



Social Housing (Regulation) Act 2023

2023 CHAPTER 36

Duties of registered providers

10 Appointment of health and safety lead by registered provider

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) Before section 127 (and the heading immediately before it) insert—

“Health and safety lead for registered provider

126A Designation of health and safety lead

- (1) A registered provider must designate an individual to carry out the functions in section 126B.
- (2) The individual designated under subsection (1) is referred to in this Part as the “health and safety lead” for the registered provider.
- (3) The health and safety lead must be—
 - (a) in the case of a private registered provider—
 - (i) if the provider has at least 15 employees, an employee of the provider;
 - (ii) otherwise, an employee or officer of the provider;
 - (b) in the case of a local authority which operates executive arrangements and has a leader and cabinet executive (England)—
 - (i) the executive leader,
 - (ii) another member of the executive, or
 - (iii) an employee of the authority;
 - (c) in the case of a local authority which operates executive arrangements and has a mayor and cabinet executive—
 - (i) a member of the executive other than the elected mayor, or
 - (ii) an employee of the authority;

Status: This is the original version (as it was originally enacted).

- (d) in the case of the Common Council of the City of London, an employee of the Common Council;
 - (e) in the case of any other local authority—
 - (i) the chairman or vice-chairman of the authority (if holding a paid office), or
 - (ii) an employee of the authority.
- (4) In this section and section 126B, the following terms have the same meanings as in Part 1A of the Local Government Act 2000 (and see the provisions of that Act mentioned)—
- “elected mayor” (section 9H(1));
 - “executive” (section 9C);
 - “executive arrangements” (section 9B(4));
 - “executive leader” (section 9C(3)(a));
 - “leader and cabinet executive (England)” (section 9C(3));
 - “mayor and cabinet executive” (section 9C(2)).
- (5) For the purposes of subsection (3)(e)(i)—
- (a) the references to the chairman and vice-chairman of an authority are to those persons elected under section 3 or 5 of the Local Government Act 1972 (or in relation to a London borough council are to be read in accordance with section 270(4) of that Act);
 - (b) a chairman or vice-chairman holds a “paid office” if the council pays the person an allowance.
- (6) The Secretary of State may by regulations amend this section to alter who may be the health and safety lead for a registered provider.

126B Functions of the health and safety lead

- (1) The functions of the health and safety lead for a registered provider are to—
- (a) monitor the provider’s compliance with health and safety requirements;
 - (b) assess risks of failure to comply with health and safety requirements;
 - (c) notify the responsible body of the provider of—
 - (i) risks assessed under paragraph (b) of material failures by the provider to comply with health and safety requirements;
 - (ii) material failures by the provider to comply with health and safety requirements;
 - (d) provide advice to the responsible body as to how the provider should address risks and failures notified to the responsible body under paragraph (c) for the purpose of ensuring that the provider complies with health and safety requirements.
- (2) In this Part, “health and safety requirement”, in relation to a registered provider, means a statutory requirement, so far as it—
- (a) relates to the health or safety of tenants of social housing, and
 - (b) applies to the provider by virtue of being the provider of that social housing (including where it is expressed as applying to a landlord or employer or in some other way).

- (3) In this section, “statutory requirement” means a requirement imposed by or by virtue of legislation and includes—
- (a) an obligation under a covenant implied by or under legislation (such as a covenant under section 9A of the Landlord and Tenant Act 1985 (fitness for human habitation of dwellings in England));
 - (b) a requirement imposed—
 - (i) by a notice given under legislation, or
 - (ii) by or as a result of other action (such as enforcement action mentioned in section 5(2) or 7(2) of the Housing Act 2004 (housing conditions: category 1 and 2 hazards)) taken under legislation.
- (4) In subsection (3), “legislation” means any provision of or made under—
- (a) an Act of Parliament, or
 - (b) a Measure or Act of Senedd Cymru.
- (5) For the purposes of this section, the “responsible body” of a registered provider—
- (a) in the case of a local authority which operates executive arrangements, is the executive;
 - (b) in the case of any other local authority, is the councillors;
 - (c) in the case of a private registered provider, has the meaning given by the following table—

<i>Private registered provider</i>	<i>Meaning of “responsible body”</i>
Registered charity which is not a registered company	Its charity trustees within the meaning given by section 177 of the Charities Act 2011
Registered society	Its committee within the meaning given by section 149 of the Co-operative and Community Benefit Societies Act 2014
Registered company	Its directors within the meaning given by section 250 of the Companies Act 2006
Limited liability partnership	Its members

(See section 126A(4) for the meanings of terms used in paragraph (a).)

126C Duties of registered provider in relation to health and safety lead

- (1) A registered provider must—
- (a) ensure that the health and safety lead—
 - (i) has sufficient authority (including, in particular, authority to obtain information) within the provider’s organisation, and
 - (ii) can devote sufficient time to the functions of the health and safety lead,
- to perform the role of health and safety lead effectively;

- (b) provide the health and safety lead with the resources needed to carry out those functions.
- (2) A registered provider must, in accordance with requirements published by the regulator—
- (a) notify the regulator of the name and contact details of the health and safety lead, and
 - (b) publish that information.

126D Health and safety lead: general

- (1) Nothing in sections 126A to 126C affects—
- (a) the responsibility of a registered provider for compliance with health and safety requirements, or
 - (b) the liability of the registered provider or of any director, member or other officer or person for a failure to comply with health and safety requirements.
- (2) The health and safety lead is not, by virtue of those sections—
- (a) responsible for the registered provider’s compliance with health and safety requirements, or
 - (b) liable for a failure by the registered provider to comply with health and safety requirements,
- (but this does not affect any responsibility or liability which the individual designated under section 126A has otherwise than as health and safety lead).
- (3) A registered provider may nominate an individual to carry out the functions of the health and safety lead if the health and safety lead is unable to act due to absence or illness.”
- (3) In section 220 (grounds for giving enforcement notice), at the appropriate place insert—
- “(11B) Case 12 is where—
- (a) the registered provider—
 - (i) does not have a health and safety lead designated under section 126A, or
 - (ii) has failed to meet a requirement under section 126C, or
 - (b) the functions of the health and safety lead are not being carried out.”
- (4) In section 227 (grounds for imposition of penalty), at the appropriate place insert—
- “(7B) Case 8 is where—
- (a) the registered provider—
 - (i) does not have a health and safety lead designated under section 126A, or
 - (ii) has failed to meet a requirement under section 126C, or
 - (b) the functions of the health and safety lead are not being carried out.”
- (5) In section 247(1) (management tender), before paragraph (b) insert—
- “(ab) a registered provider—

- (i) does not have a health and safety lead designated under section 126A, or
 - (ii) has failed to meet a requirement under section 126C(1),
 - (ac) the functions of the health and safety lead are not being carried out.”.
- (6) In section 251(1) (appointment of manager of private registered provider), before paragraph (b) insert—
 - “(ab) a private registered provider—
 - (i) does not have a health and safety lead designated under section 126A, or
 - (ii) has failed to meet a requirement under section 126C(1),
 - (ac) the functions of the health and safety lead are not being carried out.”.
- (7) In section 252A(2) (appointment of advisers to local authorities)—
 - (a) in paragraph (a), omit the final “or”;
 - (b) after paragraph (b) insert—
 - “(c) that the authority—
 - (i) does not have a health and safety lead designated under section 126A, or
 - (ii) has failed to meet a requirement under section 126C(1),
 - (d) that the functions of the health and safety lead are not being carried out”.
- (8) In section 320 (orders and regulations), in subsection (3)(d), for “or 72” substitute “, 72 or 126A”.