

Tackling fuel poverty in the private rented sector using the Housing Health and Safety Rating System (HHSRS)

Project report



Campaigning for Warm Homes



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EXECUTIVE SUMMARY

Background

In 2008, an Energy Efficiency Partnership for Homes (EEPH) project investigated how the Housing Health and Safety Rating System (HHSRS)¹ could be used to cut fuel poverty. The study carried out by Impetus Consulting, found that HHSRS could take most of the private rented sector out of fuel poverty at little cost to the taxpayer (since landlords could be required to pay for the improvement measures). However, few local authorities were proactively using HHSRS to eliminate Excess Cold hazards.

In 2010-11, Impetus Consulting, in partnership with NEA and Blooming Green, undertook a second project to improve resources, knowledge and implementation of HHSRS to tackle fuel poverty. The project was primarily funded by Eaga-CT, with additional support from the Energy Efficiency Partnership for Homes and the Department for Energy and Climate Change (DECC).

Approach

A steering group, comprising representatives from, inter alia, the Chartered Institute of Environmental Health, the Energy Efficiency Partnership for Homes, the Energy Saving Trust and a number of local authorities, was convened to oversee this project. Research involved a desk review and a stakeholder workshop, followed by the drafting of a series of detailed case studies focusing on authorities that have proactively used HHSRS to cut excess cold. This was followed by the drafting of a comprehensive toolkit to provide local authorities with facts and figures on HHSRS and its potential to cut excess cold in the private rented sector, information on Residential Property Tribunal cases that have related to Excess Cold, and inspiring case studies from a number of proactive local authorities.

The draft toolkit was piloted with the following six councils:

- Brighton and Hove City Council;
- Carlisle City Council;
- Durham City Council;
- Flintshire County Council;
- Hambleton District Council; and
- London Borough of Lambeth.

The piloting involved presentations and workshops with environmental health officers, senior managers and private landlords at each of these councils. Based on the feedback from the pilots, the toolkit was then finalised, in consultation with the project steering group as well as DECC and CLG representatives.

The toolkit can be downloaded from NEA's website at <http://www.nea.org.uk/publication-list/> and is being disseminated to local authorities throughout England and Wales.

Recommendations

HHSRS has the potential to play a major role in improving housing standards, particularly in the private rented sector. Based on the findings of this project, to ensure HHSRS is used as effectively as possible, NEA and Impetus make the following recommendations to national and local government.

National government should:

- Ensure that the statutory duties relating to HHSRS are retained² and take action to ensure that local authorities are fulfilling their statutory duties, for example by requiring

¹ www.eeph.org.uk/uploads/documents/partnership/Final%20HHSRS%20EPPH%20summary.pdf

² The government are reviewing statutory duties placed on local government: www.communities.gov.uk/localgovernment/decentralisation/tacklingburdens/reviewstatutoryduties/.

authorities to publish the number of complaints they receive about housing condition and the action taken as a result.

- ❑ Provide guidance to local authorities that assessing housing conditions and taking action on poor housing is an important area that they should be prioritising.
- ❑ Make an assessment of how local authorities should resource implementation of Part 1 of the 2004 Housing Act.
- ❑ Reconsider the decision not to review the HHSRS guidance in relation to Excess Cold. (There is still a great deal of confusion surrounding the guidance and its implementation at a local level.)
- ❑ Work closely with landlords' associations to encourage voluntary improvements in standards (before mandatory standards are introduced in 2018) and uptake of the Green Deal.
- ❑ Ensure that Energy Performance Certificate (EPC) data is shared with a wider range of officers within local government, which in turn will lead to the targeting of the worst properties.

Local government should:

- ❑ Ensure HHSRS remains on the local government agenda. This includes ensuring that:
 - HHSRS is referenced within relevant strategies (on housing, fuel poverty and/or climate change);
 - Officers have sufficient resources to use HHSRS to improve standards in the private rented sector (e.g. utilising the power to charge for enforcement activity and / or levering in additional funding from other sources where possible); and
 - A systematic review of the housing stock to identify hazards is carried out, as required by the Housing Act.
- ❑ Move from passive to proactive approaches in terms of implementing HHSRS. The case studies in our toolkit demonstrate the impact that a proactive approach to using HHSRS to improve standards can have. Approaches involving partnerships with health programmes, selective licensing, area-based approaches and using F and G EPC ratings to identify potential hazards have all proved effective for a number of authorities.
- ❑ Carry out ongoing awareness raising campaigns with both private landlords and tenants. Landlords need to be made aware of their duty to provide properties that are free of Excess Cold hazards, as well as the forthcoming mandatory minimum energy efficiency standards, and grants and financial incentives to make improvements, such as the Landlords Energy Saving Allowance (LESA) and the forthcoming Green Deal and Energy Company Obligation (ECO) schemes. Tenants also need to be made more aware of their rights in relation to housing standards and HHSRS. However it is important to note that, where there is awareness, there are concerns that HHSRS enforcement action taken against landlords could lead to retaliatory eviction and/or raised rents.

1.0 INTRODUCTION

In 2008, an Energy Efficiency Partnership for Homes (EEPH) project investigated how the Housing Health and Safety Rating System (HHSRS)³ could be used to cut fuel poverty. The study, carried out by Impetus Consulting, found that HHSRS could take most of the private rented sector out of fuel poverty at little cost to the taxpayer (since landlords could be required to pay for the improvement measures). However, few local authorities were proactively using it to eliminate Excess Cold hazards.

Building on existing HHSRS and private rented projects, Impetus Consulting, in partnership with NEA and Blooming Green, has undertaken a five stage project to improve resources, knowledge and implementation of HHSRS to tackle fuel poverty (and potentially reduce CO₂ emissions). The project was primarily funded by Eaga-CT, with additional support from the Energy Efficiency Partnership for Homes and DECC.

1.1 Project aim and objectives

The project aim was to achieve an increased use of HHSRS by local authorities to reduce fuel poverty in the private rented sector.

The main objectives of this project were to:

- ❑ Identify current intelligence about how HHSRS is being or could be used to remove Excess Cold hazards;
- ❑ Develop a toolkit to support local authorities in using HHSRS, which will include good practice case studies, template materials for local authorities to use to raise awareness of landlords' duties in respect of Excess Cold hazards, plus links to existing guidance and resources;
- ❑ Pilot the toolkit with three local authorities and then refine it;
- ❑ Disseminate the toolkit nationally; and
- ❑ Produce a succinct project report with recommendations for policy makers on facilitating the use of HHSRS by local authorities to cut fuel poverty.

1.2 Project outputs

- ❑ Preparation and publication of an online toolkit to help implement local authorities to implement HHSRS; and
- ❑ A project report to DECC and CLG including policy recommendations for national and local government in line with any changes to HHSRS following CLG review.

1.3 Project outcomes

- ❑ Increased awareness and implementation of HHSRS within local authorities;
- ❑ Increased awareness of HHSRS and financial assistance by private landlords;
- ❑ Improvement to the energy efficiency rating of private rented sector properties and reduced fuel poverty in this difficult to reach sector; and

³ www.eeph.org.uk/uploads/documents/partnership/Final%20HHSRS%20EPPH%20summary.pdf

2.0 PROJECT ACTIVITIES AND OUTPUTS

The project has included the following stages:

- ❑ Stage 1: Development of a steering group to oversee the project;
- ❑ Stage 2: Intelligence mapping;
- ❑ Stage 3: Development of HHSRS toolkit to reduce fuel poverty;
- ❑ Stage 4: Piloting and refining the toolkit; and
- ❑ Stage 5: Dissemination (subject to approval/funding from Eaga-CT).

NEA acquired additional funding for this project from DECC, allowing the project to be expanded to include additional intelligence gathering and piloting.

2.1 Initial workshop

Impetus and NEA ran a workshop in March 2010 on using HHSRS to reduce fuel poverty in the private rented sector⁴. The workshop was an opportunity for stakeholders to discuss current barriers and opportunities to using HHSRS to cut excess cold in the private rented sector, as well as sharing best practice in terms of current practices relating to implementation of HHSRS.

An overview of this workshop, including key points, can be found below. In addition, a copy of the workshop report can be downloaded from the EEPH website⁵.

Twenty individuals with expertise and knowledge in this area were invited to attend the workshop, with representatives from local and central government plus other relevant organisations.

Presentations included:

- ❑ **Emma Jones, Impetus Consulting**, delivered a presentation on the proposed project, the workshop and the 2008 research project.
- ❑ **Kelly Lee, NEA**, delivered a presentation on the policy changes since the 2008 research project was conducted, including NI 186, NI 187 and NI 188; the increasing application of area based schemes; the Low Carbon Transition Plan; the Homes Energy Management Strategy (HEMS); research that provides hooks for officers to use HHSRS proactively through links between housing and health; and the weakness in the strategic housing function of some local authorities.
- ❑ **Dylan Grimes, from Communities and Local Government (CLG)**, explained the review of HHSRS Operating Guidance pledged in the Low Carbon Transition Plan. While the review had passed all scrutiny panels and expression of interest documents had been prepared, the government decided to not take forward this review. This is despite a commitment in the Housing Act 2003 Impact Assessment document. Dylan hoped that the poor housing standards in the private rented sector would enable the agenda to be taken forward in the Government's next spending round and that resources such as the HHSRS cost calculator were encouraging the health and housing sectors to work together.
- ❑ **Dave Princep, representing the Energy Efficiency Partnership for Homes' Private Rented Working Group**, discussed research surrounding energy efficiency requirements of tenants, landlords and estate agents. In particular, the research highlighted that only 2% of landlords were aware of the Landlord Energy Saving Allowance (LESA) and 6% were not aware of Warm Front. More than 30% are aware of local authority operated schemes, reflecting the work undertaken by officers on the

⁴ Please note that this was a change to the original work programme submitted to DECC, which included the delivery of this workshop. The Energy Efficiency Partnership for Homes (EEPH) provided funding for this activity and therefore the time was reallocated to different tasks within this project.

⁵ www.eeph.org.uk/uploads/documents/partnership/EEPH%20HHSRS%20stakeholder%20workshop%20report%20by%20Impetus%20and%20NEA%20March%202010.pdf

ground. In addition, Dave talked about the extension of the requirement for EPCs to Houses in Multiple Occupation (HMOs) and the Landlord Register recommended by the Rugg Review. The later is not welcomed by the landlord industry as it is viewed as another burden on them, and while most landlords support full accreditation, they do not support full registration.

- ❑ **David Weatherall, from the Energy Saving Trust**, highlighted the work that has been undertaken at the Energy Saving Trust into F and G rated homes since such homes represent 20% of our housing stock. The boundary between E and F rated homes is SAP 39. Homes should be seen as a product, as other purchases such as energy efficient appliances. The Energy Saving Trust has calculated the cost of uplifting F and G rated homes to E rated. In 80% of homes, this work would cost around £3,000 and would involve installing standard energy efficiency measures such as a modern boiler and insulation. The remaining 15% of homes would need to install measures such as replacing electric heating systems and installing double glazing, which would cost £5,000 to £10,000. In the private rented sector, which has a greater proportion of large, old F and G rated properties, costs would be proportionally higher with 60% needing to spend £3,000 on improvement works and 40% needing to spend £5,000 to £10,000.
- ❑ **Richard Tacagni, LACORS** (now part of the Local Government Group), discussed issues and ideas surrounding the requirements of HMOs to have EPCs, the Landlords Register and requiring minimum energy standards as part of the DWP's Housing Benefits Reform consultation. Discussions surrounded concerns that the HHSRS operating guidance does not include very much detail on Excess Cold, although plenty on Fire and Safety, and Overcrowding. It is hoped that LACORS will be able to look at producing guidance on Excess Cold, as it has on Fire and Safety and Overcrowding. Richard hopes that this guidance will include information on assessment of hazards and remedial measures. A review of Residential Property Tribunal (RPT) decisions would also be useful to practitioners, along with information on financial support (e.g. Warm Front, LESA etc).

2.2 Stage 1 - Steering group: development and delivery

A steering group, built from the original EEPH HHSRS task group, oversaw this project. Members of the steering group included representatives from the following organisations:

- ❑ Chartered Institute of Environmental Health (CIEH);
- ❑ Consumer Focus;
- ❑ Communities and Local Government (CLG);
- ❑ The Energy Efficiency Partnership for Homes (EEPH) (both the fuel poverty and private rented groups);
- ❑ The Energy Saving Trust (EST);
- ❑ Local authority Environmental Health practitioners (from the London Boroughs of Islington, Camden and Newham, the Royal Borough of Kensington and Chelsea and Liverpool City Council);
- ❑ Local Government Group (formerly LACORS/Local Government Regulation);
- ❑ National Landlords Association; and
- ❑ Welsh Assembly Government.

In addition to the workshop described in section 2.1 above, steering group meetings took place on:

- ❑ 29 September 2010;
- ❑ 3 December 2010; and
- ❑ 23 May 2011.

Steering group members were also kept up-to-date by frequent progress reports during periods of concentrated activity and at key project milestones.

2.3 Stage 2 - Intelligence mapping

NEA and Impetus carried out a literature review and further intelligence mapping (the latter using the additional funding provided by DECC) to identify changes in HHSRS operating guidance and national policy, useful resources and case studies of where HHSRS has been implemented in a proactive manner to tackle fuel poverty.

Telephone interviews and meetings were held with:

- ❑ Local authorities who use HHSRS proactively (including the London Borough of Newham, London Borough of Camden, Liverpool City Council and Brent Private Tenants Group);
- ❑ The Chartered Institute of Environmental Health (CIEH);
- ❑ The Residential Property Tribunal (RPT) (in relation to appeals);
- ❑ The Building Research Establishment (in relation to the HHSRS calculator);
- ❑ Eaga (in relation to referrals from the Warm Front scheme);
- ❑ Ofgem (in relation to referrals from the Carbon Emissions Reduction Target (CERT) schemes);
- ❑ HM Revenue & Customs (HMRC) (in relation to the Landlords Energy Saving Allowance (LESA);
- ❑ Warm Zones;
- ❑ The London Development Agency (LDA) and the Greater London Authority (GLA) on the development of the RE:NEW energy efficiency retrofit scheme); and
- ❑ Other key stakeholders involved in the housing and health fields.

While much of the information gathered is represented in the toolkit, an overview of the key points can be found below.

2.3.1 National government

To understand the potential for HHSRS to tackle fuel poverty, it was important to understand the policy context in which it sits; in particular, the government's targets regarding fuel poverty and minimum standards for housing, and local authorities' duties in respect of these.

The desktop research identified several changes to national policy including:

- ❑ The abolition of the Comprehensive Area Assessment (CAA) process and carbon dioxide and fuel poverty reduction national indicators (NI186 and NI187);
- ❑ The abolition of the Private Landlords Register as recommended by the Rugg Review;
- ❑ The introduction of the Green Deal and the Energy Company Obligation (ECO) as part of the Energy Bill 2010/11;
- ❑ The campaign for mandatory minimum standards, and subsequent Early Day Motions introduced to the Houses of Parliament; and
- ❑ Consultations relating to the sharing of Energy Performance Certificate (EPC) data.

Within the toolkit there is a chapter on national policy, which refers to the following:

- ❑ Fuel Poverty Strategies and Action Plans;
- ❑ Climate change mitigation and fuel poverty eradication policies;
- ❑ Funding; and
- ❑ Minimum housing standards.

The desktop research also identified that there had been no changes to the HHSRS Operating Guidance or the Enforcement Guidance published by the Department for Communities and Local Government (CLG). Links to these and other useful documents, such as the Enforcement Concordat, have been included within a 'Library of research and links' within the toolkit.

As highlighted above, during the EEPH workshop a representative from Communities and Local Government (CLG) explained the review of HHSRS Operating Guidance pledged in the Low Carbon Transition Plan. While the review had passed all scrutiny panels and expression of

interest documents had been prepared, the government decided to not take forward this review. This is despite a commitment in the Housing Act 2003 Impact Assessment document to review the Operating Guidance. HHSRS practitioners have expressed surprise that other hazards, such as Fire and Safety and Overcrowding which are less common hazards, have been reviewed while Excess Cold has not.

2.3.2 Local government

Interviews with local authority Environmental Health practitioners enabled us to gather the latest intelligence on how HHSRS is/could be implemented to tackle fuel poverty locally, and how this situation has changed since the 2008 research project was undertaken.

On the whole, we found that more and more local authorities were fulfilling their responsibilities under the Housing Act 2004 by responding to referrals and using HHSRS in a more proactive manner. However HHSRS is still not being used nearly as widely or as effectively as it could be.

Moreover, very few are carrying out their duty, as specified in the Housing Act, to carry out systematic reviews of the housing stock in their area for Category 1 and 2 hazards. While the Operating Guidance does not specify how this should be carried out, some authorities consider that the production of a Stock Condition Survey meets this requirement. Such surveys are based on relatively small samples and do not identify individual properties containing hazards. However the advantage of this type of approach is that it is less resource intensive than undertaking street by street assessments of properties.

It is clear that the barriers found in the 2008 research are still in place and impacting on the level of activity being taken forward. Barriers include:

- ❑ In more urban areas HHSRS activity is often focussed on **Houses in Multiple Occupation (HMO) licensing**. It would appear that staff in such councils see themselves as fully occupied trying to meet the requirements of licensing HMOs and believe that they do not have any additional resources to look at other ways of implementing HHSRS.
- ❑ This lack of activity is partly due to limited **resources**, although this could be dealt with if more local authorities chose to exercise their right to charge for HHSRS enforcement activity. More local authorities were interested in this approach compared to the findings of the original 2008 research, particularly in light of the budget cuts within local government.
- ❑ There is still **confusion about how to assess for Excess Cold hazards**. The HHSRS Operating Guidance⁶ states that assessment should take account of adequacy of heating and insulation, and may involve a Standard Assessment Procedure (SAP) rating. Some authorities consider that only a SAP or rdSAP rating would be robust, although many use simple checklists (examples have been included within the toolkit – see below).
- ❑ There is also confusion on **what measures it is appropriate to require to mitigate an Excess Cold hazard**. For example, can central heating and/or double glazing be specified, or should only cheaper, more cost effective measures be required?
- ❑ In the private rented sector, national programmes to help improve energy efficiency and reduce fuel poverty are in some cases failing to help their target audiences because landlords do not give permission for measures to be installed in their properties. There is a clear opportunity for HHSRS to be used to ensure that the necessary measures are installed in these properties. However, there is still no efficient **referral system** for ensuring such cases are referred to local authorities and promptly followed-up.

⁶ Housing Health and Safety Rating System - Operating Guidance:
www.communities.gov.uk/documents/housing/pdf/142631.pdf

Case studies

NEA and Impetus worked directly with a number of local government stakeholders to develop case studies of local authorities that are proactively using their HHSRS powers to reduce Excess Cold hazards in the private rented sector. These case studies are included within the toolkit and include:

Charging for enforcement

Local authorities can charge for serving enforcement notices, and this can help to cover their costs of enforcement action. Case studies include:

- ❑ The London Borough of Islington; and
- ❑ The London Borough of Newham, including a template letter that authorities can use when serving charges.

Selective licensing

Selective licensing is being used by some authorities to improve the quality of private rented accommodation. Case studies include:

- ❑ The London Borough of Newham's scheme, specifically addressing energy efficiency as part of their selective licensing programme; and
- ❑ Leeds City Council, which has introduced selective licensing in two areas of the city.

Working with landlords

All local authorities favour an informal approach to improving standards in the private rented sector, before going down the route of enforcement. Case studies include:

- ❑ Brighton and Hove City Council's landlord forums and networks with landlords and letting agencies across the city, including training.

Using EPC ratings F & G to identify potential hazards

Since 2008, all residential dwellings have been required to have Energy Performance Certificates when they are rented or sold. The lowest ratings, of F and G, are likely to correspond to Category 1 Excess Cold hazards (though properties with higher ratings may also constitute an Excess cold hazard). Case studies include:

- ❑ The London Borough of Camden's system where trading standards advise the private sector housing team when an F or G rated property is identified in the private rented sector, for investigation and follow up.

Partnerships with health programmes

One of the key objectives behind HHSRS is to ensure people can stay healthy in their homes. Case studies include:

- ❑ Liverpool City Council, which has successfully levered in funding from the local PCT for a major project looking at assessing the individual health needs of the occupants of 15,000 properties; and
- ❑ Westminster City Council, which has received funding from NHS Westminster to tackle health inequalities at a neighbourhood level.

Sample materials

A variety of materials were sourced from a wide variety of local authorities, including:

- ❑ Sample checklists;
- ❑ Leaflets for tenants;
- ❑ Guidance for landlords; and
- ❑ Information on financial incentives that can be used by landlords, including the Landlord Energy Saving Allowance (LESA).

2.3.3 The Chartered Institute of Environmental Health

As outlined during the stakeholder workshop, Richard Tacagni from LACORS (now part of the Local Government Group) highlighted that the organisation could potentially look at producing guidance on Excess Cold, as it had on Fire and Safety and Overcrowding. While the Local

Government Group was unable to take this activity forward, the Chartered Institute of Environmental Health (CIEH) took on the role of producing guidance.

NEA attended meetings with the steering group that was created, provided information to the consultant preparing the guidance and commented on draft text. This included statistics on fuel poverty and Excess Winter Deaths (EWD), and publications on best practice energy efficiency standards (from the Energy Saving Trust publication database). NEA also provided the steering group with information on the Residential Property Tribunal (RPT) appeals relating to Excess Cold (see below).

CIEH has been actively involved with this project from the onset. This has included CIEH staff attending steering group meetings, providing detailed comments on the draft text and highlighting key documents to be included within the toolkit. CIEH is committed to supporting the work that is being undertaken by Impetus and NEA and will help to disseminate the HHSRS toolkit nationally.

Finally, through the CIEH steering group meetings we have found that HHSRS practitioners have concerns about the proposals to introduce mandatory minimum standards within the private rented sector. These issues are explored further in Appendix A.

2.3.4 The Local Government Group

Representatives from LACORS (now the Local Government Group) have been actively involved with this project from the onset. This has included staff attending steering group meetings, providing detailed comments on the draft text and highlighting key documents to be included within the toolkit. The Local Government Group is committed to supporting the work that is being undertaken by Impetus and NEA and will help to disseminate the HHSRS toolkit nationally.

It is also important to highlight the Local Government Group's 'Offer on Climate Change', which highlights the potential role of HHSRS in enforcing standards in the private rented sector (proposal 4, appendix 1). The aim of the LG proposal is to 'develop a suitable enforcement mechanism for upgrading energy efficiency in rented properties with an EPC rating of F or G'. Linked to the campaigns for mandatory minimum standards, it has been proposed that Part 1 of the Housing Act 2004 should be amended so that properties with an F or G rating are automatically classed as a category 1 hazard under HHSRS, without needing a full assessment. It is not yet clear whether this proposal will be taken forward in light of the announcement to introduce mandatory minimum standards within the Energy Bill⁸. As highlighted above, HHSRS practitioners have concerns about such proposals, and these issues are explored further in Appendix A.

2.3.5 Residential Property Tribunal

The Residential Property Tribunal Service (RPT) is the public body that can decide many rent and leasehold disputes, including appeals relating to HHSRS, and acts as adjudicator of appeals against the decisions and actions of local authorities in respect of unfitness.

The RPT publishes details of appeals relating to HHSRS Enforcement Notices on its website⁹. This information is also published on the Local Government Regulation website¹⁰.

⁷ The Local Government Group has developed an 'Offer', on behalf of the local government sector, on how local and central government can work together to effectively, efficiently, and quickly meet the national climate change targets. The 'Offer' sets out a high-level statement of how this partnership approach could be achieved.

⁸ www.decc.gov.uk/en/content/cms/news/enbill_second/enbill_second.aspx.

⁹ Residential Property Tribunal decisions: www.rpts.gov.uk/decisions/rpts_decisions.htm

¹⁰ Local Government Group HHSRS RPT cases:

www.lacors.gov.uk/lacors/search.aspx?N=10064%2033%2041%2053&Ne=10000&Ns=DOC_PUBLISHED&Nso=1&authcode=1B8B660&id=&tl=&prev=10061+33+41+53+10000

As with the original 2008 research project, NEA and Impetus undertook a review of appeals to date relating to Excess Cold hazards. Information was collated with the assistance of staff from the RPT and Local Government Group in November and December. The project team found 33 appeals that related, at least in part, to Excess Cold hazards. These cases are summarised within the toolkit, with further details (and links to the full cases) provided in an Appendix.

Topics reviewed include:

- ❑ Air temperature;
- ❑ Which measures can be specified (including electric versus gas heating systems, glazing and insulation);
- ❑ How to assess for hazards (including SAP and RdSAP);
- ❑ How to assess actual risk;
- ❑ Complying with Building Regulations;
- ❑ Procedural issues;
- ❑ Regulated tenancies;
- ❑ Age of occupants; and
- ❑ Informal approaches.

It is hoped that this information will help local authority officers to determine what measures are appropriate to require to remove Excess Cold hazards and to help build the strongest appeal case possible.

It should be noted that each RPT case is considered separately, and that the findings of one tribunal do not set a precedent, although Tribunals will frequently refer to other cases in the context of explaining their decision.

It should also be noted that some of the Tribunal's decisions are widely considered to be 'curious' and would not necessarily constitute good practice. Unsurprisingly, such cases markedly influence what improvements EHOs will ask for in their informal dealings and formal enforcement notice approaches. Therefore CIEH hope to work directly with the RPT to ensure that all panel members are aware of the toolkit and the guidance that is being produced.

2.3.6 The Building Research Establishment

To assist its members and local housing managers in achieving a better understanding of the links between housing and health, CIEH commissioned the Building Research Establishment (BRE) Housing Centre to produce a toolkit.

'Good Housing Leads To Good Health: A toolkit for environmental health practitioners'¹¹ aims to show how links between homes and health can be made, including where possible, the cost benefit of some specifically linked housing and health issues. Providing evidence of cost benefit is important where resources for improvement or enforcement are lacking. The toolkit provides a method of measuring and showing the value of private sector housing intervention to health, society and quality of life. It enables users to find a baseline and work out the most effective and cost efficient methods of improving homes.

One of the tools available in the toolkit is a cost calculator¹² based on HHSRS. The calculator is intended to help demonstrate the value of an intervention by producing a baseline of likely numbers of incidences within local authority areas, together with the health costs and costs of mitigating the hazard. This figure can be used as evidence of the cost and subsequently compared to the costs of improvement works.

Discussions with staff from BRE have highlighted the cost calculator had been improved following it's initial launch in September 2008 and that it is now estimated that energy inefficient (Energy Performance Certificate (EPC) F and G rated properties) cost the NHS in the region of £145

¹¹ Good Housing Leads To Good Health: A toolkit for environmental health practitioners: www.cieh.org/uploadedFiles/Core/Policy/Housing/Good_Housing_Leads_to_Good_Health_2008.pdf.

¹² HHSRS Cost Calculator: www.cieh.org/library/Knowledge/Housing/HHSRS_cost_calculator.xls.

million per year, although this figure could increase to £270 million using different modelling assumptions.

A number of publications by BRE have been included within a 'Library of research and links' within the toolkit, and several references have been made to the findings of the recent English House Condition Survey.

2.3.7 Eaga

The current HHSRS operating guidance is focused around local authorities reacting to complaint or requests. Where a local authority has good grounds for believing that a Category 1 or 2 Hazard exists, there is a duty to arrange an inspection of the property.

The original EEPH HHSRS project found that some local authorities were not doing this – a clear breach of their duties under the Housing Act 2004. The research team had looked at data from the Government's fuel poverty programme Warm Front, one way which local authorities receive such referrals. A total of 433 cases where a landlord had failed or refused to give permission for Warm Front measures to be installed had been referred by eaga to local authorities between January and October 2007. By November 2007, only 38 of those had subsequently been granted permission, which implied that there is a lot more that local authorities could be doing to follow through on these cases.

Anecdotal evidence suggested that the referrals were being made by Eaga, yet these were not followed up by the local authority. In many cases this was simply because of a lack of up-to-date or contact information for Environmental Health Managers, meaning that some of these referrals were simply 'lost in the system'.

More up-to-date information sourced from Eaga for the period between January and September 2010 suggests that this inactivity is continuing, albeit at a lower scale. There were 95 cases referred to local authorities during this period, but only three of these had since been granted permission. This suggests that some local authorities are still not acting on such cases, and failing to comply with the requirements of the Housing Act 2004.

2.3.8 Ofgem

NEA contacted Ofgem in relation to HHSRS referrals from the Carbon Emissions Reduction Target (CERT) schemes. As with the original EEPH research, Ofgem confirmed that there is no standard system for monitoring refusals by landlords. Both Ofgem and the suppliers delivering CERT programmes only require data on actual installations, while it is the responsibility of CERT installers to make referrals into individual local authorities. Anecdotal evidence suggests that this activity is taken forward, but at a small scale.

We also confirmed that CERT funding could not be used by landlords who had been served improvement notices for energy efficiency improvement works¹³.

2.3.9 HM Revenue & Customs

The Landlords Energy Saving Allowance (LESA), a tax allowance scheme, enables landlords to claim on their income or corporation tax return for the cost of buying certain energy saving items. This provides tax relief of up to a maximum of £1,500 per property and was recently extended until 2015.

¹³ Once a local authority takes enforcement action against a landlord, the landlord forfeits their right to access energy supplier scheme funding through CERT. Ofgem needs to satisfy itself that a notified action under CERT will result in an energy efficiency improvement beyond that which is already required to be achieved by legal requirements. Once an improvement notice is served, a measure becomes a legal requirement.

For a number of years the previous government had pledged to disseminate information about LESA to landlords, particularly in light of a number of studies that found that very few landlords were aware of the tax rebate scheme. The North East Energy Saving Trust advice centre (ESTac) had previously produced guidance¹⁴ to landlords on LESA, and were approached by HM Revenue and Customs (HMRC) to request that government replicated this text in its own guidance note for landlords.

NEA discussed guidance on LESA with the Trading and Property Income and Capital Allowances Team within HMRC. The team highlighted that while an individual guidance note had not been produced, there were a number of HMRC activities to promote LESA in 2008 and 2009. This included information published on the following websites:

- ❑ Directgov¹⁵;
- ❑ HMRC website^{16, 17, 18};
- ❑ Business Link¹⁹; and
- ❑ The Energy Saving Trust²⁰.

NEA also confirmed that LESA could still be used by landlords who had been served improvement notices for energy efficiency improvement works.

Sample materials

Information on LESA has been included in a number of sections within the toolkit, including the template guidance for landlords.

2.3.10 Warm Zones

The Warm Zones model involve the systematic assessment of the energy efficiency and fuel poverty status of the households in a zone area, followed by coordinated delivery of energy efficiency improvements and related services. NEA worked with Warm Zones staff to gain a greater understanding into how HHSRS could be used within such area-based energy saving programmes.

Warm Zone assessors visit homes on a street by street basis, offering people the opportunity to answer a series of simple questions on their doorstep to determine whether or not they qualify for any help. Each property assessment involves the completion of a two page form.

Local authorities involved in the Warm Zone can request add-ons to this form for their own use, and this can include a basic HHSRS assessment of the top ten Category 1 hazards (please note that this is not a full HHSRS assessment), including Excess Cold and a Decent Homes survey. The information gathered during the assessments is processed by the Warm Zones team, and any properties with Category 1 hazards identified are referred on to the relevant local authority's Environmental Health department. At this point the Warm Zones team hand over the responsibility for the HHSRS hazards for the local authority to take action.

It is important to note the additional HHSRS and/or Decent Homes questions add time and expense to the Warm Zones survey and does require assessors to have additional training. As a result, it is not generally cost effective to produce a full HHSRS survey for all properties assessed, and this is why assessors only look for the top ten Category 1 hazards.

¹⁴ Landlords: Get Your Own Back: [www.warmzones.co.uk/LESA%20\(update%20March%2006\).pdf](http://www.warmzones.co.uk/LESA%20(update%20March%2006).pdf).

¹⁵ Directgov - LESA: www.direct.gov.uk/en/HomeAndCommunity/PrivateRenting/RentingOutYourProperty/DG_175186.

¹⁶ HMRC - LESA: www.hmrc.gov.uk/manuals/pimmanual/PIM2072.htm.

¹⁷ HMRC - Working Together - Issue 34, March 2009: www.hmrc.gov.uk/workingtogether/publications/wt-34.htm#11.

¹⁸ HMRC - Agent Update - Issue 11, April 2009:

[www.att.org.uk/Resources/ATT/Documents/2009/12/Agent%20Update%2011%20Final%20\(2\).pdf](http://www.att.org.uk/Resources/ATT/Documents/2009/12/Agent%20Update%2011%20Final%20(2).pdf).

¹⁹ Business Link - LESA: www.businesslink.gov.uk/bdotg/action/detail?itemId=1082194829&type=RESOURCES.

²⁰ Energy Saving Trust - LESA: www.energysavingtrust.org.uk/business/Global-Data/External-Resources-and-Innovations/Landlord-s-Energy-Saving-Allowance-LESA.

This model including HHSRS should also be applied to other area based schemes, including the Community Energy Saving Programme (CESP) and the forthcoming Green Deal and Energy Company Obligation (ECO) programmes.

Case study

NEA and Impetus worked directly with Warm Zones to develop a case study of how HHSRS could be used in area-based energy saving programmes. The following case study is included within the toolkit:

Working with area based approaches

Many energy efficiency programmes are being delivered through area-based approaches, and HHSRS can be a useful tool within these programmes for raising standards in the private rented sector.

- ❑ London Warm Zones, which involves surveying 2,000 – 3,000 properties a year, part of which can include a local authority request for a basic HHSRS assessment.

Sample materials

A sample checklist from Warm Zones has been included within the toolkit. This includes reference to both HHSRS and Decent Homes.

2.3.11 Other key stakeholders

NEA also contacted a number of key stakeholders involved in housing and health, as well as organisations representing private rented landlords.

A number of research documents and useful publications were sourced from the **University of Warwick**. These highlight methods of quantifying health cost benefits of housing interventions, and the 'dis-benefits' of leaving poor housing stock as it is.

Dave Princep, Chair of the **London Landlord Accreditation Scheme** (and former Chair of the EEPH Private Rented Sector group and current Steering Group member), highlighted that a number of bodies representing landlords were happy that the coalition government scrapped the Rugg Review's recommendation to create a national database to regulate the sector. Members of such organisations are happy to join accreditation schemes, however they felt that this was a step too far. Dave also highlighted that it would be essential for the current government to work with landlords on the regulatory requirements and financial mechanisms included within the Energy Bill (2010).

In May, NEA attended the launch of a **Friends of the Earth** report - 'The health impacts of cold homes and fuel poverty'²¹ – written by the Marmot Review Team and have included reference to the research within the toolkit.

2.4 Stage 3 - Development of HHSRS toolkit to reduce fuel poverty

One of the main project outputs is the development of a web-based resource for local authority officers to provide advice, support and inspiration on how they can use HHSRS to cut fuel poverty (and potentially CO₂ emissions).

NEA, Impetus and Blooming Green have worked closely with the project's steering group to draft the text of the toolkit, ensuring that it does not replicate other guidance on Excess Cold.

The toolkit structure, which was agreed by the project's steering group, is as follows:

- ❑ **Introduction** (fuel poverty in England, how HHSRS can be used).
- ❑ **Policy context** (fuel poverty legislation, housing standards, local authority duties, Green Deal and recent proposals).

²¹ www.foe.co.uk/resource/reports/cold_homes_health.pdf.

- Case studies** (examples of local authorities using HHSRS proactively).
- RPT Appeals** (a summary of RPT decisions).
- Sample materials** (example marketing materials and checklists used by local authorities).
- Funding and advice** (information on the Green Deal and other sources of funding and advice).
- Research links** (related research links, including summaries).

The toolkit also includes a number of appendices, providing policy, case study and RPT information in much greater detail.

2.5 Stage 4 - Piloting and refining the toolkit

NEA and Impetus piloted the toolkit with six local authorities across England and Wales. The toolkit was then updated following this activity, although this was predominantly in relation to policy updates.

A shortlist of local authorities was developed on the basis of their proactive approach to tackling fuel poverty, the proportion of private rented sector properties within their area, the inclusion of NI 187 within their Local Area Agreement (LAA) and the levels of fuel poverty in their area. In addition, the shortlist included a mixture of district and unitary councils, and those in urban and rural areas.

The authorities on the shortlist were:

- Blackpool City Council;
- Brighton and Hove City Council;
- Carlisle City Council;
- Durham City Council;
- Flintshire County Council;
- Hambleton District Council;
- London Borough of Lambeth;
- North Kesteven District Council; and
- Powys County Council.

This shortlist was discussed at the Steering Group meeting in December 2010. The following local authorities were selected for the piloting activities:

- Brighton and Hove City Council;
- Carlisle City Council;
- Durham City Council;
- Flintshire County Council;
- Hambleton District Council; and
- London Borough of Lambeth.

In each pilot area the project team delivered a facilitated workshop to staff responsible for delivering housing responsibilities, including those involved in carbon reduction, fuel poverty and environmental health activities. This workshop explored the potential for HHSRS to be used to improve energy efficiency standards in the private rented sector, linking the case studies within the toolkit with local housing priorities.

In addition, support was offered in relation to activities with private sector landlords, such as delivering a presentation at a landlords' forum or reviewing materials that are disseminated within the private rented sector. This activity focussed on landlords' duties in respect to HHSRS (with a focus on Excess Cold), how to avoid Excess Cold hazards and what funding and support is available both now and in the future.

Ad-hoc support was also provided to the authorities regarding the implementation of actions following on from the workshop sessions.

An overview of activities within the piloting areas can be found below.

Following the piloting activities, a number of changes were made to the toolkit. This included:

- ❑ Clarification on the proposals contained within the Energy Bill (2010);
- ❑ Additional information sourced from the case study contacts, including specific figures on the number of enforcement cases; and
- ❑ Additional information on the government's Green Deal and Energy Company Obligation (ECO).

These changes were presented to the project's steering group on May 24 and final amendments made. The toolkit was then published on NEA's website; <http://www.nea.org.uk/publication-list/>.

Copies of the workshop and presentation presentations and materials will be made available to local authorities wishing to take forward their own HHSRS related activities.

2.5.1 Brighton and Hove City Council

Key learning from the pilot activities:

- ❑ Presentations to frontline staff can present opportunities for referrals.

The Brighton and Hove area has a high proportion of private rented sector properties (15%), which includes a number of hard to treat properties (e.g. solid wall, electrically heated, flats).

It is estimated that 11.3% of Brighton and Hove households are in fuel poverty²².

The Council is considered to be 'forward thinking' in terms of its activities to reduce carbon emissions and fuel poverty (the LAA included both NI 186 and NI 187), as well as its activities with private rented landlords to raise housing standards.

The NEA Regional Coordinator for the South East attended several meetings with Mike Slagter, Private Sector Housing Manager and Miles Davidson, Contracts Manager Housing Sustainability to discuss the different approaches that could be replicated in Brighton and Hove. Initially the local authority indicated that they would like to take forward an approach linked to reducing health inequalities using an area based approach.

While initial contact with the Council was very positive, as discussions progressed the local authority decided not to assemble staff together to discuss options during a workshop. This change in direction was primarily in relation to local government budget cuts, particularly since the Environmental Health Department were unsure of their resources for the next financial year. Instead, NEA worked directly with a number of local authority contacts to facilitate actions on HHSRS, including:

- ❑ Attending and presenting at the Housing Strategy Managers monthly meetings; and
- ❑ Providing presentations to a number of frontline staff on spotting hazards and making referrals into the Environmental Health Department.

NEA delivered a presentation to 25 Revenues and Benefits Team Leaders on 8 March. This session was focussed on fuel poverty awareness, but included several detailed slides on HHSRS and who to contact within the council with referrals. Mike Slagter, Private Sector Housing Manager, also attended and provided detailed answers to questions from attendees with regards to what local authority grants will be available next year and what the criteria is currently for their clients. The attendees were very interested in information about the tariff switching

²² DECC sub-regional fuel poverty statistics:
www.decc.gov.uk/en/content/cms/statistics/fuelpov_stats/regional/regional.aspx.

websites and literature from the Home Heat Helpline. As a result of the training Sue Baker, Income Services Manager, has requested a similar presentation for her team.

NEA also worked closely with the council officer responsible for the Accredited Landlords Scheme and on 4 March delivered a presentation at the Brighton and Hove Accredited Landlords forum. There were 29 landlords in attendance at the Forum, which was aimed at providing training on HHSRS as a whole, as well as Excess Cold and fuel poverty.

During the Forum Shaun Duchosoy, Senior Environmental Health Officer at Brighton and Hove City Council, gave a detailed overview of all HHSRS hazards, the Council's statutory obligations as well as the legal responsibilities of the landlords themselves. The presentation delivered by NEA covered Excess Cold in more detail, providing information on the possible health and social affects on tenants as well as the potential impacts on the condition of the property.

A number of landlords raised concerns that their tenants regularly said they couldn't afford to heat the homes and that condensation and mould growth were regular problems within their properties. A small number of landlords raised concerns over cavity wall insulation, after one landlord brought this up as an issue he had had to deal with. NEA's Regional Coordinator highlighted that cavity wall insulation was not suitable for all properties, particularly those that were in exposed locations, particularly in coastal areas.

2.5.2 Carlisle City Council

Key learnings from the pilot activities:

- Working with neighbouring councils can increase activity across a 'region'.
- While one RPT decision does not set a case law precedent, it does appear to markedly influence what improvements EHOs will ask for in their informal dealings and formal enforcement notice approaches.
- Retaliatory eviction is a problem in the area following enforcement activity.
- Local authorities taking forward more proactive approaches should consult with organisations representing private rented sector landlords.

The Carlisle area features hard to treat properties in both urban and rural locations.

It is estimated that 20.9% of Carlisle households are in fuel poverty²³.

Tom Barlow, Affordable Warmth Project Development Officer at Carlisle City Council highlighted that working in the Carlisle area would provide an "eclectic view of the private rented sector market, and in particular the rural perspective, and would be a great place to get a handle on an alternative approach" to HHSRS.

The Council is considered to be proactive and 'forward thinking' in terms of its activities to reduce carbon emissions and fuel poverty, although NI 186 and NI 187 did not feature in the council's Local Area Agreement. The council has excellent links with the National Landlords Association (NLA) and hosts forums for landlords.

The Council was keen to involve those district councils within Cumbria who don't at present do a lot on HHSRS, particularly in light of the development of a regional Affordable Warmth Strategy. Tom Barlow recently conducted an audit of the six district councils in the area and found that only two councils appeared to be engaged in any form of pro-active HHSRS engagement and enforcement. Therefore this project offers an opportunity to put in place a best practice program that could result in significant step up in terms of service delivery across the region and a best practice model for other rural district councils.

²³ DECC sub-regional fuel poverty statistics:
www.decc.gov.uk/en/content/cms/statistics/fuelpov_stats/regional/regional.aspx.

It was agreed that the workshop would aim to raise the profile and understanding of HHSRS and the role of EHOs. The workshop also examined the opportunities available to Carlisle City Council (and neighbouring authorities) within the resources available. The event also presented an opportunity for EHOs from different councils and other stakeholders to share current knowledge and experience from working in the private rented sector.

The workshop took place on 23 March and was attended by a variety of Carlisle City Council officers, managers and elected members, officers from Eden District Council and Allerdale District Council and organisations such as the National Health Service, the National Landlords Association, Citizens Advice, the Energy Saving Trust and local housing associations.

During the workshop, Tom Barlow delivered a brief overview of local carbon reduction and fuel poverty activities, and offered views on how HHSRS might be used more effectively within these work programmes. NEA worked with Tom to develop a pack for participants, including:

- An overview of all hazards within HHSRS;
- Information used by officer to complete a HHSRS assessment;
- An internal inspection sheet used during an inspection;
- Examples of common deficiencies and hazards found in the Cumbria area;
- Examples of Residential Property Tribunal Appeals;
- Information for tenants; and
- Template letters for tenants and landlords.

Following the presentation by NEA, participants were asked to work together in pairs to discuss and note down their views of each of the best practice examples provided within the toolkit. Thereafter each example was considered by the whole group. Within Cumbria it is clear that the different districts are at varying levels of involvement with landlords and tenants and have different experiences and issues to deal with as a result.

Once EHO from Carlisle City Council provided information about how HHSRS has been approached proactively in the past. The Council target those properties owned by non-accredited landlords who receive direct Local Housing Allowance (LHA) payments. Residents receiving this allowance are usually on a very low income and as the landlord receives rent direct, some see little need to visit their properties and keep in touch with tenants. Detail on LHA recipients was obtained from the Council Tax Department and letters were sent out to both landlord and tenant explaining what would happen next.

There was also discussion surrounding a recent Liverpool RPT appeal case relating to electric heating. One very important issue that arose from the session was that although one RPT decision does not necessarily set a case law precedent, it does appear to markedly influence what improvements EHOs will ask for in their informal dealings and formal enforcement notice approaches. What they may have asked for in the early stages of the system (the ideal) is now very different.

Interestingly charging for enforcement activity varies amongst the different authorities. Some authorities in Cumbria charge, while others do not. Of those that do charge, rates vary from £59 per hour to a single payment of £300 (and above). However, none of this money is ring fenced.

One key issue raised was surrounding retaliatory eviction. The two district councils represented at the workshop estimated that around 25% of landlords take action against their tenants following enforcement activity.

All of the authorities represented had issues with the levels of staffing resources and senior level commitment to housing issues varied between councils.

Following on from the workshop, Cumbria's Fuel Poverty Officer has set up a Regional Affordable Warmth Group to disseminate best practice and develop schemes, and it keen to undertake more HHSRS work within the county. It is acknowledged however that private rented sector issues for

areas such as Cumbria are neither simple, nor are they easy to resolve. There is no easy way to target, low demand areas that can be blitzed with HHSRS activity like in urban areas. A more strategic/intelligent/informed approach is required since properties are 'pepper potted' across the county and inspections take time, diligence and perseverance.

2.5.3 Durham City Council

Key learnings from the pilot activities:

- ❑ Improved co-working between council departments would help the council to target a greater number of properties, while minimising the need for extra resources.

The Durham area features hard to treat properties in both urban and rural areas.

It is estimated that 22.3% of Durham households are in fuel poverty²⁴.

The Council has included NI 187 within its Local Area Agreement, and council officers regularly attend and present at NEA's North East Fuel Poverty Forums.

The Commission for Rural Communities (CRC) recently worked with Cliff Duff, Energy Manager, to write a best practice energy database guidance document²⁵ for local authorities, following on from the successful development of the council's own stock database. This database records individual property energy efficiency ratings and details of private rented sector landlords. Cliff Duff, working in partnership with the Council's Environmental Health team, are interested in linking the database and HHSRS enforcement activities. This activity has already started in relation to selective licensing areas, but not in relation to energy efficiency.

The workshop was delivered by NEA to Durham in April to twenty council staff including Environmental Health and Consumer Protection officers, Empty Homes officers, Housing Improvement team members and staff from the Landlords Initiative. The presentation focused on HHSRS and covered a general introduction as well as detailing assessing for excess cold and providing a broad overview of the toolkit. Included within this were descriptions of the various case studies and how the toolkit could be used successfully by councils in the future. The majority of the council officers who attended the workshop already had some good general knowledge of HHSRS as well as SAP ratings. These officers were attending in order to refresh their knowledge or because they wanted more detailed information about fuel poverty and cold hazards in relation to their work and how enforcement could protect private rented sector tenants. They also wanted to learn how they could work better with other departments in order to help protect private rented sector tenants.

Cliff Duff, Energy Team Leader also attended the workshop and provided detailed answers to officers with regards to questions on local grant availability. These questions were raised by council staff who did not work directly with the energy team and who were unclear as to the continued availability of council energy efficiency grants for the local residents they were working with. They also wanted to know what help was available to landlords, and NEA discussed the Landlords Energy Saving Allowance (LESA) and Warm Front grants, as well as recommending that Home Heat Helpline leaflets were provided to landlords attending their forums.

The information within the presentation was well received and prompted discussions about how the Green Deal would affect tenants and landlords as well as the Warm Homes discount and the Energy Company Obligation (ECO). This discussion centered on their implications for residents and council officers and those local organisations who worked with vulnerable people. The

²⁴ DECC sub-regional fuel poverty statistics:

www.decc.gov.uk/en/content/cms/statistics/fuelpov_stats/regional/regional.aspx.

²⁵ This guide demonstrates the strategic benefits of having an energy database and how local authorities can build their own housing energy database. Further information can be found online here:

www.lga.gov.uk/lga/core/page.do?pageId=12197302.

various case studies were also discussed by the workshop delegates. In particular they were interested in how councils should decide on appropriate charges for enforcement, who within the council is authorised to make this decision and what was an appropriate level to charge.

2.5.4 Flintshire County Council

Key learnings from the pilot activities:

- ❑ Improved co-working between council departments and with external organisations would help the council to target a greater number of properties, while minimising the need for extra resources. This included presentations to frontline staff, which can present opportunities for referrals.
- ❑ A strong preference for incentive based work with landlords rather than taking enforcement action and that landlords should be encouraged to take action now, and not wait until the development of the Green Deal in 2012.
- ❑ The need to engage with the wider public on HHSRS.

The Flintshire area is predominantly rural in nature and has a high proportion of hard to treat properties (e.g. solid wall, off the main gas network).

The Council is considered to have a good track record in terms of fuel poverty. The Affordable Warmth Strategy was recently updated, and Flintshire were one of only two councils in Wales to obtain Community Energy Saving Programme (CESP) funding. The Council recently commissioned a private sector survey that included average SAP ratings and IMD scores (to enable targeting of the most deprived area) and are making links between the housing and health agendas. The Council were particularly interested in using HHSRS principles to improve their own housing stock, as well as working proactively with Registered Social Landlords (RSLs) and private rented landlords to prevent the need for formal enforcement action.

A series of telephone discussions and meetings took place between NEA, Leanna Jones, Home Energy Conservation Officer and Gavin Griffith, Housing Renewal Manager to focus the workshop on particular topics including, gaps in working practices, raising awareness of HHSRS with residents and how case studies from the toolkit could be applied in Flintshire.

NEA worked closely with council officers to determine the invitees for the workshop. This included housing renewal, energy, environmental health, council housing, housing options and community regeneration officers from within the Council. In addition a number of external organisations were invited including health representatives and RSLs. A small number of elected members were also invited including cabinet members and chairs of scrutiny panels.

The workshop, which took place on 9 March, was delivered in three distinct parts:

- ❑ A welcome and introduction by Flintshire officers, including outline of findings from the recent housing stock survey;
- ❑ A general introduction to fuel poverty, including the health and social impacts, and the grants and services available to install measures, maximise income and ensure residents are on the best tariff; and
- ❑ A detailed presentation on how HHSRS can be used to tackle fuel poverty, including details of best practice case studies from within the toolkit.

The workshop was attended by 28 individuals from the following organisations:

- ❑ Flintshire County Council:
 - Capital Works;
 - Energise Higher Shotton Scheme;
 - Energy Unit;
 - Environmental Health;
 - Housing Maintenance;
 - Housing Renewal;

- Neighbourhood Housing Manager;
- Policy Performance & Partnerships;
- ❑ Clwyd Alyn;
- ❑ Flintshire Care and Repair;
- ❑ Flintshire Citizens Advice Bureaux;
- ❑ North Wales Energy Advice Centre;
- ❑ Pennaf; and
- ❑ Warm Wales

A number of delegates requested copies of the presentations to share with colleagues and strategic partners who could not attend.

There was strong preference for incentive based work with landlords rather than taking the enforcement route. There was some enthusiasm for an accreditation scheme, which would provide access to low interest loans; the ability to take advantage of low cost measures through the council's procurement powers; an approved list of contractors; and grants for accredited landlords. This scheme should require minimum standards for housing of accredited landlords, in keeping with the Welsh Housing Quality Standard (WHQS).

Participants also highlighted the need for awareness raising among landlords through the existing landlord forum and letting agents, although it was also noted that those landlords who are not connected to these networks should also be targeted. It was felt that improved awareness among tenants of their rights and grants available would drive landlord improvements.

Discussions also centred on engaging with the wider public on HHSRS. Most suggestions focused either on a communications campaign to raise awareness or improved co-ordination of different agencies so that they made sure their clients knew what help they were entitled to and how they could access it. It was felt to be very important that people knew any campaign to improve energy efficiency was driven by the council in order to combat scepticism about salespeople making offers that seemed too good to be true. Suggestions included making sure the council logo was prominent on any information; using the press to raise awareness and promote success stories of people who'd had their home's energy efficiency rating improved; having a promotion van (as with fostering and voting campaigns) that parked in estates to give free advice; distributing information to community groups via the Flintshire Local Voluntary Council (FLVC) and to tenants federations and residents associations including use of their newsletters.

Workshop delegates discussed the usefulness of training for staff and volunteers working for frontline organisations to ensure that referrals were made into the council's environmental health team. A number of council departments and external organisations were suggested to receive this type of training, including Shelter Cymru, health services, housing benefits, Care and Repair, older people services, police and fire services.

A further innovative idea focussed on encouraging community champions from people who had already benefited from having their housing improved to take responsibility for telling their neighbours and raising awareness locally as a trusted source of information.

Workshop participants were particularly interested in the Liverpool and Westminster projects where links were made with health services and felt this kind of approach would have a real benefit in Flintshire.

The majority of delegate's comments on the case studies included within the toolkit focussed on joint working between agencies and council departments. It was felt that anyone visiting a home for any reason should have at least a basic knowledge of HHSRS and category 1 hazards so they could request an HHSRS inspection on that property. It was suggested that a database for pooled information could then be used for planning and to target grants, among other functions.

Connected to this, delegates felt there would be real benefit from increased awareness of the Affordable Warmth Action Plan (AWAP) across different local authority departments, and for this awareness to be filtered down from managers to frontline workers. As well as improving referral rates for HHSRS inspections, this should facilitate all council action plans and strategies being linked into the AWAP, where appropriate.

Workshop participants also discussed the gaps in existing working practices. It was felt that Flintshire was not proactive enough in identifying properties with HHSRS hazards, but it was also noted that in order to be more proactive there was a need for greater resources and increased joint working with other agencies. Delegates agreed that improved co-working between council departments and with external organisations would help the council to target a greater number of properties, while minimising the need for extra resources. It was felt that currently there are missed opportunities due to frontline staff not being aware to identify category 1 and 2 hazards despite visiting homes that may have them.

A further missed opportunity was seen in there being no record of people who were in need of improved energy efficiency but unable to access grants available at the time. It was felt that if these cases were recorded on a database, then as new funding streams and grants with different eligibility criteria became available, or if the person's situation changed, they could then be helped.

NEA also delivered a presentation to the Flintshire Landlords Forum. The presentation delivered by NEA covered HHSRS, with a focus on Excess Cold hazards, and provided information on the possible health and social affects on tenants as well as the potential impacts on the condition of the property. Feedback suggested that the information provided was new to a number of landlords, however overall it was very well received.

Following NEA's presentation, Julie Woolfenden from the National Landlords Association (NLA) delivered a presentation on the Green Deal. Unfortunately the key message from the presentation was that landlords should wait until 2012 for the Green Deal so that their tenants would have to pay for measures. NEA provided information to landlords and the NLA representative on the disadvantages of waiting until 2012 to take action.

2.5.5 Hambleton District Council

Key learnings from the pilot activities:

- Working with neighbouring councils can increase activity across a 'region'.
- The council(s) will need to regularly engage with private rented sector landlords.
- Charging for enforcement should not be seen as a money generating exercise for the council, but could be used to sustain a Landlords Forum, training for landlords on HHSRS, to raise awareness of HHSRS amongst community practitioners and provide free Energy Performance Certificates (EPCs).

The Hambleton area has a high proportion of private rented sector properties (13%). The area is considered rural and includes a number of hard to treat properties (e.g. solid wall, off the main gas network).

While NI 187 was not included in Local Area Agreement, reducing fuel poverty is a corporate priority since the level of fuel poverty in the area is estimated to be 21.6%²⁶.

Hambleton District Council's Assistant Director of Housing and Housing Manager were keen to work with NEA to enable the council to make better use of the HHSRS to tackle fuel poverty and tackle non-decent housing in the district. One of their Environment Health Offices, Matthew

²⁶ DECC sub-regional fuel poverty statistics:
www.decc.gov.uk/en/content/cms/statistics/fuelpov_stats/regional/regional.aspx.

Saxon, was appointed to take forward this project in partnership with NEA's Project Coordinator in the Yorkshire and Humber region.

It is important to highlight that the council is going through a change in structure and moving towards a new shared housing service with Richmondshire District Council²⁷. One of the aims of NEA's project was to enable a more cohesive service to be delivered and that more proactive work can be undertaken to improve housing standards in the private sector.

This project provided an ideal opportunity to get such proactive work underway, and to build on work undertaken recently with housing standards. This includes a Richmondshire and Hambleton landlords fair, held in association with the National Landlords Association, and a Decent Homes survey using the services of the North Yorkshire Building Control Partnership. Following which enforcement action was taken after the identification of a number of privately rented non-decent properties. New guidance for landlords has also been produced on HHSRS that provides information on what council officers look for when they inspect a property. The guidance enables landlords to do their own inspection, and this is something which could be built upon since at present the service is only reactive in nature.

An initial meeting took place with the Environment Health Team to discuss the parameters of the project, explain the HHSRS toolkit, scope potential activities and ensure an understanding on both sides of current processes and experiences in relation to HHSRS.

It was agreed that the workshop would aim to raise the profile and understanding of:

- The Housing Health and Safety Rating System (HHSRS); and
- The role of Environmental Health Officers.

In addition, it was proposed that the workshop would:

- Examine options available to both Hambleton and Richmondshire District Councils to make the best use of HHSRS within the resources available;
- Share current knowledge and valuable experience gained from working in the private rented sector; and
- Explore what and where the opportunities were across the Hambleton and Richmondshire area.

Dates were proposed for a staff workshop and NEA developed a promotional flyer which was circulated to staff with housing responsibilities, councillors, advice agencies and Trading Standards within both Hambleton and Richmondshire District Councils.

A further meeting took place with the Environment Health Team to finalise content of the workshop and presentation. It was agreed that the Team would give a brief overview of what happens locally, their views on how HHSRS might be used more effectively and provide a pack for participants to include:

- An overview of all hazards within HHSRS;
- Information used by officer to complete a HHSRS assessment;
- An internal inspection sheet used during an inspection;
- Examples of common deficiencies and hazards found in Hambleton and Richmondshire;
- An example of a HHSRS assessment undertaken for a dwelling in Richmond with an Excess Cold hazard; and
- An example Schedule of Works.

The workshop took place on 8 March and was attended by the following Hambleton District Council stakeholders:

- Assistant Director of Shared Housing Services;

²⁷ A meeting was organised with the Assistant Director of Shared Housing Services to gain commitment for the project. It was agreed that whatever actions were taken forward would first be implemented in the Hambleton area and then rolled out to Richmondshire.

- ❑ Shared Housing Services Manager;
- ❑ Environmental Health Team Manager;
- ❑ Environmental Health Officers (2);
- ❑ Environmental Health Leads (2);
- ❑ Rural Housing Enablement Officer;
- ❑ Energy Efficiency Officer; and
- ❑ District Councillor.

In addition, a number of stakeholders attended from other organisations:

- ❑ County and District Councillor – Housing Portfolio Holder;
- ❑ Chief Executive of Housing Action Resource Project;
- ❑ Deputy Chief Executive – Hambleton CAB;
- ❑ Environmental Health Officer Scarborough Borough Council; and
- ❑ Yorkshire Energy Partnership – Partnerships Officer.

After the initial presentation by NEA, participants were asked to work together in pairs to discuss and note down their views of each of the best practice examples provided within the toolkit. Thereafter each example was considered by the whole group. There was some apathy exhibited as some activities had already been tried, such as a Landlord Fair, but these had been one off events and not regular engagement. It was also felt by some, particularly councillors, that charging for enforcement should not be seen as a money generating exercise for the council, but could be used to sustain a Landlords Forum, training for landlords on HHSRS, to raise awareness of HHSRS amongst community practitioners and provide free Energy Performance Certificates (EPCs).

At the end of the workshop agreement was reached about the most appropriate examples for Hambleton and Richmondshire to consider taking forward. These included:

- ❑ Working proactively with landlords (e.g. forums, accreditation scheme, training etc);
- ❑ Charging for enforcement and recycling this money into additional HHSRS activity;
- ❑ Awareness raising to tenants, housing staff, community practitioners, advice agencies about the role of EHOs and HHSRS;
- ❑ Working with Trading Standards and targeting properties using EPCs; and
- ❑ Preparing funding bids in advance.

In an effort to move the project forward, the NEA Lead officer developed a 'skeleton' Action Plan, which contained key activities which can be actioned quickly, and made recommendations on how Hambleton and Richmondshire District Councils can take a more strategic view of HHSRS in the future. Workshop participants agreed to take on the role of a 'reference group' to comment on the Action Plan and future activity.

In relation to the second element of the pilot activity, it was agreed that the Landlords Guide produced by Hambleton District Council would be amended by NEA to include details of the Landlords Energy Saving Allowance (LESA), Warm Front and free phone details of the local Energy Saving Trust advice centre (ESTac). Funding was obtained by Hambleton's Home Energy Efficiency Officer to enable the updated guide to be printed and mailed out to all of the landlords that the Environmental Health Team hold details for.

2.5.6 London Borough of Lambeth

Key learnings from the pilot activities:

- ❑ There is significant potential of improved 'joined up thinking' within the council to ensure that actions by different departments are not working against each other.
- ❑ Lack of sufficient rental properties in the borough, especially for previously homeless tenants. This makes it harder to enforce higher standards since, in the words of one of the environmental health officer 'any home is better than no home'.

- ❑ There is demand for appropriate qualifications on energy efficiency for EHOs, and at present there doesn't seem to be anything that fits Lambeth's requirements on this. (They don't need to be full SAP assessors, but need a basic, recognised qualification.)

The Lambeth area has a high proportion of private rented sector properties (25.4%), which includes a number of hard to treat properties (e.g. solid wall, electrically heated, flats).

It is estimated that 11.3% of Lambeth households are in fuel poverty²⁸.

While the Council's Local Area Agreement does not include NI 187, Lambeth are actively working to reduce fuel poverty in the area. NEA recently worked with the Council to develop an Affordable Warmth Strategy and Action Plan and established an Affordable Warmth Steering Group with a wide variety of local stakeholders to facilitate action.

Impetus attended a meeting with the council's Senior Environmental Health Officer (with responsibility for private sector housing) and fuel poverty officer. We discussed the potential for providing support and agreed that we would run a workshop with a wide range of environmental officers. They were particularly interested in:

- ❑ Case studies of other councils using this power proactively e.g. through selective licensing, EPC enforcement, area based approaches;
- ❑ The use of standard checklists to help assess for Excess Cold;
- ❑ RPT cases relating to Excess Cold and their outcomes.

The workshop was attended by around 20 officers. Following a presentation about the toolkit, focusing on the areas above, a discussion was facilitated about how Lambeth could take this area of work forward. In particular:

- ❑ There was a discussion about how the council could develop its inspection sheet to include the Excess Cold Hazard under the HHSRS;
- ❑ It was agreed that it would be useful to take forward the discussions with the Lettings First Team to discuss how the council can appropriately be ensuring that it is not 'recommending' properties that may have Category 1 Excess Cold hazards. (If landlords are part of the Landlords Accreditation scheme, they have to sign up to a code of conduct which requires them to comply with housing legislation requirements (including HHSRS) and to carry out any urgent works promptly, so, in theory, accredited landlords shouldn't really have properties with F or G ratings.)
- ❑ It was recommended that the environmental health officer have discussions with the council's trading standards office, and any other appropriate routes, about identifying any other privately rented properties with F or G ratings. As a first step, it was recommended that a letter be sent to the owner informing them that they are likely to have a Category 1 hazard, and suggesting they follow the EPC recommendations to remove this hazard, would be useful. (As part of this, Lambeth could consider getting EH practitioners authorised to deal with EPC enforcement.)
- ❑ There were discussions around how Lambeth can integrate HHSRS duties and powers into its fuel poverty programmes.
- ❑ It was recommended that for Lambeth publicise HHSRS requirements to landlords on its website, with information about how to avoid Excess Cold (and other) hazards and information on where landlords can get help and funding. There is some information on Lambeth's website, but you might want to consider adding to this by tailoring the template leaflet, included in our toolkit, and providing this to landlords whenever appropriate.

The council were keen to find out about potential qualifications for EHOs on energy efficiency, and would like something on this included in the toolkit.

²⁸ DECC sub-regional fuel poverty statistics:
www.decc.gov.uk/en/content/cms/statistics/fuelpov_stats/regional/regional.aspx.

Finally, Impetus gave a presentation at the council's private landlords' forum, attended by around 20 private landlords. They were very interested to learn about potential regularly changes; most present had at least some F or G rated properties, and were receptive to suggestions of how to improve their properties and thus face any potential penalties or enforcement notices in the future.

2.6 Stage 5 – Dissemination

Impetus has submitted a proposal to Eaga-CT for a dissemination programme to inform the target audience about the toolkit and ensure that environmental health practitioners across the country are informed of how to make best use of it.

2.7 Project outputs and outcomes

2.7.1 Project outputs

This project's outputs are:

- ❑ The publication of an online toolkit to help implement local authorities to implement HHSRS; and
- ❑ A project report to DECC and CLG including policy recommendations for national and local government in line with any changes to HHSRS following CLG review.

2.7.2 Project outcomes

To date the project's outcomes have been largely been linked to the six local authorities that undertook the piloting activities. Following the publication and dissemination of the toolkit, the outcomes of this project will continue to increase.

Increased awareness and implementation of HHSRS within local authorities

This project has helped local authority staff consider working more proactively in relation to HHSRS activities in their areas.

The development of the toolkit has helped local authority staff to determine the legal framework in which Environmental Health Officers work in, both in terms of the Housing Act 2004 and other fuel poverty and carbon reduction policies.

The review of Residential Property Tribunal (RPT) appeals relating to Excess Cold has helped officers to determine what measures are appropriate to require to remove Excess Cold hazards and to help build the strongest appeal case possible.

In particular, the production of good practice case studies has begun to help local authorities to consider replicating good practice in their own areas. Some are focussing on charging for enforcement or considering health based schemes, while on the whole it has been acknowledged that there is a need to work strategically across their areas with key partners and work directly with landlords before formal enforcement action is taken.

The information on current and future funding has also begun to help local authority officers plan for the changes due in 2012 with the closure of Warm Front and CERT schemes, and the implementation of the Green Deal and the ECO. Work is already underway to disseminate information to landlords on the financial incentives that they can use now and in the future.

Increased awareness of HHSRS and financial assistance by private landlords

The piloting activity has led to landlords being aware of the duties with regards HHSRS (with a focus on Excess Cold) and the financial incentives that they can use to improve energy efficiency through current and future programmes. This has been either through the delivery of a

presentation at landlords forums or the development of guidance. The toolkit includes presentation and sample text to help local authority officers to continue this activity.

Improvement to the energy efficiency rating of private rented sector properties and reduced fuel poverty in this difficult to reach sector

While this has yet to happen directly, as local authorities consider and implement more proactive HHSRS schemes, the energy efficiency of targeted properties should improve.

NEA links established with CLG

Representatives from CLG have been invited to participate in the EEPH stakeholder workshop and steering group meetings, and have been included in calls to review the draft toolkit

2.7.3 Unexpected outcomes

The Local Government Group (formerly LACORS) and CIEH have been committed to supporting the work that is being undertaken by NEA and Impetus, and will help to disseminate the toolkit.

In addition, funding was secured by CIEH to develop Excess Cold guidance, which will accompany this toolkit. NEA and Impetus worked closely with the team producing this guidance to provide information on fuel poverty, Excess Winter Deaths and best practice energy efficiency standards. This guidance, which also includes reference to our review of Residential Property Tribunal (RPT) appeals, will help officers to determine what measures are appropriate to require to remove Excess Cold hazards and to help build the strongest appeal case possible. It is also planned that this information will be shared with RPT panels to ensure that best practice is followed during appeals.

3.0 RECOMMENDATIONS

Based on the findings of this project, NEA and Impetus make the following recommendations to:

- ❑ National government (DECC and CLG); and
- ❑ Local government.

3.1 Recommendations to national government

The government should ensure local authority commitment to the duties set out in the Housing Act 2004. This includes:

Ensuring that the statutory duties relating to HHSRS are retained²⁹.

Providing guidance to local authorities that assessing housing conditions and taking action on poor housing is an important area that they should be prioritising, particularly in light of the savings to public sector bodies such as the National Health Service.

Making an **assessment of how local authorities should resource implementation** of Part 1 of the 2004 Housing Act. Local authorities cannot use a lack of resources as an excuse for not fulfilling an important statutory responsibility. Anecdotal evidence suggests that many local authorities are becoming more enforcement driven and, with depleted resources, adopting systems for charging for HHSRS activities. Raising awareness amongst all local authorities of how to recoup enforcement costs from property owners will be essential.

Taking action to ensure that local authorities are fulfilling their statutory duty in terms of HHSRS. This action could include requiring authorities to **publish the number of complaints and other representations they receive about housing conditions**, as well as how and when they took action on these referrals.

In addition, we recommend that the government **reconsider its decision not to review the HHSRS guidance in relation to Excess Cold**. There is still a great deal of confusion surrounding the guidance and its implementation at a local level. HHSRS practitioners have also expressed surprise that other hazards, such as Fire and Safety and Overcrowding which are less common hazards, have been reviewed while Excess Cold has not.

As outlined in the Energy Bill, government should **work closely with landlords' associations** to encourage voluntary improvements in standards (before mandatory standards are introduced in 2018) and uptake of the Green Deal.

Government should also ensure that **Energy Performance Certificate (EPC) data is shared** to a wider range of officers within local government, which in turn will lead to the targeting of the worst properties.

3.2 Recommendations to local government

In the first instance, local government should ensure that HHSRS remains on local agendas, and wherever possible that proactive approaches to HHSRS are implemented.

²⁹ The government are reviewing statutory duties placed on local government: www.communities.gov.uk/localgovernment/decentralisation/tacklingburdens/reviewstatutoryduties/.

3.2.1 Ensuring HHSRS remains on local government agendas

It is important to stress that, even in times of public sector cuts, it is imperative that local authorities fulfil their duties in relation to the Housing Act and undertake HHSRS activities following on from referrals and requests.

Elected members and senior local authority personnel should ensure that:

- ❑ Officers have sufficient resources to use HHSRS effectively to improve standards, particularly in the private rented sector. This may involve investigating the power to charge for enforcement activity and / or leveraging in additional funding from other sources where possible.
- ❑ Officers understand that tackling fuel poverty requires more than just the installation of energy efficiency measures. For example, issues such as householders' income levels and their awareness and understanding of energy efficiency will also need to be addressed.
- ❑ Officers react to complaint or requests, including those from frontline staff, the Government's Warm Front and Carbon Emission Reduction Target (CERT) programmes (and future funding schemes) and any other legitimate complaints or requests.
- ❑ There are clearly defined local policies to tackle both Category 1 and Category 2 hazards³⁰.
- ❑ That HHSRS is referenced within local strategies and action plans linked to improving housing standards, reducing carbon emissions and tackling fuel poverty.

In addition, evidence from the original EEPH research suggested that very few local authorities are carrying out their duties, as specified in the Housing Act, to carry out systematic reviews of the housing stock in their area in order to identify Category 1 and 2 Hazards. While the Operating Guidance does not specify how this should be carried out, some authorities consider that the production of a Stock Condition Survey meets this requirement³¹.

3.2.2 Moving from passive to proactive approaches

The current HHSRS operating guidance is considered to be passive in nature since it is focused around local authorities reacting to complaint or requests. However some local authorities have determined that HHSRS activities should be prioritised and that Environmental Health Departments should adopt a more proactive role in the local area, as seen with the case study examples within the toolkit. This decision could stem from a number of factors including awareness of poor housing standards in specific areas or actions intended to reduce health inequalities for example.

In such instances, additional resources may need to be allocated to Environmental Health Departments to enable staff to make proactive interventions. Therefore the approach taken by individual local authorities will be dependent on the resources at their disposal. As previously discussed, local authorities should investigate the power to charge for enforcement to enable them to expand on their current activities.

We recommend that local authorities consider replicating the case study approaches outlined in the toolkit to make progress in improving standards and fulfil the requirements to systematically review housing stock, including:

- ❑ Partnerships with health programmes;

³⁰ Local authorities have a duty to arrange for an inspection of any premises to determine whether there is a category 1 or 2 hazard following a well founded complaint or request. If a Category 1 hazard is found, the local authority must take appropriate action to remove the hazard. It is down to the individual local authority whether to act on Category 2 hazards. Local authorities such as the London Borough of Haringey have policies that encourage EHOs to take action on Category 2 hazards.

³¹ Such surveys are based on relatively small samples and do not identify individual properties containing hazards. However the advantage of this type of approach is that it is less resource intensive than undertaking street by street assessments of properties.

- ❑ Selective licensing;
- ❑ Working with area based approaches;
- ❑ Working with landlords; and
- ❑ Using EPC ratings F and G to identify potential hazards.

While not always specifically related to energy efficiency standards, such approaches can help to raise the overall standard of housing in targeted areas.

It is also important to note that in some instances cross departmental / organisational working can help to target a greater number of properties whilst minimising the need for extra resources. A number of authorities involved in the piloting activities highlighted how local authority frontline staff (along with staff from other public sector services and charitable bodies), who visit a large number of properties or come into contact with residents as part of their role, could undertake fuel poverty / hazard awareness training. Such staff would not need to know how HHSRS operates in detail, but simply to look out for potential hazards and refer cases into the Environmental Health Department where appropriate.

Local authorities must also have access to EPC data at the property level in order to target the worst properties. Responses to Communities and Local Government's (CLG) consultation into whether legal powers exist to enable sharing of EPC data (and where this might lead to HHSRS enforcement) seem to suggest that this data will become more widely available³². Access to EPC data would help local authorities to identify properties with low energy efficiency ratings and Category 1 Excess Cold Hazards.

3.2.3 Awareness raising

It is clear that local authorities should actively and continuously work with local private rented sector **landlords**. While many local authorities provide information on EPCs and HHSRS to landlords, there is still a lack of awareness, particularly amongst those landlords who do not receive such communications. Landlords should be made aware of their responsibilities in relation to HHSRS, forthcoming mandatory minimum energy efficiency standards, and grants and financial incentives to make improvements, such as the Landlords Energy Saving Allowance (LESA) and the forthcoming Green Deal and Energy Company Obligation (ECO).

While progress has been made in providing information to **tenants** on the energy performance and potential running costs of properties, they also need to be made more aware of their rights in relation to housing standards and HHSRS. This is also true of advice agencies, such as Citizens Advice Bureaux, many of which are unaware of tenants' rights in relation to housing conditions and the referral process to local authority Environmental Health Departments. However it is important to note that, where there is awareness, there are concerns that HHSRS enforcement action taken against landlords could lead to retaliatory eviction and/or raised rents.

We are pleased to see that CIEH are planning on working directly with the **Residential Property Tribunal Service** (RPT) to ensure that decisions relating to Excess Cold are considered best practice. While each RPT case is considered separately, and that the findings of one tribunal do not set a precedent, cases markedly influence what improvements EHOs will ask for in their enforcement activities. It is hoped that by working directly with the RPT panels, appeal decisions are based on best practice.

³² CLG, Making better use of Energy Performance Certificates and data. Consultation: www.communities.gov.uk/documents/planningandbuilding/pdf/1491167.pdf (We are currently considering whether we have the legal powers to share EPC data where it might lead to enforcement. Access to EPC data may help LAs identify properties with low energy efficiency, and in turn, dwellings that may also fall under the Housing Health and Safety Rating System (HHSRS) definition of a 'cold' home (those with the lowest SAP ratings (equivalent to SAP 35 under the 2001 SAP methodology); a SAP rating under 39 equates to F and G rated properties.) LAs have existing powers to provide financial assistance and advice to, and even to compel, landlords to make improvements to homes, which can include energy efficiency measures to address excessive cold) and responses: www.communities.gov.uk/documents/planningandbuilding/pdf/37907201.pdf.

APPENDIX A - EHO CONCERNS WITH SAP AND HHSRS

A number of the campaigns surrounding the introduction of mandatory minimum standards considered the role of HHSRS in the enforcement of the policy within the private rented sector.

In particular, the Local Government Group's 'Offer on Climate Change'³³ highlighted the potential role of HHSRS and aimed to 'develop a suitable enforcement mechanism for upgrading energy efficiency in rented properties with an EPC rating of F or G' (SAP scores of 39 or less).

It had been suggested that Part 1 of the Housing Act 2004 could be amended so that properties with an F or G rating are automatically classed as a category 1 hazard under HHSRS, without needing a full assessment. It is not yet clear whether this proposal will be taken forward in light of the announcement to introduce mandatory minimum standards within the Energy Bill³⁴.

While supportive of raising energy efficiency standards, practitioners have concerns surrounding:

- ❑ The relationship of HHSRS and SAP;
- ❑ The fact that amending the legislation could potentially open the door to enforcement action in the owner occupied sector since HHSRS is considered tenure neutral (particularly in light of proposals to improve access to Energy performance Certificates); and
- ❑ By not requiring a full HHSRS assessment, opportunities to improve housing standards overall will be missed.

While NEA supports the introduction of mandatory minimum standards within the Energy Bill, it is essential to address the differences between the assessment for Excess Cold within HHSRS and the application of SAP data from EPCs to target inefficient homes. It may be that homes can be targeted using data from EPCs, but it will be essential that an HHSRS inspection is carried out independently.

The risk is that the assessment and inspection requirements of HHSRS constitute an expensive, complicated and time-consuming process for local authorities, and that this could act as a significant barrier to action. In the current framework, with key differences between HHSRS and SAP, making F and G rated properties automatically constitute a Category 1 Hazard may be unrealistic.

Issues raised by Environmental Health Officers include:

- ❑ SAP is a measure of the energy performance of a dwelling and HHSRS Excess Cold Hazards are an assessment of the likelihood of someone over the age of 64 years suffering harm over the course of a 12-month period which may require them to need medical attention. SAP is simply a measure of energy performance and, whilst this is a material consideration within the assessment of the hazard score under HHSRS, a SAP rating is not the exact equivalent.
- ❑ Unlike HHSRS, SAP has no evidence-base of health outcomes against dwelling conditions and characteristics, and, as such, it cannot be used to 'measure' risk to health.
- ❑ SAP calculates heat loss through a wall using an assumed window area. Unless insulation measures can be specifically identified, SAP assumes default values based upon property age. The actual circumstances in particular dwellings for both of these factors may be very different.
- ❑ SAP standardises for location so no account is taken of regional climatic variation. Whilst a SAP rating will have reflect the type of dwelling, such as its being semi-

³³ The Local Government Group has developed an 'Offer', on behalf of the local government sector, on how local and central government can work together to effectively, efficiently, and quickly meet the national climate change targets. The 'Offer' sets out a high-level statement of how this partnership approach could be achieved.

³⁴ www.decc.gov.uk/en/content/cms/news/enbill_second/enbill_second.aspx.

detached or end-terraced, it does not take into account the orientation of the dwelling or its locality within the country, both of which may be important to the HHSRS assessment for Excess Cold.

- ❑ The SAP rating reflects the system in place to provide hot water, whether hot water storage containers are insulated, and whether low energy lighting is provided, amongst other considerations. None of these form part of the assessment under HHSRS and they have little relevance to the occurrence of harmfully low indoor temperatures. This illustrates how SAP cannot be considered as an exact replacement or substitute for a full HHSRS assessment.
- ❑ The SAP 35 proxy refers to a SAP rating assessed using the 2001 methodology rather than the current RDSAP methodology (2005).

The Chartered Institute of Environmental Health (CIEH) is currently producing Excess Cold guidance for EHOs. This guidance will consider how to assess Excess Cold Hazards and what remedial measures are appropriate in requiring removal of any existing hazard. The guidance will also cover issues surrounding the application of SAP in HHSRS assessments. Excerpts from the draft guidance on the use of SAP can be found below.

Paragraph 2.24 of the HHSRS Operating Guidance lists those matters which should be considered when assessing Excess Cold and makes no specific reference to SAP.

The only reference to SAP is within paragraph 2.26 where the guidance states that '*The assessment should take account of the adequacy of the heating, insulation and ventilation. This may involve assessing the dwelling energy rating (using SAP) and any other factors which might affect the indoor temperature, such as dampness, or disrepair to the structure or to the space or water heating system.*'

The assessment of Excess Cold should always be carried out having regard to the Operating Guidance. The use of energy modelling such as SAP may be helpful to weigh up the relative merits of different solutions to mitigate the Excess Cold hazard, however a SAP assessment is not required to carry out an HHSRS assessment, which must be carried out in accordance with the legally prescribed method. Whilst there is a relationship between energy modelling and cold homes, HHSRS is not a measure of thermal comfort and an understanding of the limitations involved in using RDSAP will be essential for EHOs.

With some other hazards under HHSRS, practitioners will decide to obtain more specialist surveys or expert opinion to assess risk. SAP should be seen in the same context. It can provide additional information and evidence to make an assessment of the risk presented by a dwelling rather than being the sole basis upon which the assessment should be made. In some cases, obtaining a SAP rating might be essential, although this is not likely to be a general requirement. Practitioners may also wish to consider whether to carry out a SAP rating to support and augment the robustness of its judgment as part of the HHSRS assessment or strengthen its evidence when an Improvement Notice has been referred to a Residential Property Tribunal (RPT) appeal. However, the weight given to a SAP assessment, and the importance attached to it, will need to be made within the context of HHSRS, and a SAP rating will not replace the HHSRS assessment. SAP has different considerations to HHSRS and has limited direct relevance to the likelihood of harm.

Energy modelling could also be a useful tool in assisting with the development of local priorities for cold homes; identifying properties with the lowest energy performance for further action under HHSRS; and area-based strategies to tackle health inequalities, Decent Homes and fuel poverty, all of which have a relationship to Excess Cold. It could also have a valuable role in monitoring councils' activities on energy performance in the private sector, especially in relation to demonstrating improvements in the private rented sector, Decent Homes and carbon emissions reduction.