlord health and safety as this brings with it the danger of not being able to pick out the critically important items from the mass of data presented – not being able to see the wood for the trees.

Recommendation 11

RSL Boards should consider whether the frequency and scope of reporting of landlord health and safety performance is appropriate to provide them with the assurance they require.

2.6. Health and safety policies & systems must be robust, relevant and up to date

Whereas all the reports provided some mention of a health and safety policy or management system, the level of detail and clarity provided greatly varied. This ranged from a mention of a policy with no indication of when it was last reviewed, or was due to be reviewed, to a suite of policies covering all landlord H&S risks with all relevant dates included.

There is mixed practice regarding the frequency with which policies are reviewed. This ranged from no information provided, to all policies reviewed annually through the Board. A number of RSLs review policies on two or three year cycles, although there was evidence of some policies not having been reviewed for at least four years.

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A number of RSLs identified that they lacked policies in some areas and this exercise had prompted them to develop relevant policies.

Most RSLs reported using some type of risk management system/method, with health and safety usually forming part of this. It was often not clear from reports if landlord health and safety was specifically addressed by the risk management system. One RSL indicated that they would be updating their risk map to include landlord health and safety

It is difficult to understand why landlord health and safety would not feature prominently in risk mapping and management of all RSLs – particularly in the current environment.

Recommendation 12

RSLs should consider whether the policies they have in place adequately cover all areas of landlord health and safety, and the frequency with which they are reviewed.

Recommendation 13

RSLs should ensure their risk management system adequately recognises the risks posed by their landlord health and safety responsibilities.

2.7. Landlord health and safety reports – their length and relevance must support the Board's ability to understand and address the key issues

The size, style and focus of the reports received varied greatly. The shortest report was two pages and the longest 150 pages. Many of the longer reports included numerous appendices.

The relevance of the material submitted also varied. The majority concentrated on providing assurance regarding landlord health & safety. However, a number addressed health & safety in a much wider context, for example, lone working policies and other staffing related matters. In some reports, this made it difficult to identify the material relevant to landlord health and safety.

Over long and over complex reports raises a question about how easily some Boards were able to identify the information they require to provide assurance on their responsibilities for landlord health and safety. It also raises the question of whether all RSLs ensured that they fully understood the Regulator's request.

Recommendation 14

Boards need to consider whether the length, scope and style of reporting on health and safety supports them to focus on the key landlord health and safety issues.

2.8. Tenants should be involved in landlord health and safety

The extent of tenant involvement in landlord health and safety is not clear from our analysis of the assurance reports. Six of the 38 reports highlighted a clear route by which tenants can contribute to landlord health and safety. This was usually via tenant panels or forums. Our request did not explicitly request details of tenant engagement, so other RSLs may already be including tenants in their arrangements. In the current environment, tenants have an important role. All RSLs should be thinking about how to involve tenants, if they do not already have appropriate arrangements in place.

Recommendation 15

RSLs should ensure they have appropriate arrangements in place to encourage tenants to engage with and influence landlord health and safety.

3. Improvements are underway in many RSLs. The Regulator will work with the sector to support continuing improvement

Our request for assurance reports has already prompted a number of RSLs to review and/or make changes to their landlord health and safety systems arrangements.

Our recommendations provide a further opportunity for RSLs and their Boards to reflect on whether their current arrangements are adequate and learn from current practice across the sector. Boards must be able to provide assurance that their health and safety reporting system is accurate and robust, is able to identify failings and implement improvements quickly – and, most importantly, ensures the safety of tenants and other service users.

Our Regulation Managers will work with individual RSLs to assess the quality of their Board assurance around landlord health and safety, highlighting, where necessary, where further/ more robust assurance is required.

Appendix 1 – Letter from the Regulator



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To
All RSL Chairs and Chief Executives
Members of the Regulatory Advisory Group

In the context of recent events, including a case of regulatory intervention and, of course, the Grenfell Tragedy, it is critical RSL Boards have complete confidence in the information they receive in relation to their landlord Health and Safety responsibilities and in how their liabilities are discharged.

Guidance to Performance Standard 2 - *Effective and appropriate tenant involvement, evidencing high quality and improving services* - requires that landlords meet all applicable statutory requirements providing for the health and safety of the occupants in the home. To be clear, this means Boards must be fully cognisant of the full range of their health and safety responsibilities, duties and liabilities including, but not restricted to, fire, gas and electrical safety and testing requirements.

In the Global Accounts, Challenges, Risks and Regulatory Expectations publication, we set out clear regulatory expectations that Boards must "...provide assurance their Health and Safety reporting system is accurate and robust, is able to identify failings but, more importantly, implement improvements quickly. The regulator will require Boards to set out their assurance methodology for Health and Safety Management systems and performance. This could include periodic audits or peer reviews, for example, but should take place at least every two years."

This requirement would normally be covered as part of routine regulatory oversight. However, there have been instances where we have found assurance on these critically important matters to be unreliable. For that reason, I am requiring every RSL to provide a full assurance report on landlord Health and Safety, approved by the Board, no later than 3rd July 2018. The report must respond to the

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regulatory expectations set out above and should include all matters of assurance, including data integrity, policies including key responsibilities, systems and processes and include proposals and a timeline for improving the assurance methodology where weaknesses are identified.

I realise this is an unusual request in terms of our routine regulatory oversight and planning but I am certain you will appreciate the circumstances merit this approach, which has been fully discussed with Community Housing Cymru.

Once the reports are received, I intend to publish a sector overview summary report as well as commissioning individual feedback discussions with any Board which cannot provide the level of assurance expected. I should also confirm that the Welsh Government will not hesitate to take further formal regulatory action should the Health and Safety of tenants and others be shown to be endangered by inadequate management arrangements.



Carol Kay
Head of Regulation Strategy

Appendix 2 - Recommendations

Recommendation 1

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Recommendation 2

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