Notice of Emergency Remedial Action
Housing Act 2004 Section 41

To:

Of:

Take notice that the *(the Council)* has received a report from a duly authorised officer under section 4(6) of the Housing Act 2004 that at
< >

which is a residential premises within the area for which it is the local housing authority and no management order is in force in respect of that property, a category 1 hazard, being:
< >
exists

The defects contributing to the cause of the hazard are listed in schedule 1 of this notice

The Council has determined that the best course of action in respect of that report, which confirms that there is an imminent risk of serious harm to the health and safety of the occupier(s), is to carry out Emergency Remedial Action (comprising the works* detailed in schedule 2 of this notice) to remove the hazard or reduce it to a level where there is no longer an imminent risk of serious harm to any occupant – Statement of reasons attached -
You should be aware that this may not be the only notice served in relation to the report and that other works may or may not be required under different time scales and/or different notices relating to other hazards identified in the report

The expenses incurred in relation to the carrying out of these works are recoverable by the Council

The works* listed in schedule 2 of this notice <will commence / started on / at> <
> or at such time and date as required under Warrant should entry at that time be refused

You have the right of appeal to the Residential Property Tribunal against the recovery of the expenses mentioned above, within 28 days of the service of this notice. Please see "notes" on the last page of this notice

Dated…….. Signed……..
(The person authorised for this purpose)

* or other such works as may be apparent at the time which will equally reduce the hazard to a level acceptable to a suitably qualified inspector authorised to assess hazards under Housing Health and Safety Rating System

Schedule 1

Schedule 2

Notes

Category of hazard under HHSRS:
As detailed under part 1 of Housing Act 2004. A hazard assessed as having a score of greater than a level set by the appropriate national authority shall be a category 1 hazard. A local housing authority has a duty to take appropriate action when notified of a category 1 hazard which exists at a residential premises, whether or not that premises is occupied at the time of that notification. This action may include the service of a notice to remedy that hazard. *Sec 5 H.Act 2004*
A hazard assessed as having a score of less than a level set by the appropriate national authority shall be a category 2 hazard. A local housing authority has the power to take appropriate action when notified of a category 2 hazard which exists at a residential premises, whether or not that premises is occupied at the time of that notification, this action may include the service of a notice to remedy that hazard. *Sec7 H Act 2004*

Houses in Multiple Occupation (HMO), Flats and Common parts
The notice may require action to be taken in respect of the individual dwelling on which it is served, or a HMO which contains the dwelling in which the Hazard exists or the common parts of that HMO. If the premises are a flat within a building containing one or more flats the notice may require action to be taken on any part of that building, including any common parts *Sec11(3)b, 12(3) H Act 2004*

Appeal
A person who receives a notice under section 41 of the Housing Act 2004 has the right of appeal against the service of the notice to the Residential Property Tribunal (RPT) within 28 days of the service of the notice.
Insert address of Head Office and Local RPT Office *Schedule 1 pt3 H Act 2004*
An appeal against the service of the notice may relate to one or more the following reasons:
1) That there is a major defect inconsistency or error in connection with the notice such that the notice is invalid
2) That the person on whom the notice is served is not the person who should be in receipt of the notice
3) That one or more other persons, as an owner or owners of the premises, ought to pay the whole or part of the cost of taking that action
4) That one of the courses of action (i) to (iv) below is the best course of action in relation to the hazard for which this notice is served
   (i) Serving an Improvement Notice under Section 11 or 12 of this Act
   (ii) Making a Prohibition Order under Section 20 or 21 of this Act;
   (iii) Serving a hazard awareness notice under section 28 or 29 of this Act; and
   (iv) Making a Demolition Order under section 265 Housing Act 1985 (*c.68*)
5) That the works detailed in the notice are unnecessary
6) That the works detailed in the notice are over prescriptive and that the Council has unreasonably refused to accept alternative works.
   (other notices, requiring work, served upon the same property within the same time period may be taken into consideration by the RPT)
Schedule 1 pt3 H Act 2004

Appeal times
The RPT may allow an appeal outside of the appeal times stated above if it is satisfied that there is good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time)
Schedule 1 pt3 H Act 2004

Withdrawal of appeal
The withdrawal of an appeal has the same effect as a decision by the RPT to confirm the notice.

Power of Entry
The council has the power to apply for a Warrant for Entry in respect of this notice, should entry be refused or it is anticipated that entry may be refused. A duly authorised officer of the council in exercising any such right of entry under Warrant, may be accompanied by any person acting under the instructions of the Council. Any such entry may be gained by force if necessary
Sec 240 H.Act 2004

Penalty for obstruction
A person who, without reasonable excuse, obstructs any duly authorised person in the execution of any matter relating to parts1 to 4 of the Housing Act 2004 (which includes the part to which this notice relates) commits an offence and is liable, upon summary conviction, to a fine not exceeding level 4 on the standard scale
Sec 241 H.Act 2004

Operative times and Effect
If an appeal is brought to the RPT against an improvement notice which is not suspended, and a decision is given to confirm the notice, the operative time is as follows:
(a) If the period allowed for appeal to the RPT expires without such an appeal being brought – the "operative time" is the end of that period
(b) If an appeal to the RPT is brought, the "operative time" is the time when a decision is given on the appeal to confirm the notice
If the notice becomes "operative" the notice may be registered as a local land charge until the notice is satisfied. It must then be revoked by the local authority and subsequently removed from the register of local land charges
Schedule 1 pt3 H Act 2004

Residential Property Tribunal – powers
The RPT may by order, Confirm, Quash or Vary the charges demanded in relation to this notice and, when an appeal concerns other persons who should have received such a notice, vary such a notice to allow costs to be apportioned to any other such owner or responsible person or persons who is/are mentioned in the appeal

E & OE – users of this notice are advised to check with their own legal advisors regarding suitability and/or accuracy as no specific warranty is offered by the vendor