

# Tackling fuel poverty using the Housing Health and Safety Rating System (HHSRS)



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- What is HHSRS and how does it apply to fuel poverty?
- The EEPH/CIEH Research project
  - Findings and analysis
  - Recommendations
  - Guidance and dissemination
- Implications for home energy officers



# What is HHSRS?

- Introduced in the Housing Act 2004, principally used in private rented sector
- Also provides thermal comfort criterion for Decent Homes Standard in England
- Risk Assessment Tool:
  - Scoring indicates the number and degree of hazards
  - Scoring leads to Bands: A → J
  - Act imposes a duty on local authorities to take action for Category 1 hazards (in bands A - C)
  - Act enables local authorities to take action for Category 2 hazards (in bands D – J)



As I just mentioned in the last slide, the Housing Health and Safety Rating System is a **risk assessment tool** used to assess potential risks to the health and safety of occupants in residential properties. Replaced the old fitness standard, and was introduced from Jan 2006 in England and Wales following Housing Act 2004. (strictly HHSRS only refers to the rating system itself – but in this presentation also use the term to refer to the powers of enforcement and action linked to HHSRS)

Mainly used in the PRS where there are the biggest barriers to action but also now

Provides thermal comfort criterion for DHS

# What is HHSRS?

Dwelling type & age		Average likelihood 1 in	Spread of health outcomes				Average HHSRS scores
			Class 1 %	Class II %	Class III %	Class IV %	
Non HMOs	Pre 1920	330	34.0	6.0	18.0	42.0	1,066 (C)
	1920-45	340	34.0	6.0	18.0	42.0	1,035 (C)
	1946-79	400	34.0	6.0	18.0	42.0	880 (D)
	Post 1979	530	34.0	6.0	18.0	42.0	664 (D)
HMOs	Pre 1920	340	34.0	6.0	18.0	42.0	1,035 (C)
	1920-45	290	34.0	6.0	18.0	42.0	1,213 (C)
	1946-79	370	34.0	6.0	18.0	42.0	951 (D)
	Post 1979	350	34.0	6.0	18.0	42.0	1,005 (C)
All Dwellings		380	34	6	18	42	926 (D)



And so, onto the actual hazards, of which there are 29.

The main ones that relate to fuel poverty is excess cold (hazard 2) and damp.

When a property is assessed under HHSRS, it is given a score that indicates the number and degree of hazards present.

**The Act imposes a duty on local authorities to take appropriate action in relation to serious hazards – those falling in bands A – C** (that is hazards with scores of 1,000 or over, otherwise known as category 1 hazards).

**Although not under a duty to do so, they are also able to act in relation to other hazards** (those in bands D – J, scoring 999 or less, known as category 2 hazards).

**Possibly the biggest change from the old fitness standard to HHSRS is that HHSRS takes excess cold very seriously. Based on real evidence of where the actual risks to health come from from bad housing. Damp is assessed in hhsrs but rated as a much less serious threat to health.**

**“The dwelling should be provided with adequate thermal insulation and a suitable and effective means of space heating so that the dwelling space can be economically maintained at a reasonable temperature”**

The table on the slide is from the government’s HHSRS guidance. It shows that Excess Cold on its own is enough to classify the average pre-1945 dwelling as having a Category 1 hazard (over 1000). 4.8million private sector homes fall in this category

# What is HHSRS? – Local Authority Duties

Arrange an inspection as a result of a well founded complaint or request.

– If a Category 1 hazard is found, the local authority must take appropriate action

- Prioritising inspections
- Training staff
- Taking action: Enforcement Concordat



Local authorities have a **duty to arrange for an inspection of any premises to determine whether there is a category 1 or 2 hazard** following a well founded complaint or request.

**Government guidance states that authorities will need to prioritise inspections** and, in doing so, may have regard to their wider housing strategies and the individual circumstances of the case before them. For example, local authorities may feel that priority should be given to complaints or referrals from sources such as social services child protection teams, the police, the fire and rescue authority and Warm Front managers.

However, important to note that HHSRS assesses the risk to the most vulnerable person who **COULD** be living in the property. This is important for fuel poverty – the current resident of a home doesn't have to be elderly or vulnerable or currently in fuel poverty for HHSRS to be used to oversee improvements to the energy efficiency of the property.

Authorities are expected to ensure that their officers and other surveyors contracted by them are **familiar with HHSRS; the Regulations and guidance**. It is for authorities themselves to ensure that their officers and agents have the skills to perform their functions efficiently on behalf of the authority.

Landlords or owners are responsible for the costs of taking action. **The Act enables local authorities to make a reasonable charge as a means of recovering certain expenses incurred in serving an improvement notice, or taking emergency remedial action for example.**

**A local authority has a duty to take the most appropriate action in relation to the hazard.** Local authorities are advised to try to deal with problems informally at first and are encouraged to adopt the **Enforcement Concordat**, which provides a basis for fair, practical and consistent enforcement. It is based on the principle that anyone likely to be subject to formal enforcement action should receive clear explanations of what they need to do to comply and have an opportunity to resolve difficulties before formal action is taken.

Improvement notice mandatory – should note that Ofgem have now clarified that CERT funding cannot be used to fund improvements where these have been ordered under HHSRS

# The project

- Objective:
  - To achieve greater carbon savings and a reduction in the level and impact of fuel poverty as a result of effective implementation of the HHSRS
- Literature review
- Telephone survey and meetings:
  - 35 local authorities across England and Wales
  - Defra, CLG
  - CIEH, LACORS, Ofgem, eaga
  - Installers and managing agents



Impetus Consulting Ltd was appointed to carry out research into the HHSRS for the Energy Efficiency Partnership for Homes. The objective of the project was to achieve greater carbon savings and a reduction in the level and impact of fuel poverty as a result of effective implementation of the HHSRS.

## Literature review

Spoke to 35 Environmental Health Managers from 35 different councils (almost 10%). In 5 councils where HHSRS is proactively being used in this field, we also talked to a junior Environmental Health Officers (EHO) who uses HHSRS on a regular basis.

Also built on CIEH review of action under HHSRS in 130 authorities

In addition, we conducted interviews with other relevant organisations such as the Chartered Institute of Environmental Health (CIEH) (which was conducting a parallel survey on implementation of HHSRS), LACORS, Ofgem, Defra, eaga and some energy efficiency installers.

- Not being used nearly as widely or as effectively as it could be:
  - Not arranging inspections following a well-founded complaint or request
  - No systematic reviews of housing stock in the authority's area
- Variation between local authorities:
  - 69% using HHSRS as an enforcement tool to improve energy efficiency of properties
  - Different approaches to different tenures -predominantly used in the private rented sector



**However, we found that:**

### **HHSRS not being used nearly as widely or as effectively as it could be**

Local authorities have a legal duty to arrange for an inspection of any premises to determine whether there is a hazard following a well-founded complaint or request. However, this research found that some local authorities are not doing this – a clear breach of their duties.

Moreover, very few are carrying out their duty, as specified in the Housing Act, to carry out systematic reviews of the housing stock in their area for Category 1 and 2 hazards.

### **Variation in approach**

There is a great deal of variation between authorities in terms of how HHSRS is being used.

Of the 35 councils surveyed, 69% of councils (24) said they are using HHSRS as an enforcement tool to improve the energy efficiency of properties. A sizeable number (11) said they were not using HHSRS to improve energy efficiency, in any sector.

Plus different approaches in assessing for Excess Cold – everything from a very simple checklist to a full SAP rating.

- Failure to fulfil legal duties:
  - eaga referrals to local authorities are not being followed up
  - January → October 2007: 433 cases referred to local authorities by eaga
  - By November 2007, only 38 had been granted permission
  - Backed by CIEH research – 27% of authorities had not served any enforcement notices under HHSRS in 2007



- Informal approaches

**A missed opportunity?**



## Failure to fulfil legal duties

To give an example of how local authorities are failing to fulfil their legal duties.

Under Warm Front and CERT schemes, certain tenants will qualify for free energy efficiency measures to be installed. These can only be installed with the landlord's permission. You'd have thought that landlords would be more than happy to have free improvements to their properties, but around 5% refuse permission. (Who knows why – apparently some landlords are very 'suspicious' of insulation... I've heard of one who believed that the offer of free measures was a cover for some kind of MI5 led operation that would involve bugging their properties...

Anyway - here is a very obvious way in which HHSRS can be implemented. When such cases are referred to a local authority, that authority then has a duty to follow this up; if an inspection is subsequently made, it's very likely that a Category 1 Excess Cold will be found, and then the landlord will HAVE to make improvements. (In the case of CERT, the landlord would then forfeit his/her right to grant funding and would have to pay for it himself, as well as potentially paying for the enforcement itself.)

Under the government's fuel poverty programmes, eaga refers these cases to the appropriate local authority for them to follow up under HHSRS. Three of the councils we surveyed said their council would not take any action if they received such a referral (citing lack of resources) and a further 11 said they did not know whether any action would be taken.

- Eaga referred a total of 433 cases to local authorities between January and October 2007. By November 2007, less than 10% had been granted permission, which implies that there is a lot more that local authorities could be doing to follow through on these cases.
- (It should also be noted that the referral process to the local authority is quite slow in cases of landlord refusal – it will be around 50 days after the tenant has contacted Warm Front before the referral is made to a local authority).

## Informal approaches

Enforcement is viewed by all local authorities as a last resort. Local authorities favour encouraging improvements in the private rented sector through landlord forums and accreditation schemes. If a Category 1 hazard is identified, most authorities will give the landlord the opportunity to take action before serving an enforcement notice.



## Barriers:

- Houses in Multiple Occupation licensing:
  - In some authorities, HHSRS activity is related to HMO licensing
- Lack of resources:
  - Not charging for activities under HHSRS
- How to assess for Excess Cold:
  - Simple checklist vs. SAP rating
  - RPT appeals: up until December 2007, there had been only 13 appeals by landlords against HHSRS enforcement action relating to Excess Cold. SAP is not considered essential
  - Confusion over methodology is acting as a deterrent



## So why aren't local authorities taking more action using HHSRS powers? There are 5 barriers

In some authorities, **all HHSRS activity is related to Houses in Multiple Occupation (HMO) licensing**; it would appear that staff in these councils see themselves as fully occupied trying to meet the requirement of licensing HMOs and believe that they do not have any additional resources to look at other ways of implementing HHSRS.

This lack of activity is partly due to **limited resources**, although this could be dealt with if more local authorities chose to exercise their right to charge for HHSRS enforcement activity. (CIEH research.)

### **Confusion about how to assess for excess cold.**

OG states that assessment should take account of adequacy of heating & insulation and may involve a SAP rating. Some authorities feel only a SAP or rdSAP would be robust, but costs of having the team trained up on this are prohibitive for many councils. Many using a simple checklist.

## Barriers:

- What measures are appropriate to require:
  - Can central heating and/or double glazing be specified?
  - RPT appeals: double glazing would be considered unnecessary in all but exceptional cases
  - Clearer guidance related to this would be helpful
- Inefficient referral system from Warm Front/CERT:
  - Clear opportunity for HHSRS to be used to ensure that the necessary measures are installed in those properties where landlords refuse permission
  - Efficient system required to ensure such cases are referred to local authorities and promptly followed-up



**What it is appropriate to require by way of measures;** for example, can central heating and/or double glazing be specified, or should only cheaper, more cost effective measures be required? Analysis of the RPT appeals data indicates that, for example, double glazing would be considered unnecessary to remove the risk of Excess Cold in all but exceptional cases; clearer guidance related to this would be helpful.

In the private rented sector, national programmes to help improve energy efficiency and reduce fuel poverty are in some cases failing to help their target audiences because landlords do not give permission for measures to be installed in their properties. There is a **clear opportunity for HHSRS to be used to ensure that the necessary measures are installed in these properties. However, there is currently no efficient system for ensuring such cases are referred to local authorities and promptly followed-up.**

# Conclusions

## Potential:

- English House Condition Survey 2006:
  - 4.8 million private sector homes in England have a Category 1 hazard
  - Most common Category 1 hazard is Excess Cold (and Falls)
  - Excess cold on its own is enough to classify the average pre-1945 dwelling as a Category 1 hazard



## So what have we found?

Fuel poverty is a major and growing problem, particularly in the private rented sector. HHSRS gives local authorities the power to take much of this sector out of fuel poverty (while potentially also reducing carbon emissions) at very little cost to the taxpayer (as landlords can be required to pay for the measures). However, HHSRS is not being used nearly as widely or as effectively as it could be. **Therefore there is great potential to use HHSRS to tackle fuel poverty.**

The **English House Condition Survey 2006** found that, in total, some 4.8 million homes in England (22%) have Category 1 hazards present. Of these, the vast majority are in the private sector – 4.2 million homes.

The most common Category 1 hazards are Excess Cold and Falls.

As mentioned previously, according to the government's Operating Guidance on HHSRS, Excess Cold on its own would be enough to classify the average pre-1945 dwelling as a Category 1 hazard.

# Conclusions

- **HHSRS gives local authorities the power to take much of the private rented sector out of fuel poverty at very little cost to the taxpayer**
- **It's not being used to its full potential at the moment**
- **“Interventions at this stage do not seem to be focussed on the greatest risks to health and safety in the housing stock.” CIEH**



Quote is from CIEH

## To government:

- Ensure local authority commitment:
- Provide clearer guidance:
  - Assessment of Excess Cold
  - What measures are appropriate to require

## Other recommendations:

- Tenants to contact their local authority
- Organisations providing advice to householders should be aware of HHSRS
- Fuel poverty organisations should seek to build evidence surrounding the legal requirements under HHSRS



The Partnership's HHSRS taskgroup also makes the following **recommendations to government**:

- The government could also **provide a direct steer to local authorities that they should consider how they can use HHSRS to reduce fuel poverty in their area**. This could also make the link to local authorities' power to promote well-being.
- The government should **liaise with Regional Assemblies** to ensure that Regional Housing Strategies include reference to how HHSRS can most effectively be used to tackle the greatest risks to health and safety arising from poor housing. This will then feed into individual authorities' housing strategies.
- The government should **communicate to the Audit Commission** - the organisation responsible for auditing each local authority using the government's new Comprehensive Area Assessments - on how implementation of HHSRS could help assist in reducing fuel poverty and help authorities to meet targets set out in National Indicator 187.

As a matter of urgency, possibly in co-ordination with LACORS, government should:

- **Provide clearer guidance to local authorities on how to assess for Excess Cold**. The development of a template checklist may be helpful in this regard.
- The government should also **support councils in developing coherent policies around what measures they recommend in what circumstances**.

Members of the Energy Efficiency Partnership for Homes would welcome the opportunity to work with the government on both these issues.

- Guidance for senior local authority personnel
- Guidance for environmental health managers and officers
- Guidance for installers



As part of the project, guidance has been developed for the following three audiences:

**Senior personnel of local authorities** on resourcing and strategic issues linked to HHSRS.

= To be sent via CIEH and LACORS e-bulletins.

**Environmental Health Managers and Officers** to ensure they understand the inter-relationship of factors underlying fuel poverty and providing template letters to send to landlords and tenants.

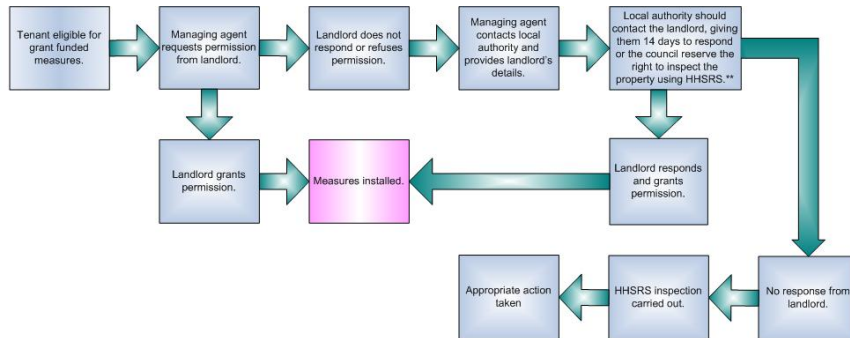
= Direct mailing to the Head of Private Sector Housing in all 310 local authorities in England and Wales.

**Companies working in energy efficiency with the public**, such as insulation firms working on government fuel poverty programmes or EEC funded programmes). The guidance explains how to inform the local authority so that they carry out an inspection. Includes template letters to send to the local authority and the tenant

= Highlighted within Energy Saving Trust email bulletins, the Partnership's Heating Strategy Group and the National Insulation Association.

Information on HHSRS has also been produced in guidance for **landlords and tenants** produced by a parallel partnership project by the Partnership's private rented group.

## Guidance and dissemination



\* - suggested response time for all stages – 14 days maximum (may depend on local authority procedures)

\*\* - if the local authority does not act at this point, the tenant may approach a Justice of the Peace or Parish Council who - by law - can make an official complaint to the council requiring that an HHSRS inspection be carried out.



Much of the guidance focuses around getting this system adopted.

# Implications and Issues for Home Energy Officers

- **Your LA's strategies should address:**
  - The council's duty to identify and act on Category 1 hazards
  - Including HHSRS within affordable warmth and possibly climate change strategies: Make the linkages between NI186/7 and HHSRS powers
- **Communicate with Landlords:**

Let them know that they can be forced to act on energy efficiency under HHSRS, and that their ability to access grant support for improvements may be reduced if the council needs to issue an improvement notice.
- **Ensure EH /housing teams:**
  - have a clear process for dealing with landlord refusals from Warm Front/CERT
  - Are aware that (RD)SAP doesn't have to be used to assess excess cold



LA Home energy officers should be working closely with environmental health officers to ensure that happens