

**Private Sector Housing Enforcement Policy in response to the Covid-19 Pandemic**

The following policy is intended to supplement the existing Winchester City Council Enforcement Policy as a direct response to the current Covid-19 Pandemic, and guidance from the MHCLG.

This document is intended to act as a supplement to the existing Private Sector Housing Enforcement policy available to view on the Winchester City Council Website. <https://www.winchester.gov.uk/housing/private-housing-and-empty-properties/enforcement-policy>

How will Winchester City Council enforce standards in rented properties during the current pandemic?

Local authorities must keep housing conditions under review and have a duty to take appropriate action when they find the most serious ‘category 1’ hazards (in accordance with the Housing Act 2004). Local authorities also have legal duties and powers under other legislation.

These duties and powers still exist during the COVID-19 outbreak and are important to protect tenants. Winchester City Council will therefore:

• Follow a revised enforcement policy, which takes into account the current situation.

• Take a pragmatic approach to enforcement that ensures tenants are kept safe and landlords are supported.

• Ensure all work is carried out in line with local authorities’ own health and safety policies and procedures.

• All enforcement decisions will be based on an assessment of risk.

Inspections and investigations

Effective enforcement of standards in rented properties relies on local authority officers visiting rented properties. Local authorities have powers of entry which would be used in normal circumstances to gain access and carry out inspections. However, during this period, to minimise the risks to tenants, and local authority staff, inspections of properties will only be undertaken in the following circumstances:

• There is a duty to inspect because, for example, there is an imminent risk to a tenant’s health due to a serious 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 conditions.

(This list is not exhaustive and should not be treated as conclusive.)

A serious hazard may include the following:

− If there is a problem with the fabric of the building, for example the roof is leaking

− If your boiler is broken, leaving the tenant without heating or hot water

− If there is a plumbing issue, meaning the tenant does not have washing or toilet facilities

− If there is a security-critical problem, such as a broken window or external door

(This list is not exhaustive and should not be treated as conclusive.)

However, it might not be possible to inspect a property due to tenants self-isolating or refusing to allow access. In these circumstances Winchester City Council will do the following:

• A decision may be made to de-prioritise lower-risk hazards.

• An assessment could be made through photographs, video or live broadcasting by the tenant.

• In cases of very serious risk, the effective use of maintaining strict separation to facilitate an inspection should be very carefully considered, taking into account the use of personal protective equipment (PPE), government guidance and the local authority’s own health and safety policy.

• In cases of extremely hazardous conditions, alternative accommodation might be considered as an alternative to emergency remedial action.

The above are not exhaustive and all decisions should be made on the merits of the individual case and an assessment of risk.

Enforcement action

During this unprecedented time local authorities should only take the enforcement action that they determine is necessary. Winchester City Council will adapt their enforcement approach as required to meet the changing circumstances caused by COVID-19 and latest government advice regarding the outbreak, and ensure pragmatic, appropriate and risk-based action is taken.

For example:

• Enforcement action which is non-urgent or not legally required may be delayed until restrictions ease.

• Legal notices served under the Housing Act 2004 may, if the notice provides for this, be suspended for a period due to difficulties in completing the works.

• Work in default may be deferred.

• Other forms of enforcement action may be considered for the most serious hazards, e.g. a Prohibition Order covering part of a property may be used instead of Emergency Remedial Action.

• Steps may be taken to isolate or contain rather than remedy hazardous conditions.

The above list is intended only as an example and 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.

Proactive and reactive work

Winchester City Council will suspend all non-urgent proactive work where there is not a duty to carry this out, for example scheduled targeted action or inspections of licensable properties, and prioritising reactive work, e.g. complaints from tenants.

The Private Sector Housing team can be contacted on telephone number 01962 848 381 and an assessment of a tenant’s situation will be made. The most serious risks will be prioritised to ensure vulnerable tenants are protected. Officers will also seek to ascertain that the tenant has already made the landlord aware of the hazard and given them an opportunity to rectify this, when taking complaints from tenants.

Support for landlords and tenants

Winchester City Council aim to work closely with landlords and tenants to ensure standards in rented properties are maintained.

Winchester City Council will use communications and marketing where possible to emphasise with landlords the importance of keeping properties free from hazardous conditions, but also reassure them that a pragmatic, risk-based and common-sense approach will be used when enforcement decisions are taken.

The Government has produced specific guidance for tenants and landlords. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876500/Consolidated_Landlord_and_Tenant_Guidance_COVID_and_the_PRS_v4.2.pdf>

Electrical and gas safety in privately rented properties

The new **Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020** will apply to all new tenancies on 1 July 2020 and for existing tenancies on 1 April 2021.

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.

**The Gas Safety (Installation and Use) Regulations 1998** require landlords to have annual gas safety check on each appliance and flue carried out by an engineer registered with the Gas Safe Register and to keep a record of each safety check. Further advice can be found on the Gas Safe Register’s website at <https://www.gassaferegister.co.uk/help-and-advice/covid-19-advice-and-guidance/>.

**Both regulations are clear on the issue of compliance**. If a landlord can show they have taken all reasonable steps to comply with their duty under the regulations, they are not in breach of the duty. With regards to the Electrical Safety Regulations a landlord would not be in breach of the duty to comply with a remedial notice and with regards to the Gas Safety Regulations a landlord would not be liable for an offence.

A landlord could show reasonable steps by 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. Landlords may also want to provide other evidence they have that the installation, appliance or flue is in a good condition while they attempt to arrange works. This could include the servicing record and previous landlord gas safety check record.