Variation / Revocation of Improvement Notice
Housing Act 2004 Section 16

To:

Of:

Take notice that the *(the council)*, in relation to an Improvement Notice in concerning a category < ? > hazard; served on <DATE> in respect of:

(which is a residential property within the area for which it is the local housing authority)

- Is satisfied that the state of affairs which called for the service of the Notice<no longer exist,> <have changed such that> the Order is hereby
- Has determined that the terms of the notice should be changed having regard to <the suspension> <in force> <which ceased> <until / on DATE>; The notice is therefore
- Has received a valid request, from a relevant person with respect to the property, that the Improvement Notice is Varied / Revoked. The Notice is therefore
- With the consent of the person(s) served with the Notice, decided that the order be
- Following an appeal to the Residential Property Tribunal, has determined that the Improvement notice be

Revoked on: <forthwith> / Varied in accordance with the schedule hereto attached

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

Ref:

Using or permitting premises to be used, without reasonable cause, in contravention of the requirement(s) of this order whilst knowing that this order is operative, is an offence. The person or persons who use the premises contrary to the provisions of this order or permit such use by act, default or sufferance may be liable, upon summary conviction, to a fine not exceeding level 5 on the standard scale and a further fine of £20 per day that the breach of the terms of the Order continues.

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 a 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 sections 11 or 12 of the Housing Act 2004 has the right of appeal against the service of the notice to the Residential Property Tribunal (RPT) within 21 days of the service of the notice. *Schedule 1 pt3 H Act 2004*

Insert Address of Head Office and Local RPT, include phone and email details

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
   (a) take the action concerned; or
   (b) pay the whole or part of the cost of taking that action
4) That one of the courses of action (i) to (iii) below is the best course of action in relation to the hazard for which this notice is served
   (i) Making a prohibition order under Section 20 or 21 of this Act;
   (ii) Serving a hazard awareness notice under section 28 or 29 of this Act; and
   (iii) 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.
7) That the time given in the notice for compliance is unreasonable or insufficient to for the purposes of compliance with the requirements of the notice
   (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

Variation or Revocation by the Local Authority
The local authority must revoke an improvement notice if they are satisfied that the requirements of the notice have been complied with
The local authority may revoke an improvement notice under section 11 or 12 of this Act if they consider there are any special circumstances which make it appropriate to revoke the notice.
Where a notice relates to more than one hazard; each hazard and any associated requirements exclusive to that hazard may be treated separately and if, as a result, the authority revokes part of a notice, the remainder remains in force and may be varied as appropriate

Schedule 1 pt3 H Act 2004

Variation or Revocation - appeals
The person on whom the notice was served or the person who applied for a variation or revocation (the relevant person) may appeal within 28 days to the RPT against:
1) A decision by the local authority to vary an improvement notice, or
2) A decision by a local authority to refuse to revoke or vary an improvement notice.

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.
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 an improvement notice and, when an appeal concerns other persons who should have received such a notice, vary such a notice to allow action to be taken by any other such owner or responsible person or persons who is/are mentioned in the appeal
Suspended notices
The operation of an improvement notice may be suspended by a local authority until a set of circumstances are satisfied, a set time has elapsed or until any other state ceases to have an effect. Any dates within the notice may be fixed with reference to when the suspension ends.

Sec 16 H Act 2004

A local authority may at any time review an improvement notice whose operation is suspended and may vary or revoke either the qualifications for the suspension of the notice or part thereof or the notice itself in whole or in part.
A local authority must undertake a review of each improvement notice whose operation is suspended, not later than one year from the date after the service of the notice and at subsequent intervals of not more than one year *Sec 16 H Act 2004*

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