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Ministry of Housing,
Communities &
Local Government

The Housing Health and Safety Rating System (HHSRS): Enforcement Guidance

March 2026

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Ministry of Housing, Communities and Local Government

The Housing Health and Safety Rating System (HHSRS): Enforcement Guidance

Presented to Parliament pursuant to section 9 of the Housing Act 2004

March 2026

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Housing Health and Safety Rating System (HHSRS) Enforcement Guidance

Housing Act 2004

Part 1: Housing Conditions

Contents

Introduction

This guidance is designed to help local housing authorities ('local authorities') approach their enforcement roles using the Housing Health and Safety Rating System (HHSRS) under the Housing Act 2004, Part 1 ('the Act'). It is given to local authorities under section 9 of the Act. Local authorities are required to have regard to this guidance, which replaces the previous enforcement guidance issued in 2006. Local authorities must also have regard to chapter 7 of this guidance when setting their civil penalty policies and imposing civil penalties under section 6A of the Act.

Key principles

This guidance has been produced following extensive engagement as part of a research programme considering the HHSRS suite of guidance.

Following that research, the following key principles underpin this guidance:

- The enforcement process begins at the point at which the local authority becomes aware of an issue with a property, which triggers their concern under the Act. However, even before these processes are engaged, the authority promotes compliance by setting out its expectations of standards and conditions.
- There is a general duty under the Act[1] on local authorities to take appropriate enforcement action whenever they consider that there is a Category 1 hazard on any residential premises. This is a strict duty, and it means that authorities must take action in these circumstances.
- There is a power to take certain enforcement action whenever they consider that there is a Category 2 hazard on residential premises[2]. This means that authorities *may* take action in these circumstances if they consider it would be appropriate to do so.
- The principles of the Regulators' Code[3] apply to enforcement action. In particular, as regards enforcement action, local authorities should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and that their approach to their regulatory activities is transparent.
- Enforcement should be seen not as an outcome but as a process involving a series of decisions. Those decisions include:
    - Balancing the use of statutory duties and powers with that of working with the party against whom enforcement action is being taken. Those actions are not contradictory – authorities can build into their process the opportunity for landlords, for example, to work with them, although that may depend in individual cases on a range of factors.
    - The effect of the tenure of the property.
    - Considering the full range of statutory powers available to the local authority.
    - Whether and how to work with appropriate statutory and other agencies and organisations.
    - Recognising the significance and effects of enforcement action for all parties and considering their circumstances and views.

[1] Housing Act 2004 section 5
[2] Housing Act 2004 section 7
[3] See Regulators' Code (Better Regulation Delivery Office, BEIS, April 2014) [accessed May 2022]

The goal of enforcement

The goal of enforcement is to ensure that homes provide a safe and healthy environment that is free from dangerous hazards. This goal benefits both current and future occupants of the property as well as the general stock of housing in an area and progress towards it can be attained by using the HHSRS and enforcing the Act.

At a basic level, securing compliance depends on a range of factors, including:

- The type of business or the person in control of or managing of the property, whether as part of a portfolio or as a side-line activity.
- The extent of the controller or manager's knowledge and awareness of housing standards.
- The willingness of the controller or manager to comply with housing standards, including the perceived costs and benefits of compliance, and the perceived risk and severity of sanction.
- The policies and practices of the local authority.
- The extent of the controller or manager's knowledge and awareness of the policies and practices of the local authority.
- The willingness of the controller or manager to seek and act upon professional advice.
- The extent to which occupiers, who can exhibit different vulnerabilities, are willing to assert their rights.

The legislative setting

The legislative setting refers to the decision of the authority as to which of their statutory powers they might consider using in any particular situation. Where the authority becomes aware of a health and safety issue in a property in their area, there are a range of possible actions they can take beyond those in Part 1 of the Act.

Securing compliance can be achieved through multiple legislative routes. It is not always necessary for local authorities to rely on Part 1 of the Act. It is a matter for them to determine the most expedient course of action in these circumstances.

The enforcement powers and duties in the Act have a number of important potential consequences:

- The most important consequence is that enforcement action should reduce the level of risk to which occupiers are exposed.
- Enforcement action builds up a picture for the local authority of the premises and the person controlling or managing it.
- Enforcement action can add to the local authority's intelligence about an area or sector (or sub-sector), which will assist the authority more generally to make strategic decisions.
- Enforcement action can feed into other decisions, such as whether a manager or landlord is a 'fit and proper person' to manage residential premises, where houses in multiple occupation (HMOs), or other houses, are subject to licensing requirements.
- Non-compliance with some local authority actions may lead to one or more of the following outcomes:
    - The authority undertaking works in default.
    - A prosecution by the authority, which can be publicised.
    - The local authority issuing a financial penalty as an alternative to prosecution.
    - A rent repayment order being made against a landlord.
    - A banning order and/or entry on the rogue landlord database.

The majority of the time, Part 1 of the Act will be the appropriate means to deal with housing issues. However, there can be alternative ways of achieving the desired outcome(s), and the environmental health practitioner or other local authority officer ("the officer") should consider all options available to them. The following examples represent some of the alternative and overlapping powers of local authorities:

- Under the Environmental Protection Act 1990, section 79, local authorities have powers and duties where there is a statutory nuisance in a property. The utility of statutory nuisance is that, in an emergency, the local authority has the power of entry as of right and otherwise must give 24 hours' notice to the occupier[4].
- Where the property is an HMO, management and maintenance issues can be dealt with quickly and with greater simplicity through the use of the management regulations. A failure to comply with the duties under the management regulations is a criminal offence or may result in a financial penalty. It should be noted that these regulations do not provide for the authority to carry out works in default, and so may not resolve or reduce the hazards to the occupier/s.
- Working in partnership with other statutory organisations where appropriate, such as the fire and rescue service and police, or multiple agencies enables a more robust approach to a case, allowing the local authority the benefit of the powers that can be exercised by those services, together with their additional resources and expertise.
- It may be appropriate for an occupier to take civil action against the accountable person for their accommodation for unsafe or unhealthy living conditions including severe damp and mould (for example, by bringing a claim under the Homes (Fitness for Human Habitation) Act 2018 or 'Awaab's Law'. Whilst such action can be taken alongside action by the local authority, it should not be considered a substitute for it. This is because, although it might achieve the goal of compliance, the civil law works to a separate set of requirements, and also, because it requires often vulnerable occupiers to find a legal qualified person who can legally represent them.

Whatever action is taken, the local authority must have due regard to the public sector equality duty, which applies in the exercise of all its functions, both strategic and in individual cases in which the occupier has a protected characteristic as defined in section 4 of the Equality Act 2010. https://www.legislation.gov.uk/ukpga/2010/15/part/2/chapter/1. This will include considering whether alternative steps might be taken to achieve the outcome of removing the hazard, including, for example, increasing the time for compliance.

[4] Schedule 3 of the Environmental Protection Act 1990 - paragraph 2(2)

Developing a local housing enforcement policy

It is vital that local authorities have clear policies and procedures on enforcement, and these should be reviewed in light of intelligence gathered.

Local authorities should make reference to the government guidance at https://www.gov.uk/government/publications/rogue-landlord-enforcement-guidance-for-local-authorities. This sets out how local authorities can:

- How to understand the private rented sector in a local area;
- How to develop agreed policies and procedures to take enforcement action;
- Guidelines for acting with enforcement powers;
- How to conduct proactive inspections and manage the sector;
- How to educate the sector on private landlord rights and responsibilities.

The guidance aims at providing local authority enforcement officers with detailed information on the powers and options open to them to tackle rogue landlords. It should be used to provide practical advice to officers taking enforcement action following HHSRS inspections.

Access and Production of Documentation

Access to premises is one of the first stages of the enforcement process. If the proper process has not been followed, however, it makes all subsequent enforcement action difficult, if not impossible. It may also be necessary to require the production of documents in order to check, for example, who the owner of a particular building is, as this can be obscure in certain cases (e.g. where there is a shell company which owns the building).

Production of documents

A person authorised in writing by a local authority may exercise the power in section 235(2) of the Act https://www.legislation.gov.uk/ukpga/2004/34/section/235 to require the provision of documents reasonably required to enable them to carry out their enforcement functions. This is an important power in circumstances where the authority is unclear who, for example, has ownership, management or control of a building.

They exercise this power by having an authorised person serve a notice on anyone in the following categories:

- a person who is or proposes to be a licence holder under Part 2 or 3 of the Act in respect of the premises, or a person upon which any obligation or restriction under such a licence is, or is proposed to be imposed;
- a person who holds an estate or interest in the premises;
- a person in management or control of the premises (or one who proposes such a role);
- a person with involvement otherwise in the management of the premises; or,
- an occupier of the premises.

The authorised person is somebody who has been given that role by the proper officer of the local authority. These details should be set out in the authority's constitution. It can be provided to a generic description of officer.

The notice can require production of a specified or category of document (e.g. documents of title or management role) which are in the recipient's custody, and to produce them at a specified time and place (such as the authority's own offices).

Failure to provide the information or the provision of false or misleading information are criminal offences.

Any information obtained by the authority in the exercise of its functions in respect of Housing Benefit or Council Tax can be used to determine whether an offence has been committed under Part 1 of the Act. The utility of this provision is less now that Housing Benefit information is rarely obtained by the authority in the exercise of its functions (as those functions are now part of the DWP).

The Renters' Rights Act 2025 amends the power under section 235 of the Housing Act 2004 (power to require documents to be produced) so that it now also covers Part 7 of the Housing Act 2004 in relation to any qualifying residential premises within the meaning given by section 2B of the Housing Act 2004. Please see the guidance at https://www.gov.uk/government/publications/investigatory-powers-guidance-for-renters-rights-act-2025.

Access

Section 239 of the Act gives a local authority power of entry to conduct a survey or examination of a property where they consider it is necessary and where any of the following conditions is met:

- Where the local authority considers that the survey or examination is necessary to carry out an inspection to consider whether a Category 1 or 2 hazard exists., or otherwise.
- The premises has been specified in relation to an improvement notice or prohibition order.
- A management order is in force in respect of the property.

Representatives of the authority must have written authorisation that sets out the purpose for which the entry is authorised, and this must be produced when requested by the owner or occupier or someone acting on their behalf. The authorisation must be given by the proper officer of the authority, which should be set out in the authority's constitution. The authorisation can be general, provided that it is made through the authority's constitutional ability to delegate such inspections generally.

The Renters' Rights Act 2025 amends the power under section 239. It removes the requirement in section 239(5) to give 24 hours' prior notice to the owner of qualifying residential premises within the meaning of section 2B and replaces it with a duty to notify the owner within a reasonable period of time after entry takes place. The Renters' Rights Act also inserts an option for an occupier to waive their right to 24 hours' prior notice of entry under section 239 Housing Act 2004. Please see the guidance at https://www.gov.uk/government/publications/investigatory-powers-guidance-for-renters-rights-act-2025.

The authority must take reasonable steps to find out who the owner, manager, or controller of premises is. If they are still unable to find out that person's identity, notice should be given in writing, being addressed to the person by way of a description of their role and by delivering it to the premises. If there is no person at the premises to whom it can be delivered, then written notice should be fixed to some conspicuous part of the premises.

A justice of the peace can issue a warrant for admission to premises. This includes power to enter by force if necessary. This power is only applicable, however, when entry under section 239 has been refused; or the property is empty and immediate access is necessary; or prior warning of entry would defeat the purpose of access.

The powers of entry allow local authorities to leave recording equipment on the premises for later collection, but such equipment must be relevant to their enforcement powers, for example to record levels of radon or other harmful gases or particles. The equipment may need to be left on the premises, in a functioning state, to be collected after a period of time. The authority needs reasonable grounds to leave the recording equipment.

It should be remembered that access and enforcement are separate concepts. In principle, if an authority finds a Category 1 hazard during a proper inspection for a different purpose, such as to determine whether an offence has been committed under section 72 of the Act (in relation to an HMO), then they would come under a general duty to take enforcement action on the Category 1 hazard. In other words, there is no requirement to conduct a further inspection to make a Part 1 assessment.

Approaches to Securing Compliance

Although local authorities are under a duty to take enforcement action in relation to hazards assessed as being within Category 1, and have a power to act in relation to Category 2 hazards if they deem it appropriate, securing compliance with housing standards is one of the primary goals of enforcement. Securing that level of compliance can be achieved in different, complementary ways.

Triaging complaints

Many local authorities use a formal or informal method of assessing and allocating complaints. This can be an effective way of organising resources, but they should take care that under-represented and vulnerable groups are not disadvantaged by such processes. For example, requiring complainants to complete online forms or provide documentary proof of occupation can operate to deter or disadvantage potential complainants from engaging.

At its best, triaging of complaints is a process which enables the enforcement team to prioritise its resources to where they are most needed. Triage, however, is a label that masks a range of different actions. For example, the following kinds of activities can be described as part of a triaging process:

- Ascertaining whether the complainant has given notice of an issue to their housing provider to enable the provider to rectify the issue in an appropriate way. This may operate as a swifter remedy for the occupier and works towards accomplishing the overall authority goal.
- A visit to a property to scope out whether a formal inspection is required.
- A pre-inspection process in which certain duty officers work with the landlord and tenant to resolve issues remotely without the necessity for an inspection.
- Requiring a complainant to provide additional details about the issues, including photographs and other proofs about the issues at the property. This practice has been particularly useful in circumstances where the local authority was prevented, for some reason, from making an inspection of the property. It can also assist the authority in determining whether more urgent action is required than is possible under the HHSRS regime.
- Diverting complaints to landlord associations or accreditation schemes for investigation and potential sanction.

Local authorities should always be mindful of their ultimate objective, whilst bearing in mind, for example, that some occupiers may not be willing to complain to their housing provider. They may be scared or anxious about the results of doing so, or they may not feel able to act because of reprisals. In this context, occupier vulnerability needs to be taken into account and can be achieved by engaging with, for example, broader issues about their immigration status or around modern slavery. The other concern raised by the practice of triaging has been that the quality of information provided to the authority may not be to the standard required, particularly where English is not the first language of the complainant. Accordingly, some local authorities have adopted a process of an initial assessment and inspection, so that any apparent issues with the property can then be made available to the provider. This means that subsequent communications with providers are appropriately framed around those identified and identifiable issues with the property. In undertaking this practice, it should be considered that action under

Part 1 of the Act cannot be taken following any initial visit that has not followed the appropriate process regarding giving notice of inspection outlined in section 3 of this guidance.

Tenure

The starting point is that the HHSRS is tenure neutral and does not discriminate between owner-occupied, privately rented or social housing properties. The only tenure against which it is not possible to enforce the HHSRS is where the local authority is the housing provider. The Court of Appeal has confirmed that exception to be inherent in the legislation because a local authority cannot serve a notice or order on itself. However, that exception does not apply where the property is controlled by an external organisation such as an arms-length management organisation, tenant management organisation or other social housing providers.

When taking enforcement action in the social rented sector, local authorities should carefully consider the balance between the action of diverting complaints to the social housing provider and that of taking enforcement action against the provider under part 1 of the Act. They should set out their approach to the social housing sector in their enforcement policy and signpost individual residents, where not an emergency, on how to make a complaint to the Housing Ombudsman about their case. It may be, for example, that a trigger for formal enforcement action by the local authority is where there are a number of complaints about a specific social landlord. However, local authorities' current practice suggests that social housing providers often respond swiftly to informal approaches, in part because of concerns about their own regulatory compliance.

Local authorities should weigh up all the circumstances when considering what action to take in respect of owner-occupiers. There is a risk of challenge if an authority takes action in tenanted property where it would not take similar action in owner-occupied property in similar circumstances. However, there are distinct factors which are likely to affect the action that local authorities take with owner-occupied property, such as the control that occupiers have over their living conditions, their ability to finance and carry out remedial action and the level of risk to which they are exposed.

Capacity

As set out above, the HHSRS is tenure neutral and does not discriminate between owner-occupied, privately rented or social housing properties. This means local authorities may, in some cases, consider taking action against owner-occupiers. Where questions around capacity arise, for example in hoarding cases – local authorities should be aware of the principles set under section 1 of the Mental Capacity Act 2005:

- A person must be assumed to have capacity unless it is established that they lack capacity.
- A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success.
- A person is not to be treated as unable to make a decision merely because they make an unwise decision.
- An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in their best interests.
- Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Where enforcement action against an individual is to be taken by the local authority, careful consideration may need to be given to that person's capacity to comply with the action. The

presumption is that the person has capacity, but questions can arise, and in light of the responses given, about the most appropriate course of action to be adopted. Partnerships with social and welfare services, as well as mental health services, are vital in these cases. Appropriate safeguarding procedures should be followed. In any event, the local authority should consider the impact of all possible courses of action on the occupiers' health and wellbeing, with due considerations being given to the principles in their local strategy.

HHSRS Enforcement Options

Whether or not a hazard is at category 1 or 2 level will be decided by carrying out an HHSRS inspection, using the statutory HHSRS operating guidance [link]. Once the duty to take enforcement action has been triggered by the presence of a Category 1 hazard or the decision has been made by the local authority to take enforcement action in other cases, local authorities will need to consider which action to take from the available suite of enforcement options. The Act contains the following enforcement options: an improvement notice; hazard awareness notice; prohibition order; demolition order; or slum clearance declarations.

Where there is a Category 1 hazard, emergency remedial action can be taken, or an emergency prohibition order can be made in certain circumstances where the hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers of those or any other residential premises. There are also financial penalties for failure to address category 1 hazards, please see below.

Making the choice

The decision about which type of action to take will depend on a range of factors, including the authority's own enforcement policy. Other policies, or strategies, such as for empty homes, homelessness, and the private rented sector more generally, should also be taken into account.

However, there are certain other factors which should always be considered:

- The authority must take the most appropriate course of action. Where it is possible to mitigate a hazard through works, this action is likely to be an improvement notice; however, it is more likely to be a prohibition order where remedial works are considered unreasonable, inappropriate, or impractical, or where it is not possible to mitigate a hazard by improvement works (e.g. over-occupation causing a crowding and space hazard).
- The authority should always consider the type of property concerned, taking into account the varying risks of certain building types for the occupants. Properties such as HMOs and tall buildings often contain risks that would impact upon a greater number of individuals. A prohibition notice would be more appropriate in cases where the property itself is unsuitable to be used as a dwelling (such as for the so-called 'beds in sheds' scenario).
- The vulnerability of the occupier/s should always be considered. The identification of vulnerabilities extends widely and includes regular visitors to the property or potential future occupiers. Vulnerabilities are likely to be particularly wide-ranging in certain types of accommodation in, for example, the following cases:
  - hostels housing people with alcohol or drug dependency;
  - where people are housed temporarily or in circumstances over which they have no control (including their ability to access alternative accommodation);
  - facilities that are unfamiliar to the occupier.
- In situations where there is no current or potential new occupant of a property, there will be less risk of the conditions there causing an accident or ill-health. Authorities will be looking to bring empty properties back into use wherever they can. However, a hazard awareness notice or a prohibition order to prevent re-occupation may be the appropriate type of enforcement action in cases where there is a limited period of non-occupation.
- When taking enforcement action, the views of the occupiers should be carefully considered. In practice, where an improvement notice is to be served, it may be necessary to negotiate

that proposed action with the occupiers in order to ensure that works to be done are not impeded.

- The financial capacity of any property owner to undertake the required works will often need to be a consideration. Where works are prohibitively expensive, prohibition may be more appropriate than improvement, particularly where local authorities cannot meet the budgetary burden of the works in default.
- Emergency measures are the exception rather than the norm and should be used only where there is an imminent risk of serious harm to the health or safety of any of the occupiers.
- An authority may take only one of the courses of action in relation to a specific hazard. However, an authority may take more than one of the courses of action in relation to a property as long as they are taken in relation to different hazards and can be justified that each course of action is the most appropriate for that hazard. For example, an authority cannot serve an improvement notice that requires works under falls on stairs to external steps while serving a prohibition order of the second floor due to falls on stairs. They can serve an improvement notice that requires works under falls on stairs while serving a prohibition order limiting occupation numbers due to crowding and space.

Some local authorities use a process of peer review or general staff discussion of cases before enforcement action is taken. This should be regarded as good practice, at least in cases where complex decisions or decisions outside the norm are necessary. Local authorities may have different types of process, depending on their enforcement team resources, but senior-officer oversight or audit is a useful and positive learning tool for all members of the enforcement team. It may, for example, identify gaps in the authority's process, knowledge or consistency, which require rectification before enforcement action can properly be served. Scrutiny of the reasons for the particular type of enforcement action may cause a different approach to be taken. Identifying issues at this stage also enables the authority to protect itself if the recipient challenges the action.

The importance of reasons

Section 8 of the Act places a duty on local authorities to give a statement of reasons for their decision to take a particular course of enforcement action. This provision is designed to meet concerns that any failure to do so might denote non-compliance with Human Rights Act 1998, Schedule 1, Article 6 – the right to a fair hearing. However, it is also a basic requirement of natural justice that, where an authority is taking enforcement action, the recipient of that action knows the basis for it.

Local authorities must prepare a statement of their reasons for their decision and provide a copy of that statement to accompany the notices, copies of notices and copies of orders which they are required to serve. If the authority has an enforcement policy, the policy can be used as the general basis for the action, alongside reasons of a more specific nature in relation to the particular property itself.

There is no requirement for local authorities to provide a copy of their inspection report with the statement, but there is nothing to prevent them from doing so if they consider that it would be helpful.

The requirement to give a statement extends to the declaration of a clearance area. In these cases, the statement of reasons must be published as soon as possible after the passing of the resolution declaring that the area be defined as a clearance area under section 289 of the Housing Act 1985, and in such manner as the authority considers appropriate.

Hazard awareness notice

A hazard awareness notice is a useful tool in specific circumstances. This might be where there is no risk to other persons or properties. It may also be a response to a less serious Category 1 hazard, provided that there is no management order in place.

A hazard awareness notice can provide an alternative to informal approaches to enforcement action following an inspection.

A hazard awareness notice still requires a statement of reasons under section 8(2) of the Act and can be used only where it is deemed the most appropriate course of action. This may be the case, for example, where the local authority is confident that the owner or landlord will conduct the required works within a reasonable timescale or where there is confidence that an owner-occupier understands the need for improvements to be made.

A hazard awareness notice in relation to either a Category 1 or Category 2 hazard must specify each of the items below:

- The nature of the hazard and the residential premises on which it exists
- The deficiency giving rise to the hazard
- The premises on which the deficiency exists
- The authority's reasons for deciding to serve the notice, including their reasons for deciding that serving the notice is the most appropriate course of action
- The details of any remedial action (if any) which the authority considers would be practicable and appropriate to take in relation to the hazard.

One of the benefits of the hazard awareness notice is that it is not subject to the same requirements as an improvement notice. It does not require any further action by the person (or organisation) on whom it is served, nor by the authority itself. However, it is good practice for the authority to monitor whether works have been carried out in accordance with the hazard awareness notice, otherwise it would not be fulfilling its purpose.

There is no provision for an appeal against a hazard awareness notice. There is no requirement to register these notices as a local land charge. This implies a certain threshold – if an authority considers that the hazard is sufficiently serious to require a local land charge, it should not adopt this procedure.

The service of a hazard awareness notice does not prevent further formal action from the enforcement options available under Part 1 of the Act, should an unacceptable hazard remain.

Improvement notice

An improvement notice under section 11 or section 12 of the Act is a possible response to a Category 1 or Category 2 hazard. Under section 11, action must remove or reduce the hazard but may extend beyond this. For example, an authority may wish to ensure that a Category 1 hazard is not likely to reoccur within 12 months, or is reduced to Category 2, or both. Such work would need to be reasonable in relation to the hazard, and it might be unreasonable to require work which goes considerably beyond what is necessary to remove a hazard.

Local authorities should avoid taking enforcement action which results in 'patch and mend' repairs. Such repairs could represent a false economy and may necessitate a re-inspection and re-assessment of the property. This type of approach may also result in a Category 1 hazard re-appearing after a brief period of time or require consideration as to whether a Category 2 hazard requires further enforcement. Remedial works required by enforcement action should be of a sufficient standard to

prevent the recurrence of a Category 1 hazard and reduce Category 2 hazards to an acceptable level of risk.

An improvement notice may relate to more than one Category 1 hazard. Where there are multiple hazards, including Category 2 hazards, the same notice can require action to deal with both category 1 and 2 hazards. In such a case, the notice should make clear that action is being taken under sections 11 and 12.

The notice takes effect 21 days after it has been served unless there is an appeal against it. If the notice is served by post, it is considered received on the second working day after posting.

The notice must be served on the following persons:

- If the property is an HMO or dwelling which is under a selective licensing regime, the notice must be served on the holder of a licence.
- If the property is an HMO or dwelling but is **not** a flat and **not** under a selective licensing regime, it must be served on whichever of the following the authority considers ought to take the action specified in the notice: in the case of a dwelling, the person having control of the dwelling; or in the case of an HMO, either the person having control of the HMO, or the person managing it. In either case, if the premises or any part of them are let under a tenancy that is periodic or was granted for a term of 21 years or less or are occupied under a licence, it must be served on the landlord or licensor, and any superior landlord or superior licensor.
- If the property is an HMO or dwelling which is **not** licensed but which in either case **is** a flat, it must be served on who in the authority's opinion ought to take action specified in the notice: in the case of a dwelling which is a flat, a person who is an owner of the flat; or in the case of an HMO which is a flat on a person who is an owner of the flat or on the person managing the flat.
- A 'person having control' means, for these purposes, '… the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent'.
- In a building with a right-to-manage company managing the common parts, the proper person/s on whom such a notice should be served are the lessees who are in receipt of the rents (assuming the properties are let out on tenancies), and not the Right to Manage (RTM) company as that company does not receive rent.
- If the property is a flat, or the hazard relates to the common parts of a building, it must be served on the owner(s) of the flat who, in the authority's opinion, ought to take the action specified in the notice.
- In addition, a copy of the notice must be served on every other person who, to the authority's knowledge, has an interest in the property as a freeholder, mortgage lender, lessee, or is an occupier of the property.

An improvement notice must contain the information set out in section 13 of the Act. It must specify:

- Whether the notice is served under section 11 and/or 12 of the Act;
- The nature of the hazard and the details of the premises on which it exists;
- The deficiency giving rise to the hazard;
- The premises in relation to which remedial action is to be taken and the nature of that remedial action;
- The date when the remedial action is to be started (which cannot be until 28 days after service of the notice);

- The period(s) within which the remedial action is to be completed or within which each part of it is to be completed;
- Information about the right to appeal and the period within which an appeal may be made.

In the cases of flats where works are required to two or more flats, it is undesirable to serve a notice containing an alternative course of action on two owners of adjoining properties or flats. Local authorities should take care to ensure that the requirements as to the contents of notices are complied with, not only in the interests of the person(s) on whom the notice is served but also to reduce the risk of appeals on the grounds that the notice has not been properly served. For example, a notice that purports to take effect earlier than the statutory period is not enforceable.

There is no power to withdraw an improvement notice informally, but it can be revoked under section 16 of the Act. There is no prescribed form to revoke an improvement notice, but any communication to this effect should make it clear that the authority intends to revoke the notice. However, the authority must serve the notice within 7 days, beginning with the date on which the decision was made.

An appeal can be made to the First-tier Tribunal (Property Chamber) against an improvement notice by the person on whom the notice was served. For example, an appeal can be made on the grounds that someone else ought to take the action or pay the costs, or that an improvement notice was not the most appropriate option. Any appeal must be made within 21 days beginning with the date of service of the improvement notice. Appeals can also be made in relation to the variation or revocation of the notice within 28 days beginning with the date specified in the notice i.e. the date on which the decision concerned was made.

Works in default

Section 31 provides that Schedule 3 to the Act which enables local authorities to take enforcement action required by an improvement notice itself, either with or without the agreement of the person on whom the notice was served, and which provides for the recovery of related expenses. The need to act with agreement may 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. Local authorities may have to carry out works without agreement where a notice has not been complied with.

The decision to undertake works in default depends on the availability of funds within the authority itself for the works required, the authority's capacity to conduct the works itself or through a contractor, as well as the ability of the person on whom the notice is served to obtain other forms of funding, such as through grants or mortgage.

Where the authority takes action with the agreement of the person served with the improvement notice, the works are to be taken at their expense. Where the authority takes action without agreement, it may recover expenses reasonably incurred, with interest. Such expenses may be registered as a charge on the property. Paragraph 11 of Part 3 of Schedule 3 to the Act also deals with appeals against the recovery of expenses.

Prohibition order

A prohibition order under section 20 and/or section 21 of the Act is a possible response to an assessment of a Category 1 or Category 2 hazard. It may prohibit the use of part or all of the premises for some or all purposes, or occupation by particular numbers or descriptions of people.

A prohibition order must contain the information set out in section 22 of the Act. It must specify:

- Whether the order is made under section 20 and/or 21 of the Act;
- The nature of the hazard and the residential premises on which it exists;
- The deficiency giving rise to the hazard;
- The premises in relation to which prohibitions are imposed by the order;
- Any remedial action that the local authority consider would, if taken in relation to the hazard, result in the order being revoked by them under section 25 of the Act;
- Information about the right to appeal and the period within which an appeal may be made.

An authority can be asked to approve a use of the premises, and that approval should not be unreasonably withheld. Any such refusal must be notified to the applicant within 7 days of the date of the decision to refuse.

An order becomes operative 28 days after it is made unless the order is appealed. Copies of the order must be served on everyone who, to the authority's knowledge, is an owner, occupier, is authorised to permit occupation, or a mortgage lender in relation to the whole or part of the premises. Copies must be served within 7 days of the making of the order. The requirement in respect of occupiers may be met by fixing a copy of the order to a conspicuous part of the premises.

A prohibition order in relation to a Category 1 hazard must be revoked if the authority is at any time satisfied that the hazard in respect of which the order was made no longer exists on the residential premises specified in the order. Such an order can also be revoked if the authority is satisfied that there are special circumstances making such revocation appropriate; for example, the authority may need to take a view on whether any work to remove a hazard might lead them to reconsider their original decision. An order in relation to a Category 2 hazard may be revoked if it is appropriate to do so. A local authority has the power to revoke or vary a prohibition order either in response to an application made by a person on whom a copy of the order was required to be served, or on their own initiative.

An appeal can be made to the First-tier Tribunal (Property Chamber) against an order by an owner, occupier, a person authorised to permit occupation, or a mortgage lender in relation to the whole or part of the premises, on the specific ground that an order is not the most appropriate option, or on general grounds. The appeal must be made within 28 days from the date the order was made. An appeal can also be made against a decision on the revocation or variation of an order. There is a right of appeal against an authority's refusal to permit the use of the premises for any other purpose while the prohibition order is in operation, within 28 days of the date on which the decision was made.

An order might be appropriate:

- To address conditions that present a serious threat to health or safety but where remedial action is considered unreasonable or impractical for cost or other reasons. This may include cases where work cannot be carried out to remedy a serious hazard with the tenant in residence and no temporary relocation is possible. If the landlord cannot rehouse the tenant, the authority may consider offering temporary or permanent alternative accommodation to ensure compliance with the order and to assist in progressing remedial works.
- To address situations where a dwelling is too small for the household's needs (in particular the number of bedrooms), by specifying the maximum number of occupants permissible. Action to deal with future occupation could be taken through the use of a suspended order).

- To control the number of persons who occupy a dwelling where there are insufficient facilities (e.g. personal washing facilities, sanitary facilities, food preparation or cooking facilities) for the numbers in occupation (a suspended order could deal with future occupation).
- To prohibit the use of a dwelling by a specified group (until such time as improvements have been carried out), where a dwelling is hazardous to some people but relatively safe for occupation by others. The specified group relates to the class of people for whom the risk arising from the hazard is greater than for any other group, for example, elderly people or those with young children.
- To prohibit the use of particular rooms for certain purposes, for example, as a result of a lack of light or ventilation.
- To prohibit the use of specified dwelling units or common parts within an HMO, for example, where particular units or parts of an HMO contain hazards, but other units could be occupied without exposure to those hazards.

In addition to prohibition orders, which are intended to deal with health and safety matters, a separate set of provisions applicable to non-licensed HMOs are set out in in Part 4 of the Act. These are available where action is required to limit the number of occupants in relation to the number of rooms available.

When considering making a prohibition order, the local authority should also:

- Have regard to the risk of exclusion of vulnerable people from the accommodation.
- Consider whether the premises is a listed building or a building protected by notice pending listing. Where improvement is not the most appropriate course of action, serving a prohibition order in respect of a listed or protected building should always be considered in preference to demolition (aside from whether consent would be forthcoming for demolition). The authority will need to balance the gain from preservation of the listed building in anticipation of future remedial works against the problems that might result in a vacant property in poor condition deteriorating further.
- Take account of the position of the premises in relation to neighbouring buildings. Where improvement is not the most appropriate course of action and demolition would have an adverse effect on the stability of neighbouring buildings, prohibition of the whole or part of the building may be the only realistic option.
- Irrespective of any proposals the owner may have, consider the potential alternative uses of the premises.
- Take into account the existence of a conservation or renewal area and of any proposals generally for the area in which the premises are situated. Short-term prohibition may be an option if the long-term objective is revitalisation of the area.
- Consider the effect of complete prohibition on the wellbeing of the local community and the appearance of the locality.
- Consider the permitted use of the building or part of the building.
- Carry out regular follow-up checks to ensure compliance with the prohibition.

A significant consideration will be the availability of alternative accommodation for displaced persons. It is unrealistic to expect a landlord owning a small number of properties to re-house the tenant/s. Landlords have no legal responsibility to re-house their tenants as a result of action by the authority.

The local authority, on the other hand, does have a duty under section 39, Land Compensation Act 1973, to rehouse someone is displaced in consequence of a prohibition order, and where

suitable alternative residential accommodation on reasonable terms is not otherwise available to the displaced person. The duty is to provide 'other accommodation,' and that may be temporary accommodation. However, this duty excludes emergency prohibition orders. In the case of an emergency prohibition order, a local authority does not have an automatic duty to rehouse someone who becomes homeless in consequence of that order. Although, an occupier can apply to the local authority if they are homeless. If the occupier meets the test for being homeless, is eligible for assistance and in priority need, the local authority must provide them with emergency accommodation.

The officer who is considering making the use of a prohibition order should make early contact with the authority's housing options team to consider the alternatives available to the displaced person/s. It should be remembered that any offer of accommodation made to such a displaced person does not count as an allocation of social housing, and so operates outside the authority's allocation scheme.

A further consideration is that the displaced person is entitled to receive a home loss payment, where they have been in occupation of the property (or a substantial part of it) as their only or main residence for one year before the date of displacement under an interest or right, under section 29, Land Compensation Act 1973 (subject to the provisions set out in section 29 and 32 of the Land Compensation Act 1973). If the conditions in (a) and (b) in section 29(2) are satisfied on the date of displacement then a discretionary home loss payment may be made to that person. Each year, there is an updating statutory instrument which prescribes the amount of the relevant home loss payment.

Suspending an improvement notice or prohibition order

An authority may suspend the action specified in an improvement notice or a prohibition order. Under section 23(1) the notice or order must specify the event or time that triggers the end of the suspension (e.g. non-compliance with an undertaking given to the authority or a change of occupancy). Before making the decision to suspend, it may be appropriate to consult the occupiers and owners of the property and give consideration to their views.

Suspension may be appropriate where the hazard is not sufficiently minor to be addressed by a hazard awareness notice, but the current occupiers are not members of a vulnerable group or refuse to have works carried out. However, in these kinds of circumstances, local authorities will need to judge whether a risk exists which warrants a programme of improvement over a more relaxed timescale.

The authority should consider the likely turnover of tenants at the property. To suspend the action of a notice may not be appropriate where there has been quick turnover in occupancy. In these circumstances, the authority should consider the likelihood that a range of occupants will be housed in the property in the coming 12 months.

Suspension may be appropriate where enforcement can safely be postponed while a more strategic approach to area renewal is considered. It may also be appropriate in the case of accommodation occupied during term time by students. Timing of the operation of the order could possibly coincide with the accommodation being vacated. In the case of Category 1 hazards, the authority will need to consider very carefully whether a suspended notice is an appropriate way of responding.

Typically, an event that might trigger the re-activation of a suspended notice would be a change of occupancy, where an occupier considered less vulnerable to the hazard is replaced by one who

is more vulnerable. The authority needs to know who is living in a property and consider the kind of circumstances that would be a reasonable trigger in relation to the hazard/s. The circumstances that will trigger the action must be specified in the notice. The notice might require an owner or landlord to notify the authority of a change of occupancy to ensure that the notice can be reviewed. The use of a suspended order is appropriate to deal with future occupation.

Local authorities will need to establish appropriate procedures regarding notification and the consequences of failure by owners to notify them of a change in circumstances. They should ensure that the owner is clear about the circumstances that will trigger the notice or order. As failure to notify is not an offence, in the future it may be desirable to consider immediate enforcement in relation to landlords who have failed to properly notify of changes in the past.

The authority must review suspended notices and orders not later than 12 months after the date the notice was served or the order was made, but they can do so earlier. They should also decide the method of the review. This could be a further visit and inspection of the property, or an assessment of reliable information collected on the dwelling.

Emergency action

Local authorities can take emergency remedial action or make an emergency prohibition order where the following criteria are all met:

- The authority gave at least 24 hours' notice to the owner and occupier of the premises that they intended to enter it.
- A Category 1 hazard exists on residential property.
- The hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers of those or any other residential premises.
- There is no management order in place in relation to the residential premises.

A notice, before entering the property, must be served on every person whom the authority knows is an occupier of the premises, or, in the case of common parts, the occupier of any part of the building. The notice is regarded as served if it is fixed to a conspicuous part of the building or specified premises.

Section 40(8) provides that section 240 of the Act (warrant to authorise entry) applies for the purpose of enabling the local authority to enter any premises to take emergency remedial action. The authority may apply to a justice of the peace for a warrant to enter premises to take emergency remedial action. A warrant may only be granted where the justice of the peace is satisfied that admission to the premises has been sought but has been refused, that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the purpose of the entry to await the occupier's return, or that application for admission would defeat the purpose of entry.

It may be that, if immediate and urgent discussions with the owner or controller of the premises suggest that they are willing and able to conduct emergency repairs, such action may not be necessary.

Emergency remedial action entails undertaking works that are immediately necessary for the authority to do to remove the imminent risk of serious harm. The benefit of emergency remedial action is that once the authority has complied with the notice giving requirements for the inspection, they may take the required action by entering the property at any time. However,

within 7 days beginning with the date when the local authority started taking emergency remedial action, the authority must serve a notice specifying:

- The nature of the hazard and the residential premises on which it exists.
- The deficiency giving rise to the hazard.
- The premises in relation to which emergency remedial action has been or is to be taken by the local authority, and the nature of that remedial action.
- The power under which the emergency remedial action was or is to be taken by the local authority.
- The date when the action was or is to be started.
- Information about the right to appeal and the period within which an appeal may be made.

A person served with a notice under section 41 of the Act, in connection with the taking of emergency remedial action under section 40 of the Act, may appeal to the First-tier Tribunal (Property Chamber) against the decision of the local authority to take that action. An appeal must be made within 28 days, beginning with the date specified in the notice as the date when the emergency remedial action was (or was to be) started by the local authority. An appeal however does not prevent works from being carried out, and works may have already been completed before the emergency remedial action notice is served. The provisions for recovery of expenses are outlined in section 42 and Schedule 3 to the Act, and local authorities should also have regard to works-in-default provisions when recovering expenses.

An emergency prohibition order removes imminent risk of serious harm by mandating that a property, or areas of a property, must not be used. Such an order must specify, in relation to the hazard (or each of the hazards) to which it relates:

- The nature of the hazard concerned and the residential premises on which it exists,
- The deficiency giving rise to the hazard,
- The premises in relation to which prohibitions are imposed,
- Any remedial action which the authority consider would, if taken in relation to the hazards, result in the order being revoked by them,
- Information about the right to appeal, and the period within which an appeal may be made.

An emergency prohibition order is made by serving it on the premises to which it relates. Copies of the order should be served to all relevant parties on the day the order is made. It will be for the authority to consider whether subsequent action by the owner gives grounds to revoke or vary the order. Once issued, an emergency prohibition order can be reviewed and varied or revoked in the same way as an ordinary prohibition order. If the local authority refuses to vary or revoke an order, it must serve notice of the refusal. An appeal can be made against a notice of refusal.

Any person who was served with a copy of an emergency prohibition order (a relevant person) can appeal to the Property Chamber of the First-tier Tribunal under section 45 of the Act within 28 days beginning with (a) the date specified in the notice under section 41 of the Act as the date when the emergency remedial action was (or was to be) started, or (b) of the date specified in the emergency prohibition order as the date on which the order was made. The grounds for appeal include, inter alia, that another course of action such as the service of an improvement notice, hazard awareness notice or demolition order would have been more appropriate.

Demolition orders

Demolition 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 is a listed building. They may also be used where a Category 2 hazard exists unless there is a management order in place. In deciding whether to make a demolition order an authority should:

- Take into account the availability of local accommodation for rehousing the occupants.
- Take into account the demand for, and sustainability of, the accommodation if the hazard were remedied.
- Consider the prospective use of the cleared site.
- Consider the local environment, the suitability of the area for continued residential occupation and the impact of a cleared site on the appearance and character of the neighbourhood.

Within 7 days from the date the order was made, the authority must serve a copy of the order on every person who, to their knowledge, is an owner or occupier, is authorised to permit occupation or is a mortgage lender in relation to the whole or part of the premises.,. The requirement in relation to occupiers will be met if a copy has been fixed to a conspicuous part of the premises. An aggrieved person may appeal against a demolition order to the First-tier Tribunal (Property Chamber) within 28 days from the service of the order.

It is possible to substitute a demolition order with a prohibition order if proposals for the use of the premises other than for human habitation are submitted.

Clearance areas

The provisions of Part 9 of the 1985 Act are retained in respect of clearance areas, with changes to align them with the provisions of the new legislation. If the local authority is satisfied that each of the residential buildings in the area contains a Category 1 hazard and that other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area, a course of action available to the local authority is to declare the area to be a clearance area in relation to a category 1 hazard or hazards. The local authority may declare an area to be a clearance area if they are satisfied that (a) the residential buildings in the area are dangerous or harmful to the health or safety of the inhabitants of the area as a result of their bad arrangement or the narrowness or bad arrangement of the streets, and that the other buildings (if any) 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.

A local authority should consider the desirability of clearance in the context of proposals for the wider neighbourhood of which the dwelling forms part of. In deciding whether to declare the area in which hazardous dwellings are situated to be a clearance area, a local authority should have regard to:

- The likely long-term demand for residential accommodation.
- The degree of concentration of dwellings containing serious and intractable hazards within the area.
- The density of the buildings and street pattern around which they are arranged.
- The overall availability of housing accommodation in the wider neighbourhood in relation to housing needs and demands.

- The proportion of dwellings free of hazards and other non-residential premises in sound condition which would also need to be cleared to arrive at a suitable site.
- Whether it would be necessary to acquire land surrounding or adjoining the proposed clearance area; and whether added land can be acquired by agreement with the owners.
- The existence of any listed buildings protected by notice pending listing – listed and protected buildings should be included in a clearance area only in exceptional circumstances and only when building consent has been given.
- The results of statutory consultations.
- The arrangements necessary for rehousing the displaced occupants and the extent to which occupants are satisfied with those arrangements.
- The impact of clearance on, and the scope for relocating, commercial premises.
- The suitability of the proposed after-use(s) of the site, having regard to its shape and size, the needs of the wider neighbourhood and the socio-economic benefits which the after-use(s) would bring, the degree of support by the local residents and the extent to which such use would attract private investment into the area.

Clearance may be a feature of plans to redevelop areas where there is low demand for housing, or there are other reasons for development. Where the reasons for redevelopment are not primarily related to housing condition, the powers in the Act will not be the most appropriate. Local authorities may therefore have to make a compelling case that clearance is necessary for the health and safety of residents. As an alternative to declaring a clearance area, an authority could consider use of compulsory purchase powers.

Tall buildings and specialist assistance

Tall buildings present particular enforcement issues that can require specialist assistance. Commonly, local authorities will be working, and co-ordinating their enforcement action, with a range of other experts across a range of often specialist disciplines. In contrast to the usual types of building with which officers are accustomed to dealing, local authorities should recognise that they are concerned not just with particular hazards (some of which require specialist consideration) but also the professional orientation of landlords and their agents, as well as potentially significant capital value of works.

A person identified by the local authority as having responsibility for rectifying defects in the building may instruct an independent expert. Any report produced by such an expert will need to be considered in relation to the appropriate type and level of remedial work, whilst giving due regard to those works which the authority itself regards as necessary. Notably, the decision concerning remedial works is one for the authority to take, having considered the viewpoints outlined. Where the authority decides not to follow expert reports, it should provide reasons as to why it has so decided.

Charging

Many local authorities charge the recipient for serving a notice or order on a property, and they are legally entitled to do so under section 49 of the Housing Act 2004 provided that the charge is reasonable. The expenses are in connection with the inspection of the premises, the subsequent consideration of any action to be taken and the service of notices. Local authorities will be able to charge for each course of action including, where emergency remedial action is taken, for any subsequent notices.

The usual approach taken by local authorities is to charge a flat fee or use an hourly rate for an officer's actual time spent. They have a discretion to charge a different fee, or no fee, on the basis of the recipient's personal circumstances, including their resources. However, some authorities have also found that the ability to charge a fee for serving a notice or order can be a useful negotiating technique in securing compliance. Some, for example, use the fee as leverage to secure compliance before serving the notice or order, or waive it (in whole or part) on early compliance.

Appeals and Non-compliance

Appeals

Where the authority serves a notice or order (other than a hazard awareness notice), the recipient must also be told that they have the right of appeal to the First-tier Tribunal (Property Chamber) within the relevant period. The tribunal has some discretion to consider appeals entered out of time if the recipient can demonstrate a good reason for the late appeal.

Officers should consider that their involvement in the matter may end up as a matter considered by the Tribunal. Preparing for that possibility at the outset means ensuring that everything is in order if a tribunal hearing subsequently becomes necessary.

It is always useful for newly appointed officers to have experience in observing tribunal proceedings, so that they are aware of the environment of such proceedings and can prepare appropriately. The key to a purposeful appearance at the tribunal lies in the extent of one's preparation for the hearing. Understanding what must go into the document bundle for the hearing, and the very purpose of the hearing, form part of this preparation.

Authorities should always refer to the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (as amended), as well as practice directions, all of which are available online.

Local learning as to the tribunal requirements can also usefully be disseminated among members of the enforcement team. This should include changes in the tribunal's operating procedures and processes – for example, if a paper or virtual hearing is used.

A useful method of preparing for a tribunal hearing is a process of peer review, in which a senior member of the enforcement team considers the materials and discusses them with the officer.

If an appeal is made against an improvement notice or prohibition order, the notice or order does not become operative until such time (if any) as it is confirmed on appeal, the period for further appeal expires, or the appeal is withdrawn.

If no appeal is made against an improvement notice or prohibition order (within the statutory period for appealing against it) the notice is final and conclusive as to matters which could have been raised on an appeal. The appropriate tribunal may allow an appeal to be made after the end of the statutory period for appeal, if it is satisfied that there is a good reason for that failure to appeal within time.

If an appeal is made against a notice of emergency remedial action or an emergency prohibition order, the order remains operative pending the outcome of the appeal. The appropriate tribunal may again allow an appeal to be made after the end of the statutory period for appeal, if it is satisfied that there is a good reason for that failure to appeal within time.

Non-compliance

Although the objective is to secure compliance without the need for further enforcement action, there will always be cases in which the responsible person fails to comply with a notice or order. The authority's enforcement strategy should dovetail with their other policies on financial penalties and rent repayment orders (if used). It should consider the full range of further enforcement available in cases of non-compliance, including, for example, proceeds of crime legislation.

The magistrates' court also has powers to order an occupier or owner to allow action to be taken on premises, in circumstances where notice has been served and that person or their representative has prevented certain people, including the authority's representative, from taken action in relation to the premises. There is a defence to that action where the person had a reasonable excuse for non-compliance.

Ultimately, local authorities have to take the decision whether or not to exercise their prosecution powers, or to take alternative action in respect of non-compliance. There are wider considerations to be made before a decision to prosecute or take such alternative action is reached. It is important to remember that the level of evidence needed for non-compliance is not a factor for deciding which course of action to take because the same level of evidence is needed for all.

Considerations for action in respect of non-compliance:

- Publicising (including the use of local newspapers and social media) a successful prosecution is a powerful tool in reaching the regulated community.
- Commonly, the level of fine imposed on a non-compliant person following a successful prosecution is regarded as low. This may be a reason to consider alternatives to prosecution

such as civil penalties, where, for example, the intention is to affect the recipient's business model.

- In certain cases, such as in relation to tall buildings, a financial penalty may not reflect the value of the work for which the responsible person has been non-compliant.
- A successful prosecution may be the precursor to obtaining a banning order or entry on the rogue landlord register.

Statutory Guidance on Financial Penalties under Section 6A of the Housing Act 2004

Power to impose a civil penalty for category 1 hazards

In addition to taking one of the enforcement actions listed in chapter 5, **where the premises in question are qualifying residential premises (as defined by section 2B of the Act) other than the common parts of a building containing one or more flats**, section 6A of the Act gives local housing authorities the option, when first taking action, of imposing a civil penalty on the 'responsible person' if, in the opinion of the local housing authority, it would have been reasonably practicable for that person to secure the removal of the hazard.

'Responsible person' is defined as the person on whom an improvement notice may be served. In relation to category 1 hazards, this means:

- For premises licensed under Part 2 (HMO licence) or 3 (selective licence) of the Act:
  - the holder of the licence.

- For premises which are neither licensed under Part 2 or 3 nor flats, whichever of the following the authority considers ought to take the action set out in the notice:
  - For dwellings – the person having control of the dwelling.
  - For HMOs – either the person having control of the HMO or the person managing it.
  - In either case, if the premises are let under a tenancy that is periodic or was granted for a term of 21 years or less, or are occupied under a licence, (i) the landlord or licensor and (ii) any superior landlord or licensor.

- For flats that are not licensed under Part 2 or 3:
  - For dwellings – a person who is an owner of the flat and in the opinion of the authority ought to take the action set out in the notice.
  - For HMOs – either a person who is an owner of the flat and in the opinion of the authority ought to take the action set out in the notice, or the person managing the flat.

Maximum and minimum civil penalty

The maximum penalty a local housing authority can impose under section 6A for a category 1 hazard is £7,000. This is set out in section 6A (6) of the Act. There is no statutory minimum amount.

In determining the level of penalty to impose, the authority should follow the steps set out in the '**Deciding on the level of civil penalty'** section of this guidance.

Imposing multiple civil penalties

A local housing authority may impose a separate civil penalty for each category 1 hazard that has been identified in the same premises or may impose one civil penalty to cover multiple category 1 hazards.

Where multiple category 1 hazards exist in the same rented home, local housing authorities should consider the circumstances of the individual case to determine the most appropriate response, including whether the hazards have been caused by a single deficiency or multiple deficiencies. For example, a broken boiler might cause category 1 hazards for both excess cold and damp & mould. If the local authority is satisfied that both hazards can be attributed to the single

deficiency of the broken boiler, it may be appropriate to impose a single civil penalty. If multiple hazards are present that are not linked to a single underlying deficiency – e.g. if there is exposed wiring resulting in an electrical hazard and a damaged banister resulting in a fall between levels hazard – it may be appropriate to impose multiple civil penalties.

The decision to impose a civil penalty

Local housing authorities need to have a policy basis to guide their decisions on when to issue a civil penalty. Each decision is to be considered on a case-by-case basis in line with that policy.

Civil penalties under section 6A of the Act can only be imposed when, in the opinion of the local housing authority, it would have been reasonably practicable for the responsible person to secure the removal of the hazard.

Factors that a local housing authority should take into account when determining whether removal would have been reasonably practicable include:

- how long the responsible person has known about the existence of the hazard;
- whether practical steps could have been taken to remedy the hazard without disproportionate expense or disruption;
- what steps the responsible person has taken to remove the hazard or reduce its impact, including any efforts made to secure the services of specialist tradespeople;
- whether permission from other parties is needed to remove the hazard and the steps the responsible person has taken to secure that permission; and
- whether tenants have provided access to the property in order for remedial works to be carried out.

Transitional arrangements

Where a local housing authority has, before the power under section 6A comes into force, found the property to have a category 1 hazard but has yet to take appropriate enforcement action under section 5 of the Act, the local housing authority may issue a civil penalty as long as the hazard continues to exist after s6A has come into force. In such instances, the local housing authority should take appropriate measures to satisfy itself that the hazard continues to exist.

When deciding whether to impose a civil penalty and how much that penalty should be, the local housing authority should not take into account the actions or inactions of the responsible person before s6A came into force, i.e. before 22 June 2026.

The standard of proof

Local authorities are exercising a quasi-judicial function when imposing a civil penalty. Before doing so, they must be satisfied by credible, reliable and sufficient documentary or other evidence to the appropriate standard of proof that the person has breached the relevant statutory requirement or committed the relevant offence.

For a civil penalty to be imposed where a category 1 hazard exists, a civil standard of proof is required, that is the breach must be established “on the balance of probabilities”. Local housing authorities will need to be satisfied that, based on the evidence provided, a breach is more likely to have occurred than not.

Deciding on the level of civil penalty

Local housing authorities need to have a policy on determining the appropriate level of civil penalties.

Local housing authorities should consider the following factors in developing their civil penalty policies and to help ensure that the civil penalty is set at an appropriate level:

Severity of the offence
The more serious the breach or offence, the higher the penalty should be.

Culpability and track record of the offender
A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities.

The harm caused
This is a very important factor when determining the level of penalty. The greater the actual harm or the potential for harm, principally to the tenant but also potentially the local community, the higher the penalty should be.

Punishment of the offender
The penalty should, in a way that is fair, both punish the offender and demonstrate the consequences of not complying with their responsibilities.

Deter the offender from repeating the offence
The ultimate goal is to prevent any further offending and help ensure that the offender fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a level that it is likely to have a very significant deterrent effect.

Deter others from committing similar offences
While the fact that someone has received a civil penalty may not be in the public domain, the civil penalty policy itself will be and local authorities should consider how their formal enforcement activity can be effectively publicised.

An important part of deterrence is the realisation that the local housing authority is proactive in levying civil penalties where the need to do so exists and the civil penalty will be set at a high enough level such that operating lawfully will be the sensible financial choice.

Remove any financial benefit the offender may have obtained as a result of committing the offence
The principle here is that it should not be in the offender's financial interest to commit a breach or offence rather than comply, for example that the penalty for breaching licensing conditions in respect of occupancy of a property is less than the additional rent received as a result of the over-crowding. The absence of any financial benefit does not mean though that the penalty should be reduced.

It is for each local housing authority to adopt a policy that takes into account all the above factors.

When deciding on the level of penalty to impose under section 6A, local housing authorities should go through the following steps:

Determine the seriousness of the breach (step 1)

Category 1 hazards are serious. Broadly, a category 1 hazard is one that if left untreated will cause a need for some medical attention, i.e. a visit to a doctor or a hospital, in the next 12 months.

To reflect the harm that has been caused or is likely to be caused by these hazards, and the level of intrinsic culpability given that a breach is only committed where it would have been reasonably practicable for the responsible person to have removed the hazard, where a local housing authority does choose to impose a civil penalty **a starting point of £6,000 should be used**.

Apply aggravating and mitigating factors (step 2)

Local housing authorities should then consider other factors. It is for each local housing authority to determine which other factors are applied and how they are applied. In general, these will need to be based on case-specific considerations of culpability and harm. Authorities might wish to consider:

- the length of time the responsible person has known about the severity and existence of the hazard;
- what steps, if any, the responsible person has taken to remove the hazard;
- whether the level of harm or potential harm of the hazard was particularly high;
- any history of non-compliance by the responsible person;
- the number of properties the responsible person owns or manages; and
- any admission of guilt.

Local housing authorities are encouraged to use a consistent framework for assessing the degree to which each aggravating and mitigating factor affects the quantum of any penalty.

Financial considerations (step 3)

Local housing authorities should then consider whether the amount arrived at through steps 1 and 2 meets in a fair way the objectives of punishment, deterrence and removal of financial benefit.

The starting point of £6,000 is applicable nationally. Local housing authorities in areas where rents are lower or higher than average may, at their own discretion, wish to apply a general adjustment via their civil penalty policy in recognition that a civil penalty of the same amount is likely to have a weaker deterrent effect in areas with high average rents than those with low average rents.

Any percentage adjustment for local rent levels must not exceed the percentage by which these are higher or lower in the local housing authority area than the national average. Average monthly rents in England by local housing authority can be obtained from the Office for National Statistics' monthly 'Private rent and house prices, UK' statistical bulletin. Any adjustment made should consider the need to retain differences in final penalties imposed that reflect the seriousness of the breach and aggravating or mitigating factors.

Local housing authorities may wish to consider whether the civil penalty arrived at through the steps above is sufficient to act as an effective deterrent to future non-compliance. Where they have what they regard as sufficiently reliable evidence of rental income from and/or asset value of the responsible person's housing business, they may decide to increase the amount of the penalty. To help gather this evidence, local housing authorities can use section 115 of the Renters' Rights Act 2025 to require information from any person.

In setting a final civil penalty amount, local housing authorities may take account of any information supplied by the person who has committed the breach about their financial circumstances. In the absence of such information, or where the local housing authority is not satisfied that it has been given sufficiently reliable information, it should draw the inference that they are able to pay the civil penalty.

Totality (step 4)

As a final step before issuing final notices, local housing authorities should consider other civil penalties being issued against the same person who has committed the breach at the same time to reach an aggregate amount that is just and proportionate.

When multiple breaches or offences have occurred, whether they arise out of the same or different incidents, if the aggregate amount is not just and proportionate, local housing authorities should consider whether all of the civil penalties should be proportionately reduced.

Discounts

It is for local housing authorities to decide whether a reasonable discount should be offered to the responsible person for prompt payment of civil penalties. Any discount offered for prompt payment should not exceed one-third of the amount in the Final Notice.

Procedure for imposing a civil penalty

Schedule A1 to the Act (inserted by paragraph 34 of Schedule 4 to the Renters' Rights Act 2025) sets out the procedure for imposing a civil penalty under section 6A.

The notice of intent

Before imposing a civil penalty under section 6A, a local housing authority must give a notice of intent to the responsible person. The notice of intent must set out:

- the date on which the notice of intent is given;
- the amount of the proposed civil penalty;
- the reasons for proposing to impose the penalty; and
- information about the right to make representations.

The notice of intent must be given before the end of the period of 6 months beginning with the first day on which the authority has evidence sufficient to require it to take the appropriate enforcement action.

Representations

A person who is given a notice of intent may make written representations to the local housing authority about the intention to impose a civil penalty. This means they can give, for example, reasons as to the why the civil penalty should not be imposed or why it is disproportionate.

Representations must be made within 28 days beginning with the day after the day on which the notice of intent was given. After the end of the period for making representations, the local housing authority must decide whether to impose a penalty and, if so, the amount of the penalty. The local housing authority should consider any representations received.

The local housing authority may decide at any time not to impose a civil penalty or reduce the amount. It can do this by giving notice in writing to the person to whom the notice was given.

Final notice

If the authority decides to impose a civil penalty, it must give the person a final notice requiring that the penalty is paid within 28 days, beginning with the day after that on which the notice was given.

Final notices should be issued promptly following consideration of any representations received. The final notice must set out:

- the date on which the final notice is given;
- the amount of the civil penalty;
- the premises on which the authority considers a category 1 hazard exists;
- the reasons for imposing the penalty;
- information about how to the pay the penalty;
- the period for payment of the penalty;
- information about rights of appeal; and
- the consequences of failure to comply with the notice.

Appeals

Right of appeal

Once the person receives the final notice they can appeal to the First-tier Tribunal (Property Chamber) within 28 days beginning with the day after that on which the final notice is given. They can appeal against the penalty itself or the amount of the penalty. If a person appeals, the final notice is suspended until a decision is made on the appeal or it is withdrawn or abandoned.

The appeals process

An appeal will involve a re-hearing by the First-tier Tribunal of the local housing authority's decision to impose a civil penalty. The Tribunal may also have regard to matters of which the local housing authority was unaware when the decision to impose a civil penalty was made.

The Tribunal can dismiss an appeal if it is satisfied that the appeal is frivolous, vexatious or an abuse of process, or has no reasonable prospect of success.

The Tribunal has the power to confirm, vary (increase or reduce) the size of the civil penalty imposed by the local housing authority, or to cancel the civil penalty. If the Tribunal decides to increase the penalty, it may only do so up to the statutory maximum for each breach of £7,000.

The appellant or local housing authority may seek permission to appeal the decision of the First-tier Tribunal to the Upper Tribunal (Lands Chamber).

Mediation

The First-tier Tribunal may offer local housing authorities and appellants the option to enter into mediation in an attempt to reach agreement on issues which are in dispute without the need for a full hearing. Mediation is usually offered by the Tribunal as part of the application to appeal form and may be offered again later in the process.

Mediation sessions are voluntary, confidential and without prejudice and allow both parties to explore settlement options which may not be available to the Tribunal. Local housing authorities should consider whether individual cases are suitable for mediation taking into account the individual factors of the case and whether there is a realistic prospect of a satisfactory settlement being reached.

Collecting the civil penalty debt

Collecting civil penalty debt is an integral part of a robust civil penalty policy. The deterrent effect of civil penalties is likely to be significantly weakened if those responsible for committing breaches know that debts will not be effectively enforced. Uncollected debt represents lost revenue for recycling into private rented sector enforcement work.

Local housing authorities may wish to agree payment plans with debtors to spread the payment of the debt, though in general these should not extend beyond one year. Agreeing longer repayment periods may be appropriate if the local housing authority is satisfied that the financial circumstances of the debtor mean that this is necessary, but the local housing authority should consider seeking a charging order to mitigate the recovery risk. Agreements should stipulate the consequences of missing payments or defaulting on the debt.

Application to enforce the debt

Where the person against whom it was imposed fails to pay a civil penalty, the local housing authority needs to apply to the county court for an order to enable enforcement of the debt through the court. A certificate signed by the chief finance officer of the local housing authority which states that the amount due had not been received by a specified date will be treated by the courts as conclusive evidence of that fact.

Ways to enforce the debt

Potential routes to recover the debt are:

Warrant or writ of control
This commands court enforcement agents to take goods from the debtor's home or business to satisfy the judgment debt.

Attachment of earnings order
This allows deductions to be made from the person's salary by their employer and paid to the creditor.

A third-party debt order
This means that money in a debtor's bank or building society account can be frozen for the benefit of the creditor.

A charging order
This prevents the person or organisation from selling an asset, usually a property, without paying the amount due under the charging order. This could also allow the chargee to recover the debt by enforcing the sale of the asset.

Bankruptcy proceedings
This entails a creditor petitioning the court to make a bankruptcy order following which the trustee-in-bankruptcy collects the debtor's assets and distributes them amongst the bankrupt's creditors in accordance with insolvency law. The amount of the debt must be at least £5,000.

Local housing authorities should consider the circumstances of the debtor and the amount of the debt before deciding on how best to collect it. Obtaining a charging order on a property may, for example, be most effective where this is a rental property owned by the debtor and is free of other charges, increasing the likelihood both of the local housing authority being able to enforce a sale and there being sufficient equity to meet the debt.

HM Courts and Tribunal Service's guidance document What to do if you have a judgment but the defendant has not paid (EX321) provides more detail of potential routes of enforcement and links to other guidance.

Income from the civil penalty

Income received from penalties issued under section 6A may be used by the local housing authority towards meeting its costs and expenses relating to carrying out its functions under Part 1 of the Act, the Renters' Rights Act 2025, or in relation to the private rented sector. The term 'in relation to the private sector' is defined in paragraph 14 of Schedule A1 to the Act:

(1) In paragraph 12, the reference to enforcement functions "in relation to the private rented sector" means enforcement functions relating to—

(a) residential premises in England that are let, or intended to be let, under a tenancy,

(b) the common parts of such premises,

(c) the activities of a landlord under a tenancy of residential premises in England,

(d) the activities of a superior landlord in relation to such a tenancy,

(e) the activities of a person carrying on English letting agency work within the meaning of section 54 of the Housing and Planning Act 2016 in relation to such premises, or

(f) the activities of a person carrying on English property management work within the meaning of section 55 of the Housing and Planning Act 2016 in relation to such premises.

(2) For the purposes of this paragraph "residential premises" does not include social housing.

(3) For the purposes of this paragraph "tenancy" includes a licence to occupy.

Any proceeds not used in these ways must be paid to central government.

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Ministry of Housing, Communities and Local Government