



Environmental Health

PRIVATE SECTOR HOUSING CONDITIONS AND EMPTY HOMES ENFORCEMENT PROCEDURE

HOUSING ACT 2004

PARTS 1 AND 4

**Environmental Health
May 2007**

Introduction

The Housing Act 2004 introduced a new system for assessing housing conditions, known as the Housing Health and Safety Rating System (HHSRS), which is used in the enforcement of housing standards in all types of residential accommodation. This new system replaced the fitness for human habitation standard as contained within section 604 of the Housing Act 1985.

The new system is structured around an evidence based risk assessment procedure, which considers those hazards that may be present in a dwelling from a list of 29 classified hazards. The risks that any such hazards may present to the most vulnerable potential occupant of that dwelling are then used to generate a hazard score. That score is, on the basis of its numerical value, then classified as a category 1 hazard or a category 2 hazard. Category 1 hazards can further be subdivided into those banded A-C and category 2 hazards can be subdivided into those falling within bands D-J reflecting decreasing levels of risk.

Under the Housing Act 2004 North West Leicestershire District Council has a duty to take appropriate enforcement action where there is a category 1 hazard, and a discretionary power to take appropriate enforcement action where there is a category 2 hazard. Therefore, to ensure a consistent approach to housing standards enforcement by inspectors, this an Enforcement Protocol has been produced for enforcement of Parts 1 and 4 of the Act and may be found at

[PRIVATE HOUSING ENFORCEMENT PROTOCOL NWLDC.doc](#)

This protocol complies with the principles of the Enforcement Concordat, which the Council has signed up to.

1. RECEIPT OF A COMPLAINT.

Initial complaints come to us via:

- Tenants
- Members of the community,
- Commercial landlords
- Social Services – Hospital and Community
- Councillors.

When a complaint is received by North West Leicestershire District Council, the Council will investigate the validity of the complaint following the guidance within the Housing Act 2004

Details of the complaint and the complainant are to be taken. The information required is:

1. The name of the complainant

2. Address of the property
3. Type of tenancy
4. Ownership details (if known)
5. Nature of complaint
6. History of any action to resolve the issues

The complaint must be logged on the Caps database and be given a complaint reference number.

2. Investigation of complaint

It will be necessary to undertake an investigation of the property to ensure the validity of the complaint. Make an appointment to view the property. Ensure you take a camera and damp meter. Dependent on the nature of the complaint a tape measure may be required to determine room size.

The inspection shall be undertaken to identify any defects using the 29 hazards under the HHSRS an aide memoir has been produced to assist officers to ensure that all risks are considered.
[HHSRS\HHSRS Crib sheet v2 arial.pdf](#)

Photos should be taken to ensure that any contested cases may be defended and any alterations to the risk factors found are fully justified with photographic evidence.

3. Determination of risk rating

On the return to the office an assessment of the risks shall be undertaken using the HHSRS excel spreadsheet [HHSRS\HHSRS assesment spreadsheet master.xls](#)

The score shall determine the risk rating and the course of action shall be the responsibility of the Environmental Health Officer following evaluation of the risk category and following the councils preferred action contained in section 5 of this procedure. Further clarification may be found in the enforcement protocol.

The Environmental Health Team Leader shall be notified and consulted on the most appropriate course of action.

4. Action to be taken by the Council

The enforcement options available to the Council are:

- a. To issue Hazard Awareness Notices
- b. To serve Improvement Notices
- c. To serve Prohibition Orders
- d. To take Emergency Remedial Action (not available for Cat 2 hazards)
- e. To serve Emergency Prohibition Orders (not available for Cat 2 hazards)

- f. To make a Demolition Order (not available for Cat 2 hazards)
- g. To declare a Clearance Area (not available for Cat 2 hazards)

Having determined the course of enforcement action the Council will prepare and serve with any notice

Notices may be accessed through the Shaws On Line Documents which can be accessed from the desktop of computer 0523 (enhanced forms should be used where there is an option)

A copy of the notice shall be saved in Enviroshare/Environment Section/Private Sector Housing/Housing Act 2004/ Case Folder. [Case Folder](#)
A new case folder should be made for each new case within the folder.

or order under Part 1 of the Act, or any copy of a Part 1 notice or order, a statement of reasons for the decision to take enforcement action. The statement will include an explanation as to why a particular course of action was taken in preference to the other forms of available action. Where the relevant enforcement action is the declaration of a clearance area, the statement of reasons must be published as soon as possible after the resolution declaring that the area be defined as a clearance area under section 289 of the Housing Act 1985, is passed.

Where reasonably practicable, any proposed enforcement action will be discussed with the relevant person prior to the service of any notice or order under Part 1 of the Act, and their representations sought.

5. Course of action and preferred actions to be taken.

Hazard Awareness Notices (Sections 28 and 29).

It is the Council's policy that hazard awareness notices will be the preferred course of action on residential premises where:

- a. the hazard(s) present are all of category two; or,
- b. in the case of category one hazards the Council is fully satisfied that the relevant person will take suitable remedial action within a suitable timescale; or,
- c. the circumstances are such that improvement or prohibition is unreasonable or impractical.

5.1 Improvement Notices (Sections 11 and 12).

Improvement notices may be the preferred course of action on residential premises where:

- a. there is a category two hazard(s) present, and
- b. that hazard(s) would present an unacceptable risk if allowed to remain and
- c. the relevant person will not confirm in writing their intention to undertake the necessary remedial action.

5.2. Prohibition Orders (Sections 21 and 22).

Prohibition Orders will be the preferred course of action on residential premises where:

- a. there may be a serious threat to health and safety and remedial action is considered unreasonable or impractical for cost or other reasons i.e. where the work cannot be carried out with the tenant in residence; or,
- b. a dwelling is overcrowded as regards space and/or amenities for the numbers in occupation; or,
- c. where a dwelling presents a serious threat to the health and safety to a specific group of persons, but is relatively safe for occupation by any others; or
- d. there is little confidence in an unprompted offer by the relevant person to prohibit an activity associated with that risk (Cat 2 hazards only); or
- e. the relevant person will not confirm in writing their unprompted offer of voluntary prohibition (Cat 2 hazards only).

5.3. Emergency Remedial Action (Section 40).

Emergency remedial action will be the preferred course of action on residential premises where:

- a. A category 1 hazard exists and,
- b. there is an imminent risk of serious harm to the health and safety of any occupiers and,
- c. where remedial action, by way of an improvement notice made under section 11, could potentially be taken.

5.4 Emergency Prohibition Orders (Section 43).

An emergency prohibition order made under section 43 may be an appropriate course of action where a category 1 hazard exists on residential premises, where no management order is in place under Part 4 of the Act and where a hazard involves an imminent risk of serious harm to the health or safety of any occupiers of residential premises. An order made under this section may prohibit use of part or all of the premises as is necessary and, unlike a prohibition order, is effective immediately. An emergency prohibition order made under this section may relate to one or more Category 1 hazards in the same premises.

Inspectors will not make emergency prohibition orders unless they are confident that they have sufficient evidence to defend an appeal against the order