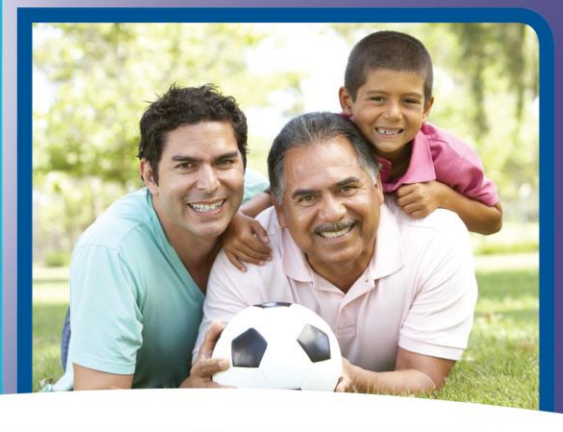


Guide to Assessing Unhealthy Premises

June 2015



Introduction

Part 5 Division 2, Sections 86-93 of the *Public Health Act 1997* ('the Act') outline the powers of authorised officers and council relating to unhealthy premises.

The powers are significant, allowing for the service of notices and orders to address health issues that may occur as a result of people occupying unhealthy premises.

Environmental Health Officers (EHOs) may be appointed by the local government authority as authorised officers for the purposes of the Act.

EHOs in Public Health Services of the Department of Health and Human Services are also authorised officers, as are medical officers of health where appointed.

When assessing unhealthy premises, EHOs must consider whether specified premises are so unhealthy that no person can safely occupy them, or whether the premises are in a condition, or are likely to become, offensive, injurious or prejudicial to health.

This guide will:

- help EHOs in the performance of their functions relating to unhealthy premises
- encourage a consistent approach to the assessment of unhealthy premises.

Attachments:

- A. Decision-making Flowchart
- B. Example Templates (x4)
- C. Example Phrasing for Notices and Orders
- D. Hazard Identification for Unhealthy Premises
- E. Hazard Identification for Mould
- F. Relevant Regulators and Community Support Service Providers

Housing Conditions Relevant to Public Health

The World Health Organization (WHO) recognises that housing and the built environment have a profound impact on human health.

The most vulnerable population groups - being the poor, children, sick, elderly and disabled - also spend comparatively more of their time at home. This places them at greater risk of illness if their living environment is defective or unhealthy.

Key housing-related health risks include respiratory and cardiovascular diseases from indoor air pollution, illness and death from temperature extremes, communicable diseases spread due to poor living conditions, and risks of home injuries.

The WHO provides comprehensive documents about healthy housing at www.who.int/hia/housing/en/ however, the following parameters are recognised as consistent with basic healthy housing needs:

- structural compliance with relevant jurisdictional building/plumbing control legislation
- a sufficient, safe water supply that is reasonably accessible to the dwelling and protected from pollution from outside and within the dwelling
- sanitary means of surface water disposal
- toilet facilities of a nature that minimises the danger of disease transmission including the maintenance of sanitary arrangements for toilet wastewater disposal
- sanitary arrangements for domestic washing/drying of clothes
- sanitary arrangements for personal washing and bathing
- hygienic arrangements for the storage, preparation and cooking of food
- sanitary facilities for storage, collection and disposal of solid domestic wastes
- sanitary arrangements for the housing of domestic animals
- indoor atmospheres that are free from excessive chemicals, toxic and/or noxious odours, water vapour, pathogens and other contaminants
- non-toxic or injurious building materials, including out-buildings adjacent to the primary residence.
- adequate daylight and artificial illumination.

Legislative Provisions

The purpose of the Act is to protect health and reduce the incidence of preventable disease.

With this in mind, the exercise of powers in relation to unhealthy premises should aim to either require rectification of defects or remove people from premises considered unsafe for occupation, in order to prevent illness.

Under Section 92 of the Act, a Council may serve a rectification notice on advice from either an EHO or a building surveyor.

This provision is a means to specify any defects which require rectification and the timeframe in which works must occur.

The issuing of a rectification notice enables the occupants of the premises to maintain their place of residence whilst rectification works occur.

The alternative action under Section 87 of the Act is to forbid occupation of premises through the making of a closure order.

This requires the Council to receive both a certificate from an EHO (stating that the specified premises cannot be safely occupied) and a report from a building surveyor (outlining the state of the premises and whether it can be put in reasonable order).

The making of a closure order is extreme in that the occupants are required to find other means of accommodation until such time as the conditions are remedied and the order is revoked.

Council may also issue an interim closure order upon receipt of the certificate from the EHO and prior to the building surveyor's report, if it is deemed necessary to protect the health of any person.

Things to Consider

The causes of unhealthy living conditions are often complex, and the request to inspect premises is frequently made as the result of some kind of dispute.

This means that the EHO is often dealing with a number of parties regarding the source or cause of the resultant unhealthy conditions.

At a basic level, building owners are responsible for providing a structurally sound and healthy living environment whereas occupants are responsible for managing their use of the building in a manner that does not lead to unhealthy conditions.

It is often prudent for EHOs to assess unhealthy premises in conjunction with a building surveyor.

The role of the EHO is not to determine the *cause* of the unhealthy conditions, but to observe and record the conditions to assist in determining the *health impact*, and then make recommendations based on that information.

EHOs should consider the following questions when assessing whether or not a premises is likely to become offensive, injurious or prejudicial to health, or is deemed to be so unhealthy that no person can safely occupy them:

Evidence of Harm – Are the occupants of the premises unwell or claiming to be unwell? Do the occupants possess medical documentation to support this claim?

Classification of Harm/Potential Harm and Risk – What are the actual and/or potential health impacts of the conditions? Are the risks and likelihood of occurrence low, moderate or high?

Identify Extent of Actual and/or Potential Health Impacts – Identify the number of impacted/potentially impacted individuals. Do impacts extend beyond the property to the broader community?

Complaint History – Does the property under investigation have against it a history of complaints?

Likelihood of Recurrence – Is the problem likely to recur? (eg. seasonal problems like mould growth during the cooler seasons).

Can the problem be addressed via maintenance/tenant behaviour modification (eg. cleaning affected surfaces during problem periods, ventilating/warming affected areas during problem periods)?

Other Avenues

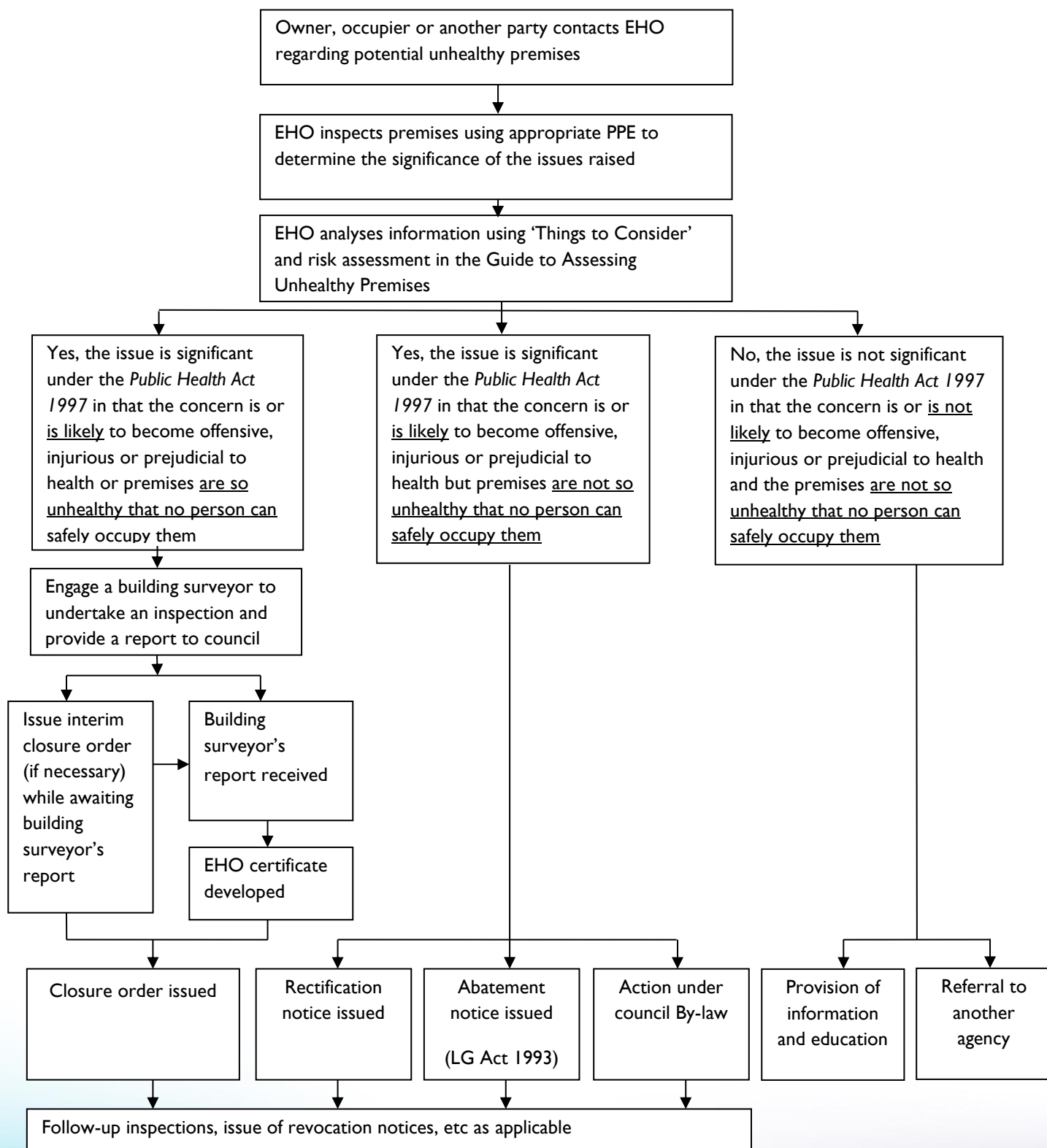
In the event the issue cannot be dealt with under the provisions of the Act, the EHO may find alternative legislative mechanisms via the nuisance provisions of the *Local Government Act 1993* (such as an Abatement Notice under Section 200) or provisions of the *Environmental Management and Pollution Control Act 1994*.

The municipal area may also have in place a relevant by-law.

Further Information and References

- Kemp, P & Neumeister-Kemp, H, 2010, *Australian Mould Guideline, the go-to guide for everything mould*, The Enviro Trust, Australia
- Ranson, R.1991, *Healthy Housing*, E&FN Spon, London
- World Health Organisation, 1989, *Health Principles of Housing*, WHO
- Australian Government Department of Health and Aging, 2004, *Healthy Homes- A guide to indoor air quality in the home for buyers, builders and renovators*, Commonwealth of Australia.
- Victorian Department of Health, 2012, *Discussion Paper Hoarding and Squalor*, State of Victoria
- enHealth asbestos guide:
www.health.gov.au/internet/main/publishing.nsf/Content/ohp-enhealth-asbestos-may2012.htm
- World Health Organization:
www.who.int/hia/housing/en/

Appendix A – Decision-making flow chart



Appendix B - Example Templates

I. Certificate/Advice from an EHO

COUNCIL LOGO

CERTIFICATE ISSUED UNDER S.86 (closure) OR
ADVICE ISSUED UNDER S.92 (rectification)

PUBLIC HEALTH ACT 1997

Subject / Defect

Address

File reference

Background

Site Inspection Observations

Discussion of Evidence

Any other information

Decision and Recommendations

(Name)

(POSITION)

Date

Appendix B - Example Templates

2. Rectification Notice



RECTIFICATION NOTICE

Public Health Act 1997
Section 92

To: <Name>
of: <Address>

Pursuant to the provisions of sections 91 and 92 of the *Public Health Act 1997*, an Environmental Health Officer/Building Surveyor (delete one) has determined that premises at <address> are considered defective and unhealthy. Council is satisfied a rectification notice is necessary for the health of the occupants of the premises.

Take notice that a defect(s), namely:

Describe defect

exists on premises which are situated at <address> and owned by you which arose or continues as a result of <your act or default> OR <an act or default of a person who cannot be ascertained or found>. As a result the premises are considered unhealthy.

You are hereby required to rectify the defect(s) by:

Describe required actions

These works must be completed within xx days of the date of this notice.

Failure to comply with this notice without reasonable excuse may result in a maximum penalty of \$xxx and a daily fine not exceeding \$xxx. In addition, the Council may cause any necessary works to be carried out at your expense.

The Council will revoke the rectification notice on the certificate of an Environmental Health Officer or Building Surveyor that the condition of the premises is no longer, or is not likely to become, offensive, injurious or dangerous to health.

.....

(Name)

(POSITION)

Date of Issue

YOU MAY APPLY TO THE MAGISTRATES COURT (ADMINISTRATIVE APPEALS DIVISION) IN ACCORDANCE WITH SECTION 166 OF THE *PUBLIC HEALTH ACT 1997* FOR A REVIEW OF THE DECISION OF THE COUNCIL TO ISSUE THIS NOTICE.

Appendix B - Example Templates

3. Interim Closure Order or Closure Order

COUNCIL LOGO

INTERIM CLOSURE ORDER / CLOSURE ORDER (Delete one as appropriate)

Public Health Act 1997
Section 87

To <Name>
of <Address>

Pursuant to the provisions of section 86 of the *Public Health Act 1997* an Environmental Health Officer and Building Surveyor have certified that the premises at <address> are so unhealthy that no person can safely occupy them. Pursuant to the provisions of section 87 of the *Public Health Act 1997* Council is satisfied an *interim closure order / closure order* (delete one) is necessary for the health of the occupants of the premises.

TAKE NOTICE that pursuant to section 87(3) of the *Public Health Act 1997*:

- (a) Human occupation and habitation of the premises at <address> is prohibited immediately from the date of this order and the premises must not be occupied or inhabited unless and until the requirements of (b) below are satisfied;
- (b) You are required to undertake the following works within twenty one (21) days from the date of this order: <state works required>.

In accordance with section 87(5) of the *Public Health Act 1997* if this notice is not complied with Council may cause any necessary works to be carried out at your expense.

(Name)
(POSITION)

Date of Issue:

YOU MAY APPLY TO THE MAGISTRATES COURT (ADMINISTRATIVE APPEALS DIVISION) IN ACCORDANCE WITH SECTION 165 OF THE *PUBLIC HEALTH ACT 1997* FOR A REVIEW OF THE DECISION OF THE COUNCIL TO MAKE THIS ORDER.

Appendix B - Example Templates

4. Revocation

COUNCIL LOGO

Public Health Act 1997

Section 89/92 (delete one)

Date

Address

Dear <Name>

REVOCATION OF RECTIFICATION NOTICE / CLOSURE ORDER

(delete one as appropriate)

I refer to the rectification notice/closure order dated <date> and served by Council to <rectify defects namely <works> at <address> OR <do works necessary to put the premises at <address> in a state suitable for human occupation>.

I acknowledge receipt of documentation/correspondence dated <date> and signed by <company representative or other confirming that <works> have been completed. Council's Environmental Health Officer or A Building Surveyor engaged by Council (delete one) has also certified completion of the required works. I hereby revoke the Rectification Notice issued under Section 92 of the *Public Health Act 1997* and dated <date> being satisfied that the condition of the premises is no longer, or is no longer likely to become, offensive, injurious or prejudicial to health. OR I hereby revoke the Closure Order issued under Section 87 of the *Public Health Act 1997* and dated <date> being satisfied that the premises is now able to be safely occupied.

Please contact Environmental Health Officer <EHO> on the above contact information should you wish to discuss this matter.

Yours faithfully

(Name)
(POSITION)

Appendix C - Example Phrasing for Notices and Orders

Situation	Defect	Instructions to rectify
Squalor	The premises are so unhealthy that no person can safely occupy them.	Remove or cause to be removed from the inside of the premises and appropriately dispose of, all putrescibles, accumulated refuse and rubbish, and sort, store or stack all remaining items, objects and furniture in an orderly manner and so that <describe requirements>.
Mould	Mould growth exists inside the premises	Remove all visible mould growth from the premises including but not limited to all window sills, walls, cupboards and flooring.
Asbestos	There are fragments of what appears to be; asbestos cement sheeting and/or other materials/debris that may contain asbestos located on the property at <address>. As a consequence, the property may be contaminated with asbestos.	Engage a licensed asbestos assessor/removalist to determine the presence of asbestos. Ensure the removal of the entirety of the hazardous asbestos (including contaminated soil) and that it is disposed of in accordance with relevant legislation, guidelines and codes of practice. (Property owners are advised to contact WorkSafe Tasmania to check requirements that may apply to the site prior to undertaking any works. Contacts; worksafe.tas.gov.au and 1300 366 322.)
Onsite Wastewater	The premises does not have a closet pan connected to the sewerage system or an authorised alternative means of disposal of sewerage.	Connecting the closet pan to the sewerage system or an authorised alternative means of disposal of sewerage in accordance with the following: <ol style="list-style-type: none"> 1. Within 30 days of the date of this order, submit a plumbing application in accordance with the provisions of the <i>Building Act 2000</i> and <i>Plumbing Regulations 2014</i>: 2. Within 14 days of issue of a plumbing permit, commence the plumbing works authorised by the plumbing permit. 3. Within 7 days of the completion of the plumbing works, notify the Manager Environmental Health. 4. Until orders 1-3 are satisfied, provide non-flushing sanitary facilities for sewer for the occupants of the premises (for example, a chemical toilet).

Appendix D - Hazard Identification for Unhealthy Premises

ACCESSIBILITY (CLUTTER)

EASY TO ENTER and move about dwelling	SOMEWHAT IMPAIRED but can get into all rooms	MODERATELY IMPAIRED Difficult or impossible to get into one or two rooms or areas	SEVERELY IMPAIRED eg obstructed front door. Unable to reach most or all rooms in the dwelling
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ACCUMULATION OF REFUSE OR GARBAGE

Is there evidence of excessive accumulation of garbage or refuse eg. Food waste, putrescibles, animal waste packaging, plastic wrapping, discarded containers or other unwanted material?

NONE	SOME Bins overflowing and/or up to 10 emptied containers scattered around	MODERATE Garbage and refuse littered throughout dwelling. Accumulated bags, boxes and/or piles of garbage that should have been ordinarily removed?	MARKEDLY EXCESSIVE Garbage and food waste piled knee-high in kitchen and elsewhere. Clearly no recent attempt to remove refuse and garbage
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ACCUMULATION OF ITEMS OF LITTLE OBVIOUS VALUE

In general, is there evidence of excessive accumulation of items that most people would consider are useless or should be thrown away?

NONE	SOME ACCUMULATION But collected items are organised in some way and do not much impede movement or prevent cleaning or access to furniture and appliances	MODERATE EXCESSIVE ACCUMULATION Items over floor in most areas, and have accumulated throughout the dwelling so that it would be very difficult to keep clean	MARKEDLY EXCESSIVE ACCUMULATION Items piled at least waist high in all or more areas, severely impeding movement. Cleaning would be virtually impossible: most furniture and appliances are inaccessible
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CLEANLINESS OF FLOORS AND CARPETS

Acceptably clean in all rooms.	MILDLY DIRTY Floors and carpets look as if not cleaned or swept for a few days. Scattered rubbish.	MODERATELY DIRTY Floors and carpets very dirty and look as if not cleaned for months.	VERY DIRTY With rubbish or dirt throughout the dwelling, carpet not visible.
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CLEANLINESS OF WALLS, VISIBLE FURNITURE SURFACES AND WINDOW SILLS			
Acceptably clean in all rooms	MILDLY DIRTY Dusty or dirty surfaces. Dirt comes off walls on damp rag or finger	MODERATELY DIRTY Grime or dirt on walls. Cobwebs and other signs of neglect. Greasy, messy wet and/grubby furniture	VERY DIRTY Walls, furniture, surfaces are so dirty (eg with faeces or urine) that officer wouldn't want to touch them.

BATHROOM AND TOILET			
Reasonably clean	MILDLY DIRTY Untidy, uncleaned, grubby floor, basin, toilet, walls etc. Toilet may be unflushed	MODERATELY DIRTY Large areas of floor, basin, and shower/bath are dirty with scattered rubbish, hair, cigarette ends. Faeces and/or urine on outside of the toilet bowl	VERY DIRTY Rubbish and/or excrement on floor and in bath or shower and/or basin. Uncleaned for months or years. Toilet may be blocked and bowl full of excreta.

KITCHEN AND FOOD			
CLEAN Hygienic	MILDLY DIRTY AND UNHYGIENIC Cook-top, sink untidy and surfaces dirty, maybe with some spilt food. Refuse mainly in garbage bin. Food that could go off left uncovered and out of the fridge.	MODERATELY DIRTY AND UNHYGIENIC Oven, sink, surfaces, floor is dirty, with piles of unwashed crockery and utensils etc. bins overflowing. Some rotten or mouldy food. Fridge unclean	VERY DIRTY AND UNHYGIENIC Sink, cook top insides of all cupboards filthy. Large amount of refuse and garbage over surfaces and floor. Much of the food is putrid, covered with mould and/or rotten and unsafe to eat.

ODOUR			
NIL	UNPLEASANT BUT BEARABLE Eg. Urine, smell, unaired	MODERATELY MALODOROUS Bad but officer can stay in the room	UNBEARABLY MALODOROUS Officer has to leave the room very soon because of smell

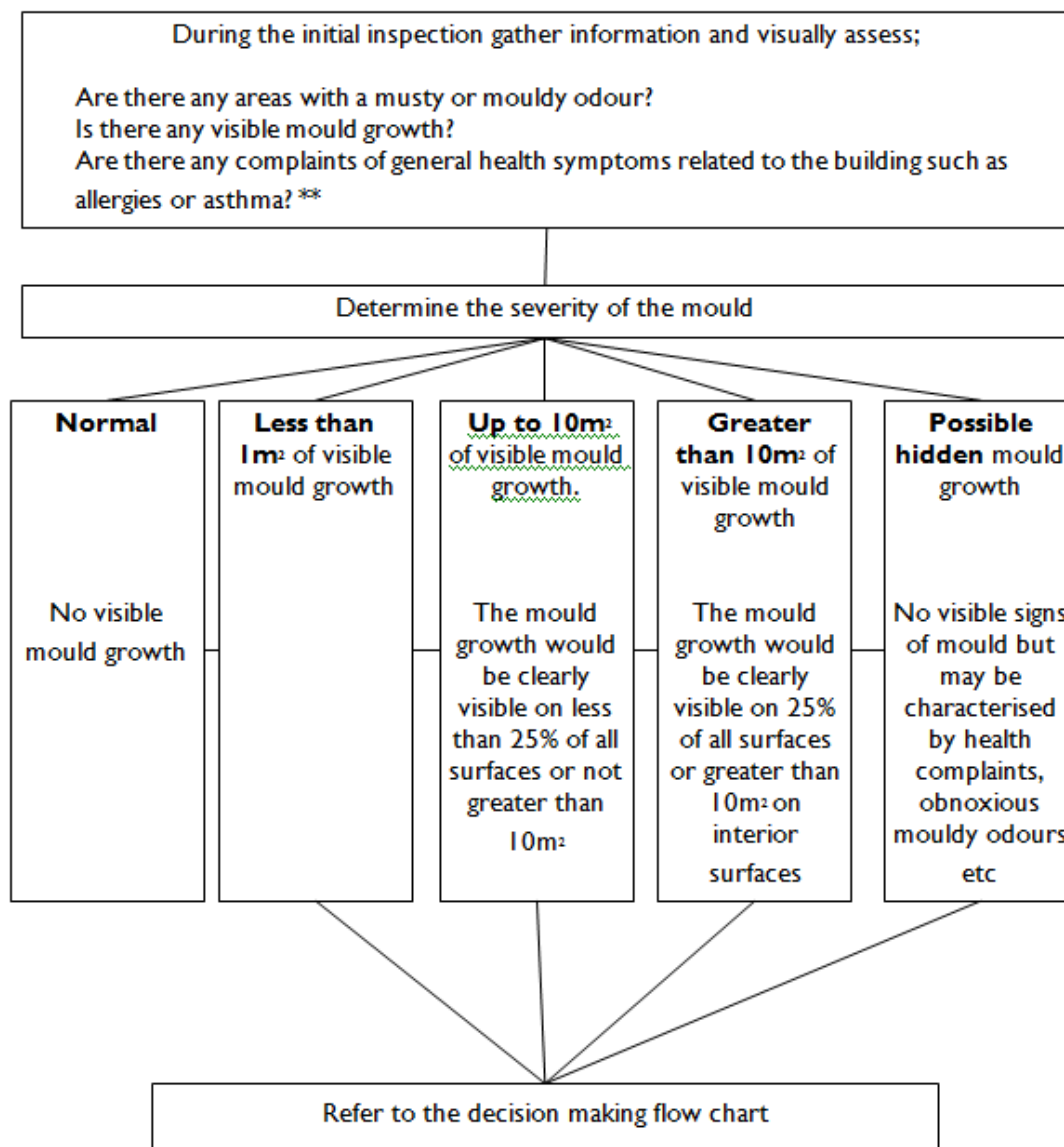
VERMIN			
NONE	A FEW (eg cockroaches, flies)	MODERATE Visible evidence of vermin in moderate numbers eg. Droppings and chewed newspapers	INFESTATION Alive and/or dead in large numbers

SLEEPING AREA			
CLEAN & TIDY	MILDLY DIRTY Untidy, bed unmade, sheets unwashed for weeks	MODERATELY DIRTY Bed sheets unclean & stained, eg with faeces or urine. Clothes and/or rubbish over surrounding floor areas	VERY DIRTY Mattress or sleep surface unclean or damaged. Either no sheets or extremely dirty bedding/linen. Surrounding area filthy.

MAINTENANCE, UPKEEP & STRUCTURE – Building surveyor			
This rates the state of repair and upkeep by the owner/landlord. If the accommodation was cleaned up as much as possible, to what extent would the dwelling require painting, refurbishment, structural repairs or the like before it would be reasonably habitable?			
NONE	A LITTLE Minor repairs and some painting	A FAIR AMOUNT Some structural repairs plus painting	A LOT Major structural repairs required and then painting.

TO WHAT EXTENT DO THE CONDITIONS MAKE THE DWELLING UNSAFE OR UNHEALTHY FOR OCCUPATION OR HABITATION?			
NOT AT ALL	POSSIBLE RISK Of injury or health problem	CONSIDERABLE RISK of fire, injury or health problem	VERY UNSAFE The dwelling is so cluttered and unhealthy that people should not enter it (except specialists with appropriate clothing and equipment) and/or there is a high fire-risk.

Appendix E Hazard Identification for Mould



- ** Mould related symptoms include:
- | | | |
|--------------------------------|--------------------|----------------------------|
| • Discomfort | • Eye irritation | • Runny nose |
| • Sneezing | • Coughing | • Nausea/diarrhoea |
| • Headaches | • Fatigue | • Inability to concentrate |
| • Constriction of air passages | • Skin irritations | • Congestion |
| • Shortness of breath | • Wheezing | • Aggravation of asthma |

Appendix F Relevant Regulators and Community Support Providers

Affected occupiers and tenants may need to be referred to government and non-government support providers particularly in the event a closure order is made. The following providers may be consulted by the EHO or details provided to the affected persons.

Workplace	Contact Number	Potential Assistance
Community Options Service (DHHS)	6222 7780 (Southern Tas) 6336 4201 (Northern Tas) 6429 8433 (North West Tas)	<ul style="list-style-type: none"> • Provision of case management • Development of client care plans, identifying client goals with ongoing reviews • Referral to other service providers and coordination as required
Aged Care Assessment (DHHS)	6222 7274 (Southern Tas) 6336 4144 (Northern Tas) 6429 8400 (North West Tas)	<ul style="list-style-type: none"> • Provision of case management • Development of client care plans, identifying client goals with ongoing reviews • Referral to other service providers and coordination as required
Older Persons Mental Health (DHHS)	1800 332 388	<ul style="list-style-type: none"> • Assessment and management of mental health and dementia for 65+ age group • Determine decision-making capacity
Community Mental Health (DHHS)	1800 332 388	<ul style="list-style-type: none"> • Coordinate the provision of mental health assessment, management and counselling support for under 65 year age group
Alcohol & Drug Service (DHHS)	1300 139 641	<ul style="list-style-type: none"> • Assessment of drug and alcohol usage and specialist advice • Provision of counselling support
Tasmanian Medicare Local	1300 653 169	<ul style="list-style-type: none"> • Works to help coordinate and connect primary health care services for local communities. • TML aims to identify local health care needs; works to address any service gaps and make it easier for Tasmanians to access the health services they need closer to home.
Migrant Resource Centre	6221 0999 (Southern Tas) 6332 2211 (Northern Tas)	<ul style="list-style-type: none"> • Support and advocacy for clients from Culturally and Linguistically Diverse (CALD) backgrounds
Home Care South (DHHS)	6230 7073	<ul style="list-style-type: none"> • Provision of domestic assistance and personal care

Community Based Support	6208 6600	<ul style="list-style-type: none"> • Provision of domestic assistance and personal care
Community Nursing (DHHS)	6208 0500	<ul style="list-style-type: none"> • Initial Health Assessments • Medication and wound management • Provision of personal care
RSPCA	6332 8200	<ul style="list-style-type: none"> • Coordinate and enforce provision of animal care and management under the <i>Animal Welfare Act 1993</i> • Provide emergency assistance and or re-homing of animals in need • Provide education in responsible pet ownership and empathy towards animals
Tas Fire Service	6230 8600 (HQ Hobart) 6214 8800 (South) 6336 5633 (North) 6434 6700 (North West)	<ul style="list-style-type: none"> • Emergency response • Community fire education • Building safety