

Regulating overheating – the role of the HHSRS

Helen Carr

Kent Law School

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Overview

- The Housing Health and Safety Rating System
- Calculating risks to health
- Overheating
- The role of the tribunal

The Housing Health and Safety Rating System

- Part 1 Housing Act 2004
- Replaced statutory fitness standards
- Statutory rationale
 - Any residential premises should provide a safe and healthy environment for any potential occupier or visitor
 - Dwellings should be designed, constructed and maintained with non-hazardous materials and should be free from unnecessary and avoidable hazards
- HHSRS is an evidence based, risk assessment procedure

Identifying hazards

- Hazards are risks of harm to the health or safety of an actual or potential occupier that arises from a deficiency.
- Identifying and assessing hazards involves an understanding of the basic physiological and psychological requirements for human life, and of the functions of a dwelling as a whole and of each individual dwelling element.
- An expert judgment translated into numbers
- A dwelling should
 - be capable of satisfying the basic and fundamental needs for the everyday life of a household.
 - provide shelter, space and facilities for the occupants.
 - be suitable for the spectrum of households and individuals who could normally be expected to occupy a dwelling of that size and type

Hazards

- 29 hazards – grouped into four

HAZARD GROUPS AND SUB-GROUPS

A Physiological Requirements

including – Hygrothermal conditions and Pollutants
(non-microbial)

B Psychological Requirements

including – Space, Security, Light, and Noise

C Protection against Infection

including – Hygiene, Sanitation, and Water supply

D Protection against Accidents

including – Falls, Electric shock, Burns and Scalds,
and Building related Collisions

Assessing hazards

- 2 stage technical process
- Stage 1 - the likelihood of an occurrence in the next 12 months
- Stage 2 - the range of probable harm outcomes
- Assessment based on the potential occupant who is most vulnerable to that hazard
- Two stages combined, given a numerical score and then banded
- Category 1 hazards A – C
- Category 2 hazards D or lower

Enforcement action

- Informal action preferred
 - Views of owners, landlords and tenants taken into account
- Statutory notices
 - Improvement notice
 - Prohibition order
 - Emergency remedial action
 - Emergency prohibition order
 - Demolition order
 - Declare a clearance area

Excess heat

- Identified as one of 29 hazards
- The threat to health from excessively high indoor air temperatures.
- Most vulnerable – those over 65
- Very limited evidence base
- Ideal standard of property to minimise the hazard:
 - Sufficient thermal insulation
 - Shielding from solar gain
 - Adequate ventilation and means of cooling
 - Controllable heating

Health effects

- As temperature rises, thermal stress increases triggering defence mechanisms such as sweating and leading to dehydration
- Cardiovascular strain and trauma increase
- When temperatures exceed 25° C mortality increases and there is an increase in strokes
- Increase in genitourinary diseases
- Increase in respiratory conditions due to rising ozone levels
- Increase in deaths relating to mental disorder

Heat Wave: A Social Autopsy of Disaster in Chicago - Klinenberg

- Map of heat-related deaths following 1995 Chicago heat wave mirrors the map of poverty.
- Most of the heat wave victims were the elderly poor living in the heart of the city, who either had no working air conditioning or could not afford to turn it on.
- Many older citizens were also hesitant to open windows and doors at night for fear of crime.
- Elderly women, who may have been more socially engaged, were less vulnerable than elderly men.
- By contrast, during the heat waves of the 1930s, many residents slept outside in the parks or along the shore of Lake Michigan.

Increasing risks

- Inside Housing 27th November 2014
 - First Wessex homes
 - Temperature sensor 50.5°
 - Baby suffering health problems led to installation of air conditioning
- Paddington Basin
 - Affordable housing in multi-million pound development
 - No air conditioning, restraints on windows, single aspect, plate glass windows and open plan kitchen living room

The role of the Residential Property Tribunal

- Hears appeals against enforcement decisions of local authorities
- Operates by way of re-hearing
- Pays attention to
 - procedural requirements
 - justifications of hazard scores
 - Whether actions proposed are proportionate and appropriate responses to the hazard

Tribunal cases

- Beds in Shed case
 - Excess heat identified as one of several category 1 hazards in property
 - Demolition order confirmed
 - No further information about the hazards

Edgware Road case

- Ref LON/00BK/HIN/2011/0029
- 1st floor studio flat above all night café
- Temperatures monitored inside flat 24 hours a day for a week
- Internal temperature around 28 and never below 26 and higher than external temperature

Landlords appeal

- Westminster required as part of improvement notice the installation of air conditioning system
- Landlord said
 - Open the window
 - Cost of installation of air conditioning too high
 - Tenant did not want it
- Landlord lost
 - Category 1 hazard and
 - Installation of air conditioning proportionate response
 - Tenant reluctance to open window understandable

Not all plain sailing

- Government has indicated it is investigating whether the HHSRS is too complex for landlords
- Upper Tribunal cases not necessarily supportive of HHSRS

Hazard assessment scores

- The conclusion to be drawn from this, in my view, is that RPTs, when confronted by cases in which enforcement action by councils is in issue, should not shy away from making their own assessment of the hazard and should not treat the figures given for national averages as compelling. Any such assessment must take account of those figures, but it must be reached in the light of the evidence given in relation to the facts of the particular case. Reasons must of course be given for it. **The tribunal will bring its knowledge and experience to bear in evaluating the evidence and reaching its conclusion, and it will, importantly, bring common sense to bear in the judgement that it makes.**

Hazard scores

- It seems to me important that RPTs when determining cases under Part 1 of the Act should bear in mind the nature of such assessments as these and their limitations. The complicated set of provisions is designed to produce a numerical score for each hazard that is under consideration so that it can be seen to fall within a particular band and in either category 1 or category 2. **The great danger of a numerical score produced in this way is that it creates the impression of methodological accuracy, whereas the truth may be that it is the product of no more than a series of value judgments based on little understood statistics of questionable validity.**

Further reading

- Operating guidance HHSRS
- Thermal Discomfort and Health: Protecting the Susceptible from Excess Cold and Excess heat in Housing Ormandy and Ezratty forthcoming
- Health and thermal comfort: from WHO guidance to housing strategies Ormandy and Ezratty Energy Policy 2012