



## What is the Housing Health and Safety Rating System?

The Housing Act 2004 has introduced a new way in which councils assess housing conditions in England and Wales. It uses a risk assessment approach called the Housing Health and Safety Rating System (HHSRS). The aim is to provide a system (not a standard) to enable risks from hazards to health and safety in dwellings to be removed or minimised.

South Hams District Council has a duty to keep the housing conditions in their area under review. They can inspect a property if they have reason to think that a health or safety hazard exists there.

The scoring of hazards found during an inspection must be carried out in accordance with the method set out in the HHSRS Regulations.

The Council has a duty to deal with hazards which are assessed as 'Category 1' under HHSRS, and discretionary powers to deal with 'Category 2' hazards. These terms are explained below.

The key principle of the system is that a dwelling, including the structure and associated outbuildings and garden, yard and/or other amenity space, and means of access, should provide a safe and healthy environment for the occupants and, by implication, for any visitors. The inspection process is a risk based assessment and considers the effect of any 'hazards' in the property. Hazards are rated according to how serious they are and the effect they are having, or could have, on the

occupants. The basic principle is that the property should be safe for occupation.

HHSRS can deal with 29 different hazards summarised as follows:-

- Dampness, excess cold/heat
- Pollutants e.g. asbestos, carbon monoxide, lead
- Lack of space, security or lighting, or excessive noise
- Poor hygiene, sanitation, water supply
- Accidents – falls, electric shocks, fires, burns, scalds
- Collisions, explosions, structural collapse

More detailed information about these hazards can be found in the Operating Guidance issued by the ODP, (Office of the Deputy Prime Minister) at [www.odpm.gov.uk](http://www.odpm.gov.uk).

Each hazard is assessed separately, and if judged to be 'serious', with a 'high score', is deemed to be a Category 1 hazard. All other hazards are Category 2 hazards.

Where a hazard is designated as particularly relevant to people in a vulnerable group, hazards are assessed according to their likely impact on that group. 'Vulnerable' here usually means children and the elderly. For example, widely spaced balusters (spindles) on a staircase could be a hazard for a child who could squeeze through and fall down the stairs. Similarly a winding staircase with no handrail could be a hazard for an elderly person.

The action that needs to be taken to deal with a hazard will be influenced by who is occupying the house (see

'How will the system be used in enforcement?' below).

Once a property has been made safe for the most vulnerable, it should be safe for all.

### **What is the likelihood?**

An inspector judges the likelihood of an occurrence which could result in harm (for example: this might be an accident in which an occupant falls down stairs) over the next twelve months, to a member of a vulnerable age group.

### **What are the outcomes?**

HHSRS uses a range of four outcomes or "classes of harm" which could arise from an occurrence, due to the presence of a hazard.

The following table shows the four classes of harm together with some examples:

#### ***Class I***

- Death from any cause
- Lung cancer
- Permanent loss of consciousness
- 80% burn injuries

#### ***Class II***

- Asthma
- Lead poisoning
- Loss of a hand or foot
- Serious fractures

#### ***Class III***

- Eye disorders
- Sleep disturbance
- Mild heart attack
- Loss of a finger
- Fractured skull and severe concussion

#### ***Class IV***

- Occasional severe discomfort
- Occasional mild pneumonia
- Broken finger
- Severe bruising to body

- Regular serious coughs or colds

### **How is the score calculated?**

Each assessment of a hazard carried out using the HHSRS results in a score. The score is a numerical representation of the degree of risk represented by a hazard. Although the calculation can be carried out on paper, most inspectors will use a computer software programme back in the office to calculate the scores. All hazards are rated and scored individually. A formula is used which takes into account the nature of the hazard, the likelihood of an occurrence and the seriousness of the outcome (known as the spread of possible harms). The calculation includes a 'weighting' to reflect more serious outcomes.

The likelihood and the severity combine to generate a hazard score. Scores are divided into ten bands (A to J); band A is the most serious and J the least serious. Hazards which fall into bands A to C are Category 1 hazards while those in bands D to J are Category 2 hazards. In simple terms: the greater the risk (likelihood), or more serious the outcome, the higher the overall score. An example of a high score would be a gas water heater leaking carbon monoxide – the risk is high and the outcome could be death.

### **How will the system be used in enforcement?**

The hazard score does not dictate the action to be taken, but the Council has a duty to take action of some kind on discovering a Category 1 hazard, and a power to take action to deal with a Category 2 hazard. The first step would be to approach the landlord informally - this is recommended by

the Government under the Enforcement Concordat (see below). However, the amount of leeway allowed to a landlord informally will be at the Council's discretion. If the landlord does not respond, the Council is most likely to move into formal action by serving an improvement notice on the owner (or agent as appropriate) requiring that the hazard(s) be removed or minimised within a set time – generally 28 days. In more serious cases, a prohibition order may be served prohibiting the use of all or part of a dwelling. If a Category 1 hazard is so serious as to represent an 'imminent risk of serious harm' to the occupants, the Council can serve an emergency notice to remove the hazard (one example of such a risk would be dangerous electrical installations or wiring). Such a notice allows the Council to enter the premises and take urgent action to deal with the hazard. They can then charge owners for the cost of this work, but owners have a right of appeal against the notice and the costs involved. The Council can also use emergency prohibition orders to close down access to all or part of a building with immediate effect if they feel that the situation is serious enough to warrant it. Even without using emergency powers, the Council can, with or without the agreement of the owner, carry out the works required in a notice (and charge accordingly). This procedure is usually used in emergency situations or where all other negotiation has failed. Alternatively, owners can be prosecuted for failing to comply with an improvement notice or prohibition order. Such cases are heard in magistrates' courts. It should be remembered that serious hazards are not always expensive to remove. A Category 1 hazard could, for example,

be removed by fitting a lock to a window or fixing a handrail to a staircase. For minor hazards, a council could serve a hazard awareness notice. Such notices are simply advice and do not actually require owners to do anything.

The Act gives the Council the power to charge to recover the costs of enforcement action; any such charge must be reasonable and can only cover the Council's costs.

### **What is the appeal procedure?**

An owner or agent who has an improvement notice or prohibition order served on him can appeal the notice, normally within 21 days. Appeals are heard by a Residential Property Tribunal (RPT) set up under the Act; RPTs have replaced the previous role of the County Court in hearing appeals against housing enforcement action. RPTs may also mediate where possible between the Council and owners/agents to try to resolve appeals without a formal hearing. If a notice is not complied with within the time allowed (usually 28 days), prosecutions for non compliance are heard in magistrates courts.

### **How do local councils decide on their enforcement policies?**

All local councils are required to produce housing strategies which should address all housing issues across all sectors. As outlined above, the HHSRS applies across all sectors. Although the exact detail and approach local councils take to enforcement will vary, the vast majority of local councils in England and Wales have signed up to a voluntary agreement known as the 'Enforcement Concordat'. The

Concordat, which was produced initially by the government, incorporates the following principles:

- *Standards: setting clear standards*
- *Openness: clear and open provision of information*
- *Helpfulness: helping business by advising on and assisting with compliance*
- *Complaints: having a clear complaints procedure*
- *Proportionality: ensuring that enforcement action is proportionate to the risks involved*
- *Consistency: ensuring consistent enforcement practice*

Anyone who believes that a local council is not adhering to these principles in carrying out enforcement is entitled to challenge the council and ask for an explanation or comment. Such a challenge could be made to the chief officer of the relevant department, the chief executive of the council or to a local councillor.

### **What is the landlord's role?**

The intention of the HHSRS is to ensure that owners maintain their properties in a safe and 'healthy' state, i.e. free from hazards that may affect the occupier's health and or safety. Owners are obliged to comply with the terms of improvement notices or prohibition orders (subject to rights of appeal). If as a landlord you employ an agent, you must ensure the agent is able to arrange necessary work and ensure that adequate funds are available to do this. If as a landlord you wish to have an independent survey of your property carried out under HHSRS most private surveyors will be able to provide such a service. It is important to ensure that the surveyor appointed to carry out the survey is fully conversant with the HHSRS as inspections under the

system differ significantly from traditional structural surveys. There are a number of independent Environmental Health Officers who will also be able to carry out a survey independently of the Council. To find a surveyor, consult the following:

1. Chartered Institute of Environmental Health [www.cieh.org](http://www.cieh.org) . Search the consultants directory under 'housing'.
2. Royal Institution of Chartered Surveyors [www.rics.org](http://www.rics.org) . Search under 'find a surveyor in your area'.
3. Many other national and local surveying services can readily be found using internet searches.

### **What is the agent's role?**

Many agents will have the responsibility of organising works to comply with notices on behalf of their clients. Most local councils will include, with the notice, a schedule of works required to remove or minimise a hazard. If a schedule of work is not included with a notice, the council could be asked to provide one but there is no legal duty on a council to do so. The notice must though include details of the nature of the hazard and the deficiency, or fault that gives rise to the hazard.

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