



HOUSING ENFORCEMENT AND LICENSING POLICY

Hertsmere Borough Council

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1. Introduction

This policy sets out how Hertsmere Borough Council will deal with breaches of housing law and other related legislation. The council is committed to maintaining good quality housing within the borough and will take a range of measures to achieve this to safeguard residents. The policy provides detail on the types of enforcement action the council will take in line with its statutory powers and duties and the expectations of those responsible for providing housing in the borough.

The aim of this policy is to:

- Set out clear and transparent criteria and priorities for enforcing legislation, so the approach is understood by the public
- Provide information on the charges that may be imposed for enforcement action
- Ensure enforcement activity is consistent, fair, proportionate, and targeted

2. General Principles

When carrying out enforcement action it is important that the council works within the statutory framework and that it follows best practice.

The Council will carry out its regulatory functions in accordance with the statutory Regulators' Code issued under the Regulatory Enforcement and Sanctions Act 2008. Enforcement action will be transparent, accountable, proportionate, consistent, and targeted, and will support compliance while protecting tenants and the wider community.

The Council will adopt a risk-based approach to enforcement, using advice and guidance where appropriate, but will take firm action where there is a serious risk to health and safety, deliberate or repeated non-compliance, or where informal measures have failed. There will be some offences that will warrant immediate enforcement action.

All enforcement decisions will be made fairly, lawfully, and without discrimination, having regard to individual circumstances and the principles of natural justice.

2.1 Relevant Legislation, Guidance, and Supporting Documents

The council's Housing Enforcement and Licensing Policy is informed and underpinned by the following statutory and guidance frameworks:

- The Housing Acts 2004 and 1985 and amendments
- The Housing and Planning Act 2016
- Government guidance document: Housing Health and safety Rating System; Enforcement Guidance and Housing Health and Safety Rating System – Enforcement Guidance
- Renters' Rights Act 2025
- Renters' Rights Act Implementation Guidance 2025/26
- The Caravan Site and Control of Development Act 1960
- The Caravan Sites Act 1968
- Mobile Homes Act 1983 and 2013

- The Mobile Homes (Site Licensing) (England) Regulations 2014
- Data Protection Act 1998
- Freedom of Information Act 2000
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- The Redress Schemes for lettings Agency work and Property management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014
- Regulator's Code
- Human Rights Act 1998
- Equality Act 2010
- Civil Penalties (Alternative to Prosecution) Regulations 2012
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigator Powers Act 2000
- The Protection of Freedoms Act 2012
- Local Government Miscellaneous Provision Act 1976
- The Building Act 1984
- The Environmental Protection Act 1994
- Protection from Eviction Act 1977
- The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) 2018
- the Enforced Sale Procedure under the Law of Property Act 1925
- Legal Aid, Sentencing and Punishment of Offenders Act 2012
- Government guidance document: Guidance on Enforcement of Rogue Landlords and Letting Agents
- Compulsory Purchase Order Act 1965
- Property Act 1925
- Ministry of Justice document: Simple Cautions for Adult Offenders.
- Homes (Fitness for Human Habitation) Act 2018
- Hazards in Social Housing (Prescribed Requirements) (England) Regulations 2025 (commonly referred to as Awaab's Law)
- A Decent Home: Definition and Guidance for Implementation June 2006
- The statutory Regulators' Code issued under the Regulatory and Effective Sanctions Act 2008
- The Code for Crown Prosecutors
- Supported Housing (Regulatory Oversight) Act 2023
- Other legislation which may be relevant

The Policy also aligns with the council's internal policies:

- Empty Homes Strategy
- Houses in Multiple Occupation Licensing Conditions
- Amenity Standards for Houses in Multiple Occupation and Other Houses
- Corporate Plan

3. Approach to Enforcement Action

In deciding how to proceed, the council must be satisfied that there is sufficient evidence to demonstrate that an offence has been committed. In criminal proceedings, this must meet the criminal standard of proof, namely beyond reasonable doubt. In civil proceedings, the standard of proof is on the balance of probabilities.

In determining the most appropriate course of action, the council will consider each case on its individual merits and will take into account factors including:

- The seriousness of the offence
- The culpability of the offender
- The harm, or potential harm, to tenants
- The impact on the wider community
- Whether there is a realistic prospect of conviction

3.1 Penalties for Non-Compliance

It is generally an offence not to comply with a statutory notice served, or order made, by the council's Housing Enforcement and Licensing Officers. There are some minor exceptions, where works-in-default is the potential consequence for non-compliance.

Every notice served, or orders made, will specify the maximum fine level for non-compliance. For certain offences, there are also ongoing daily fines that are incurred after conviction for continued non-compliance.

For some offences, there is a defence of having "reasonable excuse". If this defence is available, it will be made clear in the documentation attached to the notice or order.

3.2 Historically Non-Compliant Landlords

The council recognises that most private sector landlords operate compliant businesses and take pride in delivering a valuable housing option to local residents. However, this is not always the case, and a minority of landlords and managing agents routinely provide poor quality accommodation and/or fail to manage their properties satisfactorily. The council is of the opinion that knowledge of a landlord's compliance history is a relevant factor in considering whether to take formal enforcement action. Therefore, where a landlord or managing agent is associated with poor quality housing and management, and an inspection of one of their properties reveals poor housing conditions requiring intervention, the council will normally proceed with formal enforcement action without recourse to informal remedies.

4. Statutory guidance

4.1 Condition of dwellings

4.1.1 Decent Homes Standard

The Decent Homes Standard (DHS) set out in A Decent Home: Definition and Guidance for Implementation June 2006 and applies to social housing. In order for a dwelling to be considered 'decent', it must:

- meet the statutory minimum standard for housing (the Housing Health and Safety Rating System, since April 2006), homes which contain a Category 1 hazard under the HHSRS are considered non-decent (Criterion A)
- be in a reasonable state of repair (Criterion B)
- have reasonably modern facilities and services (Criterion C)
- provide a reasonable degree of thermal comfort (Criterion D)

The Renters' Rights Act 2025 will update these Standards and apply them to the Private Rented Sector. Landlords will have until 2035 to bring their homes in line with these new requirements.

4.1.2 Hazards in Social Housing (Prescribed Requirements) (England) Regulations 2025 (commonly referred to as Awaab's Law)

These requirements, commonly known as Awaab's Law, came into force for the social rented sector on 27th October 2025. The Regulations place legal duties on social landlords to investigate and remedy hazards such as damp and mould within prescribed timescales. From 27th October 2025, social landlords must address all emergency hazards and all damp and mould hazards that present a significant risk of harm to tenants in fixed timeframes.

In 2026, the Regulations will be extended to include other hazards which present a significant risk of harm including excess cold or heat, falls, structural collapse and explosions, fire and electrical hazards and domestic and personal hygiene and good safety.

In 2027, the Regulations will be further extended to all remaining Housing Health and Safety Rating System hazards (apart from overcrowding) where they present a significant risk of harm.

These requirements will be extended to the private rented sector and the council will take appropriate action if a landlord does not comply with these requirements.

4.1.3 Homes (Fitness for Human Habitation) Act 2018

Under this Act, the Landlord and Tenant Act 1985 is amended to require all landlords (private and social) to ensure that their properties, including any common parts of the building, are fit for human habitation at the beginning of the tenancy and throughout.

If a property is found to not be fit for human habitation, the council can use its enforcement powers and The Regulator of Social Housing, and the Housing Ombudsman may also have an involvement if the property belongs to a social housing landlord.

4.2 Supported Housing

This is a type of accommodation where residents receive care, support, or supervision to help them live independently. Supported living is usually not registered as a care home if tenants have their own tenancy and support is provided separately.

Supported living properties may require a House in Multiple Occupation licence if the property has 5 or more people, from 2 or more households and tenants share facilities such as a kitchen or bathroom.

Some supported housing may be exempt from HMO licensing requirements if they are owned or managed by provider registered with the Regulator of Social Housing.

The Supported Housing (Regulatory Oversight) Act 2023 will introduce new requirements for the council and providers of supported housing including:

- National Supported Housing Standards
- Licensing requirements for supported housing providers; the council will be responsible for issuing licences based on a provider's ability to meet the new Standards
- Local authority powers to enforce these National Supported Housing Standards

Supported housing provided for the following groups of individuals may need to apply for a licence from the council; older adults, people with physical and learning disabilities, people with mental health conditions, people fleeing domestic abuse, people experiencing or at risk of homelessness, people recovering from substance misuse, individuals transitioning from the justice system and young people leaving care.

4.3 Database for Rogue Landlords and Letting Agents

The council will make use of the Database for Rogue Landlords and Letting Agents provided by the Housing and Planning Act 2016 to record convictions and to search for any suspects or offenders convicted by this or other local authorities.

4.4 Private Rented Sector Database

The Renters' Rights Act 2025 introduces a new Private Rented Sector Database. All landlords of assured and regulated tenancies will be legally required to register themselves and their properties on the database and required to pay to register on the database.

The council will take enforcement action against private landlords who fail to join the Database which includes a civil penalty of up to £7,000 and if a landlord repeatedly breaches the requirement, or if they commit a serious offence such as providing fraudulent information to the database, a civil penalty of up to £40,000 or prosecution action will be considered.

4.5 Smoke and Carbon Monoxide Alarm Regulations

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 place a mandatory duty on the local authority to act where required smoke alarms and carbon monoxide alarms are not installed in certain rented properties. These Regulations are mandatory safety provisions, introduced to reduce the risk of death and serious injury arising from fire and carbon monoxide poisoning.

Where a landlord is found to be in breach, the authority may impose a financial penalty of up to £5,000. A 50% reduction of the penalty is available where payment is made within 14 days, in accordance with the Regulations.

4.6 The Electrical Safety Standards in the Private Rented Sector (England) (Amendment) (Extension to the Social Rented Sector) Regulations 2025

The Electrical Safety Standards in the Private Rented Sector (England) (Amendment) (Extension to the Social Rented Sector) Regulations 2025 is a landlord safety legislation which applies to both

private and social rented housing in England. All landlords are required to have the electrical installations in their property inspected and tested by a qualified person at least every 5 years, obtain a report from the qualified person and provide a copy to their tenants, and to the council if requested.

Failure to comply may result in the council issuing remedial notices, carrying out corrective work themselves or imposing a financial penalty of up to £40,000.

4.7 The Domestic Minimum Energy Efficiency Standard (MEES) Regulations

The Domestic Minimum Energy Efficiency Standard (MEES) Regulations are part of the UK's energy efficiency framework for the private rented sector. They are formally set out in The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended).

Under the MEES rules the minimum Energy Performance Certificate (EPC) rating to let a property is E, unless a valid exemption is registered. From 1st October 2030, this will change to an EPC rating of C or above.

4.8 Letting Agent and Property Management Redress Scheme

Letting agents, estate agents and property management companies must register with one of Government approved redress schemes.

The council can issue a fine of up to £5,000 if a company is not registered and their licence can be revoked.

4.9 Suitable tenancy practices

Landlords and letting agents must ensure there is no unlawful discrimination against tenants or prospective tenants including tenants with children, pets or those in receipt of benefits as set out in the Renters' Rights Act 2025.

Civil penalties may be imposed for breaches, of up to £7,000 per offence, financial penalties for serious or repeated breaches up to £40,000 and banning orders or restrictions on landlords and letting agents who persistently discriminate.

4.10 Advertising and Rent Setting

Landlords and letting agents will be required to publish an asking rent for their property, as set out in the Renters' Rights Act. It will prohibit landlords or letting agents asking for, encouraging or accepting any bids above this price.

Penalties include civil penalties of up to £40,000 or criminal prosecution where appropriate.

4.11 Unlawful Eviction and Harassment

Tenants are protected from illegal eviction and harassment from the Protection from Eviction Act (1977).

Penalties include civil penalties of up to £40,000 or criminal prosecution where appropriate.

On 1st May 2026, landlords can no longer issue Section 21 notices and fixed term assured tenancies will be abolished. Tenancies will become periodic tenancies and tenants will be able to stay in their rented home until they decide to end the tenancy by giving two months' notice. There will be new grounds for possession, and the council can enforce against any landlord or letting agent that fails to comply with these new requirements.

4.12 Licensable Premises

Operating licensable premises without a licence, without a 'reasonable excuse' as set out in the legislation, is regarded as a serious offence. Where such circumstances are identified, the council is likely to take formal enforcement action, which may include prosecution, the imposition of a civil penalty, as appropriate and proportionate to the circumstances of the case.

4.12.1 Houses in Multiple Occupation (HMO) Licensing

The Council requires certain Houses in Multiple Occupation (HMO) to be licensed under Part 2 of the Housing Act 2004. Mandatory licensing applies to HMOs occupied by five or more people forming two or more households. Landlords must submit a full and valid licence application to the council before operating a licensable HMO. The licence set conditions relating to management, fire safety, space standards, facilities, and maintenance. Licence holders and managers are required to comply with all conditions for the duration of the licence.

Operating an HMO without a licence, or failing to comply with licence conditions, is a serious offence. Enforcement options include civil penalties, prosecution and rent repayment orders to recover rent for tenants.

4.12.2 Mobile Home and Caravan Site

Local authorities have statutory powers and duties to regulate mobile home and caravan sites to ensure they are operated safely and in accordance with the law. Enforcement is primarily carried out under the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 2013 (as amended). Where it appears to the local authority that the occupier of the land is in breach of, or has breached, a condition of the site licence, the council may serve a compliance notice requiring the breach to be remedied.

An occupier of land on whom a compliance notice has been served commits an offence if, once the notice has become operative, the occupier fails to take the steps specified in the notice within the period stated. A breach of a site licence condition constitutes an offence and, on summary conviction, is punishable by a fine of up to £2,500.

Where a condition requires works to the site to be carried out and these are not done either within the time specified or to satisfaction of the local authority, the council will consider prosecution and may carry out the works itself and recover from the licence holder any expenses it has reasonably incurred in doing so.

The local authority may apply to the court to have a licence revoked if the licence holder has been convicted on two or more occasions of breaches of licence conditions.

4.12.3 Gypsy and Traveller Site

Local authorities have statutory powers and responsibilities to regulate and enforce standards on Gypsy and Traveller sites. Enforcement is primarily governed by the Caravan Sites and Control of Development Act 1960, the Mobile Homes Act 2013 (as amended), and relevant planning legislation.

Where a site is required to be licensed, it is an offence to operate the site without a licence or to fail to comply with any condition attached to the licence. These provisions are designed to protect the health, safety, and welfare of residents.

Where breaches pose a serious risk to health or safety, the council will act promptly. Penalties for non-compliance may include compliance notices requiring remedial action, revoking or varying compliance notes, carry out works in default if necessary and fines of up to £2,500.

4.12.4 Moveable Dwelling (camp site)

Under Section 269 Public Health Act 1936 a person who contravenes any of the provisions of this section, or fails to comply with any condition attached to a campsite licence granted to him under this section, shall be liable to a fine not exceeding Level 1 on the Standard Scale, and to a further fine not exceeding £2 for each day on which the offence continues after conviction thereafter.

4.13 Empty Homes

Long-term empty homes represent an unused supply of housing, and cause a number of problems for the owner and the surrounding neighbourhood. There are clear economic and social benefits to bringing empty homes back into use. The Council will use a range of financial products, discretionary powers and enforcement to encourage movement within the empty property market and to engage with property owners in order to help them bring their properties up to standard and into use.

The council has an Empty Homes Strategy which sets out the approach taken to reduce the number of empty homes in the borough.

4.14 Category 1 and Category 2 hazards

The Housing Health and Safety Rating System (HHSRS), established under the Housing Act 2004, is the Government's method for assessing potential risks to health and safety arising from deficiencies in dwellings. It evaluates hazards by considering both the likelihood of an occurrence that could cause harm and the probable severity of the resulting outcomes. The HHSRS is an evidence-based assessment tool, encompassing 29 hazard categories. Guidance for its application is provided in two key documents: Housing Health and Safety Rating System – Operating Guidance and Housing Health and Safety Rating System – Enforcement Guidance.

The council always takes this guidance into account when considering enforcement action under Part 1 of the Act. The council will notify the landlord or owner of the intended inspection, usually by letter or, where appropriate, by other means. It is expected that any responsible landlord, owner, or their agent will make contact upon receiving the notification to discuss the complaint. If the pre-arranged inspection proceeds without the landlord (or their agent) attending and no alternative response has been received, the council will take the appropriate enforcement action.

In certain circumstances, the council has a mandatory duty to take action. As a result, there may be situations where the council will proceed with the required remedial action to safeguard residents. This includes, for example, the duty to take appropriate enforcement action in relation to Category 1 hazards.

Taking action in respect of Category 2 hazards is discretionary and the council will usually attempt to work with the landlord for a quick resolution prior to taking enforcement action.

5. Enforcement Options

5.1. Enforcement Notices

The council has a number of enforcement tools available if it is felt the property is hazardous.

1. Hazard Awareness Notices
2. Improvement Notices
3. Prohibition Orders
4. Emergency Remedial Action
5. Demolition Orders

5.1.1 Hazard Awareness Notice

A Hazard Awareness Notice (HAN) is a notice advising the person on whom it is served of the existence of a hazard arising as a result of a deficiency on the premises. A HAN does not in itself legally require the recipient to carry out works to reduce or remove the hazard, it merely notifies the recipient of the existence of the hazard. The council can serve a HAN in respect of Category 1 or 2 hazards but is unlikely to do so in respect of a Category 1 hazard except in extenuating circumstances. The reasons for serving a HAN as opposed to alternative courses of action will be set out in the council's Statement of Reasons.

5.1.2 Improvement Notice

An Improvement Notice is a formal notice issued by the council under Part 1 of the Housing Act 2004 when a property contains Category 1 or Category 2 hazards that require remedial action. Unlike a Hazard Awareness Notice, an Improvement Notice legally requires the landlord to carry out specified works within a set timescale.

The Council may recover reasonable administrative costs incurred in issuing and managing the notice under section 49 of the Housing Act 2004. Non-compliance may lead to Prohibition Orders, Emergency Remedial Action, civil penalties, or prosecution.

Improvement Notice When a Tenant Moves Out

If a tenant vacates a property that is subject to an Improvement Notice served under the Act, the council will usually continue to enforce the original requirements and timescales of the notice. The

council believes that this approach deters landlords and agents from engaging in retaliatory evictions and safeguards the health and safety of future tenants.

However, each case is determined on its own merits, and in some situations the council may agree to the suspension or variation of the requirements of an Improvement Notice once a property becomes empty. Applications for a suspension or variation must be made to the council, in writing, as soon as possible after vacation.

5.1.3 Prohibition Order

A Prohibition Order is a formal enforcement notice issued under Part 1 of the Housing Act 2004. The purpose of Prohibition Order is to prevent occupation of a property, or part of it, where conditions are considered unsafe or where serious Category 1 or 2 hazards exist that cannot be immediately remedied. A Prohibition Order can apply to the whole property, specific units or rooms or for certain activities or uses within the property.

The landlord must not allow the property, or part of it, to be used for residential purposes while the order is in force. Failure to comply is a criminal offence.

Prohibition Orders are normally issued after an inspection and assessment, and where informal resolution or Hazard Awareness/Improvement Notices have failed or are deemed insufficient. The council may recover reasonable costs incurred in serving and enforcing the order under section 49 of the Housing Act 2004. Non-compliance can result in prosecution, Emergency Prohibition Orders, or other enforcement measures.

5.1.4 Emergency Prohibition Order

An Emergency Prohibition Order (EPO) is a formal enforcement notice issued under Part 1 of the Housing Act 2004 when a residential property, or part of it, poses an immediate and serious risk to the health or safety of tenants or occupiers. The purpose of the EPO is to immediately restrict or prohibit occupation of a property where hazards are so severe that urgent action is required. Once issued, it is a criminal offence for the landlord to allow the property, or part of it, to be occupied while the order is in force. EPOs are used in urgent situations where it is not appropriate for informal resolution or standard enforcement notices. The order can apply to the whole property, specific units or rooms within the property or for certain activities or uses that present immediate risk.

The Council may recover reasonable costs incurred in issuing and enforcing an EPO under section 49 of the Housing Act 2004. After an EPO is served, the Council may undertake Emergency Remedial Action, prosecute the landlord for non-compliance, or convert the order into a standard Prohibition Order once hazards have been assessed.

5.1.5 Emergency Remedial Action

Emergency Remedial Action (ERA) is a legal power used by a local authority to take immediate action where there is a serious and imminent risk to the health or safety of tenants or occupants. It is most commonly used under the Housing Act 2004 (England & Wales) as part of the Housing Health and Safety Rating System (HHSRS) framework. A council can take ERA if there is a Category 1 hazard (the most serious level of risk) and the risk poses an immediate danger to occupants.

5.1.6 Demolition Orders

A Demolition Order is a formal enforcement notice issued under Section 265 of the Housing Act 1985 when a residential property is considered structurally unsafe, unfit for human habitation, or beyond practical repair.

Demolition orders are issued to remove dangerous or derelict buildings that pose a risk to occupants or the wider community. Once a Demolition Order is served, the property must be demolished within the timescale specified in the notice. Failure to comply constitutes a criminal offence. Demolition Orders may apply to the whole building or specific sections or units that are structurally unsafe.

Demolition Orders are typically considered when other enforcement actions (Improvement Notices, Prohibition Orders) are insufficient or impractical and the property poses a significant risk to health, safety, or the wider community.

The council may recover reasonable costs incurred in issuing and enforcing the Order under Section 49 of the Housing Act 2004, including costs of carrying out demolition if the owner fails to do so. The council will monitor compliance and may carry out demolition directly if necessary, seeking to recover all costs from the property owner.

5.2 Rent Repayment Orders

A Rent Repayment Order (RRO) allows tenants and local authorities to receive up to 2 years' worth of rent from a landlord who has committed certain housing related offences.

The council or the tenant can pursue a rent repayment order under the following grounds if the tenant has met the relevant eligibility requirements provided for in the legislation. The council can provide support to the tenant to pursue the Rent Repayment Order.

A Rent Repayment Order can be pursued if the council or tenant can prove a landlord has committed one of the offences in this list and the tenant meets relevant eligibility requirements (which can be found on the Government website).

Offence Description	Legislation Reference
1. Offences in relation to unlicensed HMOs	Section 72(1) of the Housing Act 2004
2. Offences in relation to unlicensed houses	Section 95(1) of the Housing Act 2004
3. Failure to comply with an Improvement Notice	Section 30(1) of the Housing Act 2004

Offence Description	Legislation Reference
4. Failure to comply with a Prohibition Order	Section 32(1) of the Housing Act 2004
5. Illegal eviction and harassment of occupiers	Sections 1(2), (3) or (3A) of the Protection from Eviction Act 1977
6. Violence for securing entry	Section 6(1) of the Criminal Law Act 1977
7. Breach of a Banning Order	Section 21 of the Housing and Planning Act 2016
8. Knowingly or recklessly misusing a possession ground	Section 16J (1) of the Housing Act 1988
9. Letting or marketing of a property within twelve months of using the 'moving in' or 'selling' ground of eviction	Section 16J(2) of the Housing Act 1988
10. Continuous breach of certain tenancy reform requirements	Section 16J (3) of the Housing Act 1988

5.3 Empty Dwelling Management Order

An Empty Dwelling Management Order (EDMO) is a statutory power available to local housing authorities in England under the Housing Act 2004 (Part 4, Chapter 2). It allows the council to take over the management of a long-term empty residential property and let it out, without the owner's consent, in order to bring it back into use.

An EDMO can be used when a property is a dwelling (not purely commercial), has been unoccupied for at least 2 years, does not fall within an exempt category and has no reasonable prospect of becoming occupied. Approval is required from the First-tier Tribunal (Property Chamber).

5.4 Works in Default

In respect of much of the legislation mentioned above, the council has the discretionary power to carry out works in default when a statutory notice has not been complied with. It will be made clear within the original notice if this power is available to the council following non-compliance.

The power is a separate matter to prosecution. The council may, in some cases, carry out works in default and decide not to prosecute. Each case is considered on its own merits.

All expenses incurred in carrying out works in default will be recharged to the relevant person by way of statutory demand notice. The expenses usually include:

- The cost of external contractors and consultants
- The cost of council officers' time, including travelling expenses
- The cost of sundries, such as photocopying and postage of documents
- An accountancy charge (charged as a percentage of the total cost)

Interest, at a rate determined by the council, may also be levied from the date of the service of the demand notice.

The expenses will remain as a local land charge on the property concerned until the debt has been paid in full.

5.5 Compulsory Purchase Order

When other enforcement options haven't resolved serious problems, the council can issue a Compulsory Purchase Order (CPO), usually as a last resort. Section 17 Housing Act 1985, Section 226 Town and Country Planning Act 1990 and Section 120 Local Government Act 1972 empowers the local authority to exercise this power.

5.6. Prosecution

When a person fails to comply with a notice served, or order made the council will begin an investigation to consider whether or not an offence has been committed.

If the council forms the opinion that an offence has been committed, it will initiate prosecution proceedings in the First-tier Tribunal, Magistrates Court or issue a Civil Penalty Notice unless there are good reasons not to do so. There may be some circumstances where the council decides to use a Simple Caution.

5.6.1 Standards

All investigations will follow best professional practice and legal requirements. As part of the investigation process, alleged perpetrators will wherever possible be formally interviewed under the Police and Criminal Evidence Act 1984, be given the opportunity to establish a statutory defence, and have the opportunity to give an explanation or make any additional comments about the allegations. Evidence will be gathered and used in accordance with the Criminal Procedure and Investigations Act 1996 and not kept for longer than required under the Act's code of practice.

5.6.2 Notices Served for the Declaration of Information

For Notices served under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976; a person who - (a) fails to comply with the requirements of a notice served on him in pursuance of the preceding subsection; or (b) in furnishing any information in compliance with such a notice

makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding Level 5 on the Standard Scale (currently unlimited) under Legal Aid, Sentencing and Punishment of Offenders Act 2012

The council will, unless there are exceptional circumstances, prosecute where these notices are not complied with.

5.6.3 Notices Served for the Provision of Information

For Notices served under Section 235 of the Housing Act 2004, a person commits an offence if he fails to do anything required of him by this notice and is liable on summary conviction to a fine not exceeding Level 5 on the Standard Scale (currently unlimited)) under Legal Aid, Sentencing and Punishment of Offenders Act 2012

The council will, unless there are exceptional circumstances, prosecute where these notices are not complied with.

5.6.4 Simple Cautions

In certain circumstances, the council may decide to issue a simple caution, rather than initiating prosecution proceedings in the Court system. Simple cautions can quickly and simply deal with less serious offences. A simple caution is not a criminal conviction but may still form part of a criminal record. Simple cautions will still appear on the Police National Computer (PNC) and Disclosure and Barring Service (DBS) records.

Simple cautions may only be issued when the evidence is such that there would have been a realistic prospect of conviction, had the case gone to court, the suspect admits the offence and the suspect consents to being cautioned and understands the significance of admitting guilt and being subject to a simple caution.

Simple cautions are also recorded on a secure register held by the council and may be referred to in future criminal proceedings. The issuing of a simple caution is intended to discourage reoffending. A simple caution may not be offered if there has been a similar offence within the previous 2 years.

Further information regarding simple cautions can be obtained from the Ministry of Justice document: Simple Cautions for Adult Offenders.

5.7 Civil Penalty Notices

The Housing and Planning Act 2016 has enabled the council to issue Civil Penalty Notices of up to £30,000 per offence for breaches of the Housing Act 2004. The Renters' Rights Act 2025 increased the maximum penalty to £40,000 for certain offences.

Part 2 of the Housing And Planning Act 2016 amended the Housing Act 2004 and set out the following offences for when the council can impose a civil penalty as an alternative to prosecution:

- Section 30 of the Housing Act 2004 – Failing to comply with an Improvement Notice
- Section 72 of the Housing Act 2004 – Offences in relation to the licensing of Houses in Multiple Occupation

- Section 95 of the Housing Act 2004 – Offences in relation to the licensing of houses under Part 3 of the Housing Act 2004 (Selective Licensing of Residential Accommodation) A civil penalty can be imposed on both a landlord and agent for the same offence and they may be at different levels.
- Section 139 of the Housing Act 2004 – Offences in relation to the contravention of an overcrowding notice
- Section 234 of the Housing Act 2004 – Failure to comply with Management Regulations in respect of Houses in Multiple Occupation.
- Section 222 Local Government Act 1972 - Breach of a banning order
- The Immigration Act 2014 - offence of letting to a disqualified person providing (letting a property to someone who does not have a 'right to rent' in the UK).

In deciding how to proceed, the council must be satisfied that there is sufficient evidence to prove that an offence has been committed and this needs to be to the criminal burden, i.e. beyond reasonable doubt.

A civil penalty may be appropriate where:

- The council is satisfied that a relevant offence has been committed and that it is in the public interest to proceed formally
- There is no history of previous non-compliance with relevant legislation
- There is no previous convictions of relevant offences
- The offence was committed as a result of a genuine mistake or misunderstanding, but this must be balanced against the seriousness of the offence
- Prosecution is likely to have a serious adverse effect upon the offender's physical or mental wellbeing, but this must be balanced against the seriousness of the offence

A prosecution may be appropriate where:

- The offence was serious, for example breach of a prohibition order or where there was imminent risk of injury or loss of life:
- The offender has been prosecuted for similar offences

Where it has been determined that a Civil Penalty Charge as opposed to prosecution is the appropriate course of action the council will follow the following process:

- A 'Notice of Intent' will be served on the person(s) responsible for the commission of the offence(s). The recipient of the Notice is given 28 days to make representation to the council regarding the proposal to impose a civil penalty
- Following the 28-day period the council will decide: whether to impose the proposed financial penalty and the appropriate value. This could be varied taking into account any comments received from the recipients

If the council decides to proceed with a civil penalty it will issue a Final Notice which will specify certain information:

- The amount of the financial penalty
- The reasons for imposing the penalty
- Information on how and when to pay the penalty
- Information regarding the right of appeal against the imposition of a civil penalty to the First-tier Property Tribunal

- The consequences of failure to comply with the Notice

6. Charging for Enforcement Action

Under Section 49 of the Housing Act 2004, the Council may impose reasonable charges to recover the administrative and other expenses incurred in taking enforcement action. These charges may include, but are not limited to, costs associated with:

- The service of Hazard Awareness Notices
- The service of an Improvement Notice
- The making of a Prohibition Order
- The taking of Emergency Remedial Action
- The making of an Emergency Prohibition Order
- The making of a Demolition Order (under the Housing Act 1985)

When a Residential Property Tribunal allows an appeal against an underlying notice or order, it may decide to reduce, quash, or require the repayment of any associated demand served under Section 49 of the Housing Act 2004. However, it is important to note that there are no separate appeal provisions relating to the service of a demand. Therefore, if a notice recipient does not appeal against the underlying notice or order, he/she may not appeal against the council's decision to make a charge for the enforcement action. The scope of the expenses that may be charged by the council are set out in Section 49 of the Housing Act 2004.

The council has discretion to waive this charge in exceptional circumstances.

The council publishes its charges on an annual basis in its Fees and Charges Document which can be found on the council's website.

6.1 For Hazard Awareness Notices (HANs) and Improvement Notices

Under the Housing Act 2004, the charges depend on the actual administrative and enforcement costs incurred by the council. In practice, this usually includes:

- Staff time – time spent inspecting the property, assessing hazards, and preparing the notice
- Travel or inspection costs – mileage, site visits, or specialist inspections
- Administrative costs – drafting, issuing, and serving the notice, including any correspondence with the landlord or agent
- Follow-up visits or monitoring – ensuring compliance with the notice

6.2 For Emergency Remedial Action (ERA)

Under the Housing Act 2004, the charges are not set by fixed amounts. Instead, they are based on the actual costs the council incurs in carrying out the work. Specifically, charges can include:

- Contractor costs – the cost of hiring contractors to carry out the remedial work
- Staff costs – officer time for inspecting, managing, and supervising the work
- Equipment and materials – any materials or equipment required to complete the remedial action
- Administrative costs – preparing records, issuing invoices, and monitoring compliance

- Follow-up or enforcement costs – if further checks or notices are required to ensure the hazard is removed

6.3 For Prohibition, Emergency Prohibition and Demolition Orders

The expenses incurred in respect of each intervention are calculated having regard to officer time and other incidental costs, such as visits, photocopying and postage. The council may also employ the services of an outside company or agency to help assist with the enforcement action. These costs will also form part of the charge made under Section 49 of the Housing Act 2004. Examples include the provision of laboratory asbestos testing, electrical reports, structural engineer's reports, and other similar specialist services.

The council may calculate the average cost of enforcement action and set a fixed charge for the expenses incurred by the council. Where possible, and in all cases where the enforcement action involves the service of an Enforcement Notice, the total charge will be specified in the covering letter to the notice or order.

6.4 Civil Penalties

In determining the amount of civil penalty, the council will use a Financial Penalty Matrix (Appendix A) which takes into account relevant matters including:

- The penalty should act as a deterrent to repeating the offence, and to others from committing similar offences
- The penalty should remove any financial benefit obtained as a result of the commission of the offence
- The severity and seriousness of the offence
- The harm, or potential harm, caused to the tenant
- The culpability and past history of the offender

The Matrix will be kept under review and amended if necessary.

In determining the level of harm, the council will have regard to:

- The persons affected in terms of physical injury, negative impacts on their health, and any psychological distress
- Any vulnerability of the persons affected
- The number of persons affected
- The community in terms of economic loss and the effects on public health, public complaints and the effects of poor housing condition on the neighbourhood

The degree of harm will depend on the personal characteristics and circumstances of the person affected, normally the tenant. Where no actual harm has resulted from the commission of the offence the council will consider the relative danger and the potential of harm that could have resulted as a result of the offences.

In determining the level of culpability, the council will have regard to the following:

- Whether there was the intention to commit the offence

- Whether the offence has resulted from reckless behaviour, for example where the offender had some appreciation of the effects their actions would have but proceeded regardless
- Whether the offender had knowledge of the risks of harm that their actions could cause
- Whether the offender's actions are considered to be negligent

The amount of penalty can be increased if there are any relevant aggravating factors and can be reduced if any relevant mitigating factors are disclosed by the offender.

Where the council are satisfied that more than one offence has been committed a multiple Civil Penalty Notice can be issued, for example multiple breaches of the management regulations in a House in Multiple Occupation. The council could also decide that it is appropriate to issue a civil penalty for the most significant offences and warn the offender that continuation or repeating of the other offences may result in further formal enforcement action being taken.

If the penalty charge is not fully paid within the prescribed time, including after an appeal has been finally determined and the charge upheld, the council will seek to recover the penalty by order from a County Court including the costs incurred in taking such action where deemed appropriate.

7. Debt recovery

The council will seek to recover all debts owed as soon as possible and may use the Enforced Sale Procedure under the Law of Property Act 1925 as a means of recovering any monies owed.

8. Monitoring and review of the Policy

The council will review the Policy regularly. This will allow for the Council to ensure the Policy meets its stated aims and objectives and complies with changes in legislation. Any minor amendments will be reviewed and agreed by the Portfolio Holder for Housing and Housing Development.

Appendix A

Financial Penalty Matrix

Offender Name:		Ref:	
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Factors	Score = 1	Score = 5	Score = 10	Score = 15	Score = 20	18
1. Culpability	Low; Offence committed with little or no fault on the part of the responsible person	Low/Medium; An awareness of the legal framework and systems in place to ensure compliance but these were not implemented	Medium/High; despite an awareness of the legal responsibilities the responsible person failed to put in place suitable systems in place to ensure compliance	High; There was some awareness of the law but the responsible person still allowed/committed the offence.	Very High; Intentional breach by responsible person. For example non-compliance with a Formal Notice	
2. Removal of Financial Incentive	No Significant assets. No or very low financial profit made by offender.	Little asset value. Little profit made by offender.	Small portfolio landlord (between 2-3 properties). Low profit made by offender.	Medium portfolio landlord (between 4-5 properties) or a small Managing Agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.	
3. Offence & History	No previous enforcement history. Single low level offence.	Minor previous enforcement. Single offence.	Recent second time offender. Offence has moderate severity or small but frequent impact(s).	Multiple offenders. Ongoing offences of moderate to large severity or a single instance of a very severe offence or multiple breaches.	Serial offender. Multiple enforcement over recent times. Continuing serious offence(s).	
4. Harm ,or potential harm, to Tenant(s)	Very little or no harm caused. No vulnerable occupants. Tenant provides no information on impact.	Likely some low level health/harm risk(s) to occupant. No vulnerable occupants. Tenant provides poor quality information on impact.	Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed. Tenant provides some information on impact but with some reliable evidence.	High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently or by occasional high impact occurrences. Vulnerable occupants more than likely exposed. Small HMO (3-4 occupants), multiple occupants exposed. Tenant provides good information on impact with reliable evidence (e.g. prescription drugs present, clear signs of poor health witnessed).	Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually affected. Multiple vulnerable occupants exposed. Large HMO (5+ occupants), multiple occupants exposed. Tenant provides excellent information on impact with very reliable evidence provided (e.g. medical, social services reports).	*Score is doubled on this section
					Total Score	0

Financial Penalty Table

The Matrix Score Total	
Score	Penalty
1 - 5	£250
6 - 10	£500
11 - 20	£750
21 - 30	£1,000
31 - 40	£2,500
41 - 55	£5,000
56 - 65	£10,000
66 - 75	£15,000
76 - 85	£20,000
86 - 95	£25,000
96 -100	£30,000

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