

Carl Sargeant AC/AM
Ysgrifennydd y Cabinet dros Gymunedau a Phlant
Cabinet Secretary for Communities and Children



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref CS/01486/17

Colin Phillips

Senior Coroner for Swansea and Neath Port Talbot

coroner@swansea.gov.uk

17th October 2017

Dear Mr Phillips

I write further to receipt of your Regulation 28 Report following the inquest into the sad death of Jac Evan Davies, brought to my attention by the Assistant Coroner.

As stated in your report, the requirements relating to the fitting of smoke and carbon monoxide alarms in England are set out in the Smoke and Carbon Monoxide Alarm (England) Regulations 2015. These regulations were made under powers in section 150 of the Energy Act 2013 which extend only to England.

In 2016, the National Assembly for Wales passed the Renting Homes (Wales) Act 2016 ('the 2016 Act'). This legislation represents a fundamental reform of the law relating to residential tenancies and licences in Wales, and is based on Law Commission recommendations. The 2016 Act provides that individuals who rent their home under a tenancy or licence will do so under an 'occupation contract' (subject to a small number of exceptions). The 2016 Act extends to registered social landlords and local authorities, as well as private landlords.

Part 4 of the 2016 Act addresses the condition of dwellings rented under an occupation contract, and section 91 places a duty on landlords of occupation contracts to ensure the dwelling is fit for human habitation. This duty applies both at the outset of, and for the duration of, the occupation contract. The fitness duty is additional to the current repairing obligations placed on landlords, which will continue to apply under the 2016 Act.

Section 94 of the Act requires the Welsh Ministers to prescribe, in regulations, the matters and circumstances to which regard must be had when determining whether a dwelling is fit for human habitation. As part of the work being undertaken to implement the 2016 Act, the Welsh Government is currently consulting on these draft regulations.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The draft regulations adopt, as matters and circumstances to which regard must be had when determining whether a dwelling is fit for human habitation, the 29 matters and circumstances, including that of fire, prescribed under Section 2 of the Housing Act 2004 and used by local authorities in assessing whether a hazard is present under the Housing Health and Safety Rating System. In addition, the draft regulations place specific requirements on landlords to mitigate the risk of particular matters and circumstances occurring. These requirements include the presence of working smoke and carbon monoxide alarms, as well as the carrying out of a safety test of the electrical installation in the dwelling at least every five years. Whereas in England the requirement relating to carbon monoxide alarms applies only in respect of solid fuel appliances, the requirement in draft regulations for Wales applies in respect of solid fuel, gas or oil-fired appliances. The consultation on the draft regulations and accompanying guidance is available at: <https://consultations.gov.wales/consultations/renting-homes-wales-act-2016-fitness-human-habitation>.

The draft regulations therefore, place a legal duty on both social and private landlords to fit smoke and carbon monoxide alarms and if a landlord fails to do so, their dwelling is to be treated as if it were unfit for human habitation. We also believe the requirement for five year electrical safety testing will further help to reduce the incidence of house fires. In addition to contract holders being able to take court action against landlords for breach of contract, a failure to comply with the regulations could also result in a landlord losing his or her licence to rent under Rent Smart Wales.

As indicated above, the draft regulations are currently subject to public consultation, following which, the draft regulations will be further considered in light of responses.

The 2016 Act represents a fundamental change to housing law in Wales. Implementation of the Act requires a substantial amount of secondary legislation to be made and this work is ongoing. We are currently aiming to complete this work enabling the Act to be fully implemented in the autumn of 2018. Once fully implemented the 2016 Act will apply to both new occupation contracts and existing tenancies and licences which will convert to occupation contracts. We believe this will provide for much safer conditions for those who rent their homes in Wales.

Yours sincerely,



Carl Sargeant AC/AM

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