

Briefing Note Homes (Fitness for Human Habitation) Act 2018 – 9/04/2018

- Came into force 20/03/2019
- Civil legislation – mechanism for tenants to take court action against their landlords if they fail to carry out their repairing obligations. Local Authorities cannot take action under the Act. If a tenant takes this course of action a local authority can still take action on the same case under the existing criminal legislation within the Housing Acts.
- The Act amends the Landlord and Tenant Act 1985 to require landlords to ensure the property is fit for human habitation at the beginning and throughout the tenancy. This obligation forms part of the contract between the landlord and the tenant.
- The tenant must apply the county court and there is a fee involved.
- A landlord must be made aware of the hazards within the premises and given time to remedy these hazards. There is no timescale set in the Act, the guidance refers to a reasonable timescale.
- The Act applies to both private and social landlords (Registered Providers)
- To ensure the property is fit for human habitation the landlord must ensure that the house is free from hazards which are so serious that the dwelling is not reasonably suitable for occupation in that condition. That will be Category 1 hazards with an imminent risk of harm.
- Where the landlord fails to ensure the property is free from hazards to the point where it is not reasonable for occupation they can take the landlord to court. If the Court rules that the landlord has breached the contract the court can order the landlord to take action to reduce or remove the hazard, and / or damages to compensate the tenant for having to live in a property which was not fit for human habitation.
- The Act only applies to new secure, assured and introductory tenancies made on or after 20th March 2019. OR tenancies renewed for a fixed term on or after the 20th March.
- For periodic and fixed term tenancies made before the 20th March 2019, the Act does not apply until **20/03/20**.

Exceptions to the Act

- Where the hazards were caused by tenant damage/behaviour or the tenants own possessions.
- the problem is caused by events like fires, storms and floods which are completely beyond the landlord's control (sometimes called 'acts of God')
- the landlord hasn't been able to get consent e.g. planning permission, permission from freeholders etc. There must be evidence of reasonable efforts to gain permission

- the tenant is not an individual, e.g. local authorities, national parks, housing associations, educational institutions

Most importantly - It is for the courts to decide whether the dwelling is fit for human habitation. A Housing Health and Safety Rating System (HHSRS) assessment is not necessary.

The tenant's guidance does however state that if a tenant is concerned that they have insufficient evidence they may contact the Council who may inspect the property and produce a report.

Implications for the Enforcement Team

The priority for the enforcement team is to protect the most vulnerable tenants and deal with the worst housing conditions. The most vulnerable tenants will not use this legislation.

There is likely to be an increase in tenants requesting an inspection and copy of the inspection report. These requests should be addressed in the same manner as any other enforcement complaint. From the information provided if there is a potential category 1 hazard then an inspection under the HHSRS should be booked as soon as possible.

If it is unlikely to be a category 1 hazard, ask that the tenant informs the landlord of the disrepair. Advise that they keep a record of this request. Sign post to standard letters on the Council's website.

If the tenant makes further contact with the Council after they have informed the landlord of the disrepair and they have failed to undertake the remedial work undertake a HHSRS inspection and schedule of work. A copy of the schedule of work and photographs can be given to the tenant. In the main we cannot then assist with any county court claim that the tenant wants to take under the new Act. Signpost to CAB or Shelter.

In some cases it may be within the public's interest to assist, for example where we have had to serve a Prohibition or Emergency Prohibition Order on a property and where the local authority has no further criminal recourse for the landlord. Cases of this nature will be judged on their own merits.

In relation to Housing Needs it may increase retaliatory evictions.

Next Steps

Briefing of the new Act in the next team meeting.

Information about the Act added to the Council's website.

Standard template letters for tenants added to the Council's website.

Contact with Burnley CAB and Shelter representative to ensure we can sign post tenants to them for assistance with making a county court application.

Further Information

[Homes \(Fitness for Human Habitation\) Act 2018. Guidance for tenants, landlords and local authorities](#)