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# Housing Conditions: Private Rights and Public Health

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# Housing Conditions 2006

	Non decent as result of Cat 1 hazard (000s)	Non-decent total (000s)
Owner- occupied	3,452	5,473
Private rented	797	1,298
LA	297	801
RSL	206	530
<b>Total</b>	<b>4,752</b>	<b>8,102</b>

# Housing Conditions 2006 – reasons why non-decent

(000s)	Category 1 hazard	Repair	Modern facilities/ services	Thermal comfort	All non-decent
Owner-occupied	3,452	1,117	277	2,569	5,473
Private rented	797	374	110	749	1,298
LA	297	141	118	452	801
RSL	206	74	45	329	530
<b>Total</b>	<b>4,752</b>	<b>1,706</b>	<b>550</b>	<b>4,099</b>	<b>8,102</b>



# Hazards & non-decent homes

- Concentration of Category 1 hazards in the private sector said to relate to the older age profile with the risks due to original design and construction features
- Most common Category 1 hazards are excess cold and falls (falling on stairs due to steepness , slippery surface, lack of handrails or disrepair)

# Vulnerable households\* in non-decent and decent homes

	Non-decent homes	Decent homes
(000s)		
Owner occupied	932	1,516
Private rented	430	311

\* Households in receipt of at least one of the principal means tested or disability related benefits.

# HHSRS & Part 1 Housing Act 2004

- HHSRS allows focus on the greatest risks to health and safety in the home – the greatest problem is the hazard of excess cold
- Range of powers that can be used to suit the situation – from Hazard Awareness Notice to Emergency Prohibition or Emergency Remedial Action



# HHSRS & Regulation

- HHSRS not a standard but means of identifying the greatest risks & does NOT dictate course of action
- Rating is neutral of actual occupants
- Course of regulatory action can reflect:
  - Risks
  - Actual Occupiers
  - LHA housing renewal and homelessness strategy
  - Owner's attitude and record of co-operation
  - Range of factors as is appropriate

# Local Authority Action (source CIEH)

N=130

	2005-06 (fitness regime inc HMOs)	2006-07 (HHSRS excluding HMO licensing)
All notices served/ formal actions	2245	2246
Notices etc complied with	1512 (all)	679 (Imp Notices)
Prosecutions	20	25
Work in default	67	133
Dwellings dealt with “informally”	8376	7766





# Activity

- Excluding HMO licensing – on average of about 77 dwellings improved with per LHA per year via enforcement
- A comparator - the average number of vulnerable households in non-decent privately rented homes is 1215 per LHA
- Tenants could take their own action but should they have to?

# Top five factors influencing activity

1. Number of complaints from or on behalf of residents (*score 329*)
2. Number of staff available to deal with private sector housing conditions (*score 293*)
3. Addressing risks to health and safety in housing (*score 199*)
4. HHSRS and the Regulations (*score 197*)
5. Priority given to HMO licensing (*score 139*)

*(cf. "Risk of retaliatory eviction" & "Council's renewal policy" scored 58 & 55 respectively)*



# Other findings of CIEH study

- One-third of LAs reported not taking any formal action
- 83% of 127 respondents where action taken - actions not limited to Category 1 hazards
- Two-thirds of respondents indicated Category 2 hazards addressed even where no Category 1 hazards
- 24% - no published enforcement policy
- Less than 45% of respondents use the power to charge for enforcement actions



# Private Rights

- Common Law
- Contract
- S.11 Landlord and Tenant Act 1985
- Defective Premises Act 1972
- S.82 Environmental Protection Act 1990
- BUT what happens if a tenant uses these provisions?



# Landlords

- EHCS 2006 Private landlords' survey:
  - Sideliner' landlords with small portfolios to dominate the sector 74% are individuals and couples (71% of these "sideline" activity)
  - 62% of these have no qualifications or experience
  - One third of individual landlords had been letting for less than five years
  - Landlords and agents have more optimistic view of conditions than EHCS surveyor (40% aware of HHSRS)
  - 60% of all respondents not members of trade or professional body
- Many may be responsible and co-operative but what about those who aren't?



# The Tenant's Dilemma

- Any protection for tenants is futile if the landlord can evict them whenever a complaint is made – regulation requires more support than is usually given in enforcement action
- Landlord can legally end assured shorthold tenancy agreement by serving a notice requiring possession on the tenant, giving the tenant a minimum of two months' notice (s.21 HA 1988)



# The Tenant's Dilemma

- 2000 Survey of English Housing - 21% of private tenants dissatisfied with the way their landlords carried out repairs and maintenance of their property
- Only one quarter of those tenants had “tried to enforce their right”.
- CAB survey of EHPs and TROs found 48% felt tenants “always” or “often” put off using help for fear of jeopardising tenancy; the remainder “sometimes”



# Law Commission

- “Encouraging Responsible Letting” proposes *enforced self-regulation*:
  - Independent organisation approves and externally oversees self-regulatory activity
  - Sanctions imposed on landlords and agents who did not comply with the obligation
  - Default powers of a central regulator, where the self-regulatory organisations not delivering upon their agreed code.
- Home Condition Certificate - cost borne by landlord but a body such as CIEH “could oversee” development of appropriately skilled surveyors



# Can private rights protect public health?

- Imbalance in power between landlord and tenant
- Individual action may be inappropriate for a public good
- If state intervention to protect public health and pressure on the public purse is not appropriate here, when is it?
- Yet can enforcement and regulation by LHAs safeguard health and safety in the home?



# Conclusion

- It is not a matter of the “nanny state” to intervene to reduce risks to health and safety in the home
- Most tenants cannot enforce their “rights”
- Local authorities cannot rely solely on complaints & enforcement to address problems – there is a need for innovation
- Local authorities need the PRS to help prevent homelessness - so encourage the good, squeeze out the bad