



HHSRS – 11 years on

Results of a survey of environmental health practitioners working in housing

December 2017

The Housing Health and Safety Rating System (HHSRS) was introduced under the Housing Act 2004 and has been in force since April 2006. It is a risk-based approach used to assess risks to health and safety in the home by looking at the likelihood of particular faults or deficiencies, which could cause injury, ill health or impact on the wellbeing of those living in the dwelling.

Environmental health professionals (EHPs) are some of the main users of the HHSRS and are therefore the principal consultees of this survey. They play an essential role in intervening to protect people from the effects of poor housing conditions and the impact these might have on their health.

Although the rating system can be applied to any type of dwelling, it is particularly important when assessing conditions in the private rented sector. As the number of people living in privately rented homes has increased significantly over the past two decades, it is important that the system used to protect tenants is still fit for purpose and able to deal with current housing conditions.

Rating dwellings according to 29 potential hazards, the system replaced a pass or fail Housing Fitness Standard, which had been used previously to assess housing conditions. When the system was launched there was an expectation on the part of EHPs that data would continue to be collected on the national average condition of dwellings and the associated health outcomes.

Furthermore, a number of decisions by the First Tier Tribunal (FTT), Residential Property Tribunal (RPT) and the Upper Tribunal (Lands Chamber) have indicated the need for some review, clarification and updating of the guidance.

HHSRS requires professional judgement from environmental health professionals but the national data-used to underpin the system and inform this judgement-was collected in the late 1990s and early 2000s.

Recent changes to enforcement powers, as part of the Housing and Planning Act 2016, further highlight the need to review and update the original enforcement guidance, first published in 2006. It is, therefore, now time to take stock of the first 11 years of the HHSRS being used in practice and to conduct a review of how its operation could be improved so it remains fit for the future.

Key findings



97%

support **an update of the HHSRS** in some way

There is overwhelming support among EHPs for an update of the HHSRS in some way. 89 % would like to see an update of the operating guidance and 79 % of the worked examples, whilst 45 % would like to see the enforcement guidance brought up to date. Two-thirds (66 %) said they would prioritise the operating guidance for an update if they had to choose.



62%

felt that the **HHSRS** system was **an improvement**

Of those who have experience of both the old Fitness Standard and the HHSRS, most respondents (62 %) felt that the HHSRS system was an improvement, whilst almost a quarter (23 %) preferred the old standard.



55%

preferred **a risk-based** approach

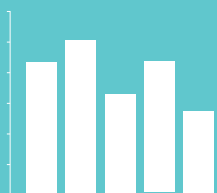
All respondents were asked whether they preferred a risk-based approach (55 %), minimum standards (15 %) or another alternative approach (18 %) to assess housing conditions.



53%

reported seeing **hazards** that were **not adequately addressed**

Over half of respondents have reported seeing hazards in dwellings that were not adequately addressed by the HHSRS operating guidance.



71 separate comments mentioned the need to update **the evidence or statistics of the HHSRS**

Using free text boxes, a large number of respondents mentioned the need to keep the statistics presented in the hazard profiles up-to-date.



9 out of 10

called for **more up to date worked examples**

Nine out of ten professionals have called for more up to date worked examples, published nationally, to help them in their work.

The following sections were highlighted as being in need of an update:



Excess heat and cold



Crowding standards



Fire and electrical safety



Damp and mould



Outdoor spaces

Methodology

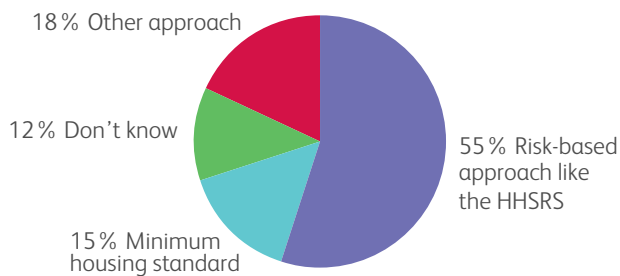
The survey was open for four weeks during April 2017 and received a total of 170 complete individual responses. The survey was publicised to all CIEH members working in housing as well as via EHCnet to EHPs working in local authorities.

In order to establish that the views captured by this survey reflected the views of professionals who were experienced in using the HHSRS, the survey asked about the length of time that a respondent has used the system and how frequently they did so. 81 % of respondents said that they use HHSRS regularly¹ and 86 % reported that they have used the HHSRS for five years or more, showing that the survey was taken by professionals who have a good insight and experience of the way that the system works in practice.

The results capture views of EHPs working for 86 separate local authorities across England.

Attitudes towards a risk-based system

In your opinion, what is better - a risk-based approach to assessing the standard of housing or a minimum standard below which a house would be deemed unsuitable?



“It allows you to consider/evidence why action should/must be taken or not as the case may be. Merely saying if something is wrong or right is not always sufficient, as with the Fitness Standard.”

With over a decade since the launch of the HHSRS, this survey sought to find out the attitudes of EHPs working with the system - whether they were supportive of it or whether they preferred the old housing fitness standard. Of those who said they had used HHSRS for over ten years, therefore likely to have experience of both types of systems, 62 % said that HHSRS was an improvement on the old Housing Fitness Standard. Only 23 % of this group said they thought that the old Housing Fitness Standard was better.

Everyone taking the survey was asked a separate question about whether they preferred a risk-based or a minimum housing standard approach for assessing housing conditions. The results were more divided. Although the majority of respondents preferred a risk-based approach (55 %) rather than a minimum housing standard (15 %), a significant proportion (18 %) had an alternative approach in mind when it comes to assessing housing.

Practitioners in support of a risk-based approach said that it was right to use an evidence-based system that looked at the potential harm done to people rather than the building in isolation. The HHSRS was also thought to cover many more situations than the old Housing Fitness Standard did. However, there was a strong desire to see the HHSRS operating guidance and underlying statistics updated to ensure that the judgements of EHPs were based on up-to-date evidence.

¹ Of those who said they use HHSRS regularly, 39 % use it 11 times or more per month, 61 % use it 10 times or less per month.

Respondents who were not supportive of a risk-based system argued that the HHSRS was overly complicated and not easily understood by tenants or landlords. This makes it more challenging for landlords to understand whether their property is free from category 1 and 2 hazards. This is due to the fact that the HHSRS does not simply look at disrepair but also the design of the home, which could pose a risk to the health of an occupant. For example, this includes very steep stairs or alternate tread and risk of falls.

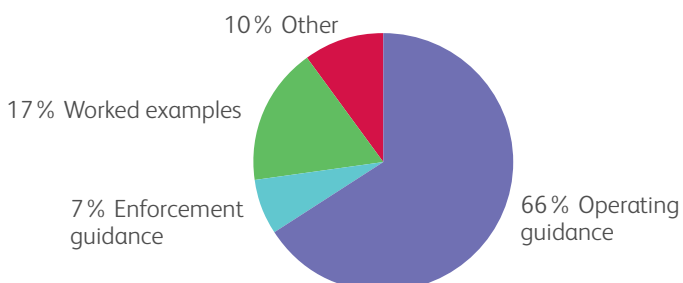
A hybrid system of minimum standards and hazard ratings

Although most of the environmental health community were supportive of a risk-based system for assessing the quality of housing, there were a number of respondents proposing a new hybridised system of minimum standards complemented by a hazard rating system.

Potential minimum standards suggested by respondents included: minimum bedroom size, mains-powered smoke alarms as standard in rented properties, continuous supplies of hot and cold running water, heating and level of insulation specifications. Whilst all these deficiencies in the home could be dealt with using HHSRS, respondents felt that having minimum standards in certain areas would help to speed up their work and may help with a simpler prosecution. A list of minimum standards could also work well if a national landlord registration scheme is introduced, which would require some pre-requisite conditions to be met in order for properties to be let out to tenants.

Operating guidance

Which part of HHSRS should be updated first as a priority?



“It is a complicated system for landlords/tenants/letting agents to understand. It is open to such varied interpretation from officer to officer and authority to authority.”

“If a home meets minimum standards and it is still felt that a hazard exists and improvements are required then the risk-based approach can be used to make an informed, justified assessment of why it is necessary to go above the minimum standards.”

When asked about which part of the HHSRS guidance should be updated as a priority, two thirds (66%) of respondents chose the operating guidance. In order to establish which parts of the operating guidance required an update, the survey asked about which aspects of the operating guidance should be updated and whether there are any hazards that professionals had come across in dwellings they had visited, which were not well addressed by the current HHSRS guidance. The themes below summarise the comments collected in the free text boxes.



Hazard profiles and statistics

71 separate comments to this survey mentioned the need to update the underlying statistics, which are used to estimate the average likelihoods for different hazards in different types of dwelling. The operating guidance introduction mentions the fact that “the HHSRS is evidence-based”, with the evidence coming from data collected in the late 1990s, and being summarised in the hazard profiles section of the document.

“If we went to a very poor property today and compared it to the average property in the 1990s, then it would not be ‘that bad’, but if we compared it to today’s average property, it may compare very badly.”

Whilst the original data was intended only to inform professional judgement rather than dictate action, it is nevertheless reflecting housing conditions that existed nearly two decades ago. This evidence is therefore considered to be very out-of-date with respect to current housing conditions and recent research on the links between housing and health. As a result, many practitioners responding to this survey felt that the data could not be relied upon to inform their professional judgement.

Many respondents suggested that the operating guidance and the evidence base behind it should be updated regularly, possibly in a similar way to Building Regulations Approved Documents. For example, each Hazard Profile could be reassessed against current housing conditions, hospital admissions data and published research, with updated profiles published one by one.

Whilst the original intention was for EHPs to keep themselves up-to-date with changing evidence,² this approach would at best lead to a huge duplication of effort and at worst, result in an inconsistent application of the HHSRS in different areas. Furthermore, recent squeezing of budgets and pressure on resources in local authorities is likely to be

a further barrier to EHPs staying fully up-to-date with every scientific publication on the 29 different hazards in the home. A centrally published up-to-date list of hazard profiles would help to improve consistency of assessment between EHPs working in different parts of the country and help to ensure shifting circumstances accurately reflect risks of a hazard to the occupier. Centrally updated evidence is also likely to help housing enforcement teams to defend cases from appeal.



Fire and electrical safety

Whilst this survey was conducted before the fire at Grenfell Tower, respondents highlighted the need to review the approach to fire and electrical safety in the HHSRS guidance documents. Any outcomes from the Grenfell Tower Inquiry will also need to be assessed against current guidance and updates made as appropriate.

A number of practitioners specifically raised the issue of residential units above a commercial premises, which present a higher risk to the residents. The current operating guidance makes little mention of non-residential parts of dwellings. The LACORS fire safety guidance – still used by many local authorities – is not likely to be updated³ and the information on mixed use buildings is brief and not very prescriptive.⁴

Increasing crowding in smaller urban dwellings, due to subdivision of houses and flats into smaller flats could also be contributing to changing risks of harm due to a fire. Respondents to this survey asked for the statistical averages to be updated, with a greater range of dwellings included in the hazard profile. Data from the English Housing Survey is already showing that the likelihood of a category 1 hazard being present is three times higher in a converted flat compared to a purpose built flat.⁵ It is likely that different types of high density dwellings would also present varying risks of harm due to fire.

With regards to electrical safety, a more prescriptive standard of five-yearly checks by a competent electrician might be a useful addition to the current assessment of electrical safety using HHSRS alone. Whilst EHPs will be able to note any dangerous live wires, poor electrical fittings and devices in poor repair, they will be unlikely to be able to test all major appliances to ensure these are not faulty.

² P.7, *HHSRS Operating Guidance*, DCLG, 2006.

³ *LACORS was disbanded in 2010*

⁴ Paragraph 31.3, *Housing – Fire Safety Guidance*, LACORS, 2008.

⁵ Table DA4101 (SST4.1): *Health and safety - dwellings (2015)*, *English Housing Survey*, 2017.



Excess cold and excess heat

When asked about what kind of hazards the HHSRS dealt with inadequately, the most frequently mentioned hazard was that of excess cold. Excess cold has a very strong effect on health, especially on vulnerable groups such as the elderly and children. Whilst excess cold is included within the HHSRS assessment, it is not directly linked to the Energy Performance Certificate (EPC) rating of a property. In practice, the Standard Assessment Procedure (SAP), from which the EPC is derived, has sometimes been used as a proxy for a category 1 hazard, however there is no mention of SAP in the operating guidance. The new regulations requiring private rented sector properties to have an EPC rating of E or above further highlights the need for clearer guidance on the relationship between energy efficiency ratings and excess cold.

This has led to different outcomes at FTT.⁶ Aligning these inter-related factors in updated guidance would help to make it easier for landlords to understand their obligations, make it easier to deal with rented properties that have an EPC below E and might help to encourage a more consistent approach by Tribunals.

Conversely, respondents to the survey report that highly thermally insulated flats sometimes leads to excess heat and that this is becoming more prevalent. This is an issue which was just emerging when the original operating guidance would have been drafted.



Crowding and minimum space standards

Overcrowding has been growing steadily over recent years. It is estimated that there are about 678,000 households living in overcrowded conditions in England. Most of these are found in the private rented and social rented sectors.⁷ Current increased housing density requirements are reflected in shrinking room sizes, multi-use rooms with bunk-style beds or mezzanine floors within rooms. Associated with this, are moves away from natural lighting and external or through-ventilation as well as steeper stairs (such as 'alternating tread' stairs) and cramped, 'room-in-the-roof' designs. These may conform to Building Regulations, but there are significant risks of building in problems unless HHSRS considerations are applied from the outset, as part of a unified system of housing standards.

Respondents suggested that the standards used to measure crowding and space need urgent review and consolidation. There are currently several different standards in existence which are used to assess whether a property is overcrowded. The statutory overcrowding standard in Part X of the Housing Act 1985 has not been updated since 1935, although when originally introduced it was viewed as a threshold that could be strengthened.⁸ This sets a minimum single bedroom size of 6.5 square metres for adults, with children between the ages of one and ten counting as half a person.

In 2015, the Government introduced a nationally described minimum space standard for new-build homes. This standard is different from the one described in the Housing Act 1985, with a single bedroom needing to be at least 7.5 square metres and at least 2.15 metres wide.⁹ However, this standard is optional for local authorities to adopt, as it requires them to include it in their local planning policy in order to be implemented in their areas.¹⁰

An example of the average HHSRS scores provided in the excess cold hazards profile

Excess Cold							
Average likelihood and health outcomes for all persons aged 65 years and over, 1997-1999							
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)

Any new HHSRS guidance should clarify the powers of EHPs in dealing with fuel poverty as well as excess cold so the circumstances under which officers are able to take action are clear. The operating guidance mentions but does not clarify what it means for a dwelling to be able to be 'economically maintained at reasonable temperatures'.

⁶ Liverpool Council vs Kassim.

⁷ *English Housing Survey 2015-16 headline report*, ONS, Mar 2017.

⁸ *Overcrowded housing (England)*, briefing paper number 1013, House of Commons library, Nov 2016.

⁹ *Technical housing standards – nationally prescribed space standard*, DCLG, Mar 2015.

¹⁰ *Space Standards for Homes*, RIBA Dec 2015.



Apart from the legislative standards, two commonly applied standards are the advisory LACORS guidance and the more generous standards used for social housing.

Local authorities can also specify room size standards for Houses in Multiple Occupation, as part of the licence agreement, however there have been several instances where these locally set standards (HMO), have been overturned by First Tier Tribunals.¹¹ One issue is whether a local authority can set a minimum floor area and how rigidly this can be applied. Another issue is whether that floor space is 'usable', with some local authorities specifying a minimum ceiling height. This is particularly applicable to loft conversions, where the amount of floor space does not reflect the usable space in the room.

The respondents to the survey called for a clear and consistent minimum space and crowding standard to be set nationally for all types of dwellings. This should be updated in the operating guidance of the HHSRS. This new standard, they suggest, should align with planning and building control for new builds and should focus on usable space in a room, rather than just the floor space.



Damp and mould

The evidence on the effects of damp and mould on health that was used in developing the HHSRS has tended to underestimate risks to health.¹² Since 1999, further evidence has been published¹³ on the harmful effects of damp and mould on the mental health of the residents due to the presence of mould. Any new research should be highlighted and incorporated into the HHSRS operating guidance to ensure that this hazard is given an appropriate rating during an inspection.



Vulnerable groups

Respondents to the survey highlighted that further clarification in the operating and enforcement guidance would be beneficial to clarify how to treat vulnerable groups in a HHSRS assessment and the action that follows.

The HHSRS methodology itself takes into account vulnerable groups such as children and the elderly as they are most likely to be affected by specific hazards in the home. The system was intended to be used as a gauge of hazards with the most vulnerable groups in mind on the principle that if a dwelling is safe and healthy for the vulnerable group, it will be safe and healthy for all ages. Furthermore, children and the elderly could be regular visitors at a property so could be affected by any hazards present. However, EHPs also have the opportunity to consider what action is appropriate based on actual occupants of a property. In a recent case, a Bristol Tribunal decided that the actual rather than hypothetical tenants should take precedence. In that case, a high HHSRS score was overturned due to the fact that the tenants were adults of working age.¹⁴ Whilst decisions such as these are not case law and therefore do not necessarily set a precedent for future cases, this decision does highlight that whilst in theory the HHSRS system does take vulnerable occupiers into account, if they are not living in the property, it is difficult to take action on the hazard.

However, apart from age, no other provision is made to allow the assessment of the tenant's vulnerability. Whilst it may be problematic to take into account individual circumstances, there are now 15m people in the UK living with at least one long-term condition,¹⁵ so there is a case for some consideration to be taken, even if this involves strengthening the enforcement guidance to encourage local authorities to take action on category 2 hazards where vulnerable tenants are the occupiers.



Outdoor spaces

Many practitioners mentioned seeing potential hazards outside of the dwelling that are not adequately taken into account during an HHSRS inspection. These include the risk of drowning in ponds and swimming pools, which are on the premises of a dwelling, with particular concern for young children.

¹¹ Nottingham v Parr case and Clark v Manchester City council.

¹² p.53, *Damp and mould growth hazard profile, HHSRS operating guidance*, DCLG, 2006.

¹³ Shenassa, Edmond D. et al. *Dampness and Mold in the Home and Depression: An Examination of Mold-Related Illness and Perceived Control of One's Home as Possible Depression Pathways*. American Journal of Public Health 97.10 (2007): 1893–1899. PMC. Web. 21 Sept. 2017.

¹⁴ Alford TWO LLP v Bristol City Council.

¹⁵ Long-term conditions compendium of Information: 3rd edition, Department of Health, 2012.

Enforcement guidance

Enforcement guidance was another aspect of HHSRS that was explored in this survey. Although fewer than half (45%) of respondents specifically asked for an update of this guidance, it has become very out-of-date due to new regulations and powers having been introduced since the HHSRS was published in 2006. The lower number of practitioners calling for an update of this guidance might be due to the fact that it is not used as often as the operating guidance or that fewer enforcement officers have responded to this survey, who may be more aware of the need to update this guidance.

“The information is out dated – some of the schemes are no longer running. Since the guidance was published 11 years ago a lot has changed with the private rented sector and the way local authorities work, and this guidance does not reflect this.”

The Housing and Planning Act 2016, in particular, has shifted national policy on how rogue landlords should be dealt with by local teams, with the introduction of rogue landlord banning orders and the option of civil penalties for certain housing offences. Other recent regulations, such as legislation introduced to combat retaliatory evictions of tenants in 2015 and the smoke and carbon monoxide requirements, are also not addressed in the old guidance.

Informal action

Many comments from respondents ask for clarification about when it is appropriate to take informal action against landlords. The original enforcement guidance encourages professionals to avoid formal action, yet there is a statutory duty to take formal action to deal with a category 1 hazard. There is therefore an inconsistency between theory and practice, which should be better clarified in the enforcement guidance.

“Informal action contradicts the Housing Act 2004 as it implies in section 2.18 [of the enforcement guidance] that you can work informally with Cat 1’s.”

A report written for Karen Buck MP, found that levels of enforcement by local authorities were very low and that many category 1 and 2 hazards were being dealt with informally.¹⁶ Whilst the low levels of formal action will be due to multiple factors, including limited resources at local level as well as local policies, an update of the guidance may help to give a new steer on enforcement of category 1 hazards.

Taking formal actions, such as serving notices, would also help to protect more tenants from being evicted by landlords for complaining about the condition of the property. The legislation brought in to protect tenants in 2015 relies on local authorities taking some kind of formal action before a landlord uses a Section 21 notice, in order to prove that the landlord’s eviction is retaliatory. If the landlord uses Section 21 before any formal action is taken by local authority enforcement teams, the tenant has no protection under the new legislation.

Clarifying policy on key cases FTT and RPTs

Respondents also called for the enforcement guidance to clarify any unusual decisions made by Tribunals over the past decade, where decisions have been contradictory for very similar cases.

It was suggested that more guidance on FTT processes and appeals would be useful, especially in light of newly introduced powers to use civil penalties in place of a traditional prosecution. New enforcement guidance should clarify what status past FTT and RPT decisions have on future cases. Whilst, it appears that key decisions are sometimes treated as case law, it is not clear whether these decisions should have this kind of status. It would be helpful if guidelines could be produced by DCLG setting out exactly what the boundaries of FTT powers are and clarifying areas where the FTT has jurisdiction and areas where it does not, for example in respect of expert evidence.

“The rating system is based on the most vulnerable group, however they may not be in occupation, but could visit. There are Upper Tribunal cases *Alford TWO LLP v Bristol City Council* which essentially say unless the risk is real and not just a statistical risk action will fail.”

¹⁶ P.6, *The challenge of tackling unsafe and unhealthy housing: Report of a survey of local authorities for Karen Buck MP*, Prof Stephen Battersby, Dec 2015.

HMOs and empty properties

Respondents suggest that the enforcement guidance should also include more detail on the alignment between HMO legislation and HHSRS. Furthermore, a number of comments ask for further clarifications on how local authorities should be dealing with empty properties, due to emerging inconsistencies in approach.

“It would be helpful to have more guidance on the relationship between HHSRS and HMO licence conditions. More local authorities now have additional licensing and the use of HMO licence conditions is more common.”

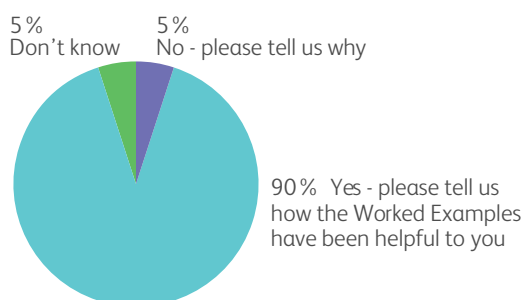
Updated regulations

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came out after HHSRS was developed. The original operating guidance does make a reference to carbon monoxide monitors in paragraph 6.3.15(j) but new regulations need to be clarified in the guidance. This is because the absence of carbon monoxide alarms would either be met or not met and would require a specific enforcement action, which is independent from the HHSRS score.

“Further clarification on use in empty homes would be helpful as some Authorities use HHSRS on very long term empty properties with no occupiers or risk of occupation, where others do not use it for those reasons.”

Worked examples

Would you find new Worked Examples (published nationally) helpful to your work?



Examples to support the Housing Health and Safety Rating System were case studies published alongside the launch of the HHSRS to illustrate how the HHSRS system should be used in practice to assess different types of housing conditions. They were a detailed look at the assessment methodology of a particular property and acted as a guide for EHPs learning how to use a new system. However, more than a decade after publication nine out of ten respondents reported that they still used this nationally published guidance, either on its own (50%) or in combination with locally developed examples (38%).

Respondents see updated and relevant worked examples as an essential tool in setting baselines and achieving consistency in the use and application of HHSRS.

“For less frequently scored hazards worked examples give us an idea of how to view the likelihood and also the harm, and help to ensure consistency between officers.”

Furthermore, free text responses highlighted that worked examples are an important tool when defending a particular HHSRS assessments in court against an appeal or challenge. Respondents mentioned that sometimes these examples have proved useful as a gauge or comparator for the courts as to whether the correct assessment has been made.

Worked examples were felt to be especially useful for non-common hazards, as the examples provided a benchmark against which an appropriate judgement could be made.

There were also requests for the worked examples to cover a larger range of dwellings. Further examples were sought especially on fire safety for different types of two-storey or three-storey and flats above commercials.

Many locally developed worked examples are likely to exist, but responses to this survey indicate that there may still be a benefit to collating these in the same format, filling any gaps and publishing these nationally.

Conclusions

Recent debate has revolved around whether local authorities need more powers or whether existing legislation should be applied more rigorously. There has also been some debate on whether the HHSRS is the best and most appropriate standard to underpin sanctions against rogue landlords.

Some underlying factors will have an impact on how HHSRS guidance is used in the real world, including the consistency of court interpretation of the rating system, levels of understanding of the HHSRS in the wider housing field and the resources available to local authorities. This survey identifies some conclusions and options for improvement of the current system:

1

A majority of professionals who are likely to have experience of both the old and the new system of housing assessment, consider the HHSRS to be a good system.

However, the basis of this confidence in the system is the perception that hazard profiles are based on real world evidence of health outcomes due to housing conditions. The fact that the underlying evidence base has not been updated since the HHSRS was launched in 2006 is a common concern for respondents of this survey.

Individual practitioners are expected to keep up with all relevant evidence and to collect local data in order to keep the HHSRS system working well. However, this approach is likely to result in inconsistencies across the country. It would be both economical and efficient to update hazard profiles centrally to ensure that EHPs applying HHSRS guidance have the same, robust and up to date information to hand. From the survey, we can recommend that excess cold and energy efficiency, excess heat, fire, damp and mould, and crowding and space sections should be updated first.

Recommendation: DCLG to put in place a system of regular review and update of all the hazard profiles in the HHSRS operating guidance, including any new evidence published and any shifts in housing conditions.

2

The worked examples are an important yardstick for enforcers and tribunals alike. They need to be updated, simplified and expanded to cover more situations. It would be particularly useful to include less commonly occurring hazards and situations that are borderline category 1 and 2 hazards.

Furthermore, several First Tier Tribunal decisions suggest that an update of the operating guidance would be useful to clarify areas in the guidance, which may have been misinterpreted by FTTs and RTPs or where there are different outcomes for similar cases.

Recommendation: DCLG to review any significant FTT and RPT decisions, by working in consultation with EHPs and other stakeholders, to identify and update areas of the HHSRS enforcement guidance where further clarification would be useful.

Recommendation: DCLG to review published worked examples to see whether these can be improved and updated.



3

There is a clear need to review and update the enforcement guidance to ensure it is in line with new legal provisions and current Government policy on housing enforcement.

Furthermore, several First Tier Tribunal decisions suggest that an update of the enforcement guidance would be useful to clarify areas in the guidance, which may have been misinterpreted by FTTs and RTPs or where there are different outcomes for similar cases.

Recommendation: DCLG to review any significant FTT and RPT decisions, by working in consultation with EHPs and other stakeholders, to identify and update areas of the HHSRS enforcement guidance where further clarification would be useful. New powers from the Housing and Planning Act 2016 should also be included in this update.

4

The status of vulnerable occupiers should be clarified in the operating and enforcement guidance to ensure that a confident decision can be made as to how to apply this status to properties when the actual occupiers are not vulnerable but there is a chance of vulnerable visitors staying at the property or where an enforcement action would benefit these occupiers. Furthermore, with more than 15 million people in the UK now living with a long-term condition,¹⁴ the definition of a vulnerable occupier may need to be reviewed.

Recommendation: DCLG to clarify in the HHSRS enforcement guidance, how to apply the definition of vulnerable occupiers and in which cases it is appropriate to apply the risk rating for vulnerable groups if the actual occupiers are of working age. This includes to what extent people living with long term conditions should be considered as vulnerable.

5

The number of different space and crowding standards and sets of guidance documents being used to inform action on space and crowding standards, makes enforcement of overcrowding challenging and likely to be inconsistent. Furthermore, the division of houses into multiple flats leaves some dwellings with little 'usable' space due to ceiling height restrictions, therefore the usable space should be taken into account in the calculation of minimum space standards.

Recommendation: DCLG to work with stakeholders to set a clear national minimum space standard to ensure that building regulations are aligned with housing enforcement legislation.

