



BRIEFING PAPER

Number 01917, 19 May 2016

The Housing Health and Safety Rating System (HHSRS)

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Summary

The Housing Health and Safety Rating System (HHSRS) was introduced by the *Housing Act 2004* and has been in force since April 2006. It replaced a pass or fail Housing Fitness Standard which had been in place since April 1990 and which had been identified as having some significant failings. For example, it was felt not to distinguish between defective dwellings and genuine health and safety hazards.

The HHSRS is a risk based assessment tool which is used by environmental health officers to assess the risk (the likelihood and severity) of a hazard in residential housing to the health and safety of occupants or visitors. The HHSRS is tenure neutral; it can be used to assess hazards in private and social rented housing and also in owner occupied housing.

The vast majority of HHSRS work is carried out in relation to private rented housing as this is the sector with the poorest housing standards. The HHSRS has attracted criticism on the basis that knowledge of its existence, and understanding of how it works, is limited amongst landlords and tenants. There have been calls for the introduction of a simpler and more straightforward set of quality standards, particularly with reference to the private rented sector.

The Coalition Government conducted a review of the HHSRS the outcome of which was published in March 2015: [Review of property conditions in the private rented sector: Government Response](#). Changes to the HHSRS were rejected, instead the Government opted to produce a layperson's guide to health and safety hazards in the home: [Renting a safe home: a guide for tenants](#). Measures have been included in the *Housing and Planning Act 2016* to strengthen the action that can be taken to tackle landlords that fail to tackle poor housing conditions, such as banning orders and the extension of rent repayment orders.

This briefing gives an overview of the HHSRS and looks at some of the reviews and reports into its operation. The paper also looks briefly at wider housing conditions and standards. There have been calls to introduce a housing fitness standard, this is discussed in Library briefing paper 07328: [Housing Fitness in the Private Rented Sector](#).

1. The Housing Health and Safety Rating System (HHSRS): an overview

The HHSRS was introduced by Part 1 of the [Housing Act 2004](#) and the *Housing Health and Safety Rating System (England) Regulations 2005* (SI 2005 No 3208) which came into force on 6 April 2006. It applies in England and Wales (*Housing Health and Safety Rating System (Wales) Regulations 2006* (SI 2006 No 1702))¹ but does not apply in Scotland.

When environmental health officers (EHOs) inspect a dwelling using the HHSRS they look for any risk of *harm* to an actual or potential occupier of a dwelling, which results from any *deficiency* that can give rise to a hazard.² They judge the severity of the risk by thinking about the *likelihood* of an occurrence that could cause harm over the next twelve months, and the range of harms that could result. The EHOs make these judgements by reference to those who, mostly based on age, would be most vulnerable to the hazard, even if people in these age groups are not actually living in the property at the time.

As the original operating guidance states, the system assesses safety rather than comfort:

The HHSRS concentrates on threats to health and safety. It is generally not concerned with matters of quality, comfort and convenience. However, in some cases, such matters could also have an impact on a person's physical or mental health or safety and so can be considered.³

The HHSRS is not a pass/fail test; it is a risk based assessment of residential housing conditions.

1.1 How risks are assessed

An HHSRS score is calculated following an inspection. Officers use the formal scoring system within HHSRS to demonstrate the seriousness of hazards that can cause harm in dwellings. The scoring system for hazards is prescribed by the *Housing Health and Safety Rating System (England) Regulations 2005* (SI 2005 No 3208). The Department issued [operating guidance](#) for carrying out inspections and assessing hazards which can be accessed online.⁴

If there are risks to the health or safety of occupants that the officer thinks should be dealt with they have various powers at their disposal to

¹ Note that section 91 of the Renting Homes (Wales) Act 2016 will, when in force, require all landlords to ensure that properties are fit for human habitation at the commencement of, and throughout, the tenancy.

² An example of the cause of a hazard could be a badly maintained ceiling – the hazards that this deficiency could result in include excess cold, increased risk of the spread of fire and noise.

³ [Housing Health and Safety Rating System Operating Guidance](#), ODPM, February 2006, p7

⁴ Now archived.

ensure that owners and landlords take corrective measures.⁵ If the officer finds a serious hazard (i.e. one in the higher scoring bands A – C, referred to as Category 1 hazards) the local authority is required to take one of the courses of action outlined in the enforcement guidance.⁶ Category 2 hazards (i.e. those in scoring bands D - J) are those that are judged to be less serious. Authorities can still take action to tackle these hazards where it is believed necessary.

1.2 Enforcement action

As noted above, if an inspection reveals the presence of one or more Category 1 hazards the local authority must take the most appropriate of the following courses of action:

- serve an Improvement Notice in accordance with section 11;
- make a Prohibition Order in accordance with section 20;
- serve a Hazard Awareness Notice in accordance with section 28;
- take emergency remedial action under section 40 or make an Emergency Prohibition Order under section 43;
- make a Demolition Order under section 265 of the *Housing Act 1985* (as amended); or
- declare a Clearance Area by virtue of section 289 of the 1985 Act (as amended).

Authorities cannot simultaneously take more than one of these actions but it is possible to take a different course of action, or the same course again, if the action already taken has not proved satisfactory.

Emergency measures are the exception. Emergency remedial action followed by an Improvement Notice or a Prohibition Order is a single course of action.

Section 8 of the 2004 Act places a duty on local authorities to give a statement of reasons for their decision to take a particular course of enforcement action. In deciding on the appropriate action to take an authority must take account of the current occupant(s) of the dwelling.

Authorities have similar powers to deal with Category 2 hazards but they are prevented from using emergency measures. In addition, authorities cannot make a Demolition Order, or declare a clearance area in response to a Category 2 hazard unless the circumstances have been prescribed in regulations.

The following sections explain each of the enforcement measures in turn:

Improvement Notice

An Improvement Notice can be served in respect of a Category 1 or 2 hazard. As a minimum it must remove the Category 1 hazard but may extend beyond this, e.g. to ensure that the hazard will not reoccur

⁵ See section 1.2 below

⁶ DCLG, [HHSRS Enforcement Guidance – Housing Act 2004 Part 1: Housing Conditions](#), February 2006

within the next 12 months. Where there are multiple hazards an Improvement Notice can cover both Category 1 and 2 hazards. Section 13 of the 2004 Act sets out the information that the notice must contain, such as the nature of the hazard, the timescale for completing the necessary work and the right of appeal.

Section 31 and Schedule 3 to the 2004 Act enable authorities to take the action required by an Improvement Notice itself, with or without the agreement of the person on whom the notice is served. The Enforcement Guidance describes the circumstances in which the need to act with (or without) agreement might arise:

...where a category 1 hazard exists and remedial action is required without undue delay, but the owner is not in a position to carry out the works or arrange for the work to be done, perhaps for financial reasons. Authorities may have to carry out works without agreement where a notice has not been complied with.⁷

Once complied with, an Improvement Notice must be revoked.

Prohibition Order

This is a possible response to a Category 1 or 2 hazard. These orders replaced Closing Orders⁸ and Overcrowding Directions. They can prohibit the use of part or all of the premises for some or all purposes, or occupation by particular numbers or descriptions of people.

The circumstances in which a Prohibition Order might be served include where conditions in a property present a serious threat to health and safety but the cost of remedial action is considered unreasonable or impractical. A Prohibition Order might also be used where a dwelling is too small for the size of the household in occupation. Service of a Prohibition Order does not affect current occupation but prohibits future occupation in excess of a specified number. A Prohibition Order can be served in combination with an Improvement Notice, e.g. where the facilities are inadequate for the numbers in occupation.

Section 22 of the 2004 Act specifies the information that a Prohibition Order must contain. It is possible to appeal against a Prohibition Order.

Suspended Improvement Notices and Prohibition Orders

All or part of the action required by an Improvement Notice or Prohibition Order may be suspended where, for example, a hazard exists but the current occupant is not identified as vulnerable to the particular hazard. Authorities are required to reconsider the most appropriate course of action on the expiry of a suspension period or on the occurrence of an event (specified in regulations). Suspended Orders/Notices must be reviewed at least 12 months after the date of service or making of the Order. .

Hazard Awareness Notice

A Hazard Awareness Notice under section 29 of the 2004 Act may be a reasonable response to a less serious hazard where the authority wishes

⁷ Ibid., para 5.13

⁸ Section 264 of the *Housing Act 1985*

to draw attention to the desirability of remedial action. A Hazard Awareness Notice served under section 28 is also a possible response to a Category 1 hazard as long as a Management Order under Part 4 of the Act has not been served. The Guidance advises that there may be circumstances where works of improvement, or prohibition of the use of the whole or part of the premises, are not practicable or reasonable responses in which case a Hazard Awareness Notice might be appropriate.

The Notice must specify the hazard, any appropriate remedial action and any other courses of action available to tackle the hazard. There is no appeal against this sort of notice and no further action is required by a person served with this sort of notice, although the Guidance advises that authorities should monitor any Hazard Awareness Notices that they serve. The procedure is 'advisory' in nature.

Emergency remedial action

Local authorities have discretion to take emergency enforcement action against hazards which present an imminent risk of serious harm to occupiers. In such circumstances, authorities themselves take the remedial action to remove a hazard and recover reasonable expenses, or can prohibit the use of all or part of a property (Emergency Prohibition Order). The owner of a property can appeal but an appeal does not prevent the action from being taken or the prohibition being put into effect. These provisions may only be used where there is a Category 1 hazard; the hazard involves an imminent risk of harm to any of the occupiers of those or other residential premises; and no Management Order is in force under Part 4 of the 2004 Act.

Demolition Order

These Orders remain available under Part 9 of the *Housing Act 1985* (as amended). They are a possible response to a Category 1 hazard where this is the appropriate course of action, unless the premises are a listed building.

Clearance areas

The provisions of Part 9 of the *Housing Act 1985* have been retained in respect of Clearance Areas with changes to align them with the provisions of the HHSRS. An authority can declare an area a clearance area if it is satisfied that each of the residential buildings in the area contains one or more Category 1 hazards (*or* that these buildings are dangerous or harmful to the health or safety of the inhabitants as a result of their bad arrangement or the narrowness or bad arrangement of the streets); and any other buildings in the area are dangerous or harmful to the health of the inhabitants. In a building containing flats, two or more of those flats must contain a Category 1 hazard before a clearance area can be declared.

1.3 Houses in multiple occupation (HMOs) and the HHSRS

The HHSRS can be used to assess conditions in any residential dwelling whether or not it is self-contained or part of a larger building. The EHO only has to examine the dwelling and the parts and areas, shared or not, which form part of that dwelling.⁹

With effect from 6 April 2006, persons managing or controlling¹⁰ certain prescribed HMOs have had to have a licence in order to continue to rent out these properties.¹¹ Prescribed HMOs are those buildings consisting of three storeys or more which are occupied by five or more tenants in two or more households.¹² Converted blocks of flats are not subject to mandatory licensing. An assessment under the HHSRS is *not* part of the licensing process but section 55 of the 2004 Act requires authorities to satisfy themselves as soon as practicable, and not later than five years after an application for a licence has been received, that there are no Part 1 functions that ought to be exercised by them in relation to premises in respect of which the licensing application is made.

The HHSRS *is* applicable to all non-licensable HMOs.¹³

Information on applying the HHSRS to HMOs can be found in chapter 5 of the [Operating Guidance](#) and chapter 6 of the [Enforcement Guidance](#).

⁹ [HHSRS Guidance for Landlords and Property Related Professionals](#), p13

¹⁰ Defined in section 263 of the 2004 Act - this will usually be the landlord but could also be a managing agent.

¹¹ Unless the HMO is subject to either a temporary exemption notice under section 62 of the 2004 Act or an interim for final management order under Chapter 1 of Part 4 to the Act.

¹² *The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) England Order 2006* (SI 2006/371)

¹³ For more information see [Library Briefing Paper 0708](#), *Houses in multiple occupation (HMOs)*

2. Comment on the HHSRS

What did it replace?

Prior to the introduction of the HHSRS, housing fitness was assessed using the Housing Fitness Standard under section 604 of the *Housing Act 1985* (as amended by schedule 9 to the *Local Government and Housing Act 1989*). The standard had been in place since April 1990.¹⁴

The standard comprised a set of basic requirements that homes had to meet in order to be considered as 'fit' for occupation. It was a pass or fail test and was used by local authorities as the basis for taking action against unfit homes.

When a local authority identified a property as unfit there was a duty to take action; it was left to the authority to decide upon the most appropriate course of action to take from a range of options

A number of problems were identified with the Housing Fitness Standard. Some of the most serious health and safety hazards, including fire hazards and fall hazards, were not covered. In addition, it was seen by some as a blunt instrument that could only pass or fail a house, and therefore sometimes did not distinguish between defective dwellings and genuine health and safety hazards.

The Department of Environment, Transport and the Regions consulted on options to replace the Housing Fitness Standard in February 1998.¹⁵ Overall, the proposals in the paper received a "broadly favourable response" while proposals to develop a housing fitness rating system attracted "overwhelming support." In July 1998 the Government announced that such a system *would* be developed. The Legal Research Institute at the University of Warwick was commissioned to undertake the development work with additional technical support provided by the Building Research Establishment.

Comment

Chapter 2 of the 2013 Communities and Local Government Select Committee report on [The Private Rented Sector](#) considered the operation of the HHSRS.¹⁶ A survey of private landlords carried out by DCLG in 2010 found that 85% of landlords had not heard of the HHSRS;¹⁷ the Committee concluded that there was also likely to be a low level of awareness amongst tenants. Some evidence submitted to the Committee raised concerns around the complexity of the HHSRS and the fact that there is limited understanding of its operation outside of professionals in the field. There was a call from some respondents for a new approach to assessing the quality of privately rented housing but no general agreement on what alternative approach to adopt.

¹⁴ It replaced a standard that had been in use for over 35 years.

¹⁵ DETR, *The Housing Fitness standard*, February 1998

¹⁶ HC 50, First Report of Session 2013-14, [The Private Rented Sector](#), 18 July 2013

¹⁷ DCLG, *Private Landlords Survey 2010*: Tables Annex 7.2

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The Committee thought that if landlords are expected to provide housing of a decent standard there should be a straightforward way of assessing whether this standard has been met. In turn, this would benefit tenants by giving them clear grounds on which to complain where standards are not met. The Committee said that the HHSRS does not meet this purpose and recommended:

...that the Government consult on the future of the housing health and safety rating system and the introduction of a simpler, more straightforward set of quality standards for housing in the sector. The Government should also ensure that planning and building regulations are consistent with standards for the quality and safety of private rented housing.¹⁸

The Government published its response on 16 October 2013 in which a commitment was made to “undertake a review of the current system to ensure there is a robust framework in place to check that tenants’ homes are safe”.¹⁹

The DCLG published a discussion paper, [Review of Property Conditions in the Private Rented Sector](#) in February 2014. In regard to the HHSRS, the consultation paper asked:

Question 4: Should the guidance for landlords be updated and widened to include information for tenants, to help them understand whether a property contains hazards?²⁰

Question 23: Do you think the methodology that underpins the Housing Health and Safety Rating System and/or the accompanying operational guidance need to be updated?²¹

The Government response, [Review of property conditions in the private rented sector: Government Response](#), was published on 13 March 2015:

Of those that responded to the question, 148 respondents thought that the existing guidance for landlords needed to be updated and/or widened to include information for tenants. In particular it was thought that the guidance needed to be simplified.

5 respondents did not think any changes were necessary.²²

The Coalition Government did not commit to updating existing guidance and instead referred to a range of documents already published including:

A short non-technical guide to help tenants recognise potentially harmful hazards in the home, such as damp, mould and excess cold and what to do about them. This will help tenants avoid properties with potential health hazards.²³

¹⁸ [HC 50, First Report of Session 2013-14](#), 18 July 2013, para 18

¹⁹ [Government Response to the Communities and Local Government Select Committee Report: The Private Rented Sector](#), Cm 8730, October 2013

²⁰ DCLG, [Review of Property Conditions in the Private Rented Sector](#), February 2014, p8

²¹ *Ibid.*, p20

²² DCLG, [Review of property conditions in the private rented sector: Government Response](#), March 2015, p3

²³ *Ibid.*, p4

The Coalition Government also decided not to amend the HHSRS methodology (question 23):

There was support for an update of the Housing Health and Safety Rating System guidance. However many respondents saw the methodology and guidance as being fundamentally sound as they are.

7 respondees did not think that any updating was required.

Government Response:

We note that many respondents believe that the current guidance is fundamentally sound. At this stage, therefore, we do not propose to update the methodology or produce a revised version of the operational guidance. However, it has been decided to produce a layperson's guide to health and safety hazards in the home and what to do if something goes wrong. A guidance document is being published at the same time as this document.²⁴

The layperson's guide referred to can be accessed online: [Renting a safe home: a guide for tenants](#).

The current Government has also resisted calls to amend the HHSRS and/or introduce a new housing fitness standard but has acted to strengthen the remedies available to tackle landlords who do not comply with statutory notices:

Asked by: Lord Jones of Cheltenham

To ask Her Majesty's Government what steps they intend to take against landlords who fail to maintain their properties in a safe and fit state of repair.

Answering member: Baroness Williams of Trafford

The Housing Health and Safety Rating System assesses the health and safety risks in all residential properties. Under the Housing Act 2004, following a Rating System inspection, if a local authority identifies a serious hazard they can take action, including issuing an Improvement Notice or a Hazard Awareness Notice. In extreme circumstances, the local authority may decide to make repairs themselves, or to prohibit that property from being rented out. Where a landlord fails to comply with a statutory notice, this is an offence, and they can be prosecuted by the local authority. From October 2015 we introduced protection for tenants from retaliatory eviction, where they have a legitimate complaint about the condition of the property.

The Housing and Planning Bill will strengthen local authorities' ability and incentives to tackle rogue landlords by introducing measures including:

A database of rogue landlords and property agents convicted of certain offences;

Banning orders for the most serious and prolific offenders;

Civil penalties of up to £30,000 as an alternative to prosecution;

Extension of Rent Repayment Orders to cover illegal eviction, breach of a banning order or failure to comply with a statutory notice;

²⁴ Ibid., p15

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A more stringent fit and proper person test for landlords of licensable properties such as Houses in Multiple Occupation.

My Department also recently announced a further £5 million of funding across 48 local authorities to tackle the worst rogue landlords in their areas.²⁵

3. Housing conditions and standards

Research indicates that the private rented sector has the poorest housing conditions in England. For example, a report from the New Policy Institute (December 2015) highlighted the prevalence of Category 1 hazards in the private rented sector:

The private rented sector is the priciest tenure in the worst state. The average private rent is £765 per month, almost double the average rent of £409 per month paid to social landlords and even more than average first time buyers now spend on mortgage payments - £702 per month. And yet private rented homes are almost three times more likely to contain a Category 1 Hazard than social rented homes - 17% compared with 6%. Even the most expensive private rented home is almost twice as likely to be unsafe as a social rented home.²⁶

Reference is frequently made to the Decent Homes Standard. This is not a statutory standard. Between 2002 and 2010 the Labour Government set a target of bringing all social housing up to a decent standard. The target was later extended to include an increase in the proportion of "vulnerable households in the private sector, including families with children" living in homes in decent condition. Government guidance described a decent home as one which:

- a. meets the current statutory minimum standard for housing;
- b. is in a reasonable state of repair;
- c. has reasonably modern facilities and services; and
- d. provides a reasonable degree of thermal comfort.

The first of these criteria was redefined in 2006 to take account of the introduction of the HHSRS and the abolition of the housing fitness standard. The updated guidance said:, "Dwellings which fail to meet this criterion are those containing one or more hazards assessed as serious ('Category 1') under the HHSRS."²⁷

The English Housing Survey uses the Decent Homes Standard to assess housing conditions. The English Housing Survey Headline Report 2014-15 found that the proportion of homes which failed to meet the standard had fallen but that the private rented sector had the highest proportion of 'failing' homes:

The number of non-decent homes in England continued to decline.

In 2014, a fifth of dwellings (20% or 4.6 million homes) failed to meet the Decent Homes standard, a reduction of 3.1 million homes since 2006, when 35% of homes failed to meet the standard.²⁸

²⁶ [Paying a high price for a faulty product](#), New Policy Institute, December 2015, p3

²⁷ [A Decent Home: Definition and guidance for implementation, June 2006 – Update](#) pp11-12

²⁸ [English Housing Survey Headline Report 2014-15](#), p4

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The private rented sector had the highest proportion of non-decent homes (29%) while the social rented sector had the lowest (14%). Among owner occupied homes, 19% failed to meet the Decent Homes standard in 2014.

While there was a marked decrease in the proportion of private rented sector homes which were non-decent between 2006 and 2014 (from 47% to 29%), the absolute number of non-decent dwellings did not decrease due to the increase in size of this sector. In 2014, 1.3 million homes in the private rented sector were non-decent compared with 2.7 million owner occupied homes and 578,000 in the social rented sector.²⁹

The Chartered Institute of Housing's (CIH) 2014 UK Housing Review calculated that 33% of private rented housing in England would fail the Decent Homes Standard for social housing, compared to 15% of social rented housing.³⁰

Shelter's 2014 report, *Safe and decent homes*, set out its recommendations for improving property standards in the private rented sector; this included enabling renters to take legal action to ensure that homes are fit for habitation (through amendments to the *Landlord and Tenant Act 1985*).³¹

A Private Members' Bill, [Homes \(Fitness for Human Habitation\) \[Bill 15 of 2015-16\]](#) was presented on 24 June 2015 by Karen Buck. The purpose of the Bill was "to amend the Landlord and Tenant Act 1985 to require that residential rented accommodation is provided and maintained in a state of fitness for human habitation; and for connected purposes."

The Bill's aim was to reintroduce a similar test to the old Housing Fitness Standard, with tenants able to pursue a civil remedy, rather than placing a duty on local authorities to act. It was proposed that the new standard would exist alongside the HHSRS. The Bill failed to complete its Second Reading. Attempts were made to amend the *Housing and Planning Bill 2015-16* during its progress through Parliament to include a housing fitness standard. These attempts were unsuccessful. Further details can be found in Commons Library briefing paper 07328: [Housing Fitness in the Private Rented Sector](#).

²⁹ Ibid., p32

³⁰ CIH, ['Millions of private renters putting up with substandard homes'](#), 14 April 2014

³¹ Shelter, [Safe and Decent Homes: Solutions for a better private rented sector](#), p9

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