Private Sector Housing Enforcement Policy

This document sets out the Councils policy framework for dealing with the enforcement of housing legislation

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Part 1: General Enforcement and Background

Introduction

A key factor which has enabled the Council to achieve its aim of addressing current and future housing needs, is having the ability to protect and improve resident's quality of life, through the regulation of housing conditions within the area of Cumberland Council.

The Private Sector Housing function of the Council is to improve the standard of private sector properties through, education, advice, and enforcement. The Council has a statutory duty to enforce the provisions of the Housing Act (and other) Acts, and this is undertaken by Officers within the Public Health and Communities Directorate within Public Health and Protection.

The Officers delivering this function deal with a wide range of housing issues, from the licensing and inspection of Houses in Multiple Occupation (HMO) to complaints from tenants and partners regarding housing standards, they offer advice and assistance to landlords, tenants, owner occupiers, empty property owners on a wide range of housing issues, from overcrowding, cold in the home, damp, and licensing matters.

Scope of the Policy

The Private Sector Housing function is responsible for ensuring all statutory powers and duties specific to private sector housing are implemented. The purpose of this policy is to set out clearly, the way in which the Council intends to secure effective compliance with legislation while minimising the burden to the Council, individuals, organisations, and businesses.

This policy is intended to provide guidance on the principles and processes that will apply when Officers consider the options available for dealing with a case. It sets out what owners, landlords, lettings agents and tenants of private sector properties can expect from Officers.

The Council will in all cases work jointly with other departments where necessary and we will target our resources to ensure the most serious cases are tackled as a priority. In most cases the Council will direct the tenant to liaise with the landlord regarding the Housing Standards and only in the event of inaction or unreasonable delays will the Council, investigate a housing standards complaint. An effective triage system will be in place to manage all requests for service.

Although the function is named the Private Sector Housing, the Private Sector covers a host of properties, including Registered Providers (RP) properties, owner occupied properties and the private rented sector. If enquiries are beyond the remit of the Team advice and signposting will be offered.

Any areas that are not included within the policy will be determined on a case-by-case basis having regard to relevant legislation and guidance available.

Enforcement Framework

The Policy for enforcement of the housing standards will sit underneath a wider enforcement policy for the Public Health and Protection service, the private sector housing policy will be an appropriate annex within that overarching enforcement policy. The overarching policy will go

into greater depth the approach taken by Cumberland Council in having due regard to the government Enforcement Concordat and the Regulators Compliance Code, these documents set out what business and others being regulated can expect from enforcement Officers. This Policy compliments the principles laid down in national policies to ensure the Officers are fair when exercising their enforcement duties.

General Enforcement

The following range of enforcement options will be applied to private sector housing enforcement:

- No action
- Informal Action
- Statutory Notices
- Simple Caution
- Prosecution
- Civil Penalties
- Banning orders
- Rent Repayment Orders
- Works in Default
- Emergency Measures

Greater depth of the above can be found within the overarching enforcement policy for the Directorate, detailed below are the options which are specific to housing

No action

Before considering taking any action in respect of a tenanted property, the tenants will normally be required to contact their landlord about the issues they are experiencing first. This applies to all tenants. Legislation covering landlord and tenant relationships requires that tenants notify their landlord of any problems in the property, this is because the landlord can only undertake their obligations when notified of a problem.

In certain situations tenants will not be required to write to the landlord

- If the issues represents an imminent risk to the health or safety of the occupier
- If there is a history of harassment or bad management practice
- If the tenants is defined as vulnerable and a referral is being made by a third party
- If the tenants written English if poor and they require assistance to communicate

In the above cases enforcement Officers may provide initial assistance to the tenant, landlord or occupier at first point of contact, however in most instances if a tenant or landlord is identified as being potentially vulnerable and needs additional assistance, then the most appropriate course of action would be sign posting to internal or third-party support services such as homeless service, mediation, legal advice such as Citizen Advice.

The Officer will collate information at first point of contact, which may indicate if this is required this would need to be evidenced by the individual. Officers will not request any sensitive information which may identify a person as having priority need upon investigating an initial request for service.

The vulnerability of the tenant will not have any impact on the role as regulator in taking forward any enforcement as this is defined in the Housing Act and specified within each hazard profile under the Housing Health and Safety Rating System if there is a statutory duty upon the Council. Safeguarding referrals and support will be considered in line with wider corporate policies in relation to adult and children's safeguarding.

Officers may also assist in the process without the need to carry out a physical inspection, the need for an inspection will be dealt with on a case-by-case basis and a decision will be made to defer any complaints that are lower risk. Officers were possible should ask the complainant to provide photographs, video or even consider the use of live broadcasting, through Council enabled software.

In cases of extremely hazardous conditions, alternative accommodation might be considered as an alternative to emergency remedial action. Officers must liaise directly with Homeless Services around practically solutions.

Formal action

Authorised Officers may use informal procedures when they believe that such an approach will secure compliance with the requirements of the appropriate legislation within a reasonable timescale. Informal action will usually involve discussion with the stakeholders. Written details will be sent by the authorised Officer to the stakeholders confirming what has been agreed and any informal action will usually precede any formal or statutory action and will be appropriate where

- There is no legislative requirement to serve a formal notice
- The circumstances are not serious enough to warrant formal action
- Past history suggests that informal action can reasonably be expected to achieve compliance
- There is confidence in the landlord/person responsible
- The consequences of non-compliance will not pose a significant risk to occupiers or other affected persons
- Remedial work within a suitable timescale can be agreed

All informal action will be based on the principles described in the Enforcement Framework.

The Council will also operate operational service standards for the Councils response to Housing Complaints.

Statutory action

The Council will consider serving a statutory notice in any of the following circumstances

- Attempts to resolve the situation informally have failed
- There are serious contraventions of legislation which pose significant risk to public health.
- There is a lack of confidence that there will be a suitable response to an informal approach
- There is a history of non-compliance with informal action

- Officers have been unable to contact the owner
- Where the legislation requires service of a notice to take further statutory action
- A situation exists which places a mandatory duty on the Council to serve a statutory notice
- Although it is intended to prosecute, effective action needs to be taken as quickly as possible to remedy the conditions, which pose an imminent risk to public health/safety or the environment
- A notice is required to formalise an agreed course of action.

Statutory notices will specify

- The reasons for the enforcement action being taken including an explanation of what the defects are in the property or the specific area of legislative noncompliance, what is needed to put things right and what will happen if the notice is not complied with.
- A reasonable timescale for compliance having regard to the seriousness of the defects or contraventions
- Information regarding the right of appeal where necessary.

Civil Penalties

The Housing and Planning Act, s126 amends the Housing Act 2004 to allow civil penalties to be imposed as an alternative to prosecution for certain offences. The Council can impose a penalty of up to £30,000 per offence.

These offences include

- Section 30 (failure to comply with Improvement Notice)
- Section 72 (licensing of HMOs)
- Section 95 (licensing of houses under Part 3)
- Section 139(7) (failure to comply with overcrowding notice)
- Section 234 (management regulations in respect of HMOs)

In addition to the above, the following legislation also introduced a civil penalty structure as an addition or as appose to prosecution

- Smoke and Carbon Monoxide Alarm (England) Regulations 2015, updated 2022.
- The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014
- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015[1]

If the Council wishes to impose a civil penalty in line with the necessary, Act or regulations it must publish a statement of intent. This will be referenced as **Appendix A** in the policy.

The premise of the civil penalty structure is set out under the relevant regulations, however operationally they follow the same principle in that the individual being issued with a civil penalty must be first issued with a notice of intent. This must set out the reasons for the proposed penalty and the amount of the proposed penalty**.** The person who has been given the notice then has a period set within the relevant regulations to make written representations.

All written representations made to the Council will be dealt with by an appropriately appointed Officer with appropriate seniority and experience within the Public Protection department. Representation are not made to the Officer serving the penalty notice.

The Council will aim to respond to all written representations within 28 days of receipt.

At the end of the relevant period or if representations are made Council must decide if it wishes to impose a penalty, and if it does, it must issue a final notice. Any penalty must be paid within 28 days. The final notice must set out the amount of the penalty, the reasons for imposing the penalty, the period for paying the penalty, information on how to pay, information on rights of appeal, and the consequences of failure to comply. A person on whom a final notice is served has a right of appeal to the First Tier Tribunal. If an appeal is made, the notice is suspended until the outcome of the appeal is determined.

If the penalty is not paid within 3 months of the final notice, then a formal case review will be undertaken within the serving Officer and senior lead within the department before then referring the matter to debtor's department for initial recovery by means of issuing a invoice for payment. Payment plans for recovery of civil debts may be considered in a limited number of cases, if serve hardship can be evidenced.

If the fine still remains outstanding at 6 months, then the debt will be recovered through the county court as if it were payable under an order of that court. The income from financial penalties is ring fenced income to be retained by the local authority and should be used to meet the costs of enforcement action associated with the private rented sector.

Banning Orders

Part 2 of the Housing and Planning Act provides for the establishment of a database of rogue landlords and property agents. The Secretary of State must establish such a database and introduce banning order offences. If a landlord is convicted of a banning order offence, then the local authority may apply to the First Tier Tribunal for a banning order to be granted. If a banning order is granted, the person against whom the order is granted it prohibited from letting property or engaging in letting agency or property management work. The order must last for at least 12 months. Breach of a banning order is an imprisonable offence.

If the local authority pursues a banning order, then they must make an entry on the database of rogue landlords when a person is subject to a banning order.

Part 2: Enforcement of Private Sector Housing Standards

Housing Standards

Part 1 of The Housing Act 2004 requires local authorities to base their enforcement decisions in respect of all types of residential property on assessments under the Housing Health and Safety Rating System (HHSRS). The system is based on twenty-nine possible hazards and is structured around an evidence-based risk assessment process. Local Authorities must inspect properties to determine whether there are Category 1 or Category 2 hazards present, using the method prescribed by regulations, having regard to Operating Guidance issued by the Secretary of State.

Assessment of hazards is a two-stage process, addressing first the likelihood of an occurrence and then the range of probable harm outcomes. These two factors are combined using a standard method to give a score in respect of each hazard identified. The decision to take enforcement action is based on three considerations

(a) the hazard rating score determined under HHSRS
(b) whether the Council has a duty or power to act, determined by the presence of a hazard score above or below a threshold prescribed in the regulations, and
(c) the Councils, judgement as to 'the most appropriate course of action' to remove or reduce the hazard taking into account the most vulnerable potential occupant and the actual occupants.

Duties and Powers

The Council must take appropriate action in respect of a Category 1 hazard (bands A-C) and may do so in respect of a Category 2 hazard (bands D-J).

The courses of action available to the Council where it has either a duty or a power to act are to

- Serve an Improvement Notice requiring remedial works.
- Make a Prohibition Order, which closes the whole or part of a dwelling or restricts the number or class of permitted occupants
- Serve a suspend the Improvement Notice or Prohibition Order for a maximum period of 12 months
- Serve a Hazard Awareness Notice
- Take Emergency Remedial Action (Category 1 hazards only)
- Serve an Emergency Prohibition Order (Category 1 hazards only)
- Make a Demolition Order (Category 1 hazards only)
- Declare a Clearance Area (Category 1 hazards only)

For the purposes of assessing the hazard, it is assumed that the dwelling is occupied by the most vulnerable household (irrespective of what household is actually in occupation or indeed if it is empty). However, for the purposes of deciding the most appropriate course of action, regard is had to the actual household in occupation.

Where a Council takes action and the property owner does not comply, the Council has the powers available to carry out works in default. Default action will only be undertaken where an imminent risk to the individual's health is and the consequences of not taking any action would be unacceptable.

The Council can reclaim the cost of the works in default including administration costs. In most cases costs can be registered as a charge on the property and can be recovered through the Courts.

The Council will also adopt an operational procedure for works in default for the Councils response to Environmental Health complaints.

Decision Rules

The Council will have regard to the statutory guidance document 'The Housing Health and Safety Rating System: Enforcement Guidance' when deciding the most appropriate course of action.

Whether the Council has a duty to act in respect of a Category 1 hazard, or the power to act in respect of a Category 2 hazard, in either case the Council is obliged to give a formal statement of reasons for the action it intends to take.

The Council will take account of factors such as

- Extent, severity, and location of hazard
- Proportionality - cost and practicability of remedial works
- Multiple hazards
- The extent of control an occupier has over works to the dwelling
- Vulnerability of current occupiers
- Likelihood of occupancy changing
- The views of the current occupiers

Consideration must also be given to whether consultation is required with other enforcing bodies. In particular where the hazard of fire is identified there is a duty to consult with the fire authority as prescribed under section 10 of the 2004 Act.

Category 1 Hazards

Where an assessment and rating of a property has resulted in a Category 1 hazard, the Council has a duty to take the most appropriate course of action. This will be determined by the authorised Officer following the inspection, taking into account all the available information, the landlord and the tenants views.

Category 2 Hazards

In addition to the Council's duty to take action where a Category 1 hazard exists, the Council will generally exercise its discretion to take the most appropriate course of action where a Category 2 hazard exists in the following situations:

(a) Band D and E Hazards

There will be a general presumption that where a Band D and E hazard exist, Officers will consider action under the Housing Act 2004 unless that would not be the most appropriate course of action.

(b) Multiple Hazards,

Where a number of hazards at Band D or below create a more serious situation, where a property appears to be in a dilapidated condition, or where the conditions are such as to be affecting the material comfort of an occupying tenant.

Reducing hazards to an acceptable level

The Housing Act 2004 requires only that the Council takes the most appropriate course of action to reduce a Category 1 hazard to Category 2 hazard. For example Band C and Band A hazards need only be reduced to Band D. The Council will generally seek to specify works which achieve a significant reduction in the hazard level and in particular will be to a standard that should ensure that no further intervention should be required for a minimum period of twelve months.

Tenure

In considering the most appropriate course of action, the Council will have regard to the extent of control that an occupier has over works required to the dwelling. In normal circumstances, this will mean taking the most appropriate course of action against a private landlord and in most cases, this will involve requiring works to be carried out.

Registered Providers

Registered Providers (RPs) (Housing Associations) are also subject to enforcement; however the Council will liaise as appropriate with the landlord over any works necessary to deal with Category 1 and 2 hazards in advance of any planned improvements.

If an RP is planning works which would deal with the hazard, depending on the risk to the tenants, it may be appropriate to issue a Suspended Improvement Notice rather than an Improvement Notice, or to allow extra time on an Improvement Notice.

However, if the RP fails to respond to any such request for information, or if the proposed timescale is not considered acceptable based on the severity of the hazard, the Council will consider the need to pursue more urgent action.

Owner occupiers

With owner occupiers, in most cases they will not be required to carry out works to their own home and the requirement to take the most appropriate course of action will be satisfied by the service of a Hazard Awareness Notice.

However, the Council may in certain circumstances require works to be carried out, or to use Emergency Remedial Action or serve an Emergency Prohibition Order, in respect of an owner-occupied dwelling. This is likely to be where there is an imminent risk of serious harm to the occupiers themselves or to others outside the household, or where the condition of the dwelling is such that it may adversely affect the health and safety of others outside the property. This may be because of a serious, dangerous deficiency at the property. Another example is a requirement to carry out fire precaution works to a flat on long leasehold in a block in multiple occupation.

Vacated Properties with Statutory Notice

In cases where properties are subject to a statutory notice and the property is subsequently vacated, all notices or orders will be reviewed to consider whether the notices or orders may be varied, suspended or revoked. The Council will seek to deter landlords from undertaking retaliatory eviction and will not consider that removal of a tenant achieves compliance with any Notice served, except in overcrowding situations where it was a specific requirement of the notice.

Additional powers within the Housing Act

Action by Agreement

The Act also makes provision for remedial works to be carried out by agreement. This is where the local authority arranges for the works to be carried out at the request of the person responsible and they are then charged for the full cost. If the costs incurred cannot be paid they must be placed as a charge against the property. Interest will be charged on the monies owed and the arrangement will be reviewed annually. Action by agreement will normally be considered and will require to be authorisation by the Senior Officer with delegated financial authority.

Powers of Entry

Most of the legislation enforced by the Council includes the power for authorised officers of the Council to gain entry into a property for the purpose of carrying out the authorities duties under that legislation.

If an Officer is unsuccessful in gaining entry to a property by informal means, the Council will consider obtaining a warrant from the Justice of the Peace to provide for the power of entry by force is necessary. If prior warning of entry is likely to defeat the purpose of entry, then a warrant can be obtained.

The Council also has the power to require documents to be produced in connection with its enforcement by a notice. The notice will specify the consequences of not complying.

Power to Charge for Enforcement Action

In line with Sections 49 and 50 of the Housing Act 2004, the Council reserves the right to charge and recover the reasonable costs incurred in taking the most appropriate course of action.

The Council will charge where a formal notice or order is required to remove hazards, or when emergency remedial action is necessary, with charges levied on the basis of actual time spent by Officers on individual tasks. The hourly rate will be reviewed and be incorporated in the charges report.

This charge may be waived if the landlord makes representations and agrees the extent of the works and timescales prior to the service of the notice. If there is an appeal against the Notice, then the charge will not be applied until the appeal is resolved and if the notice is upheld.

A demand for payment of the charge must be served on the person from whom the Council seek to recover it. The demand becomes operative, if no appeal is brought against the underlying notice or order, at the end of the period of twenty-one days beginning with the date of service of the demand. A charge will be placed on the property until the sum is paid in full.

Costs incurred in carrying out emergency remedial action may be recovered separately in line with guidance prescribed by the Secretary of State.

Works in Default

The Council may carry out works in default of a statutory notice. The cost of the works, plus the Councils reasonable administration charges based on an officer hourly rate, will be charged to the responsible party, and recovered through the civil court.

Charges may be made for abortive costs in preparing to carry out work in default where an order has been placed and the owner then carries out the work required. Where there is no prospect of the money being recovered, the debt may be placed on the property as a land charge.

Emergency Measures

The Council may use emergency enforcement powers under housing legislation where there is an imminent risk of serious harm. In such circumstances the Council will take whatever remedial action it considers necessary to remove an imminent risk of serious harm. This could include taking remedial action in respect of a hazard and the subsequent recovery of reasonable expenses or prohibiting the use of all or part of a property.

Such emergency measures will only be taken where the use of emergency powers is the most appropriate course of action. Where emergency measures are taken, the owner of the property or other relevant person will be advised of the method of appeal against the action taken.

Part 3: Licensing of Houses in Multiple Occupation

Part 2 of the Housing Act 2004 introduces mandatory licensing of certain types of HMO. Mandatory licensing applies to houses occupier by five or more persons and compromising of two or more households.

Duty to Licence Houses in Multiple Occupation (HMO)

The Council must take all reasonable steps to ensure property owners make licence applications. A charge will be made for HMO licence applications, this charge will be published and reviewed annually.

Each licence application will be dealt with systematically and will require a degree of checking before a licence can be issued. Checks will be carried out within agreed timescales and a Notice either granting or refusing a licence will be issued.

Amenity standards within HMOs

The Council will require the provision of amenities in all HMOs to be in accordance with House in Multiple Occupation Management Regulations and for licenced HMO properties, the Licensing and Management of Houses in Multiple Occupation and other houses (Miscellaneous Provisions) (England) Regulations 2006 as amended.

In order to provide some basic guidance to landlords for amenities in relation to the legislation. The Council has adopted an amenity standards document is referenced in **Appendix B**. This document sets out the expected standards in licensed HMO's and should also be used as a reference for compliance for non-licensed HMO's where there are a higher number of letting units. If a landlord is not able to comply with the requirements and the property does not lend itself to adaptation or there is no evidence of the tenants being inconvenienced then a lesser standard maybe accepted, but this will be reviewed at each inspection.

HHSRS and its Link to HMO Licensing

The Council does not need to consider HHSRS before an HMO licence is issued. However, if during the licensing process the Council has reason to be concerned about the likelihood of Category 1 or 2 hazards, it may elect to carry out an inspection before the licence is issued.

The assessment of hazards in HMO's is made for each unit of accommodation but will take into account the common parts and other areas connected to the unit of accommodation. If an enforcement notice is served on an HMO and it reverts to single occupation, the Council will consider whether the impact of the hazard is now relevant to the change of use. For example, the hazard of Fire in an HMO property.

Fit and Proper Person and Management

The purpose of HMO licensing is to ensure that the most high risk and poorly managed properties are appropriately managed. Part 2 of the Housing Act 2004 requires licence holders to be a fit and proper person. The Act stipulates criteria that the licence holder must meet to be regarded as fit and proper. Where the proposed manager or licence holder is not a fit and proper person, the applicant will be given the opportunity to develop proposals to meet the fit and proper person test. If this is not possible, it may be necessary to refuse the licence.

Provision of False or Misleading Information

It is an offence under the Act to provide false or misleading information. On conviction a fine of up to £5000 can in be incurred.

Where the HMO licence application form has been signed this is a declaration that information provided is correct. Should contradictory information come to light, prosecution will be considered.

Granting a Licence

Where an application for a licence has been received and the Council is satisfied that the proposed licence holder is fit and proper, that the house is suitable for multiple occupation and the application submitted is valid, the Council must grant a licence. Each licence must only relate to one HMO and can last for up to five years. In some cases in may be necessary to grant the licence for less than five years.

Refusing a Licence

A licence can be refused if the Council is not satisfied that the criteria stipulated in the Act have been met.

If a licence is to be refused, the Council will give serious consideration to the consequences of this decision. Depending on the reasons for the refusal it may be appropriate to consider the options available for dealing with the property.

Where a licence is refused the Council has a duty to take on the management of the property by serving an Interim Management Order. A management order will be the last resort and other avenues will be considered before instigating this action, including a Temporary Exemption Notice.

The Council will take all reasonable steps to assist the proposed licence holder or owner of the property to take action to enable the property to become licensed or to take the property out of use as an HMO.

Revoking a Licence

The Council may revoke a licence in line with circumstances stipulated under Part 2 of the Housing Act 2004. If the property is to remain a licensable HMO the Council must make an interim management order. If it is no longer an HMO no further action is required.

Varying a Licence

A licence may be varied where either the licence holder makes a request, or the Council feels it is relevant to do so. It may be varied where there has been a change in circumstances, which also includes the discovery of new information.

Penalties

There are a number of possible offences relating to HMO licensing. The Council will consider taking action where there is evidence of an offence, and it is appropriate to take such action.

Offences include

(a) Managing or having control of an unlicensed HMO that should have a licence. Prosecution can result in an unlimited fine.
(b) Allowing the HMO to become occupied by more than the agreed number of households or persons on the licence. Prosecution can result in fines of up to £20,000.
(c) Breaching licence conditions. A breach of licence conditions can lead to prosecution and can result in fines of up to £5,000 per breach.

Other penalties include:

Rent Repayment Orders - if a person does not have licence for an HMO that requires a licence, then the Council or tenants can apply for a rent repayment order to the First Tier Tribunal (Property Chamber).

Termination of Tenancies - Landlords will not be able to issue any section 21 notices under the Housing Act 1988 (recovery of possession on termination of a short hold tenancy), whilst the HMO is unlicensed.

Civil penalties can also be considered for offences under the Section 72, (licensing of HMOs)**,** Section 95 (licensing of houses under Part 3)**,** Section 234 (management regulations in respect of HMOs)

Interim Management Orders and Final Management Orders

The Council has a duty to make an Interim Management Order in respect of an HMO where there is no reasonable prospect of it being licensed in the near future or it is necessary to protect the health, safety, and welfare of the occupants. An order can also be served in circumstances that the Council thinks are appropriate with a view to ensuring the proper management of the house pending the licence being granted.

If a licence has been revoked for any reason and there is no reasonable prospect of the property regaining its licence. The Council must make an Interim Management Order. The order requires the Council has to take over the management of the property for up to 12 months.

This includes carrying out any remedial works necessary to deal with the immediate risks to health and safety. If there is still no prospect of a licence being granted after twelve months, then a final management order must be made which may be in force for up to five years. If after five years, there is no prospect of the property being licensed a further management

order must be made. Management order can be varied or revoked at any time as a result of a request from the owner or by the Council.

The Council will instigate this action as a last resort, where necessary.

The Council will take all practical steps to assist the owner of the property to satisfy the licensing requirements.

Temporary Exemption Notices

The Council will consider issuing Temporary Exemption Notice (TEN) in response to a request from the owner or managing agent to exempt the property from licensing on the grounds that is no longer going to be used as an HMO. A TEN remains in force for a period of three months, after which the property must have a license if it is still in such a condition as to require one. If further notification is received and the authority considers that there are exceptional circumstances a second TEN may be served which will remain in force for a further three months.

Additional and Selective Licensing

Local Authorities may also introduce Additional and Selective licensing schemes within their area. In 2015 amendments were made to the legislation which widens the criteria for licensing, to include areas with a high proportion of private rented properties with poor housing conditions.

The Councils adoption of any selective licensing scheme would involve a lengthy period of consultation with local stakeholders, to inform decision making and implementation.

These schemes are not currently operated within Cumberland, but regularly reviewed for consideration.

Part 4: Empty Homes

In conjunction with Councils wider priorities for empty homes the following options will be available for consideration when dealing with long term empty homes.

Enforced sale

Where the Council have carried out works on an empty property, the owner of the property will normally be billed for the costs of the works under the appropriate legislation. If the owner cannot or will not pay the Council for the work it has done. The Council will seek to register the debt initially and then can look at selling the property to recover costs.

Full details of the Enforced Sales Process is contained within **Appendix C**

Empty Dwelling Management Orders

If a property has been empty for at least two years, and the owner has not responded to requests from the Council to repair and re-occupy the property, the Council can apply to the First Tier Tribunal for an Interim Empty Dwelling Management Order and subsequently serve an Empty Dwelling Management Order. This Order allows the Council to take over the property, carry out any repair work that may be necessary, and then and rent it out to tenants. The owner of the property will only get any income that remains once the Council has recovered its costs in bringing the property up to a decent standard, and as well as its costs in managing the property.

The Council will only consider applying for an Empty Dwelling Management Order as the last resort.

Boarding up of empty dwellings

See Local Government (Miscellaneous Provisions) Act in referenced in part 11.

Anti-Social behaviour and empty homes

If an empty home is seen to be having a detrimental, persistent impact on the quality of life of those in the locality and the conduct of the empty homeowner is unreasonable, then action will be considered under the Anti-social Behaviour, Crime and Policing Act 2014. Non-compliance under the legislation will be dealt with in line with the guidance issued with consideration of the overarching enforcement policy for Cumberland.

Housing Act 1985, section 17

The Council has the power under s17 of the Housing Act 1985 **to acquire land by compulsory purchase** (land in this instance includes houses and buildings) for housing purposes. The guidance on the compulsory purchase process is Circular 06/2004, which states that bringing empty properties into housing use is one of the main uses of the power. The main uses of this power are to get land for housing. Where we get control of a property through this power, we will usually sell it to

- a private-sector developer
- an owner-occupier or
- a registered social landlord

A Compulsory Purchase Orders are intended to be measure of last resort. A CPO is not power that can be easily and readily accessed, and a series of processes have to be followed – concluding with confirmation by the relevant Secretary of State. Any decision to take forward a CPO will be undertaken in conjunction with a formal Officer Decision by the Director, in conjunction with the portfolio holder.

Risk Assessed approach to empty property and homes interventions.

Upon receipt of an empty property/home complaint Officers will categorise any actions line with the Council statutory responsibilities. This is a risk-based approach to manage resources around the thousands of empty homes/properties in Cumberland. A risk-based approach ensures the properties/homes that are targeted are the worst offenders with the potential to impact significantly on our communities and Council resources. This will directly link in with other departments who work alongside the officer on empty homes including dangerous structures and dilapidated buildings, Council Tax, and other debts.

Part 5: Smoke Detection and CO Regulations

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, as amended 2022 came into force in 2015 this requires both smoke alarms and carbon monoxide alarms to be installed in rented residential accommodation. The Regulations apply both to houses and flats.

Failure to comply can lead to a civil penalty being imposed of up to £5,000. The details of the penalty structure will be considered in line with the Councils statement of intent for civil penalties. **Appendix A.**

Requirement for Smoke alarms

During any period beginning on or after 1st October 2015 while the premises are occupied under a tenancy (or licence) the landlord must ensure that a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation.

The Regulations do not stipulate what kind of smoke alarm is required, both mains wired, and battery detection is acceptable.

Requirement for Carbon monoxide alarms

During any period when the premises are occupied under a tenancy or a licence a carbon monoxide alarm must be provided by the landlord in any room in premises which is used wholly or partly as living accommodation which contains a fixed combustion appliance (excluding gas cookers). Mains wired and battery detection will be acceptable.

Ongoing maintenance

In addition, the amendments in 2022 makes it a requirement for landlords to ensure smoke alarms and carbon monoxide alarms are repaired or replaced once informed and found that they are faulty.

Checks

The landlord is specifically required to carry out a checks to ensure that smoke alarms or carbon monoxide alarms installed to comply with the Regulations are in proper working order on the day a tenancy begins with effect from 1st October 2015.

Although the need to undertake checks on detection only applies to new tenancies after the 1st October 2015, all landlords are required to install detectors and alarms in their tenanted properties.

Enforcement

The Council will serve a remedial notice within 21 days when they have reason to believe that the landlord is in breach of any of these duties relating to smoke alarms or carbon monoxide alarms. The remedial notice must specify the action to be taken within 28 days of the date of the service of the notice and it allows the landlord 28 days to make representations against the notice.

If the landlord fails to take action, then the Council can fit the smoke alarms and CO detectors as works in default. This does however require the consent of the occupiers as there is no right of entry for compliance.

Part 6: Minimum Energy Efficiency Standards

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 were introduced in 2015 to tackle the least energy-efficient properties in England and

Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard of energy efficiency for privately rented property, affecting new tenancies from 1 April 2018 and all tenancies from April 2020. In accordance with Regulation 33 and 34 Local Authorities are responsible for enforcing the minimum level of energy provisions within their area.

As this requirement has now been in place for a number of years and to reflect that fact our approach will be more formal in the first instance with any Landlord who is found to be renting a property with an EPC of F or G and they do not meet the minimum energy efficiency standard. If the Council receive a complaint or notification of a breach, then an investigation will follow, and formal enforcement action will be considered

The Council may in circumstances where a landlord has a history of not complying with housing related regulatory requirements, decide to take formal action without giving an informal opportunity for the landlord to comply.

Compliance Notice

If the Council suspect a breach has taken place, they may serve a compliance notice requesting information to help them decide whether a breach has occurred. They may serve a compliance notice up to 12 months after a suspected breach occurred.

A compliance notice may request information on

- the EPC that was valid for the time when the property was let.
- the tenancy agreement used for letting the property.
- information on energy efficiency improvements made.
- any Energy Advice Report in relation to the property
- any other relevant document

Penalties

If a property is (or has been) let in breach of the Regulations the Council may serve a notice on the landlord or agent letting the property and impose a financial penalty up to 18 months after the breach.

Local authorities can decide on the level of the penalty having regard to the guidance. This will be set out within **Appendix A** and is specific to the MEES penalties guidance.

All written representations made to the Council will be dealt with by an appropriately appointed Officer with appropriate seniority and experience within the Public Protection department. Representation are not made to the Officer serving the penalty notice.

Right of review and right of appeal

A landlord can ask the Council to review its decision. They can withdraw the penalty notice if:

- new evidence shows a breach has not occurred.
- a breach has occurred, but evidence shows the landlord took all reasonable steps to avoid the breach.
- they decide that because of the circumstances of the case, it was not appropriate to issue a penalty.

If the Council decides to uphold a penalty notice, a landlord may appeal to the First-tier Tribunal if they think that:

- the penalty notice was based on an error of fact or an error of law.
- the penalty notice does not comply with a requirement imposed by the Regulations.
- it was inappropriate to serve a penalty notice in the particular circumstances.

The First-tier Tribunal will review the decision may:

- finds in the landlord's favour and the penalty is quashed, or
- rejects the landlord's appeal, and the penalty is affirmed. The landlord will then have to pay the penalty, or the Council take debt recovery action.

Part 7: Electrical Safety Standards

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 came into force on the 1st June 2020 and applied to all tenancies from 1 April 2021. If a private tenant has a right to occupy a property as their only or main residence and pays rent, then the Regulations apply. This includes assured short hold tenancies and licenses to occupy.

Requirements

The Regulations require landlords to have the electrical installations in their properties inspected and tested by a person who is qualified and competent, at least every 5 years. Landlords must provide a copy of the electrical safety report to their tenants, and if requested to the Council.

Landlords of privately rented accommodation must:

- Ensure national standards for electrical safety are met. These are set out in the 18th edition of the 'Wiring Regulations', which are published as British Standard 7671.
- Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years.
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test.
- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supply the Council with a copy of this report within 7 days of receiving a written request for a copy.
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
- Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.

- Supply written confirmation of the completion of the further investigative or remedial works from the electrician to the tenant and the Council within 28 days of completion of the works.

Results of the inspection and testing

As set out above, landlords must obtain a report giving the results of the test and setting a date for the next inspection. Landlords must comply within 7 days with a written request from the Council for a copy of the report and must also supply the Council with confirmation of any remedial or further investigative works required by a report.

A Officer within the Public Protection team may formally serve notice requesting a copy of the electrical condition report in order to confirm the landlord is complying with the Regulations. This will happen routinely when they come into contract with a tenant, landlord or third party and the service request or business activity relates to a rental property.

Enforcement

If the Council is satisfied that on the balance of probabilities the landlord has not complied with the legislation and did not have a report in place for the duration of the tenancy or before the formal request was received from the Council, then the Officer can proceed to use a civil penalty for such offence.

If the Council is satisfied that on the balance of probabilities that a landlord has not complied with one or more of their duties under the Regulations the Council must serve a remedial notice. The notice must be served within 21 days of the decision that the landlord has not complied with their duties.

If the Council has reasonable grounds to believe a landlord is in breach of one or more of the duties in the Regulations and the report indicates urgent remedial action is required, the Council may, with the consent of the tenant or tenants, arrange for a qualified person to take the urgent remedial action and recover their costs.

Otherwise, they must serve a remedial notice requiring the landlord to take remedial action within 28 days. Should a landlord not comply with the notice the Council may, with the tenant's consent, arrange for any remedial action to be taken themselves.

Landlords who aren't able to comply with a remedial notice.

A landlord is **not in breach** of the duty to comply with a remedial notice if the landlord can show they have taken all reasonable steps to comply.

A landlord could show reasonable steps by keeping copies of all communications they have had with their tenants and with electricians as they tried to arrange to carry out the work, including any replies they have had. Landlords may also want to provide other evidence they have that the electrical installation is in a good condition while they attempt to arrange works. This could include the servicing record and previous condition reports.

A landlord who has been prevented from accessing the premises will not be required to begin legal proceedings against their tenant in order to show that all reasonable steps have been taken to comply with their duties.

Penalties

The Council can impose a financial penalty of up to £30,000 on a landlord who fails to comply with the regulations. The Council will, in the first place, serve a penalty charge notice in line with its current charging policy for civil penalties. **Appendix A**

Appeals

In the first instance, landlords can make written representations to a Council within:

- 21 days, against a remedial notice
- 28 days, against the intention to impose a financial penalty.

The Council will then aim to respond within 15 working days to respond to the written representations.

All written representations made to the Council will be dealt with by an appropriately appointed Officer with appropriate seniority and experience within the Public Protection department. Representation are not made to the Officer serving the penalty notice.

Landlords then have a formal right of appeal to the First-tier Tribunal. The Tribunal may confirm, quash or vary notices served by the Council.

Civil penalty debt recovery will be in line with Part 1 of the Policy.

Part 8: Tenancy Redress Scheme

People involved in letting agency work or/and property management work in the private rented sector, are required to be registered with an approved redress scheme under **The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014**

The Council is the enforcing authority for this statutory requirement and are required to take enforcement action where we are made aware a person is engaged in letting agency or property management work and they are not registered with an approved redress scheme.

The enforcement authority can impose a fine of up to £5,000 where it is satisfied, on the balance of probability that someone is engaged in letting or management work and is required to be a member of a redress scheme but has not joined. The two government approved redress schemes are:

- Property Redress Scheme (www.theprs.co.uk/)
- The Property Ombudsman (www.tpos.co.uk)

Each scheme will publish a list of members on their respective websites so it will be possible to check whether a lettings agent or property manager has joined one of the schemes.

As this requirement has now been in place for a number of years and to reflect the fact that all Lettings and Managing Agents are expected to be aware of their obligations, the applicable fine will be £5,000. A lower fine will only be charged if delegated senior housing Officer is satisfied that there are extenuating circumstances. It is proposed that any representations for a reduction in fine taking into account any extenuating circumstances are made to the Director and Portfolio Holder, who will have the final say on any fine levied. The

penalty fines received by the enforcement authority may be used by the authority for any of its functions.

The enforcement authority can impose further penalties if a lettings agent or property manager continues to fail to join a redress scheme despite having previously had a penalty imposed. There is no limit to the number of penalties that may be imposed on an individual lettings agent or property manager, so further penalties can be applied if they continue to be in breach of the legislation.

Part 9: Changes to Tenancies under the Deregulation Act 2015

The Deregulation Act 2015 was passed on 26 March 2015 and covers various points of law, which have an impact on the private rented sector housing and the homeless service, the regulations will affect how the Council is able deal with private sector complaints, advice offered to landlords and how the Council deals with evictions from the private sector.

Tenancy Deposit Protection Schemes

The Deregulation Act 2015 contained important changes to Tenancy Deposit Protection Scheme legislation that attempts to clarify the issues created by previous court cases.

The main changes, related to deposits taken under any assured short hold tenancy which is now a requirement for all deposits.

Landlords who have not complied will not be able to serve a Section 21 notice and WILL be liable for penalties for non-compliance in the Civil Courts if deposits are not protected.

Retaliatory evictions

The Deregulation Act introduced new provisions to protect tenants from eviction in England only.

These provisions restrict a landlord's ability to serve a Section 21 notice in circumstances where the tenant has complained about the condition of the premises or the common parts of a building of which the premises form part, and the landlord either did not respond within 14 day or they have not provided an inadequate response. The tenant can complain to the Council if they are not satisfied, and the Council may investigate the matter for breaches of legislation under the Housing Act.

Although the legislation infers that tenants should contact the Council to make complaints regarding housing standards and that this action will result in immediate enforcement action. This is not in the spirit of the Councils approach in dealing with complaints under the Housing Act 2004 and each case will be dealt with on an individual basis. The overall aim is to ensure a satisfactory outcome for all parties and secure the accommodation through a preventative approach, rather than enforcement.

In the event that the Council serves an enforcement notice on the landlord, the landlord will not be able to serve a Section 21 notice within six months of the date of the notice, unless there is a relevant exemption such as the planned sale of the property.

Part 10: Protection from Eviction

Offences Dealt with By the Adult Social Care and Housing Directorate.

The operational homeless service teams take the lead responsibility on offences relating to the behaviours of landlord towards tenants, a though the principals of the policy will apply in terms of approach and enforcement.

The most serious of such offences dealt with by the Council are to do with the harassment and illegal eviction of tenants (Protection from Eviction Act 1977). The Council generally regards these offences as very serious because of its commitment to:

a. Protecting the interests of vulnerable people
b. Promoting respect for the individual's home.
c. Preventing homelessness

The law provides grounds for landlords to lawfully regain possession of their premises and these procedures must be followed when a landlord wants a tenant (or licensee) to leave. Where an allegation is made that an offence has been committed under the Protection from Eviction Act 1977, the Council will investigate with a view to:

- Informing the landlord and occupier of their rights and responsibilities where appropriate.
- Prosecuting offences where there is sufficient evidence and where it is in the public interest to do so.

Prosecution of offences dealt with by the Homeless team and the issue of Simple Cautions will be dealt with in accordance with this policy.

Part 11: Other areas of legislation

Environmental Protection Act 1990

Officers can use sections 79 and 80 of the Act to tackle premises that are deemed to be a nuisance/prejudicial to health. Prejudicial to health is defined as injurious or likely to cause injury or health. This typically includes properties that are damp or have mould growth; these can have an effect on people's health. A nuisance is taken to be anything that interferes with the use and enjoyment of a neighbouring property, or which materially affects the comfort and quality of life of the public at large. An examples of nuisances include defective guttering serving the roof of one property allowing rain to penetrate through and affect the neighbouring property.

Officers can serve a Notice under section 80 of the Act requiring the abatement of the statutory nuisance within certain time limits. Failure to comply with such as Notice is a criminal offence, with a maximum penalty of £5000.

Local Government (Miscellaneous Provisions) Acts 1976, 1982

Section 16 Local Government (Miscellaneous Provisions) Act 1976 gives the Council the power to issue 'Requisition for Information Notices'. When the Council need to obtain information about a property in respect of which we are proposing to take enforcement action, we will serve a requisition for information Notice on the occupier and/or any person who has a legal interest in it, or who directly or indirectly receives rent, or is authorised to manage or to arrange for its letting.

Section 29 of the Local Government (Miscellaneous Provisions) Act 1982 gives the Council power to require the owner to board up a property to prevent unauthorised access, and to carry out the work in default of the owner if they fail to comply or cannot be found.

The Anti-social Behaviour, Crime and Policing Act 2014.

If a tenanted property is seen to be having a detrimental, persistent impact on the quality of life of those in the locality and the conduct of the landlord, managing agent or owner is unreasonable by their inaction to manage the tenancy or property, then action will be considered under the Anti-social Behaviour, Crime and Policing Act 2014. Non-compliance under the legislation will be dealt with in line with the guidance issued with consideration of the overarching enforcement policy for Cumberland.

Part 12: Tenant Fees Act 2019

The tenants fees act was introduced and applied to all applicable tenancies since 1st June 2020 and brought about changes to Section 83 and 87 of the Consumer Rights Act 2015, changes to Section 85 of the Enterprise and Regulatory Reform Act 2013, Article 7 of the Redress Schemes for Letting Agency Work and Property Management work (requirement to belong to a scheme etc (England) Order 2014 and changes to Section 135 of the Housing and Planning Act 2016.

The tenants fees act means that a landlord cannot charge a fee unless it is expressly permitted under the Act, most of permitted payments are capped and any part of a fee that exceeds the permitted amount is a prohibited payment.

The Tenants Fees Act 2019, statutory Guidance for Enforcement Authorities sets out to guide Local Authorities on the application of the legislation. As part of that guidance the Local Authority is required to have adopted a process of dealing with breaches of the legislation on when to prosecute and when to issue a financial penalty of up to £30,000.00, this will be led by the most appropriate option where a breach is particularly serious or where the landlord or agent has committed similar breaches in the past.

A breach of the legislation will usually be a civil breach with a financial penalty of up to £5,000. However, if a further breach is committed within five years of the imposition of a financial penalty or conviction for a previous breach, this will be a criminal offence. Individuals convicted of an offence under the Act are liable to an unlimited fine set by the courts and a banning order offence under the Housing and Planning Act 2016.

The authority must be satisfied beyond all reasonable doubt that a person has breached section 1 or 2 or Schedule 2 to impose a financial or criminal penalty. Where an offence is committed, the authority may impose a financial penalty of up to £30,000 as an alternative to prosecution, in such cases the authority will apply the policy and statement of intent adopted under the Housing and Planning Act for Housing Act 2004 and associated offences. If a civil penalty is imposed this does not amount to a criminal conviction and a breach of the requirement to repay the holding deposit is a civil offence and will be subject to a financial penalty of up to £5,000.

In line with other civil penalties issued relating to housing offences, the authority will be able to retain the money raised through financial penalties with this money reserved for future housing related enforcement activity in the private rented sector.

The process laid out for issuing the civil penalty will be in line with other areas of housing legislation within this policy, setting out that before imposing a financial penalty the authority must give the landlord or agent notice of their intention to do so ("notice of intent"). This notice must be given within a period of six months, beginning with the first day on which the authority has sufficient evidence of the offence to breach the prohibition in the Act. If the breach is a continuing breach, the notice must be given while the breach is continuing or within six months of the last day on which the breach occurred.

The notice of intent must set out the date on which the notice of the intent is served, the amount of the penalty, the reasons for imposing the penalty and information about the right to make representations within 28 days. Representation will be made directly to the appropriate service manager and not to the Officer serving the Notice. If the service manager is the serving officer, then it will be considered by another appropriate senior manager who would determine the facts and the Officers application of the policy and guidance. After the end of the period for representations, the authority must decide whether or not to impose a financial penalty and if so, the amount of the penalty. Follow up correspondence will typically be sent within 28 days of receiving the representations, although an allowance will be made relating to resources and the authority's ability to respond.

If the authority decides to impose a financial penalty, it must give the person a final notice imposing the penalty ("final notice"). The final notice must require payment of the penalty within 28 days and require repayment of the prohibited payment, holding deposit or amount paid under a prohibited contract within 7 – 14 days. The final notice must set out certain information, including the date on which the final notice is served, the amount of the penalty, the reasons for imposing it, how and when to pay, the rights of appeal and consequences of failing to comply with the notice.

The authority may at any time withdraw a notice of intent or final notice and may also reduce the amount specified in a notice of intent or a final notice or amend a notice to remove a requirement to repay a prohibited payment or holding deposit. The person who has received the notice must be notified in writing of any such withdrawal, reduction or amendment. If a landlord or agent fails to pay all or part of a financial penalty, the authority may recover the outstanding amount on the order of the county court, as if it were payable under the order of that court.

Part 13: Rent Reform Bill

Amendments expected under the Rent Reform Bill are expected to impact the legislative framework around the following areas:

- Removal of Section 21 evictions
- Section 8 notice of intention to issue possession proceedings
- Reformed Court process
- Strengthen mediation services for landlords and renters to prevent avoidable evictions.
- Fixed term tenancies scrapped
- Rent increases
- Decent Homes Standard (DHS) application to the Private rented sector
- Extended Ombudsman powers to the Private rented sector
- New Enforcement Measures

Any future amendments to the policy will be made based on the existing framework under Part 1 to 3 of the Policy. Civil penalties will be implemented in line with the existing statement of intent for civil penalties under private sector housing enforcement.

Part 14: General Information

Planned enforcement activity

The Councils approach to the regulation of Housing Standards will be evidence based. Inspections will be undertaken to actively target those properties and areas where we believe we should be addressing priority risks. This approach will be documented annually in the directorate service plan.

Improving standards in property management through Landlord Accreditation

In May 2014, the former legacy Council's in Cumbria adopted the Cumbria Landlord Accreditation Scheme, the scheme set up a joint Cumbrian approach to landlord accreditation in partnership with the Residential Landlord Association. The schemes approach is to drive improvement in the sector through education of landlords, to improve property standards and management.

Media coverage

Media coverage will normally be sought in the following cases:

- The offence is widespread in the area and coverage will assist in securing compliance by others
- To draw attention to particular serious hazards
- The offence is serious and/or was committed wilfully and the Council wishes to draw attention to its willingness to take a hard line in such cases
- Coverage is otherwise in the public interest
- The department has a duty to publish the data under the local Government transparency code.

A press release will also be issued about convictions where it is considered that publicity will bring benefits by promoting compliance with those statutory requirements designed to protect the health, safety and welfare of customers, residents, workers, and visitors as well at the environment.

Human Rights Act 1998

Consideration of the provisions of the Human Rights Act 1998 must be taken by the Council. In particular, Part 1, Article 8 "the right to respect for… private and family life…, home and… correspondence", and Protocol 1, Article 1 "peaceful enjoyment of… possessions", need to be balanced against the general benefits and rights of neighbours and the surrounding community.

Each case should be judged on its own merits. It will be important that the rights of those affected by the property or individual are properly weighted and considered. An officer's note

should be placed on record stating that the rights of those connected to the property have been considered, what facts were considered, and why it is considered proportionate.

If it is found not to be proportionate, then officers should consider what further or other steps (if any) should be taken to deal with issues.

Complaints

In the event that an individual or company is not satisfied with the Service, or they do not agree with the action taken by the investigating officer, they should first contact the relevant senior manager. If this does not resolve your complaint the Council also has a formal complaints system.

Review

We will monitor and consider the effectiveness of this policy and it will be subject to reviews as and when appropriate and also to accommodate changes in legislation and as local needs dictate.

Glossary of Terms

This list is not exhaustive and should not be treated as conclusive.

Dwelling

Any reference in this policy to residential premises, dwelling, property, or HMO includes any form of accommodation which is used for human habitation or is intended or available for such use. It includes a house, flat, maisonette, apartments, and bedsits. Included as part of the dwelling are any paths, yards, gardens, and outbuildings that are associated or for use with, or give access to that dwelling, whether or not they are for exclusive use of that dwelling or shared with other dwellings. It also includes any right of way, easement and common or shared parts or services necessary for the occupation and use of the dwelling, for example non adopted footpaths, drives, drains or sewers.

House in Multiple Occupation (HMO)

A HMO is a building or part of a building that is occupied by 2 or more persons as their main residence, who belong to more than one family and share one or more basic amenity, such as a bathroom, toilet or cooking facilities. For further clarification see the Housing Act 2004.

Landlord

A person, company or partnership who usually is the freeholder or leaseholder and rents out all or part of a property.

Manager
As defined by section 263(3) of the Housing Act 2004. 2

Occupier/resident
The person, or persons actually living in the property as their only or main residence. This could be a tenant or an owner occupier and includes residents such as students and migrant workers.

Owner
The freeholder or leaseholder of a property. This could be a landlord or an owner occupier.

Owner occupier
The freeholder or leaseholder, who resides in all or part of the property as their main residence.

First Tier Tribunal
The First Tier Property Tribunal has been set up by statute to determine disputes which would otherwise be decided by courts. They are independent decision-making bodies which have no links with the parties appearing before them. Tribunals make decisions on applications under the Housing Act 2004 and demolition notices under the Housing Act 1985. The RPT's decisions are not legally binding on each other.

Tenant
A person, or persons, who have exclusive possession for a fixed or periodic term in return for paying rent.

Enforcement Officer
An employee or suitably appointed person of the Council who holds an appropriate role within the public protection or other directorate within the Council and has been provided with an authorisation in line with the Council constitution.

Registered Providers
A term used to describe an organisation registered with the Regulator of Social Housing that provides social housing.

Housing Ombudsman
An organisation set up under law to provide a resolution service over disputes between social tenants and their RP.

Letting agent
Is a person/organisation who engages in letting agency work (whether or not that person engages in other work). Includes work in seeking to find another person to whom to let housing, or a person seeking to find housing to rent and the management of that property.

Housing, health and safety rating system (HHSRS)

A risk-based assessment for defining the risk to health safety of occupants and visitors from 29 defined hazards, e.g. excess cold, damp and mould, falls, etc. in residential property. The hazard is assessed, scored and banded between A to J.

Local Housing Allowance (LHA)
This is the means tested benefit specifically relating to housing and replaced 'housing benefit' within the PRS.

Vulnerable
There are a wide number of definitions of vulnerable, but the term used in housing refers to priority need, which is individuals who would be at much greater risk of harm than most people if they became homeless. It can also be evidence by a mental health problems or a learning disability, physical disabilities or a serious health condition, time spent in care, prison or the armed forces, fleeing violence from someone who is not a partner or relative, old age and any other special reason.

Anti-Social Behaviour (ASB)
For discretionary licensing schemes affecting housing, this is conduct on the part of people living in, or visiting, residential premises a) which causes nuisance or annoyance to other people living in, or visiting, or otherwise engaged in lawful activities near the property, or b) which involves or is likely to involve the use of such premises for illegal purposes.

Fit and Proper Test –
A legislatively defined test (section 66 of the Housing Act 2004 – Housing Act 2004 (legislation.gov.uk) test of a license's holder and any nominated manager's professional standards of conduct.

Warrant
An authorisation given by a Justice of Peace to allow authorised officers to enter a property (by force if necessary) for defined purposes.

Enforced sale
A power that allows the Council to recover debts registered against the title of a property by forcing its sale.