



Local Authority Enforcement Options

A Landlords Guide

How does a Council enforce Health and Safety in Private Rented Property?

Councils use an evidence based risk assessment procedure, the Housing Health and Safety Rating System (HHSRS), when they inspect a rented property in response to a complaint of poor housing standards. The resulting risk assessment will guide their decisions on the action to take to deal with any significant hazards found.

These powers apply to all types of residential premises, including HMOs, purpose built blocks of flats and buildings comprising converted flats. Although local authorities cannot take statutory enforcement action against themselves in respect of their own stock they are expected to use HHSRS to assess the condition of their stock and to ensure their housing meets the Decent Home Standard.

Formal statutory enforcement action can follow from a HHSRS assessment, and the options for that enforcement are listed below.

Assessment of hazards

Using guidance issued by the DCLG (Department for Communities and Local Government) based on research by the University of Warwick, Council Officers rate each individual hazard present within a dwelling on a pre-determined scale. These results in a hazard score for each of the 29 hazards incorporated within HHSRS. Scores are grouped into 10 bands from A to J with Band A representing the most severe hazards down to Band J representing those with minor health impact. Hazard bands A to C are deemed “Category One Hazards”. The remaining Bands are deemed “Category Two”.

The Local Authority will be guided by three main points when making an enforcement decision:

- The HHSRS Hazard Rating.
- Whether the Local Authority has a duty or power under the act to take action.
- The best way of dealing with a hazard having regard to the enforcement guidance.

The main enforcement options are the service of one of the following:

Hazard Awareness Notice

- Advisory notice only.
- Normally used only for Category 2 hazards (unusually could be used for Category 1 hazards).
- Often used where properties are owner-occupied.
- No time limit to commencement of remedial works.
- No follow up inspection.

Improvement Notice

- Used for Category 1 or 2 hazards.
- Remedial work must begin no later than 28 days after notice has been issued (unless the notice has been appealed) .
- Suspension of notice is possible in certain circumstances e.g. where a person of a certain description begins or ceases to occupy the dwelling.
- Agreed time period for remedial work to be completed.
- Follow up visits to verify work has been completed.
- Failure to comply with the notice is a criminal offence.



Prohibition Order

- Used for Category 1 or 2 hazards.
- May prohibit use of part or all of a dwelling where hazards are identified e.g.
 - Serious threats to health and/or safety.
 - To limit number of occupants.
 - Prohibit use of dwelling to particular group
- Suspension of the order is possible under certain circumstances e.g. where a person of a certain description begins or ceases to occupy the dwelling
- Contravention of the order is a criminal offence.

Emergency Remedial Action

- Used for Category 1 hazards only.
- Used where there is considered to be an imminent risk to health and/or safety.
- Allows Local Authority to carry out immediate remedial action.
- Can also serve an emergency prohibition order which would have immediate effect.

Demolition Order

- Used for Category 1 hazards only.
- Used where an imminent risk to health and/or safety has been identified.
- Property is considered to be beyond reasonable repair.

Declare a Clearance Area

- As above but for a whole street or geographical area.
- A number of properties all pose imminent and/or significant risk to health and/or safety.

How can I avoid an enforcement action?

Prevention is better than cure! Make sure your property is free from any unnecessary health and safety hazards and that your tenants know who to contact if they are unhappy. Remain responsive to reasonable requests to undertake repairs and ensure they are completed in a timely fashion and to an adequate standard. Proactively plan preventative maintenance, remembering not all the rent is profit!

Before a Council can serve an enforcement notice, it must give you at least 24hrs notice of its intention to do so. Try and make sure you attend the inspection and be responsive to any suggestions made by the inspecting officer. Try and discuss any points of disagreement and offer alternative solutions, as these may be acceptable. If a significant hazard is found, remember the Council often has a 'legal duty' to serve an enforcement notice, even if you agree to undertake the works, so don't take this personally. The Council will normally let you know well in advance of taking formal enforcement action, unless it is an urgent safety matter and they can't contact you. The Council are entitled to charge for enforcement action, and this is often about £400.

If you are served with an enforcement notice, make sure you read it and comply with any given works or timescales. This is vital to avoid being prosecuted or facing hefty fines by way of a Civil Penalty and/or works in default. However, remember you do have the right to appeal against any enforcement action, and the contact details for the appeals Tribunals are given on the last page of this leaflet.



What are the sanctions if I fail to comply with Housing Standards?

If you fail to comply with Housing Standards legislation, the Council (and Fire Service) can impose a number of sanctions including criminal proceeding in Court (a prosecution), financial penalties imposed by the Courts and/or Civil Penalty fines for non-compliance. Further, the Homes (Fitness for Human Habitation) Act 2018 also provides a process whereby a tenant can apply direct to County Court for financial damages and a Court Order to secure works are completed, if they can convince the judge their rented home is unfit to live in.

While the type of enforcement action an authority can impose depends on the type of dwelling, its condition, management and occupation, the list below represents some of the common sanctions :-

- A **charge for the service of an enforcement notice**, commonly between £200 & £500. You will still need to complete the work, or the Council can step in and do it (charging you for the work and a fee for its arrangement).
- A **Civil Penalty** for failure to comply with an enforcement notice, HMO management regulation(s) or apply for or breach an HMO Licence condition, commonly between £1000 & £15,000 up to a maximum of £30,000.
- A **prosecution** for failure to comply with an enforcement notice or HMO management regulation(s), or apply for or breach an HMO Licence condition, commonly several thousand pounds, but the fines are potentially unlimited.
- A history of poor compliance can lead to a **Banning Order**, preventing a Landlord and their associates from renting or managing property. This would result in the revocation of any HMO Licences held.
- Entry onto the **Rogue Landlord Database**. Dependant on the severity of an offence or offences committed, a landlord or agent might find themselves listed on the Governments new Rouge Landlord Database. This can be for a number of years and severely restrict their commercial ability to manage property and operate as a landlord or letting agent.

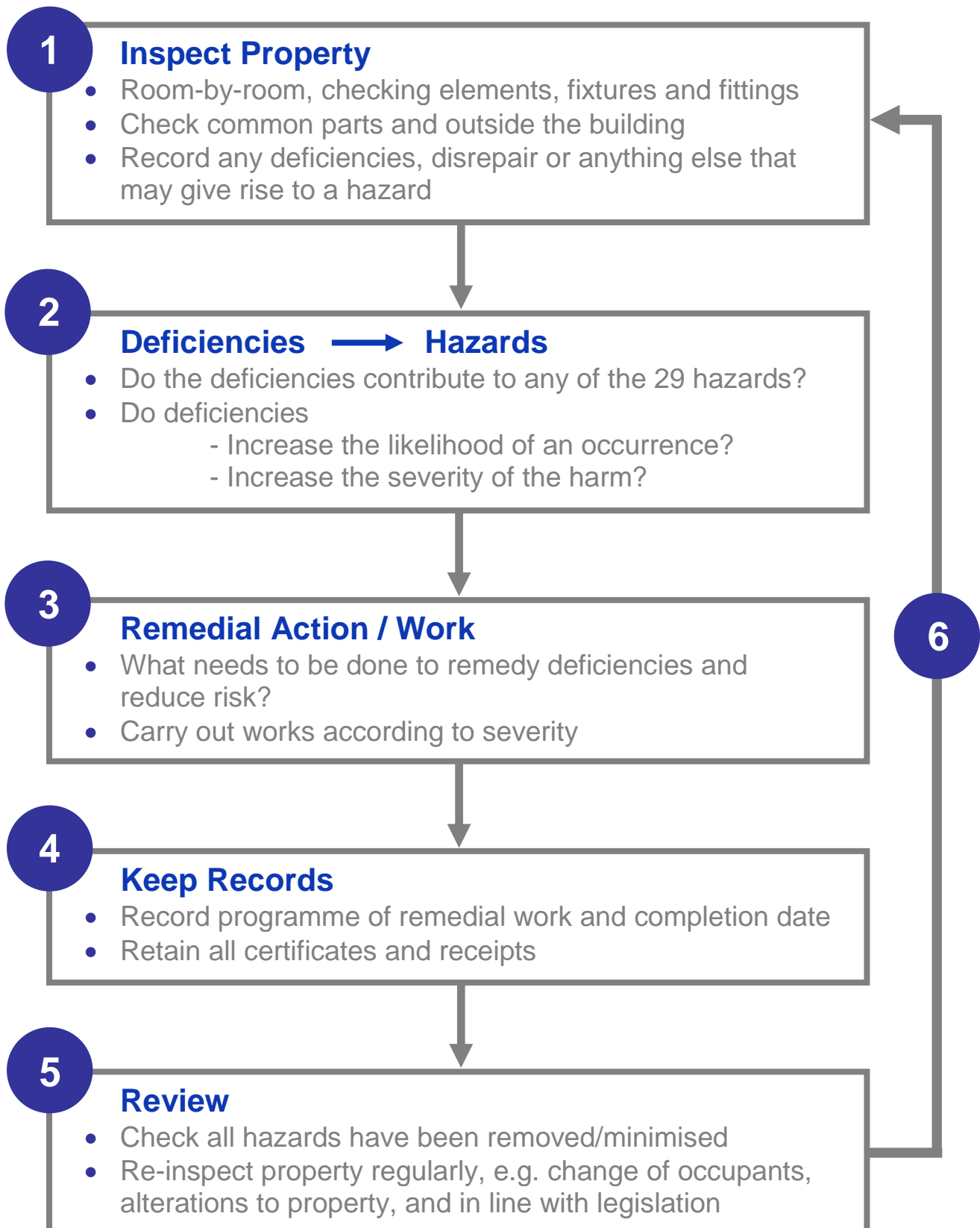
Remember, ensure you know what the laws are regarding the rental and management of property and ensure you remain compliant.



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How should you inspect your rented property?

The guide below illustrates the inspection process that landlords should carry out in order to minimise the possibility of enforcement action.



Contact Details for First-tier Tribunal (Property Chamber)

If you wish to appeal against the service of a notice or order, contact the Tribunal for your area.

<p>Residential property: Eastern region</p> <p>Cambridge County Court 197 East Road Cambridge CB1 1BA Emailpeastern@hmcts.gsi.gov.uk Telephone 01223 841 524</p>	<p>Residential property: Northern region</p> <p>1st Floor Piccadilly Exchange 2 Piccadilly Plaza Manchester M1 4AH Emailrpnorthern@hmcts.gsi.gov.uk Telephone 0161 237 9491</p>
<p>Residential property: Midlands region</p> <p>Centre City Tower 5-7 Hill Street Birmingham B5 4UU Emailrpmidland@hmcts.gsi.gov.uk Telephone 0121 600 7888</p>	<p>Residential property: London region</p> <p>10 Alfred Place London WC1E 7LR Emailrplondon@hmcts.gsi.gov.uk Telephone 0207 446 7700</p>
<p>Residential property: Southern region</p> <p>First-tier Tribunal (Property Chamber) Residential Property, Havant Justice Centre The Court House Elmleigh Road Hampshire PO9 2AL Emailrpsouthern@hmcts.gsi.gov.uk Telephone 01243 779 394</p>	

Also Available:

- Housing Act 2004 Guidance - The 29 Hazards. A Landlords Guide
- The Ideal Property – A Landlords Guide
- Housing Act 2004 Guidance – Tenancy Deposit Protection Schemes. A Guide for Landlords and Tenants
- Housing Act 2004 Guidance - Houses in Multiple Occupation - Licensing in the East Midlands

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