

Rugby Borough Council

Private Sector Housing Inspection Policy

1.0 Background

The housing enforcement section of the Public Health and Licensing Team undertake a number of statutory functions which require inspections of domestic properties. Such functions include investigating and enforcing housing standards in single private rented properties and houses in multiple occupation (HMOs), where necessary the investigation and enforcement of housing standards in owner occupied properties and investigations and enforcement of public health issues related to domestic properties. Inspections will be both reactive (e.g. responding to complaints) and proactive (mainly applicable to houses in multiple occupation because the Council has a statutory duty to ensure these properties are up to standard). The primary legislation with which housing enforcement officers deal with is the Housing Act 2004. However other relevant legislation includes the Public Health Act 1936 and 1961, Environmental Protection Act 1990, Building Act 1984 and the Local Government (Miscellaneous Provisions) Act 1982.

The Housing Act 2004 requires that the Council keeps the housing conditions in their area under review with a view to identifying any action that may need to be taken under the Housing Health and Safety Rating System or other function under the Act. The Housing Act 2004 defines a residential premises to mean a dwelling, an HMO, unoccupied accommodation and any common parts of a building containing one or more flats. Further, a dwelling is to include any yard, garden, outhouse and appurtenance belonging to or usually enjoyed with the dwelling, HMO or building.

2.0 Housing inspections

2.1 Privately Rented Accommodation

The Housing Act 2004 provides that where the Council considers it would be appropriate for any residential premises within their district to be inspected, either as a result of any matters of which they have become aware whilst carrying out a review of housing conditions or for any other reason, the Council must arrange for an inspection to be carried out.

Traditionally the private rented sector contains some of poorest living conditions relative to other tenures and houses some of the most vulnerable people who are on low incomes. Therefore, the Council will endeavour to inspect all rented accommodation which is brought to its attention, either through tenant/neighbour complaints, other Council Services or external agencies. Exceptions to this may occur in specific circumstances if considered appropriate by the housing enforcement officers.

All inspections of privately rented accommodation will be conducted in a manner as detailed below.

2.2 Other rented accommodation

The housing enforcement section may also respond to and investigate complaints concerning accommodation owned by a Registered Social Landlord.

It is not the Council's practice to investigate complaints regarding Council owned accommodation unless requested to do so by a senior Council Officer.

2.3 Owner Occupied Properties

In addition to dealing with private rented properties the Public Health and Licensing Team deal with privately owned properties within the Borough.

Where possible formal enforcement action against owner occupiers will be avoided, unless the hazards identified within the property are considered by officers to be such that they pose a significant risk of harm to the owner occupier or to any other person having regard to the Housing Act 2004. Any enforcement action taken against owner occupied properties will be in line with the private sector housing enforcement policy.

2.3.1 Immigration Inspections

Public Health and Licensing may be requested to undertake an inspection of a private property for the purposes of permitting a person(s) entering into the UK to verify that the intended accommodation is safe and fit for human habitation, and whether the property would become statutorily overcrowded by an additional person proposing to live there.

This is a chargeable service and further details on the fee and the service offered can be found in the Council's current Fees and Charges document.

2.3.2 Filthy and Verminous Properties

This type of inspection would be dealt with primarily under the Public Health legislation, however any repairs identified as being necessary would be assessed and dealt with appropriately using the Housing Act 2004 and having regard to the private sector housing enforcement policy.

Given, in most instances, these cases can be sensitive and emotional for the owner-occupiers who are the subject of any investigations by the Council, all attempts will be made by the investigating officer, where possible, to involve the family or close friends of the individual concerned to attempt to ensure that emotional support is offered to the person, particularly should the Council have to take formal action to deal with the conditions within the property.

Where considered appropriate the investigating Officer will make referrals to other external agencies should they feel that the individual concerned, often a vulnerable

person, requires further assistance. Where possible such referrals will be made with the consent of the individual.

2.3.3 Empty Properties

There are a number of long term empty properties (properties empty for more than 6 months) within Rugby Borough and the housing enforcement team within Public Health and Licensing is keen to encourage owners to bring such properties back into use.

Generally, when the Council is made aware of a long term empty property, the dwelling will be proactively monitored by officers to ensure that the property remains in a condition so as not to cause a nuisance to the surrounding neighbourhood.

In cases where the condition of the property is found to be in breach of any legislation, for example by causing a nuisance to neighbouring properties or to be insecure to permit unauthorised access or to become a danger to public health, officers will contact the owners of the property and take the appropriate steps to ensure that any breaches of legislation are remedied.

In undertaking this function, the housing enforcement team will work closely with the Council's Housing Services, Building Control, Planning, Pollution Control and Council Tax Services.

3.0 Inspection Procedure

All officers from the housing enforcement team are authorised to carry out investigations and inspections under the relevant legislation (both in relation to housing and public health). Officers authorised by the Council can legally enter any premises at all reasonable hours for the purpose of ascertaining whether there has been any contravention of the relevant legislation and whether the circumstances exist which would require the Council to take any action, providing the required period of notice is given. Further specific powers of entry are detailed in the applicable legislation.

The inspection of houses in multiple occupation for the purposes of licensing is dealt with under the Council's house in multiple occupation licensing policy.

3.1 Prior Notice of Inspection

Housing enforcement officers have a legal right to enter and inspect domestic properties at all reasonable hours providing that 24 hours written notice is given to the owner/occupier.

Recent Residential Property Tribunal decisions have provided interpretations of the powers of entry under specifically the Housing Act 2004 and based on such the housing enforcement team will provide to the owner and occupier of a property, where possible, 24 hours written notice of their intention to enter a premises for the purposes of undertaking an inspection. In some cases, however, it may not be feasible to give 24 hours notice of intention to enter (e.g. if a serious health hazard exists).

For this purpose, to have taken all reasonable steps to notify the owners and occupiers of their intention to enter a premises, Officers will seek to obtain this information from information obtained from any tenancy agreement, previous Environmental Health records, Council Tax and Housing Benefits information, previous planning applications (if possible) or by Land Registry records. Where all reasonable attempts have been made to establish the details of ownership and occupancy of properties but have proved unsuccessful, notice of entry will be addressed as necessary to 'The Owner', 'The Occupier' or 'The Occupiers' (when dealing with houses in multiple occupation) and delivered to the property by affixing the letter to the front door of the property.

If there are non-residential occupiers of the building (such as business proprietors) and access is needed to their part of the property, then a similar notice will also be given to them.

In circumstances where entry into a premises has been refused, where the premises are believed to be unoccupied or that the occupier is temporarily absent, or in circumstances where giving prior notice will defeat the purpose of entry the authorised Officer will apply to the Magistrates Court for a warrant to enter the premises, if necessary by force.

3.2 The Inspection

Officers will inspect premises, taking note of the conditions within the property including the property structure, installations and fittings so as to assess the standard of repair, amenities, level of occupancy and fire precautions. In general, Officers will ensure that the property complies with the relevant legislation and that the health, safety and well being of particularly the occupant(s) are safeguarded.

During the inspection Officers should

- Have a courteous manner
- Show identification
- Give feedback from any inspection such as information about the conditions within the property, any defects which may be identified and guidance on how the property would be improved.
- Make clear the distinction between what is recommended as good practice and what must be done to comply with the law.
- Agreement of a reasonable timescale for any necessary works to be carried out, except where the conditions are prejudicial to the health and safety of the occupier.
- To be informed of any follow up action.
- To be allowed to discuss any relevant circumstances before any formal action is taken, unless immediate action is required.
- To be notified in writing of any rights of appeal against formal action, at the time it is taken.

The main purpose of any inspection is to identify any potential hazards within the property and to assess the associated level of risk.

In some instances the extent of the inspection will be limited to protect officers' health and safety, for example loft spaces, cellars etc.

3.3 Assessment of the Property

All assessments of properties will be undertaken having regard to the relevant legislative requirements and associated guidance. When undertaking assessments, officers will use their impartial judgement to determine the level of risk associated with the condition of the property and the impact that the conditions are having on the health and safety of the occupiers, visitors, immediate neighbours and local community at the time of the inspection and, with regard to the Housing Act 2004, over the following 12 months.

The method of assessment, under Part 1 of the Housing Act 2004, is a risk based approach called the Housing Health and Safety Rating System (HHSRS). The HHSRS incorporates 29 hazards for the officer to assess. These hazards can be divided into physiological requirements, psychological requirements, protection against infection and protection against accidents. Further information on the HHSRS can be provided by the housing enforcement team upon request.

Depending on the nature of the hazard (e.g. damp and mould growth, electrical safety, carbon monoxide, etc), officers may require further documentation from the owner of the property. This is to enable the officer to determine the associated level of risk (e.g. damp report from a specialist contractor, current periodic inspection report, current gas safety certificates, etc.).

When requesting documentary evidence in relation to the condition of any aspect of the property the officer will specify to what pre requisites the contractor shall meet. For this purpose, Public Health and Licensing would define a qualified and competent electrician to include a person or company registered with a Competent Person Scheme, approved by the Department for Communities and Local Government. Further, only gas safety certificates issued by qualified and competent contractors registered with either CORGI or, from 1st April 2009, the Gas Safe Register will be accepted by Public Health and Licensing.

These pre requisites are also to apply to contractors undertaking any remedial works to installations, within domestic properties.

3.4 Actions following the Inspection

Following an inspection of a property the housing enforcement Officer will take the appropriate action in line with the private sector housing enforcement policy to ensure that action taken is proportionate to the risks involved. For further details reference should be made to the enforcement policy document.

Following an inspection of any rented accommodation, in accordance with the enforcement policy, Officers will contact landlords informally in most instances and detail the necessary works. Where formal action is unsuccessful or where insufficient

progress is made towards completing the works, the Officer will proceed with taking formal action against the owner of the property. Exceptions to this would occur should the Officer consider that there is an imminent risk to the health and safety of the tenant.

Where properties are rented on a lease agreement, unless evidence is provided to confirm otherwise, all correspondence will be addressed to the freeholder of the property concerned.

4.0 Policy Review

This policy will be reviewed and revised as appropriate.