GUIDANCE

Coronavirus (COVID-19): guidance for local authorities on enforcing standards in rented properties

How local authorities will inspect and take action on unsafe rented private properties.

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How to use this guidance

Local authorities need to follow this guidance during the coronavirus outbreak. It aims to:

- help enforce standards in the private rented sector (includes housing associations and registered social landlords)
- make sure local authorities meet their legal duties and support landlords and tenants
This is not statutory guidance issued under section 9 of the Housing Act 2004.

Introduction

On 26 March, the UK Government passed legislation relating to renting during the coronavirus outbreak. This legislation also covers Wales. Read more about these changes in the guidance for tenants in the private sector.

It is important that local authorities, landlords and tenants work together to keep rented properties safe.

The UK Government is asking everyone to do all they can to help stop coronavirus spreading. It has already advised the public to take social distancing measures.

This means it may be harder for local authorities to carry out their usual work during this time. For example, inspecting properties and taking enforcement action.

Landlords may also find it harder to follow their legal obligations.

Enforcing standards in rented properties

Local authorities must keep reviewing housing conditions. By law, they are responsible to take action when they find the most serious ‘category 1’ hazards.

They also have legal duties and powers under other laws. They should continue to use these powers during the coronavirus outbreak.

You should:

• review and update your enforcement policies
• keep tenants safe and support landlords if taking enforcement action
• make sure all enforcement work follows your health and safety policies and procedures
• make all decisions taking into account risk


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Property licensing

Processing license applications

If HMO Licensing and non-mandatory schemes (Selective Licensing and Additional House in Multiple Occupation (HMO) Licensing) are already in place, you should:

• contact landlords who are waiting for licences and explain there could be delays
• consider landlords’ circumstances where licence fee payments are late
• where risk to health is high, prioritise high-risk properties to protect vulnerable tenants
• continue as usual for non-mandatory licensing schemes already in place

If you are introducing non-mandatory licensing schemes, you should consider, pausing these.

Inspections and investigations

Your legal duties will remain the same during this time. If you think that you may not be able to follow them, you should speak to your legal team.

What you need to do

• update your enforcement policies (including when to do inspections)
• make sure your health and safety policies are up to date (include officers who will carry out inspections and visits during this time)

When to inspect a property

You may decide to inspect a rented property, for example if:
• there is an imminent risk to a tenant’s health due to a serious hazard
• you were aware of a serious hazard and it may still exist at the property
• a tenant is vulnerable and it is not clear if they are aware of hazardous conditions in their property

This list is not exhaustive and is not final. There may be other reasons to carry out an inspection.

It may not be possible to inspect a property. This could be because tenants are self-isolating or refusing access. Your updated enforcement policies should include how to respond to these situations.

For example:

• de-prioritise lower-risk hazards
• carry out an assessment by taking photographs, video or live broadcasting by the tenant
• in extremely hazardous conditions consider alternative accommodation

You should be very careful to follow social distancing guidance when carrying out an inspection. Use personal protective equipment (PPE), follow the government guidance and the local authority’s health and safety policy.

The suggestions above are not exhaustive. All decisions should be on an individual case and risk assessment.

**Enforcement action**

Local authorities should only take the enforcement action if necessary.

**What you need to do**

You should update and adapt your enforcement policies. You should also follow the latest government advice about the outbreak.
Making a decision to take enforcement action

When deciding what enforcement action to take, you need to ensure you consider the risks.

For example:

- postpone non-urgent or non-legal enforcement action until restrictions ease
- postpone legal notices served under the Housing Act 2004
- postpone work in default
- use a Prohibition Order covering part of a property instead of Emergency Remedial Action for the most serious hazards
- isolate or contain rather than remedy hazardous conditions

The above list is only an example. The suggestions are not exhaustive. All decisions should be made on an individual case and risk assessment.

Protection from unlawful eviction and harassment

You should:

- update all advice and guidance so that tenants and landlords know about the changes to eviction timescales
- prioritise protecting vulnerable tenants from eviction and harassment

You still have prevention, relief and main homelessness duties. Where a tenant is at risk of eviction you should work with the landlord to prevent homelessness.

Proactive and reactive work

You should use your professional judgement when considering all non-urgent proactive work where you do not need to do it. For example scheduled targeted action or inspections of licensable properties.
You should also prioritise reactive work, such as complaints from tenants.

A triage system may help to ensure you prioritise the most serious and vulnerable tenants.

You need to consider whether to continue using proactive action for example, to protect vulnerable tenants.

Decisions to continue or suspend proactive action should be made on an assessment of risk and government advice. Read the guidance on going into other people’s homes.

**Support for landlords and tenants**

It is important you work closely with landlords and tenants to make sure they maintain standards in rented properties.

**What you need to do**

You should:

- consider contacting landlords through Rent Smart Wales to make sure properties do not have any hazards in them
- contact landlords to let them know enforcement decisions will be based on risk and a common sense approach
- read our health guidance for social landlords

**Gas safety in rented properties**

Landlords must arrange annual gas safety checks on each appliance and flu. This is the law (The Gas Safety (Installation and Use) Regulations 1998). Only an engineer registered with the Gas Safe Register can do these checks. Landlords must keep a record of each safety check.

Get information on the restrictions for gas engineers, advice for landlords.
Evidence from landlords

During this time, landlords should:

- keep copies of emails, texts and phone calls from tenants and gas safety inspectors where they have tried to arrange work
- keep copies of servicing record and previous landlord gas safety check records to show appliance or flue in good condition
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