

Policy Statement

Rossendale Borough Council

Enforcement Policy for the Housing Health and Safety Rating
System – Housing Act 2004
Renewed January 2011

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1. Introduction

The Housing Act 2004 and the Housing and Health and Safety Rating Scheme (HHSRS) replaced the dwelling fitness standard (under the Housing Act 1985), and that element of the decent homes standard. The legislation came into force in 2006 and the new system is designed to be a more targeted and proportional system reflecting the latest understanding of health and safety risks to householders.

Rossendale Borough Council is required to use the Housing Health and Safety Hazard Rating System (HHSRS) as the basis for tackling the worst housing conditions in the area.

HHSRS assesses factors which were not covered or covered inadequately by the housing fitness standard. The system provides a rating for each hazard. It does not provide a single rating for the dwelling as a whole or, in the case of multiply occupied dwellings, for the building as a whole. A hazard rating is expressed through a numerical score which falls within a band. There are 10 bands. Scores in Bands A to C are Category 1 hazards. Scores in Bands D to J are Category 2 hazards.

The 29 hazards that can be assessed are those associated with or arising from:

Physiological Requirements

Damp and mould growth
Excess cold
Excess heat
Asbestos (and MMF)
Biocides
Carbon monoxide & fuel combustion products
Lead
Radiation
Uncombusted fuel gas
Volatile Organic Compounds

Psychological Requirements

Crowding and space
Entry by intruders
Lighting
Noise

Protection Against Accidents

Falls associated with baths
Falling on level surfaces
Falling on stairs etc
Falling between levels
Electrical hazards
Fire
Flames, hot surfaces
Collision and entrapment
Explosions
Position and operability of amenities
Structural collapse and failing elements

Protection Against Infection

Domestic hygiene, pests and refuse
Food safety
Personal hygiene, sanitation & drainage
Water supply for domestic purpose

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The HHSRS assessment is based on the risk to the potential occupant who is most vulnerable to that hazard. For example, stairs constitute a greater risk to the elderly, so for assessing hazards relating to stairs they are considered the most vulnerable. The very young as well as the elderly are susceptible to low temperatures. A dwelling that is safe for those most vulnerable to a hazard is safe for all.

Category 1 hazards

The Housing Act 2004 places a statutory duty on the Council in respect of hazards that are assessed as Category 1. (Hazards scored A – C) Rossendale Borough Council must take action to reduce category 1 hazards to an acceptable level.

Category 2 hazards

The Council may use discretion in respect of Category 2 Hazards and can take action where necessary.

Rossendale Borough Council will consider taking action in respect of Category 2 hazards unless that would not be the most appropriate course of action. Action in respect of category 2 hazards will be considered particularly where a number of hazards between D and F appear to create a more serious situation when looked at together; and /or there is the impression of a rundown property.

This document summarises how we will ensure safe and healthy environments in Rossendale's housing stock, particularly but not exclusively within the private rented sector which is thought to represent some of the worst housing conditions affecting often the most disadvantaged.

2. How HHSRS will be applied in Rossendale

HHSRS can be applied to all tenure of property; however resources are targeted at investigating complaints from tenants about rented properties, licensing certain Houses in Multiple Occupation (HMO) and other statutory functions under the Legislation.

See also Rossendale Borough Council *Standards for Houses in Multiple Occupation*, and *Landlords Guide to standards in rented properties*.

We will prioritise referrals which indicate an imminent risk to health, referrals from sources such as social services child protection teams, the Police, Lancashire Fire and Rescue Service, Landlords and Managing agents who have a history of persistent non-compliance or offences and in areas of wider housing strategy.

When investigating complaints from tenants about conditions in rented properties Environmental Health Officers will carry out an inspection of the whole property and the deficiencies contributing to any hazard will be recorded.

The hazards identified will be assessed using the Housing Health and Safety rating Scheme to determine whether category 1 and/or category 2 hazards are present.

Officers will have regard to guidance documents, worked examples, industry standards and codes of practice when carrying out the assessments and when identifying remedial measures.

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Consideration will be given to whether consultation is required with other enforcing bodies such as Lancashire Fire and Rescue, Police, HSE or other departments within the Council such as Development Control or Building Control.

Regard will be had to any schemes that are available to assist with housing repairs. Tenants, homeowners and landlords may be able to access grants, loans or assistance schemes which may negate the need for formal to be taken and this will be taken into consideration when deciding appropriate timescales and specifying completion dates in legal notices.

Officers will consider the most appropriate course of action to reduce the level of harm to an acceptable level. The views of the occupier will also be taken into consideration.

3. Enforcement Action

Rossendale Borough Council will take enforcement action where there is an unacceptable risk of injury or ill health and where that it the most appropriate course of action in the circumstances.

These are some examples of this:-

- Where a tenanted property contains an actionable hazard we may require Landlords, Managing Agents and Housing Associations to carry out improvements or make changes to their properties.
- In some situations we may be forced to require owners to carry out works to their own homes. This is normally when the state of their property could affect the health and safety of others outside of their household. For example we may require an owner occupier of a flat in a House in Multiple Occupation to provide a fire door and smoke detector linked to a communal alarm system to provide safe means of escape in case of fire.

Where we believe it is more appropriate for someone to pursue their own private action to remedy the situation we will inform them of this. For example where a leaseholder is in dispute with their freeholder we would normally expect both parties to resolve any issues of disrepair themselves using their leasehold agreements and or the associated Leasehold legislation. We would only normally consider taking action in circumstances where these avenues have been exhausted.

Examples of formal action under housing legislation include:-

Serving Improvement Notices, Prohibition Orders and Hazard Awareness notices

Taking Emergency Remedial Action or Emergency Prohibition Order

Charging an enforcement fee

Demolition Orders and Clearance Areas

Carrying out works in default of legal notices

Simple caution

Prosecution

In terms of social housing stock, Registered Providers are required to meet the Decent Homes Standard by 2010 (unless dispensations have been awarded for later completion e.g. Green Vale Homes' Improvement Programme will be completed for March 2011). Registered Providers should have improvement programmes in place to improve their stock to this standard or rolling maintenance programmes. Where Registered Providers can demonstrate that they have already programmed the improvement works which have been identified as requiring action then officers

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must take this into account before taking formal enforcement action. In social housing cases officers should follow the principles of the enforcement concordat.

Formal action on a social housing stock will be undertaken where:-

- An officer believes that formal action is necessary to protect anyone affected by the condition of a Registered Provider owned property from a serious risk to their health and safety.
- the Registered Provider has a history of non compliance; and
- they have the approval of a Senior Environmental Health Officer, Senior Manager, or the Health and Housing Manager or their equivalent.

Rossendale Borough Council will follow the principles of the Enforcement Concordat which encourages openness, proportionality and consistency in decision making. The Council has signed up to the Governments Enforcement concordat and the Regulatory Services Enforcement Policy.

This policy statement and the Private Sector Housing Enforcement Policy 2010-2015 build on the Regulatory Services Enforcement policy and give specific guidance for enforcement action in relation to the 2004 Housing Act.

The Council in the first instance will usually take an informal approach to the enforcement of the legislation where it is anticipated that this route will achieve compliance and confidence in owners, landlords and managing agents is high.

Officers will always put any informal requests in writing; will include details of the hazards found within the property, and whether those hazards are category one or two. A Schedule of works will also be provided detailing any necessary action to reduce the likelihood of harm to an acceptable level.

Informal action will not be appropriate where:-

- There is a serious risk to health and safety that needs to be resolved promptly and requires action either immediately or without the delay of taking informal action first; or
- Where there is evidence of previous non compliance with Housing Legislation or related legal provisions within the last 12 months or a conviction in the last 5 years under Housing Legislation or related offences.

In deciding to serve formal Notices, Officers will consider:-

- The hazards present within the property, whether they are category one or two and the potential for harm.
- The seriousness of the situation and the imminent risk to health and safety.
- The current occupation
- The past history of the offender
- The confidence in management

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- The consequence of non-compliance
- The occupiers views (in most cases)

Where Notices are served under the Housing Act 2004 a statement of reasons will be prepared. The statement will include details of the decision making process for the chosen enforcement route.

A Senior Environmental Health Officer, Senior Manager, or the Health and Housing Manager, may take the most appropriate course of action having fully considered available guidance and industry standards. The Director of Business is designated as the Authorised Officer to sign Notices as defined in the legislation.

4. Level of remedial works required

Where works are assessed as necessary under The Housing Act 2004 to reduce the risk to health and safety, the works specified will result in the risk of harm being reduced to an acceptable Category 2 Hazard where possible. Rossendale Borough Council will avoid taking enforcement action which results in patch and mend repairs.

In some cases, such as listed buildings or older housing stock, Category 1 Hazards may remain. This scenario will be considered when deciding which course of action is most appropriate and may influence the officer's decision as to which type of enforcement action to take.

5. Fees and charges

Rossendale Borough Council will use its powers to make charges for taking enforcement action.

The 2004 Housing Act makes provisions to allow the Council to charge for:-

- deciding which notice to serve (including the cost of any inspections); and
- whether to serve it,
- identifying what action to take; and
- for the cost of the service of the notice.

It is proposed that the Council will charge for taking enforcement action where:-

- A formal notice is required to remove a serious threat to health and safety unless the risk was outside of the control of the person responsible for carrying out the works to remove the health and safety risk or;
- There is evidence of previous non compliance with Housing Act or other related legislation within the last year or;
- Within the last 5 years the person or company against whom the action is due to be taken was either personally or as senior officer of a company fined under the Housing Act 2004 or other related legislation or;
- No adequate action has been taken to comply with informal requests to take action or carry out works.

The charge for the issuing of a notice is as specified in the annually fees and charges as agreed by Cabinet during the budget setting agenda. The Health, Housing and Regeneration Service will recover all costs and fees when formal action is taken and where we think it is reasonable to expect the owner to pay for the charges in the circumstances. The full costs of an officer's time including overheads and any relevant expenses will be charged.

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However, each case will be judged on its own merits and the service reserves the right regarding the discretion to waive charges if it is considered justified. These charges can be waived at the discretion of a Senior Environmental Health Officer, Senior Manager, or the Health and Housing Manager or their equivalent.

When making decisions on whether to waive a fee the Council will take the view that; where a person is providing accommodation for others the paramount duty is to ensure the accommodation is safe and healthy to live in. This means that only in exceptional personal circumstances will charges be reduced or waived.

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