

THE HOUSING ACT 2004 : A BRIEF GUIDE FOR LANDLORDS



INTRODUCTION

This new Act replaces the previous legislation and standards for housing conditions and assessment of hazards. The Housing Act 2004 is in seven parts. Only those parts considered relevant to landlords have been summarised in this guide

- Housing Conditions and Enforcement
- Definition of a House in Multiple Occupation
- Licensing of Houses in Multiple Occupation
- Selective Licensing
- Interim and Final Management Orders
- Empty Dwelling Management Orders
- Home Information Packs
- Housing Conditions and Enforcement

Housing Conditions and Enforcement

The Housing Act 2004 introduces a new method of assessing housing conditions. It replaces the Fitness Standard (s604 Housing Act 1985 (as amended)) For the first time it concentrates on health and safety in the home. Hazards will be identified and classified as either a Category 1 or a Category 2 hazard. The Council must take enforcement action to deal with Category 1 hazards and may take action to deal with Category 2 hazards. Environmental Health Officers will be looking for the following hazards in the home:

A Physiological Requirements

Damp and mould growth
Excess cold
Excess heat
Asbestos (and man-made fibres)
Biocides
Carbon monoxide etc.
Lead
Radiation
Uncombusted fuel gas
Volatile Organic Compounds

B Physiological Requirements

Crowding and space
Entry by intruders
Lighting
Noise

C Protection Against Infection

Domestic hygiene, pests and refuse
Food Safety
Personal hygiene, sanitation and drainage
Water supply

D Protection Against Accidents

Falls associated with baths
Falls on the level
Falls associated with stairs and steps
Falls between levels
Electrical hazards
Fire
Flames, Hot surfaces etc
Collision and entrapment
Explosions
Position and operability of amenities etc
Structural collapse and falling element

There are also several new types of enforcement action and notices have been introduced. These include:

Serving an Improvement Notice – requires works to remove the hazard.

Making a Prohibition Order – prohibits use of residential dwellings or part of a residential dwelling.

Serving a Hazard Awareness Notice – advises of hazard and recommends remedial action.

Take Emergency Remedial Action – where there is imminent danger, the Council may carry out emergency works.

Making an Emergency Prohibition Order – where there is imminent danger, Council can prohibit use of property immediately.

Make a Demolition Order – requires property to be demolished.

Declare a Clearance Area – designated areas will be demolished and redeveloped

The owner of the property can appeal to a Residential Property Tribunal concerning each of the types of action, with the exception of the Hazard Awareness Notice, against which there is no appeal.

Definition of a House in Multiple Occupation

A building or part of a building is an HMO if it meets **one** of the following tests:

The Standard Test

Any building in which two or more families/individuals share basic amenities.

The Self-contained flat test

Any flat in which two or more families/individuals share basic amenities

The Converted building test

Any converted building which comprises of one or more units of accommodation that are not self-contained.

Certain converted blocks of flats

Any converted building which comprises of self-contained flats that does not meet the 1991 Building Regulation Standards and more than one third of the flats are occupied on short tenancies.

Licensing of Houses in Multiple Occupation (HMOs)

All HMOs of 3 stories and above and with 5 or more people in residence, who do not form a single household, are required to have a licence. Each licence will include a number of conditions that must be met. Each licence is granted for a maximum of 5 years. A licence can only be granted if the person proposing to hold the licence is a fit and proper person. There must be adequate management arrangements in place to ensure the property is managed effectively. If a landlord or owner fails to apply for a licence for an HMO that should have one, then the Residential Property Tribunal may order the landlord/owner to pay back the rent that was received during that period, and the Landlord may be subject to a fine of up to £20,000. The Council may also be able to declare that other types of HMOs will need to have a licence. This is called additional licensing.

Selective Licensing

Selective Licensing

This part provides the Council with the option to declare an additional licensing area. This can only be declared where an area has problems of housing demand or with anti-social behaviour. This will include all types of privately rented residential property, not just HMO's.

Interim and Final Management Orders

These are used with regards to HMO's that must be licensed. If for any reason the Council is unable to issue a licence for a property and it continues to function as an HMO, the Council must serve an Interim Management Order. These are in force for up to 12 months while the reason for the licence being refused is resolved. If this reason cannot be dealt with and a licence still cannot be issued after 12 months, then a Final Management Order must be served which will last for up to 5 years. The service of a Management Order means that the Council will take on all responsibility for the HMO. This includes collecting the rents and carrying out any repairs that are required. The owner retains ownership but is unable to step in to deal with any management issues. This action is normally only taken in exceptional circumstances.

Empty Dwelling Management Orders

These are similar to Interim and Final Management Orders, but they only relate to empty properties. These are dealt with under the Council's Empty Property Strategy.

Home Information Packs

These will need to be provided at the beginning of the home/property buying/selling process. The pack includes key information about the property, including: terms of sale, evidence of title, any guarantees etc. planning approvals, condition report, and any such other information.

Further Information

Please contact a member of the Neighbourhood Services Team on (01495) 357813.

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