



Private Sector Housing Enforcement Policy

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

Document version control

Document information type	Document information detail
Organisation	Cumberland Council
Document Title	Cumberland Enforcement Policy for Private Sector Housing
Filename	Cumberland Enforcement Policy for Private Sector Housing V3
Document Status	Draft updated June 2026
Author	Amelia Morphet
Document held by (name/section)	Amelia Morphet – Environmental Health
Contact email	Amelia.Morphet@Cumberland.gov.uk
Date of publication	22/4/24, 27/05/26. 15/07/26
Next review date	March 2027
Version Number	3
Approval date and by who (delegated / committee)	Revised in May 2026, Colin Cox. Director Reviewed by Regulatory committee for information only, April 2024.
For internal publication only or external also?	
Document stored on Council website or Intranet?	

Document change history

Version	Date reviewed	Reviewed by	Description of revision
1	09/11/23		Update to draft to include Tenant Fees Act 2019
2	20/03/2026		Review for Renters Rights Act 2026
3	18/06/2026		HHSRS updated

Contents

Document version control	2
Document change history	2
APPENDICES.....	5
Part 1: General Enforcement and Background.....	6
Introduction	6
Scope of the Policy.....	6
Enforcement Framework	7
General Enforcement	8
No action	8
Vulnerability and Information Gathering.....	8
Inspections	9
Emergency Situations.....	9
Informal action	9
Statutory action	10
Civil Penalties	11
New Civil Penalty Powers Under the Renters' Rights Act.....	11
Process for Imposing Civil Penalties.....	12
Debt Recovery and Enforcement of Non-Payment	13
Banning Orders	13
Expanded Investigatory powers under the Renters Rights Act.....	14
Part 2: Enforcement of Private Sector Housing Standards	14
Housing Standards.....	14
Duties and Powers	Error! Bookmark not defined.
Decision Rules	16
Category 1 Hazards	Error! Bookmark not defined.
Category 2 Hazards	Error! Bookmark not defined.
Reducing hazards to an acceptable level	Error! Bookmark not defined.
Tenure.....	18
Registered Providers.....	18
Owner occupiers	18
Vacated Properties with Statutory Notice.....	18
Additional powers within the Housing Act	19
Action by Agreement	19
Powers of Entry	19
Power to Charge for Enforcement Action.....	19
Works in Default.....	20
Emergency Measures.....	20

Part 3: Licensing of Houses in Multiple Occupation.....	20
Duty to Licence Houses in Multiple Occupation (HMO)	20
Amenity standards within HMOs.....	21
HHSRS and its Link to HMO Licensing.....	21
Fit and Proper Person and Management.....	21
Provision of False or Misleading Information	21
Granting a Licence	21
Refusing a Licence.....	22
Revoking a Licence	22
Varying a Licence.....	22
Penalties	22
Interim Management Orders and Final Management Orders	23
Temporary Exemption Notices	23
Additional and Selective Licensing	23
Part 4: Empty Homes	24
Enforced sale	24
Empty Dwelling Management Orders	24
Boarding up of empty dwellings	24
Anti-Social behaviour and empty homes	24
Housing Act 1985, section 17	24
Risk Assessed approach to empty property and homes interventions.	25
Part 5: Smoke Detection and CO Regulations	25
Requirement for Smoke alarms	25
Requirement for Carbon monoxide alarms	25
Ongoing maintenance	25
Checks	26
Enforcement.....	26
Part 6: Minimum Energy Efficiency Standards	26
Compliance Notice	26
Penalties	27
Right of review and right of appeal	27
Part 7: Electrical Safety Standards.....	27
Requirements.....	28
Results of the inspection and testing	28
Enforcement.....	28
Landlords who aren't able to comply with a remedial notice.	29
Penalties	29
Appeals	29
Part 8: Tenancy Redress Scheme	29
Part 9: Changes to Tenancies under the Deregulation Act 2015 and the Renters' Rights Act 2025 ...	30
Tenancy Deposits and Information Requirements.....	30

Tenancy Deposit Protection.....	30
New Written Statement Requirements.....	31
Tenancy Types and New Framework	31
End of Assured Shorthold Tenancies (ASTs)	31
Abolition of Section 21 “No-Fault” Evictions.....	31
New Section 8 Grounds and Thresholds	31
Anti-Discrimination Measures	32
Part 10: Other areas of legislation	33
Environmental Protection Act 1990.....	33
Local Government (Miscellaneous Provisions) Acts 1976, 1982.....	33
The Anti-social Behaviour, Crime and Policing Act 2014.	33
Part 11: Tenant Fees Act 2019	33
Part 12: Renter Rights Act	35
Roadmap Summary (Table 1)	35
Part 13: General Information	36
Planned enforcement activity.....	36
Improving standards in property management through Landlord Accreditation.....	36
Media coverage.....	36
Human Rights Act 1998.....	36
Complaints	37
Review	37
Glossary of Terms.....	37

Glossary of Terms

APPENDICES

- 1a Statement of Intent,
- 1 b Civil Penalty Policy
- 2. House in Multiple Occupation Amenity Standards
- 3. Enforced Sales Policy

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 its ability to protect and improve residents' quality of life through the effective regulation of housing conditions within the Cumberland Council area. The Private Sector Housing function plays a central role in this work by improving standards in the private rented sector through education, advice, and enforcement. The Council has a statutory duty to enforce the provisions of the Housing Act 2004 and other legislation, and this is undertaken by Officers within the Public Health and Communities Directorate, Public Health and Protection.

From 1 May 2026, the Renters' Rights Act 2025 (the Act) introduces the most significant reform of the private rented sector in a generation, strengthening the Council's role in protecting tenants and ensuring landlords meet their legal obligations. The Act abolishes Section 21 'no-fault' evictions and replaces fixed-term tenancies with periodic assured tenancies, giving renters greater long term security and stability. The new framework also introduces clearer and fairer grounds for possession, enhanced tenant rights on rent increases, protections against discrimination, a strengthened complaints process, and formal requirements for landlords to provide tenants with key written information.

In this evolving landscape, the Council's enforcement responsibilities have expanded to include oversight of these new rights and duties. Officers now regulate issues such as compliance with tenancy information requirements, adherence to new rent increase rules, prohibition of discriminatory letting practices, and the operation of the new periodic tenancy structure.

The Officers delivering this function continue to respond to a wide range of housing issues—from licensing and inspecting Houses in Multiple Occupation (HMOs), to investigating complaints from tenants and partners regarding housing standards. They provide advice and assistance to landlords, tenants, owner occupiers, and empty property owners across a wide spectrum of housing issues including overcrowding, cold, damp, and property management matters. These responsibilities now operate alongside new statutory duties introduced by the Renters' Rights Act, ensuring that all residents benefit from a safer, fairer, and more secure private rented sector.

Scope of the Policy

The Council is responsible for ensuring that all statutory powers and duties relating to private sector housing are implemented effectively and consistently. This includes enforcement under the Housing Act 2004 and subsequent legislation, now complemented by significant new responsibilities arising from the Renters' Rights Act 2025, which introduces a new tenancy framework, revised possession procedures, strengthened rent regulation, enhanced tenant protection measures, and updated landlord obligations. These reforms abolish fixed term Assured Shorthold Tenancies, replacing them with periodic assured tenancies, and prohibit the use of Section 21 'no-fault' eviction notices.

The purpose of this policy is to set out clearly how the Council intends to secure effective compliance with all relevant legislation while minimising the burden on individuals,

organisations, and businesses. The policy provides guidance on the principles and processes that Officers will apply when determining the most appropriate course of action in any given case. It also sets out what owners, landlords, letting agents, and tenants of private sector properties can expect from the Council's regulatory approach.

In light of the Renters' Rights Act, the Council's scope now includes enforcement relating to:

- Compliance with the new periodic tenancy regime
- Restrictions on rent increases to once annually and related appeal rights for tenants
- Mandatory provision of written tenancy information, including the new Government issued Information Sheet required by 31 May 2026 for existing tenancies.
- Strengthened protections against discriminatory letting practices affecting tenants with children or those receiving benefits.
- Prohibitions on rental bidding wars and excessive rent in advance (capped at one month)
- Ensuring landlords act reasonably when responding to tenant requests to keep pets.

The Council will continue to work jointly with partner agencies where necessary, targeting resources to ensure that the most serious and high-risk cases are prioritised. In most situations, tenants will be directed to contact their landlord in the first instance; however, where there is a lack of action, unreasonable delay, or potential breach of the enhanced statutory protections under the Renters' Rights Act, the Council will investigate the complaint through its established triage and risk based assessment system.

Although the function is named Private Sector Housing, the remit extends across a range of tenures, including private rented properties, registered provider (RP) homes, and owner-occupied dwellings. While not all of these are governed by the Renters' Rights Act, Officers will offer appropriate advice and signposting where enquiries fall outside the scope of enforceable private rented sector legislation.

Any areas not explicitly detailed within this policy will be considered on a case by case basis, taking into account relevant legislation, statutory guidance, and the expanded duties now placed on local housing authorities in delivering a fairer, safer, and more secure private rented sector under the new national framework.

Enforcement Framework

The enforcement of housing standards operates within the wider Enforcement Policy for the Council. This Private Sector Housing Enforcement Policy forms an annex to that overarching framework and should be read alongside it. The overarching policy sets out Cumberland Council's commitment to the principles of the Government's Enforcement Concordat and the Regulators' Code, which describe what individuals, businesses, and regulated parties can expect from enforcement officers. This Policy aligns with those national standards to ensure that Officers act in a consistent, transparent, and proportionate manner when exercising their enforcement duties. It also reflects the Council's responsibilities under evolving housing legislation, including the strengthened regulatory duties introduced by the Renters' Rights Act 2025, ensuring that enforcement activity supports fair, lawful, and accountable decision making.

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 Council, detailed below are the options which are specific to housing.

No action

Before considering any action in relation to a tenanted property, tenants will normally be required to contact their landlord first to report the issues they are experiencing. This applies to all tenants, as landlords can only fulfil their legal obligations once they have been notified of a problem. Under the Renters' Rights Act, tenants are also entitled to raise concerns about poor or unfair landlord practices such as delays in repairs, unsafe conditions, or discriminatory behaviour without fear of retaliatory eviction or adverse treatment.

However, there are circumstances in which tenants will not be required to contact the landlord directly. These include situations where:

- the issue presents an imminent risk to the health or safety of the occupier.
- there is a known history of harassment or poor management practice by the landlord.
- the tenant is defined as vulnerable, and a referral is being made by a third party.
- the tenant requires assistance due to limited written English.
- or the matter relates to a complaint about bad practices that the tenant feels unable to raise safely with the landlord.

In such cases, Enforcement Officers may provide initial assistance to the tenant, landlord, or occupier at first point of contact. Where vulnerability or additional support needs are identified, Officers should signpost individuals to the most appropriate internal or external support services, such as homelessness/housing options services, mediation services, or independent advice agencies.

Vulnerability and Information Gathering

The Officer will gather initial information at first contact, which may indicate whether additional support is required. Any such need must be evidenced by the individual. Officers

will not request sensitive information that could identify a person as having priority need when responding to an initial request for service.

A tenant's vulnerability does not affect the Council's regulatory responsibilities. Enforcement action is determined by the Housing Act and the hazard profiles set out within the Housing Health and Safety Rating System, which define when the Council has a statutory duty to act. Safeguarding referrals and support will be considered in line with wider corporate policies relating to adult and children's safeguarding.

Inspections

Officers may assist with resolving issues without carrying out a physical inspection. The need for an inspection will be determined on a case by case basis, and low risk complaints may be deferred. Where possible, Officers should ask complainants to provide photographs, video footage, or live broadcasts through Council enabled software.

Emergency Situations

In cases involving extremely hazardous conditions, alternative accommodation may be considered as an alternative to emergency remedial action. Officers must liaise directly with Homeless Services/Housing Options to identify practical solutions.

Informal action

Authorised Officers may use informal procedures where they believe such an approach will secure compliance with the relevant legislation within a reasonable timescale. Informal action will usually involve discussion with the relevant stakeholders, followed by written confirmation from the Officer outlining the issues identified, the actions agreed, and the expected timescales for compliance. Informal action will generally precede formal or statutory enforcement, and is appropriate where:

- there is no legislative requirement to serve a formal notice.
- the circumstances are not sufficiently serious to merit immediate formal action.
- the landlord's past history indicates that informal action is likely to secure compliance.
- there is confidence in the landlord's or responsible person's willingness and ability to rectify the issues.
- the consequences of noncompliance do not pose a significant risk to occupiers or neighbouring persons.
- remedial works can be agreed within an appropriate and achievable timescale.

All informal action will follow the principles set out in the Council's Enforcement Framework. The Council will also operate service standards governing its response to housing complaints.

Under the Renters' Rights Act, Officers must also consider whether the nature of the complaint particularly those relating to poor landlord practices, unsafe housing conditions,

discriminatory behaviour, or repeated failure to carry out repairs requires progression to formal enforcement. This may include the service of statutory notices, referral to the Private Landlord Ombudsman, an independent body that considers complaints from private tenants about their landlord or for the Council to initiate other enforcement powers available. Formal action will be taken where the severity of the case, the risk to health and safety, or the landlord's conduct indicates that informal measures are unlikely to achieve timely compliance or where legislation specifically mandates formal intervention.

Statutory action

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

- Attempts to resolve the matter informally have failed.
- There are serious contraventions of legislation that present a significant risk to the health, safety, or welfare of occupiers.
- There is insufficient confidence that an informal approach will achieve timely compliance.
- There is a recorded history of non-compliance with informal action or advisory measures.
- Officers have been unable to make contact with the owner, landlord, or responsible person.
- The relevant legislation requires the service of a statutory notice before further enforcement can be taken.
- A situation exists in which the Council has a mandatory duty to act, including under heightened standards introduced by the Renters' Rights Act, such as serious hazards relating to damp, mould, disrepair, or unsafe housing conditions.
- Although prosecution is intended, urgent intervention is required to address conditions that pose an imminent risk to public health, safety, or the environment.
- A statutory notice is necessary to formalise an agreed course of action and ensure enforceability.

Under the **Renters' Rights Act**, statutory action may also be taken where:

- The landlord has engaged in prohibited poor practices, including discriminatory behaviour (for example, blanket "No DSS" restrictions, or unjustified exclusions of households with children where these give rise to unlawful discrimination).

unlawful rental bidding, or deliberate above market rent increases intended to force tenants out.

- The landlord repeatedly fails to meet obligations to maintain safe, compliant accommodation in line with enhanced national housing standards.
- Failures are identified through the new Private Rented Sector Database, once implemented, indicating unregistered or non-compliant rental activity.

Content of Statutory Notices

All statutory notices issued by the Council will:

- Clearly set out the reasons for enforcement, including the specific defects or statutory breaches, the actions required to remedy the situation, and the consequences of non-compliance.
- Specify a reasonable period for compliance, proportionate to the seriousness of the identified hazards or contraventions.
- Provide information regarding the right of appeal where applicable, including where the matter may be eligible for escalation to the Private Landlord Ombudsman once operational.

Civil Penalties

Under section 126 of the Housing and Planning Act 2016, the Housing Act 2004 was amended to allow civil penalties to be imposed as an alternative to prosecution for certain housing related offences. The offences include:

- Section 30 – failure to comply with an Improvement Notice
- Section 72 – licensing of Houses in Multiple Occupation (HMOs)
- Section 95 – licensing of houses under Part 3 (selective licensing)
- Section 139(7) – failure to comply with an overcrowding notice.
- Section 234 – breach of HMO management regulations

Additional legislation that includes civil penalty regimes (as an alternative or addition to prosecution) includes:

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

New Civil Penalty Powers Under the Renters' Rights Act

The Renters' Rights Act significantly strengthens the Councils enforcement powers. From December 2025, councils now have the ability to:

- Issue civil penalties of **up to £40,000 per offence**, an increase from the previous £30,000 limit.
- Impose penalties for new categories of offences, including:
 - Failure to comply with the new tenancy rules (e.g., falsely creating fixed-term tenancies, unlawful verbal termination attempts)
 - Failure to register on the Private Rented Sector Database once operational.
 - Failure to join the Private Landlord Ombudsman scheme once operational.
- Issue rent repayment orders for **up to 24 months of rent**, double the previous maximum of 12 months.

The Renters' Rights Act also introduces a statutory duty on the Council to enforce landlord legislation and report enforcement activities to the Secretary of State.

Civil Penalties in Relation to Category 1 Hazards (Section 6A Housing Act 2004)

The Council may impose a civil financial penalty under Section 6A Housing Act 2004 in connection with hazards identified under the Housing Health and Safety Rating System (HHSRS). Section 6A provides that, where the Council is required to take appropriate enforcement action under Section 5 Housing Act 2004 in respect of a Category 1 hazard, or a failure to meet a Type 1 requirement, on qualifying residential premises, it may impose a civil financial penalty at the point of first enforcement action where it considers, on the balance of probabilities, that it would have been reasonably practicable for the responsible person to secure the removal of the hazard or the meeting of the requirement.

This power applies only to qualifying residential premises and does not apply to the common parts of a building containing one or more flats, it may be used alongside the initial enforcement action (e.g. Improvement Notice or Emergency Remedial Action) and provides a proportionate alternative to prosecution, particularly where early intervention is appropriate.

In deciding whether to impose a penalty under Section 6A, the Council will consider, how long the hazard has existed, whether the responsible person was aware, or ought reasonably to have been aware, of the hazard whether reasonable steps could have been taken to remedy the hazard, any actions already taken to mitigate or remove the risk and any barriers to compliance (e.g. access issues), and whether these were reasonably addressed.

Process for Imposing Civil Penalties

Where the Council intends to impose a civil penalty under any relevant Act or Regulation, it must first publish a Statement of Intent and penalty matrix, which will be included as **Appendix 1a and 1b** of this policy.

Operationally, civil penalties follow a consistent statutory process:

1. Notice of Intent

- The individual or organisation must first be served with a Notice of Intent.
- This will set out:
 - the reasons for the penalty,
 - the amount proposed, and
 - the evidence supporting the penalty.
- The Notice must allow the period specified in the relevant legislation for written representations.

2. Representations

- Representations will be considered by a suitably authorised Officer with appropriate seniority and experience as set out within the constitution or as sub delegated.

- Representations are **not** reviewed by the Officer who served the Notice of Intent.

3. **Final Notice**

- After the representation period, the Council will decide whether to impose the civil penalty and, if so, will issue a Final Notice.
- The Final Notice must state:
 - the amount payable.
 - reasons for the penalty.
 - the payment period (normally 28 days).
 - payment instructions.
 - appeal rights.
 - consequences of non-payment.
- A Final Notice may be appealed to the First-tier Tribunal, and the notice is suspended pending appeal determination.

Debt Recovery and Enforcement of Non-Payment

- If a civil penalty is not paid within 3 months, a formal case review will be undertaken by the issuing Officer and a senior departmental lead.
- If appropriate, the matter will then be referred to the Council's debt recovery service for initial recovery actions.
- Payment plans may be considered in limited circumstances where significant financial hardship is evidenced.
- If the penalty remains unpaid after 6 months, the debt will be pursued through the County Court as if payable under a court order.

Civil penalty income is ring fenced and must be used by the Council solely to fund enforcement activity within the private rented sector.

Banning Orders

A banning order is a statutory enforcement measure available to local authorities under the Housing and Planning Act 2016. Banning orders may be sought where a landlord or property agent has been convicted of a banning order offence. Where granted by the First-tier Tribunal, a banning order prohibits the individual or organisation from letting property, carrying out letting agency work, conducting property management activities, or holding a property licence. A banning order must last for at least 12 months, and breach of a banning order is a criminal offence.

Local authorities may apply for a banning order following a conviction for a banning order offence, including but not limited to: unlawful eviction or harassment, violent entry, failure to comply with improvement or prohibition notices, operating unlicensed HMOs or selective licensable properties, breach of HMO management regulations, failure to comply with overcrowding or fire safety requirements, and offences under the Tenant Fees Act.

Under the Renters' Rights Act, all banning order entries must now be recorded on the new national Private Rented Sector (PRS) Database once it becomes operational, this replaces the previous rogue landlord database. The PRS Database will provide a comprehensive

record of landlords, their properties, and enforcement actions, and landlords may not market or let property unless they and their properties are registered.

Expanded Investigatory powers under the Renters Rights Act

Effective from 27 December 2025, councils gained extensive new powers to obtain evidence and investigate landlords. The Council can now

- Require documents and information from landlords and letting agents.
- Require information from prop-tech companies, banks, accountants, CMP schemes, and building contractors.
- Enter business and residential premises with or without a warrant when investigating suspected breaches.
- Access broader data and share intelligence with other councils.

These expanded investigatory powers go far beyond previous Housing Act tools. These strengthened duties and powers support the effective identification of serious non-compliance and may increase circumstances where banning order action is appropriate following conviction.

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 carried out under the Housing Health and Safety Rating System (HHSRS).

The HHSRS is a risk based evaluation tool used to identify hazards that may affect the health and safety of occupiers. Following the Housing Health and Safety Rating System (England) (Amendment) Regulations 2026, which came into force on 23 June 2026, the system has been updated to simplify and modernise the assessment of housing conditions. Hazards are now structured under a revised framework, consolidating previous hazard categories into a simplified set, and are assessed using an updated methodology designed to improve clarity and consistency.

Local authorities must inspect properties to determine whether hazards are present, using the prescribed method set out in regulations and having regard to statutory operating guidance issued by the Secretary of State.

Assessment of Hazards

Assessment under HHSRS remains a two-stage process:

1. Likelihood of occurrence– the probability of harm arising from a hazard; and

2. Spread of harm outcomes – the range and severity of potential health impacts.

These elements are combined using a prescribed scoring system to generate a numerical hazard score.

Under the updated framework:

Hazards are now grouped into High, Medium, and Low bands, replacing the previous A–J banding system;

- High band hazard corresponds to a Category 1 hazard;
- Medium and Low band hazards correspond to Category 2 hazards

The threshold for Category 1 hazards (score of 1,000 or above) remains unchanged.

The decision to take enforcement action is based on:

- (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 Category 1 or Category 2 hazard; and
- (c) the Council's judgement as to the most appropriate course of action to remove or reduce the hazard, taking into account the vulnerability of potential and actual occupants.

Duties and Powers

The Council must take appropriate enforcement action in respect of a Category 1 hazard (High band hazard) and may take action in respect of a Category 2 hazard (Medium or Low band hazard). The enforcement options available to the Council where it has a duty or power to act include:

- Serving an Improvement Notice requiring remedial works;
- Impose a civil financial penalty under Section 6A Housing Act 2004.
- Making a Prohibition Order, restricting the use of all or part of a dwelling or limiting occupancy;
- Serving a Suspended Improvement Notice or Prohibition Order (for a defined period);
- Serving a Hazard Awareness Notice;
- Taking Emergency Remedial Action (Category 1 hazards only);
- Making an Emergency Prohibition Order(Category 1 hazards only);
- Making a Demolition Order (Category 1 hazards only);
- Declaring a Clearance Area (Category 1 hazards only).

Assessment of Occupation

For the purposes of assessing a hazard, it is assumed that the dwelling is occupied by the most vulnerable potential occupant, regardless of the actual occupation or whether the property is vacant. However, when determining the most appropriate enforcement action, the Council will have regard to the actual circumstances of the current occupants.

Works in Default

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 Housing Health and Safety Rating System: Enforcement Guidance when determining the most appropriate course of action. Where the Council identifies a Category 1 hazard (High band hazard under the updated HHSRS framework) or exercises its powers in respect of a Category 2 hazard (Medium or Low band hazard), it will provide a formal statement of reasons for the action it intends to take.

In determining the most appropriate enforcement response, the Council will take account of all relevant factors, including:

- the extent, severity and location of the hazard;
- the hazard banding and score under HHSRS;
- proportionality, including the cost and practicability of remedial works;
- the presence of multiple hazards and their cumulative impact;
- the extent of control the responsible person has over the required works;
- the vulnerability of the current and potential occupants;
- the likelihood of occupancy changing;
- the views of the current occupants;
- whether it would have been reasonably practicable for the hazard to have been remedied.

Where appropriate, the Council will consult with other enforcing bodies. In particular, where a fire hazard is identified, the Council will consult with the relevant fire and rescue authority in accordance with Section 10 of the Housing Act 2004.

Category 1 Hazards (High Band Hazards)

Where an assessment identifies a Category 1 hazard, the Council has a duty to take the most appropriate course of action. The nature of that action will be determined by the authorised officer, taking into account all relevant circumstances and the factors set out above.

Use of Civil Financial Penalties (Section 6A), where the Council is required to take enforcement action under Section 5 Housing Act 2004, it will also consider whether it is appropriate to impose a civil financial penalty under Section 6A Housing Act 2004. The Council may impose a civil financial penalty alongside initial enforcement action where it considers it proportionate and appropriate to do so.

Category 2 Hazards (Medium and Low Band Hazards)

In addition to its duty in respect of Category 1 hazards, the Council will generally exercise its discretion to take enforcement action in respect of Category 2 hazards where it considers it appropriate to do so.

(a) Medium Band Hazards

There will be a general presumption that where a Medium band hazard is identified, officers will consider taking action under the Housing Act 2004 unless this would not represent the most appropriate course of action.

b) Multiple Hazards

Where a number of Medium or Low band hazards exist and, taken together, create a more serious risk to health or safety, or where a property is in a dilapidated condition, the Council will consider taking formal enforcement action.

Reducing Hazards to an Acceptable Level

The Housing Act 2004 requires the Council to take the most appropriate course of action to reduce risk to an acceptable level. In practice, this means:

- reducing a Category 1 hazard (High band) to a Category 2 hazard (Medium or Low band)
- specifying works that achieve a significant and sustainable reduction in risk

The Council will generally seek to secure works to a standard that ensures no further intervention is required for a reasonable period, typically a minimum of 12 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

Where a property is subject to a statutory notice and the tenant subsequently vacates, the Council will review all notices and orders to determine whether they should be varied, suspended, or revoked. The removal or departure of a tenant will not be considered evidence of compliance with any statutory notice, except in circumstances where reducing occupancy was an explicit requirement of the notice (e.g., overcrowding).

Under the Renters' Rights Act, the Council will give particular regard to the strengthened legal protections against retaliatory or improper eviction practices. As all tenancies become assured periodic tenancies from 1 May 2026, landlords must use valid statutory grounds for possession and may not end a tenancy verbally or through unlawful fixed-term arrangements. Any situation where a tenant leaves during the enforcement process will therefore be assessed to determine whether the landlord actions constitute a breach of the Act. The Council will continue to deter and act against any form of retaliatory eviction and will ensure that statutory notices remain in force until all required remedial actions are fully completed.

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 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 applying to Justice of the Peace for a warrant to authorise entry, including entry by force where necessary. Where prior warning of entry would defeat the purpose of entry, a warrant may be obtained.

The Council also has the power to require documents to be produced in connection with its enforcement functions by serving a formal notice. Such notices will specify the consequences of non-compliance.

These powers of entry and investigation are further strengthened by provisions introduced under the Renters' Rights Act.

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 Council's 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.

Prosecution

Whilst civil penalties provide an alternative to prosecution for certain Housing Act 2004 offences, prosecution remains an important enforcement option available to the Council. In appropriate cases, particularly where there is a serious risk to occupiers, significant culpability, repeated non-compliance, or a history of previous enforcement action, the Council may consider prosecution instead of, or where legislation permits, in addition to other enforcement measures. A number of offences under the Housing Act 2004 continue to be prosecuted through the courts, including failure to comply with a Prohibition Order (section 32), failure to comply with notices requiring information or documents, and obstruction of an authorised officer exercising statutory powers. Conviction for some housing offences can result in an unlimited fine being imposed by the courts, reflecting the seriousness with which breaches of housing legislation are regarded.

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 occupied by five or more persons and comprising 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 2**. 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 (high band) or 2 (medium or low band) 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, it 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 unlimited fines.
- (c) Breaching licence conditions. A breach of licence conditions can lead to prosecution and can result in unlimited fines.

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 – Under the Housing Act 2004 Landlords are not 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. However, this rule becomes less relevant, because Section 21 will no longer exist at all under the Renters Rights Act. Eviction attempts in unlicensed HMOs will trigger investigation.

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 3**

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 Order is intended to be measure of last resort. A CPO is not a 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 1a.**

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 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 of 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 suspects 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 known breach.

Local authorities can decide on the level of the penalty having regard to the guidance. This will be set out within **Appendix 1a** 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. Representations 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 favor 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.

An 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 contact 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 service 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 £40,000 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 1b.**

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 agencies 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 which takes 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 letting's 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 and the Renters' Rights Act 2025

The Deregulation Act 2015 previously introduced important measures affecting the private rented sector, including rules on tenancy deposit protection and restrictions on retaliatory evictions. However, the Renters' Rights Act begins phased implementation from 1 May 2026 and these reforms will significantly alter how the Council supports tenants, engages with landlords, and enforces housing standards.

Tenancy Deposits and Information Requirements

Tenancy Deposit Protection

The requirement to protect deposits in an approved Tenancy Deposit Protection (TDP) scheme continues. Under the Deregulation Act 2015, landlords who fail to protect deposits or provide prescribed information cannot legally serve Section 21 notices and may face civil

penalties for non-compliance. This framework remains in place but will operate alongside new tenancy information requirements introduced by the Renters' Rights Act.

New Written Statement Requirements

The Renters' Rights Act introduces a new legal duty for landlords to provide a Written Statement of Terms at the start of all tenancies. This document must include:

- Details about the landlord, tenant and property
- Financial terms
- Safety and compliance duties
- Rights relating to rent increases.
- Rights to request pets
- Information on security and notice procedures

This information may be incorporated within the tenancy agreement itself. In addition, all existing tenants must receive the Government's "Information Sheet 2026" by 31 May 2026, or landlords may face penalties.

Tenancy Types and New Framework

End of Assured Shorthold Tenancies (ASTs)

The Renters' Rights Act abolishes most ASTs and converts them into open-ended periodic tenancies. Tenants may end their tenancy at any time with two months' notice. Fixed-term ASTs will no longer form part of the legal landscape.

Abolition of Section 21 "No-Fault" Evictions

The Renters' Rights Act abolishes Section 21 notices entirely from 1 May 2026. Landlords can only rely on Section 21 if notices are served by 30 April 2026, and any court claims based on these must be issued by 31 July 2026. After these dates, Section 21 will no longer be valid.

Retaliatory Evictions (Updated Position)

Under the Deregulation Act 2015, serving a Section 21 notice was prohibited for six months where the Council had served certain enforcement notices following a tenant's complaint. With Section 21 abolished, retaliatory eviction protections shift to the new Section 8 regime.

New Section 8 Grounds and Thresholds

With Section 21 abolished, all possession cases will rely on reformed Section 8 grounds. Key changes include:

- Rent arrears threshold for mandatory eviction increases from 2 months to 3 months arrears before a valid notice can be served.
- Pre-conditions apply to certain grounds, requiring landlords to demonstrate compliance with legal duties.

- New grounds allow possession where landlords intend to sell or move in, offering a more balanced framework than the previous no-fault system.
- However, restrictions now apply to when landlords can use Section 8 grounds where the Council has identified disrepair or served enforcement notices.

Rent Regulation and Rent Increases

The Renters' Rights Act introduces new rules for rent increases:

- No rent increase within the first 12 months of a tenancy
- Rent can only be raised using the statutory Section 13 notice
- Notice period increased to 2 months
- Tenants may challenge increases at the First tier Tribunal
- Landlords must advertise a fixed rent amount and cannot accept higher offers (ending bidding wars)

Rights to Request Pets

Tenants may request permission to keep a pet, and landlords cannot unreasonably refuse such requests. Courts may order landlords to comply if they fail to follow correct procedures.

Anti-Discrimination Measures

The Renters' Rights Act prohibits discriminatory letting practices, including blanket bans on:

- Tenants receiving benefits ("No DSS")
- Tenants with children

These clauses are void unless a limited statutory exemption applies. New financial penalties will apply for breaches.

Supporting Tenants and Landlords

The Council will support tenants and landlords in understanding and applying these new grounds appropriately. This shift will affect the Council's approach to homelessness prevention and tenancy advice, particularly around, understanding tenancy security, advising tenants and landlords on new possession processes and ensuring compliance with written statement requirements.

In investigating these Offences, the Council will have a general regards to the serious of the offences and the willingness of key witness to corporate. A commitment is made to:

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

- Prosecuting offences or taking civil actions where there is sufficient evidence and where it is in the public interest to do so.

Part 10: 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 11: 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 Renters' Rights Act 2025 introduces amendments to the Tenant Fees Act 2019 that strengthen transparency requirements, broaden local authority enforcement powers, clarify the treatment of Council Tax and TV licence payments, and align TFA enforcement processes with the reformed tenancy system commencing 1 May 2026.

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 £40,000.00 as updated the Renters Rights Act. This action 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 relevant financial penalty of up to £7000, 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 £40,000 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.

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 12: Renter Rights Act

The Renters' Rights Act 2025 (RRA) introduces wide ranging reforms to the private rented sector (PRS) in England, strengthening tenant protections, improving housing standards, and expanding local authority enforcement powers. It is being implemented in three core phases between 2026–2030. This policy has been updated to reflect the incoming changes based on the guidance and information published to date. The details of which are integrated within the policy document. Table 1 below shows the government roadmap summary.

Roadmap Summary (Table 1)

Phase	Timeline	Key Measures	Enforcement Focus
1	May 2026	End of Section 21, APTs, rent controls, anti-discrimination, pets, new possession grounds	Update enforcement policies, educate landlords, adjust systems
2	Late 2026–2028	PRS Database, Landlord Ombudsman	Data-driven inspections, registration enforcement
3	2027–2037	Awaab's Law, Decent Homes Standard, EPC C	Housing standards, repairs enforcement, long-term compliance

Part 13: 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 National Residential Landlord Association. The schemes approach is to drive improvement in the sector through education of landlords, to improve property standards and management.

Landlord Events and Support

The Council provides regularly landlord engagement, training and compliance events to support private sector housing standards. The landlord forums ran across Cumberland aim to update landlords on legislation, good practice, and local issues. Training will be offered on specific areas to update on law, enforcement expectations, but also enable networking, good practice sharing.

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 to be 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 21 defined hazards, e.g. excess cold, damp and mould, falls, etc. in residential property. The hazard is assessed, scored and banded High, Medium and low.

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 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2004/34/section/66) 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.