



Policy briefing note – Local Authority homelessness duty and the housing health and safety rating system

Introduction

This briefing note sets out the views of the Chartered Institute of Environmental Health (CIEH) on the issues raised by the recent Homelessness (Suitability of Accommodation) Order 2012. In particular it addresses its potential impact on a local housing authority's responsibilities under the Housing Act 2004 in relation to enforcing health and safety standards in the private rented sector.

The homelessness duty

The law¹ allows local authorities to discharge their duty to eligible homeless persons (in priority need and not intentionally homeless) by allocating housing in the private rented sector. In so doing, a local authority must satisfy itself that the premises it proposes to use meet the necessary standards of health and safety and are suitable for the homeless persons concerned.

The CIEH is concerned that these arrangements are carried out so as to ensure the health and safety of homeless persons is not put at risk. In particular, we believe local housing authorities must arrange inspection of premises to ensure that there is an absence of any Category 1 hazards.

The CIEH believes that the wording of the Order, which amends this duty, is ambiguous, in that it refers to a "reasonable physical condition" being necessary and further goes on to suggest a lower standard might be permissible.

Housing health and safety

Housing health and safety is enshrined in Part 1 of the Housing Act 2004. It provides a regulatory framework within which environmental health practitioners work to protect the health of vulnerable occupants. It is the only reliable and proven means of assessing the health and safety standards of housing, including housing in the private rented sector. It is essential that this system is applied fully in protecting homeless families and other vulnerable persons. An inspection of a private rented home before it is let to a homeless family or person is essential for there to be an assessment of its fitness for purpose.

The CIEH therefore firmly believes that private rented homes to be used for the first time to discharge this duty must be inspected under the Housing Health and Safety Rating System (HHSRS). Any Category 1 hazards that are identified must be removed before moving in any persons under that duty².

Inspection

The HHSRS is a technical system and only those with a technical health and safety or building construction background who have been trained adequately in its use should make assessments. Environmental health practitioners are competent professionals accustomed to carrying out work of inspection and assessment under this system as well as training and supervising others to assist in this work.

It would not be sufficient for a local authority to satisfy itself on the fitness for purpose of private rented homes to discharge its homelessness duty by relying on inspection by someone with no such competence, which would include most letting agents, unless they have been trained properly in the use of the HHSRS system.

The key test for local authorities must be to ensure that they rely on inspection and assessment by persons with appropriate technical skill and professional competence. Within local authorities, environmental health practitioners are best placed to devise workable solutions for meeting this test.

Tackling fuel poverty

The private rented sector has significantly lower levels of energy efficiency than other housing sectors. It has the lowest levels of cavity wall insulation, loft insulation and double glazing and its overall average energy efficiency rating is considerably lower than the social housing sector. DECC estimates that 42% of private rented households in F or G rated homes are in fuel poverty³. If the private rented sector is to bear the burden of meeting homelessness allocations, local authorities will have to address the issue of cold homes. Excess cold is the second most frequently identified Category 1 hazard⁴. Moving vulnerable people into poorly insulated homes with high energy bills will have a big impact on their residual disposable income and their health and wellbeing. This is a powerful reason why an inspection for Category 1 hazards prior to people moving in must take place.

To date, the Government has not taken any opportunity to address a loophole in the regulation of Houses in Multiple Occupation (HMOs) which means that individual units within HMOs are not required to have an Energy Performance Certificate (EPC). As an individual HMO unit (rather than the whole property) is not defined as a dwelling, it is not deemed to be covered by the EU Energy Performance of Buildings Directive. We believe that the Government should correct this anomaly. Inevitably the HMO sector will play a significant role as local authorities rely more and more on the private rented sector in the discharge of their homelessness duty.

Location

The CIEH believes that local authorities should take into account location when deciding whether to allocate a private rented sector home to a homeless family or other vulnerable person. There is a balance to be struck between allocating properties in areas where there is adequate supply and taking account of the needs of families and other vulnerable persons for access to services and other community ties. This consideration must take account of access to schools and community support. If poorly planned, this type of relocation may impact badly on both the persons being moved and host communities.

Disabled people

Special consideration should be given to the needs of disabled people. Single person households may be especially reliant on formal or informal caring arrangements where proximity to support services is important. Moving significant distances can fundamentally undermine (especially in the short term) their ability to achieve a reasonable quality of life. Disabled people relying on others providing care on an informal and unpaid basis save the UK significant sums of money and obviously moving can prejudice the viability of those informal arrangements and potentially involve replacement by funded services. Placement in a property that is not capable of being easily adapted involves potential use of Disabled Facilities Grant funding and long waiting times dependent on the available resources and efficacy of process in the receiving authority. A failure to provide adaptations in a timely manner can subsequently result in a request for re-housing.

Key Points

- Local housing authorities must arrange inspection of premises allocated to house by homeless persons to ensure that there is an absence of any Category 1 hazards.
- A key test for local housing authorities is to ensure that inspections and assessments are carried by persons with appropriate technical skill and professional competence in the use and application of the HHSRS.
- Government should correct an anomaly that individual units within HMOs do not require an Energy Performance Certificate, as the HMO sector will play a significant role as local housing authorities rely more and more on the private rented sector in the discharge of their homelessness duty.
- In considering issues of location, there is a balance to be struck between allocating properties in areas where there is adequate supply and taking account of the needs of families and other vulnerable persons for access to services and other community ties, including schools and community support.

Further reading

For further and more detailed information on the issues raised in this policy note please see:

- CIEH response to the consultation on the Homelessness (Suitability of Accommodation) Order 2012
<http://www.cieh.org/WorkArea/showcontent.aspx?id=43128>
- Annual Report on Fuel Poverty Statistics 2012-08-29
<http://www.decc.gov.uk/assets/decc/11/stats/fuel-poverty/5270-annual-report-fuel-poverty-stats-2012.pdf>
- English Housing Survey 2012-08-29
<http://www.communities.gov.uk/publications/corporate/statistics/ehs201011householdreport>

¹ Section 193 of the Housing Act 1996, to be amended by the Homelessness (Suitability of Accommodation) Order 2012

² Part 1 of the Housing Act 2004

³ Annual Report on Fuel Poverty Statistics 2012, DECC/National Statistics (2012)

⁴ Occurrence of HHSRS Category 1 Hazards, English Housing Survey, DCLG (2012)

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