



# Private Sector Housing Enforcement Policy Supplemental

**COVID-19 (Coronavirus) and  
the enforcement of standards  
in rented properties**

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## **COMMUNITY & PUBLIC PROTECTION SERVICE**

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## Introduction

1. The purpose of this supplemental is to advise how the Authority is to effectively enforce standards in rented properties, meet their legal duties and support landlords and tenants during the covid-19 pandemic
2. This document is produced in line with the Ministry of Housing, Communities and Local Government (MHCLG) guidance issued March 2020
3. The general principles of enforcement as set out in the Private Sector Housing Enforcement Policy. It will also take into account any Government Guidance including that set out by the MHCLG
4. This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens during this pandemic. This is in accordance with the Regulator's Compliance Code (the 'Code').

## Inspections and Investigations

5. The London Borough of Harrow uses discretion in deciding whether incidents and complaints should be investigated. Such decisions will be risk based and depend on the evidence available at the time, and after initial investigation
6. Inspections and investigations will take place in this current pandemic only when:
  - There is a duty to inspect because, for example, there is an imminent risk to a tenant's health due to a hazard;
  - A serious hazard was previously identified and may still exist;
  - The local authority has been made aware that a tenant is vulnerable and it is not clear if they are aware of the presence of hazardous condition;
  - Any other circumstance where the officer can evidence that the risk is of such a nature it cannot be left
7. The list above is neither exhaustive nor conclusive, but due to the risk or infection to any party from the pandemic, must be justified and an Officer will seek clarification from management prior to going out.
8. Where it is possible to do so, physical inspections / investigations will be avoided and Officers will work with all parties to address any issue remotely, for example by:
  - Requesting photographic or written evidence
  - Video or live streaming with a tenant to carry out a "virtual" inspection
  - Email or phone communication triaging the matter and ensuring a timely response by all parties
9. No low risk hazards shall result in a physical visit but instead addressed by the methods in paragraph 8 or all parties informed it will take place once the Government Guidance allows it.

10. Where a physical inspection / investigation does take place, Officers will adhere to the risk assessment in place for visits, which includes:
  - Carrying out reasonable checks with those that will be present (e.g. by phone) to understand if they are suffering from covid-19 symptoms, self-isolating or been in contact with anyone who has displayed symptoms / isolated as a result
  - Officers using PPE including gloves and masks
  - Asking tenants / others to maintain a 2m distance from them at all times, even if means the tenants / others have to go to another room to the one being inspected.
11. In certain cases, where the risk is considered high but a physical visit is not possible (e.g. tenants self-isolating or refusing access), the following process will be followed:
  - a. Understand whether the risk can be assessed remotely (See paragraph 8). If not;
  - b. Is the risk likely to be of such a level an inspection is needed? If not, no visit and next action consideration can be taken. If the risk is likely to be high and can't be assessed remotely;
  - c. Can action be taken by the tenant to remove themselves from the risk, or remove the risk? for example isolate where there is an electrical risk; if not;
  - d. Can a visit be carried out in line with paragraph 10 then this will be considered. If not;
    - i. If no access due to covid-19 present, and the risk is deemed potentially imminent then speak to PHE / Director of Public Health and Housing around safe temporary accommodation and movement as an emergency remedial action.
    - ii. If no access being allowed due to other reasons, and the risk is likely to be imminent the Officer will liaise with management to determine if forced entry is required / or use of landlord key.
12. This is not exhaustive or detailed, as each case will be taken on its merits as well as an assessment of risk to all parties. For the purposes of the health of all, physical visits will always be avoided if possible.
13. Priority will always be given to where the most serious risk exists or vulnerable tenants are involved.
14. It is a reasonable expectation that all parties will co-operate with officers in this matter, and failure to do so may unfortunately result in the Officer having to make a decision how to proceed without visiting.

### **Enforcement**

15. Due to this unprecedented time, the Council will only take enforcement action that is necessary, and if other alternatives are viable and achieve the same outcome in terms of reducing risk.
16. Enforcement action will be based on an assessment of the risk to health of the tenants and others (this risk is the probability of harm to health occurring due to non-compliance with the law) and not constitute a punitive response to minor technical contraventions of the legislation.
17. The Council will not take any enforcement action which is non-urgent or not legally required during this pandemic period.

18. Any legal notices under the Housing Act 2004, apart from those for serious breaches or prohibition, shall be suspended (if the notice provides for this) and reviewed on a monthly basis while the outbreak continues. This does not mean that the works are suspended indefinitely and those in receipt of the notice should make all reasonable efforts to comply at the earliest possible time.
19. Any works in default, apart from those considered urgent and necessary to mitigate a serious risk and not other alternative is possible, will be deferred for now.
20. The Council in this current climate will seek to take the most efficient and effective action possible to remove or mitigate the most serious risks. This can include Prohibition Orders instead of Emergency Remedial Action.
21. As set out in paragraph 11(c), the Council will also consider isolating or containing hazardous conditions if this presents the least risk to all parties. This may mean some parts of the property may be unusable for the short term during the outbreak, but would be reviewed at the earliest opportunity and remedy sought when feasible to do so
22. Where a category 1 hazard exists, which would normally require a notice to be served, consideration will be given to paragraph 20 and 21. This does not prevent any future action if not remedied correctly, or the use of alternative legislation such as the Environmental Protection Act 1990 and the Building Act 1985 to ensure the Hazard is remedied.
23. All decisions will be made on the merits of the individual case and based on an assessment of risk and the latest government advice around the outbreak. This includes prioritising vulnerable tenants and their safety.
24. For matters of enforcement specifically around licensing, see paragraph 37 below

### Electrical and Gas Safety

25. The new **Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020** were made on 18 March 2020 and will apply to all new tenancies from the 1<sup>st</sup> July 2020 and for existing tenancies from the 1<sup>st</sup> April 2021
26. The Electrical Safety Regulations will require landlords to:
  - Ensure that the electrical safety standards are met during any period of a tenancy.
  - Have the electrical installations in their properties inspected and tested by a person who is qualified and competent, at least every five years, or more frequently if the most recent report requires this.
  - Provide a copy of the report (known as the Electrical Safety Condition Report or EICR) to their tenants, and to the local authority if requested.
  - If the EICR requires investigative or remedial works, landlords will have to carry this out.
27. **The Gas Safety (Installation and Use) Regulations 1998** require landlords to have annual gas safety check on each appliance and flue carried out by engineer registered with the Gas Safe Register and to keep a record of each safety check
28. No action shall be taken on either of these regulations during this current outbreak as long as it can be demonstrated that all reasonable steps to try and comply have been taken and / or evidence to show safety and can include:

- keeping copies of all communications they have had with their tenants and with electricians as they tried to arrange the work, including any replies they have had
- other evidence they have that the installation, appliance or flue is in a good condition
- servicing record and previous landlord gas safety check record.

29. The exception to paragraph 27 is when imminent risk is in place, and the actions under general enforcement shall be considered

### Energy Performance Certificates

30. An Energy Performance Certificate (EPC) is a legal requirement when a property is sold, let or constructed and must be completed by an accredited assessor using standard assessment procedures.
31. The EPB) Regulations require that all reasonable efforts must be made to obtain a valid EPC for the building before the end of a period of 7 days starting with the day on which the building was first put on the market.
32. If all reasonable efforts have been made to obtain a valid EPC but this has not been possible, a further 21 days are allowed as a grace period. After this period, enforcement action can be taken by enforcement authorities in line with the EPB Regulations.
33. Where a property is occupied, parties must endeavour to agree that the transaction can be delayed, so that an EPC assessment can proceed when stay-at-home measures to fight coronavirus (COVID-19) are no longer in place.
34. EPC assessments can continue in cases where your property is vacant.
35. No assessments should take place if any person in the property is showing symptoms, self-isolating or being shielded – if securing an EPC is critical you should seek to reschedule your appointment when it is safe to do so in accordance with Government guidelines on staying away from others.
36. The Council will not seek to take any action where an EPC assessment has not been possible due to the reasons stated, but would expect it to be completed as soon as any restrictions that would allow it to take place are lifted. The Council would expect the landlord to make all reasonable attempts to comply, and document such efforts in the case where it has not been successful, rather than wait.

### House in Multiple Occupation (HMO) Licensing

37. The requirement to license a HMO remains during the outbreak as well as the requirement to meet all statutory requirements; especially around room sizes, fire safety, gas safety and electrical safety. Information can be found at [www.harrow.gov.uk](http://www.harrow.gov.uk) under Licences for Houses in Multiple Occupation (HMO)
38. Any application submitted must contain all mandatory information, including a floor plan with room sizes on it. These must be accurate
39. While the outbreak is in place, no inspection shall be carried out on receipt, but a decision made on the information provided. Officers will seek clarification if information is not clear or further information is required.

40. Please note that providing false / inaccurate information is an offence and will likely lead to the licence being revoked and / or legal action being considered as and when appropriate.
41. Any licence issued will be issued conditionally, with standard conditions on it and occupation and household levels based on the room sizes and facilities. These licences shall be issued on the basis that they are subject to change once an inspection has taken place, which will occur after the outbreak restrictions are lifted.
42. The Council is seeking to put in place online payments to allow for the licensing fee to be paid. While alternatives may be presented by the Officer, any payment must be made within 48 hours of request or the application will be rejected. The Council reserves the right to not accept cheque payments at this time, being the period the outbreak continues and Government restrictions are in place, due to difficulty in banking them. If you send a cheque through, an Officer may ring and request it is cancelled and an alternative means used.
43. Failure to licence a HMO is an offence, and a Civil Penalty Notice may be served if the owner does not do licence it. While consideration to financial difficulties will be taken into account, the offence and any penalty may be pursued once in a position to do so.
44. The Council will seek to determine all applications within normal timelines (8 weeks) but where this is not feasible due to circumstances outside of the Councils control in this outbreak, all reasonable steps will be made to contact the landlord and explain potential delays

### Selective Licensing

45. The requirement to license a rented accommodation in a designated area (Edgware, Wealdstone and South Harrow) remains during the outbreak as well as the requirement to meet all statutory requirements.. Information can be found at [www.harrow.gov.uk](http://www.harrow.gov.uk) under Selective Licensing
46. While the outbreak is in place, no inspection shall be carried out on receipt, but a decision made on the information provided. Officers will seek clarification if information is not clear or further information is required.
47. Please note that providing false / inaccurate information is an offence and will likely lead to the licence being revoked and / or legal action being considered as and when appropriate.
48. The Council is seeking to put in place on line payments to allow for the licensing fee to be paid. While alternatives may be presented by the Officer, any payment must be made within 48 hours of request or the application will be rejected. The Council reserves the right to not accept cheque payments at this time, being the period the outbreak continues and Government restrictions are in place, due to difficulty in banking them. If you send a cheque through, an Officer may ring and request it is cancelled and an alternative means used.
49. Failure to licence a premise in the designated area (unless exempt) is an offence, and a Civil Penalty Notice may be served if you do not do licence it. While consideration to financial difficulties will be taken into account, the offence and any penalty may be pursued once in a position to do so.
50. The Council will seek to determine all applications within normal timelines (8 weeks) but where this is not feasible due to circumstances outside of the Councils control in this outbreak, all reasonable steps will be made to contact the landlord and explain potential delays

### Suspected Unlicensed Premises

51. In line with the inspections and investigations section, any reported premises will be followed up during this outbreak by remote investigation methods, including issuing of notice to the registered owner to provide details around occupation
52. Should gatherings be seen at the premise, contrary to Government Guidance, then the Police can be called on 101 and the matter reported for them to follow up

### Evictions

53. The Coronavirus Act 2020 means that, until 30th September 2020, most landlords will not be able to start possession proceedings unless they have given their tenants three-months' notice. Landlords can choose to give more than this three months' notice. <http://www.legislation.gov.uk/ukpga/2020/7/schedule/29/enacted>
54. All Housing possession court cases have been suspended for 90 days from 27<sup>th</sup> March 2020. All tenants and licensees who benefit from protection from eviction under the Protection from Eviction Act 1977 will be protected from possession proceedings by this measure.
55. For landlords, this will mean not expecting tenants to move even where you have already issued notice of your intention to regain possession of the property, or if you go on to issue notice for any reason during the next three months.
56. Failure to adhere to these Regulations is an offence and liable to enforcement action by Council Housing Team. Reports of illegal eviction should go through the Housing Advice on 02084241093 or by e-mail at [housing.advice@harrow.gov.uk](mailto:housing.advice@harrow.gov.uk)

### Support for Landlords and Tenants

57. The Government has provided guidance and support for landlords and tenants during this outbreak. This can be accessed at <https://www.gov.uk/government/publications/covid-19-and-renting-guidance-for-landlords-tenants-and-local-authorities>
58. Guidance and support available due to Coronavirus can also be found at [www.harrow.gov.uk](http://www.harrow.gov.uk)

### Review

59. This supplemental is subject to change based on changes to Government Guidance and legislation. It shall be reviewed monthly until such point the outbreak ends and restrictions are removed

