



**Dorset**  
Council

# **Housing Standards Enforcement Policy and Statement of Principles for determining Financial Penalties**

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# Housing Standards Enforcement Policy and Statement of Principles for determining Financial Penalties

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# Housing Standards Enforcement Policy and Statement of Principles for determining Financial Penalties

## 1. Introduction

The Housing Standards Enforcement Policy details how Dorset Council will undertake enforcement activity to regulate the safety and condition of resident's homes. While this includes a wide range of accommodation types and tenures, the policy does not apply to housing stock which is owned by Dorset Council, for which other processes and procedures apply.

This policy should be read in conjunction with the '[General Statement of Enforcement Policy](#)' which provides details of the overall approach of Dorset Council to enforcement issues across all relevant services. Action will also be taken in accordance with the Officers Scheme of Delegation for Dorset Council and the Local Scheme of Nomination - Executive Director – Adults.

### **Housing Standards Team - Our aim**

To raise standards in housing; by working with all our stakeholders including property owners, landlords, letting agents and tenants by using a wide range of proportionate regulatory activities including where necessary, robust enforcement action.

Fig: 1

### **Dorset Council Plan 2020-24**

Through this Enforcement Policy, the Housing Standards Team will contribute to the [Dorset Council Plan 2020-2024](#) and the Dorset Council priorities of:

- Protecting our natural environment, climate, and ecology
- Creating stronger, healthier communities
- Creating sustainable development and housing
- Driving economic prosperity
- Becoming a more responsive, customer focused council

Fig 2

Decent, safe, and affordable housing should be available for all. Poor housing has wide-ranging impacts on health, the environment, and the wider community. Most homes in Dorset provide safe and healthy accommodation. This enforcement policy is primarily aimed at a minority of property owners, landlords and letting agents who fail to provide accommodation that meets minimum housing standards. Dorset Council will target their enforcement activity in tackling dwellings owned or managed by these groups.

## 2. Enforcement and Equality

In undertaking enforcement activity, Dorset Council is committed to ensuring that no person or group is discriminated against because of their age, disability, employment status, ethnic or national origins, race or colour, marital status, religious or political beliefs, responsibilities for children or dependents, gender or gender reassignment, sexuality, social class, or unrelated criminal convictions.

We will not be affected by improper or undue pressure from any source in carrying out our enforcement functions. We will always act in the interests of justice and not solely for the purpose of obtaining a conviction.

Dorset Council is a public authority for the purposes of the Human Rights Act 1998. In implementing this policy, we therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. Proper regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

Where there is a need for us to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 2018 and the associated General Data Protection Regulations (GDPR). Our [privacy policy](#) is published on the Council's website.

### 3. Legal Background

#### 3.1. Proportionate and Fair Enforcement

This Enforcement Policy sets out what actions relevant stakeholders can expect. It specifies the range of enforcement options available and sets out in what circumstances enforcement action is likely to be taken.

Our enforcement policy reflects the Principles of Good Regulation set out in the [Regulators Code](#), the [Code for Crown Prosecutors](#) and the Legislative and Regulatory Reform Act 2006.

#### 3.2. Regulators' Code

All regulators must have regard to this [Code](#) when developing policies and operational procedures; it sets out the following key regulatory principles:

This policy will support the principle of the Regulators code by ensuring that we:

- Carry out our activities in a way that supports those we regulate to comply and grow.
- Provide simple and straightforward ways to engage with those we regulate and hear their views.
- Base our regulatory activities on risk.
- Share information about compliance and risk.
- Ensure clear information, guidance and advice is available to help those we regulate to meet their responsibilities to comply.
- Ensure that our approach to our regulatory activities is transparent.

Fig 3

### 3.3. Legislative and Regulatory Reform Act 2006

In accordance with the [Legislative and Regulatory Reform Act 2006](#), we will carry out our enforcement activities in a way which is proportionate, consistent, targeted, transparent and accountable.

<b>Proportionate</b>	Our activities will reflect the level of risk to the public and any enforcement action taken will relate to the seriousness of the offence.
<b>Consistent</b>	Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.
<b>Targeted</b>	We will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.
<b>Transparent</b>	We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
<b>Accountable</b>	Our activities will be open to public scrutiny with clear and accessible polices including fair and efficient <a href="#">feedback processes</a> .

Fig 4

### 3.4. Our Approach to Enforcement

The enforcement of standards in housing can take a range of different forms including informal action, the service of legal notices and orders, to the prosecution of offenders. This policy details how these decisions will be made, having regard to the above factors. The following general matters will also be considered:

- The degree of cooperation provided by those involved.
  - The risk that any non-compliance poses to the safety, health, or welfare of the occupants, other individuals, and the public.
  - Whether the risk posed is considered imminent
  - Evidence that suggests that there was pre-meditation in the commission of an offence.
  - Any failure to comply in full or in part with the requirements of a statutory notice, order or any other instruction given by the local authority whether formal or otherwise.
  - History of previous warnings or the commission of similar offences including a history of failure to respond to informal requests for action.
  - Aggravating circumstances such as aggressive or violent behaviour, harassment, or illegal eviction.
  - The value of the enforcement action as a deterrent to the perpetrator and others.
  - Any financial gain associated with non-compliance and how enforcement action may serve to remove or account for that financial gain.
  - The tenure of the occupant or person affected.
  - Whether progressing with the case is in the '*public interest*' and it also achieves the necessary '*evidential test*'
- Fig 5

## **4. All Residential Dwellings including Houses in Multiple Occupation (HMO)**

### **4.1. Housing Health and Safety Rating System (HHSRS)**

[The Housing Act 2004](#) introduced the [Housing Health & Safety Rating System \(HHSRS\)](#). This is a risk-based assessment which local housing authorities are required to use when assessing property conditions and when taking subsequent enforcement action.

The HHSRS enables housing deficiencies to be identified and assessed. The associated regulatory provisions contained in the Act then provide duties and powers that enable higher risk deficiencies to be reduced or removed entirely.

The HHSRS introduced the concept of 'Category 1' (rated A to C – higher risk deficiencies) and 'Category 2 Hazards' (rated D and below – lower risk deficiencies).

### **4.2. Identification and Assessment of Hazards**

#### **4.2.1. Responding to Requests and Enquiries**

The Housing Act 2004 places local housing authorities under a general duty to keep the housing conditions in their area under review, with a view to identifying any action which may be necessary. This duty is wide ranging and enables Dorset Council to exercise its powers for any reason, when it considers it would be appropriate to do so.

The Regulators Code and the Legislative and Regulatory Reform Act 2006, provides some scope and balance to these wide-ranging powers. The Council will normally investigate and inspect properties to assess housing conditions when we have been specifically requested to do so, normally by a tenant, some other occupant or affected party.

To provide a proportionate approach and ensure the best use of our enforcement resource, in most cases the first stage of enforcement action by Dorset Council will normally be to bring the deficiencies or failure to the attention of the owner, so that they can be resolved. Where in the Council's opinion this approach proves unsuccessful, then the case would be progressed further, which would normally involve a formal property assessment and inspection.

#### **4.2.2. Targeted and Project Based Enforcement**

From time to time, the Council may become aware of evidence and information which means that it wants to consider a more targeted or proactive inspection and enforcement approach. This may mean that it actively investigates or inspects accommodation and enforces its duties and powers, without the need to be requested to do so by a third party.

Such action may be considered for certain types of properties, in a defined geographical area and could take the form of local, regional, or national projects or pilot schemes. They may also form part of the implementation of area based statutory schemes such as Selective or Additional Licensing.

Such actions would be considered in the following circumstances and implemented in consultation and agreement with the Corporate Director for Housing and the Portfolio Holder – Adults Social Care, Health, and Housing.

- Where evidence such as property condition, management, deprivation or the like justifies the need for a targeted property inspection and enforcement approach
- Where a new or change in legislation or guidance justifies or requires a proactive enforcement approach

Fig 6

Typical examples of this type of targeted project work includes:

- [A county wide project](#) to identify, improve or regularise all F and G energy rated rented homes in Dorset (commencement September 2021 and ongoing)
- The identification of [long-term empty homes](#) and relevant enforcement action taken to bring them back into use for residential accommodation (ongoing)
- The pilot '[Safer Renting](#)' Scheme for Weymouth; to promote best practice in private renting and identify and resolve non-compliant rented properties and poor property management (Pilot commenced Summer 2023 and ongoing).

#### 4.2.3 Enforcement Options

If upon inspection of a property Category 1 or 2 Hazards are identified, a number of specific enforcement options are available to the local housing authority as detailed in Fig 7. Deciding which option to use is based on a wide range of factors relating to the property, its ownership, occupancy, and the nature of the deficiencies present. When making decisions, regard will be had to the [HHSRS enforcement guidance: housing conditions](#).

When a Category 1 or Category 2 Hazard is identified, the Housing Act 2004 enforcement options available to the Council are to serve or make a:

- Hazard Awareness Notice
- Improvement Notice (including Suspended Improvement Notice)
- Prohibition Order (including Suspended Prohibition Order)
- Emergency Remedial Action
- Emergency Prohibition Order
- Demolition Order
- Clearance Area

Fig 7

In removing or reducing Category 1 or 2 Hazards, Dorset Council will focus its enforcement response as detailed in fig 8 below.

### **Category 1 Hazards**

Local Housing Authorities like Dorset Council have a *statutory duty* to take appropriate action in response to a Category 1 Hazard. Once identified the Council must decide which of the available enforcement options (detailed in Fig 7) is most appropriate to remove the Category 1 Hazard.

### **Category 2 Hazards**

Local Housing Authorities have the *power* to take appropriate action in response to a Category 2 Hazard. In relation to Category 2 Hazards, the Council will consider the following factors and focus its enforcement action in the following areas:

- i. Where a Category 2 Hazard falls within Band 'D' or 'E' i.e. a '*high ranking Category 2 Hazard*'.
- ii. Cases involving a vulnerable occupant, as defined within the specific hazard of the HHSRS guidance.
- iii. Cases in which multiple Category 2 Hazards of any band are identified, which when considered together, create a more serious or cumulative health risk.
- iv. Where local house condition surveys or other relevant local data highlights specific hazards necessitating specific action i.e. risks associated with excess cold, dampness or security.
- v. Any other case determined by the Service Manager for Housing Standards in consultation with the Corporate Director for Housing.

The above are considered '*actionable category 2 hazards*'.

### **Crowding and Space Hazards**

If a crowding and space hazard identified at a formal inspection results in a Category 1 hazard or a '*high ranking Category 2 Hazard*' (as defined above); if that hazard has occurred because of an increase in household size and composition, since the date the property was first occupied (i.e. by no fault of the owner/landlord), then although the actions as detailed in fig7 above are available, there will be a presumption in favour of serving a Hazard Awareness Notice.

### **Lower Ranking Category 2 Hazards**

In cases where only '*lower ranking category 2 hazards*' are identified (rated F to J), the Council has no statutory duty to act. Depending on individual circumstances and the factors listed i to v above, the Council may feel it appropriate to advise the landlord informally either verbally or in writing about the findings of the HHSRS assessment and recommend any appropriate improvements.

Fig 8 continued below



### Damp and Mould Hazards

In September 2023 the government published its consolidated guidance; '[Understanding and addressing the health risks of damp and mould in the home](#)'. The guidance aims to ensure that social and private sector landlords have a thorough understanding of their legal responsibilities, and of the serious health risks that damp and mould pose. Landlords must ensure that the accommodation they provide is free from serious hazards, including damp and mould, and that homes are fit for habitation. The guidance emphasises that landlords must treat cases of damp and mould with the utmost seriousness and act promptly to protect their tenants' health.

While the guidance does not make any legislative amendments, it is expected that landlords will have regard to it when investigating complaints of damp and mould from their tenants.

Dorset Council will also have regard to the guidance when making relevant enforcement decisions, especially those related to determining the most appropriate enforcement option under fig 7 and in setting penalties in appropriate cases under section 5.3 below.

Fig 8

### 4.3. Tenure Enforcement Options

The HHSRS and the associated enforcement options detailed in [Fig 7](#) apply to all tenures. As described in more detail below, due to the varying nature of different tenure groups, it is appropriate and proportionate for the Council to apply its enforcement powers based on the circumstances they each pose.

#### 4.3.1. Owner-Occupiers

It is generally accepted that owner-occupiers are primarily responsible for the repair and maintenance of their own home. They are generally able to make informed decisions concerning their own safety and welfare and the necessary maintenance and improvement of their home.

In the first instance owner-occupiers concerned about the condition of their home will normally be provided with relevant telephone advice or information via the Councils [website](#). This may also include the offer of [financial assistance](#) in eligible cases.

Formal visits and inspections of owner-occupied properties will only normally be undertaken if there is a concern that the condition of the property gives rise to a high risk for the safety of the occupants, the occupants are considered vulnerable, or the property possesses a high risk to persons other than the occupant's such as neighbouring properties (see '[statutory nuisance](#)') or passers-by.

If there is a need to move beyond the provision of advice, it is anticipated that a Hazard Awareness Notice is likely to be the most appropriate course of action. However, the use of other enforcement options detailed in [Fig 7](#), maybe considered appropriate in the following circumstances:

- In the case of vulnerable owner occupiers who lack the capacity to make informed decisions about their own safety and welfare. In such cases it would be normal to expect that the relevant social care team would be involved, providing support and assistance to the service user.
- Hazards that might reasonably affect persons other than the occupants i.e. neighbouring properties ([‘statutory nuisance’](#)) or passers-by.
- Where the defect poses an imminent risk of serious harm such as electrocution or fire and appropriate and timely action is not being taken

Fig 9

#### 4.3.2. Leaseholder and Shared Ownership

Circumstances can arise where long leaseholders or an occupant of a shared ownership property are experiencing ongoing poor housing conditions. In such cases it is possible that a higher landlord, such as a freeholder or management company, may not be taking the necessary steps to remedy those housing defects for which they are legally responsible. As such these defects and subsequent housing conditions may be outside of the control of the leaseholder or shared owner.

Formal visits, inspections and any appropriate enforcement action will only be considered where:

- the leaseholder or shared ownership occupant has made reasonable efforts to remedy the matter with the higher landlord/owner,
- that action has proved ineffective,
- the higher landlord is legally responsible for remedying the said defect(s), and,
- the defect is likely to give rise to a Category 1 or or ‘actionable Category 2 Hazard(s)’ as detailed in [Fig 8.](#)

#### 4.3.3. Registered Providers of Social Housing (RPs)

Registered Providers of Social Housing (RP’s) (also known as housing associations) aim to provide and manage decent, affordable rented accommodation. They are often managed as a society, body of trustees or company. Their management typically includes an element of tenant representation. They are regulated and their performance scrutinised by the [Regulator of Social Housing](#).

RP’s normally appoint specialist teams to manage and maintain their properties and will usually have detailed arrangements for programmed stock maintenance, comprehensive systems for reporting repairs, setting out response times and also processes for registering any complaints about service failure with links to the [Housing Ombudsman Service](#).

Due to the above, Dorset Council has agreed protocols in place with the major RP’s who have stock in the Dorset area. These protocols agree that the RP will be the first responder to all tenant service requests made to Dorset Council.

These protocols outline how enquires from RP tenants to Dorset Council will be dealt with, how they are referred to the relevant RP, agreed response times and details of when further action may be necessary by the Council including property inspections and formal enforcement action.

The protocols are designed to maintain communication between the Council and the relevant RP, ensure that expectations are clearly understood by all stakeholders and enable a benchmark against which performance can be measured.

For this reason, in the first instance the Council will not normally take formal action against an RP landlord and that action will only be considered if:

- It is satisfied that the property defect has been properly reported to the RP through the correct reporting channels, and,
- The RP has then failed to take appropriate remedial action within any agreed, recognised, or reasonable timescales, and,
- Category 1 or 'actionable Category 2 Hazard(s)' exist as detailed in [Fig 8](#).

Fig 10

These protocols are reviewed periodically to ensure that they continue to meet the needs of all stakeholders and in particular the tenants of RP's. Dorset Council currently has agreed protocols with the following RP's:

- [Aster Group](#)
- [Magna Housing](#)
- [Sovereign Network Group](#)
- [Stonewater](#)

Fig 11

#### 4.3.4. Private Rented Homes

Tenants and particularly those occupying private rented accommodation have limited control over the safety, maintenance, and improvement of their homes.

Most landlords provide decent quality, well managed properties to rent. Should a private tenant have concerns about the condition or safety of their rented home the Council will normally firstly advise them to contact their landlord or letting agent directly. This ensures that landlords can resolve any defects in the first instance.

This approach can also ensure that tenants receive some additional protection from '[retaliatory eviction](#)' as detailed below.

To ensure a proportionate approach and the best use of our enforcement resource, in most cases the first stage of enforcement action for private rented homes will normally involve bringing the deficiencies to the attention of the landlord. This enables the property owner to respond and consider any necessary repairs or improvements. Where in the opinion of the Council this approach proves unsuccessful, then the case can be progressed, which would normally involve a property inspection and assessment under the HHSRS.

If the Council inspects a property, the Housing Act 2004 requires that the landlord is notified in advance of that visit giving at least 24 hours' notice. This prior notification provides the property owner or landlord with the initial details of the alleged deficiencies and the opportunity to attend the inspection should they wish.

24-hour prior notice is not necessary where an inspection is required to determine any action or offences under the [HMO licencing provisions or HMO Management Regulations](#).

In certain situations, a tenant may not be required to contact their landlord prior to the Councils involvement. In addition, the Council may then decide it is appropriate to visit the property without notifying the landlord or letting agent in advance. This may be considered in the following limited circumstances:

- Where there is a history of alleged harassment, threatened eviction and poor management practices.
- Where the tenant or other members of the household are considered vulnerable
- Where the complaint relates to the management of a property that is a House in Multiple Occupation (HMO) or a property which appears to fall within the HMO licensing provisions and there is no legal requirement to provide 24 hours' notice.
- The landlord or letting agent is absent or not able to be contacted.
- Where the tenant could not for some other reason be reasonably expected to contact their landlord or letting agent,

Fig 12

If upon inspection a dwelling is found to possess Category 1 or actionable Category 2 Hazards, the Council will normally seek to resolve the matter by instigating the relevant formal action outlined in [fig 7](#) above.

However certain circumstances may arise when it is not considered appropriate to use the action detailed in [fig 7](#). Such cases maybe progressed via an informal method; and in deciding to take this action, the following issues will be considered:

Informal action will be considered as an alternative to the relevant formal action outlined in [fig 7](#) by considering the following factors:

- The landlord has a good track record of performing repairs without the need for formal action.
- There is high confidence that all the works will be completed to the correct specification, within recognised and acceptable time periods
- It is reasonable for the officer to believe that the landlord will make a written undertaking to complete the works to the correct specification within recognised acceptable time periods.
- The risks involved are considered low and in the event of non-compliance during informal action, a change to formal action at a later stage will not place the occupants or others at undue risk of harm.
- The landlord has cooperated with the Councils investigation to date by for example, responding to correspondence, attending property inspections, and making relevant paperwork available upon request etc.

Fig 13

Where informal action is taken, the Council will detail the nature of the defects in writing and require that the landlord or letting agent provides proposals for remedying the deficiencies and/or completes an undertaking in writing that the necessary work will be completed.

Notwithstanding the above, formal action will be appropriate when:

- The tenant is at risk of or alleges retaliatory eviction and a category 1 or 'high ranking category 2 hazard(s)' are present as detailed in [Fig 8](#).
- The deficiencies present a high risk to the occupants and others.
- There is a lack of confidence that the required work will be completed to the correct specification and in a timely way.
- The property subject to the action is being sold and it is appropriate to serve a 'notice' to ensure that any prospective owner is made aware of higher risk deficiencies via the local land charge system.

Fig 14

#### 4.3.5 Empty and Unoccupied Homes

The HHSRS assessment process and associated enforcement options can be used to assess and take enforcement action against long term empty residential property. Property condition is a [relevant factor](#) when considering enforcement action for long term empty homes.

The Council will consider the HHSRS enforcement options detailed in [fig 7](#) above, and may decide to target long term empty properties, in part, because of their condition, so that the property can be improved at the same time as it is brought back into use for housing. This action will be considered in the following circumstances:

- The empty property possesses category 1 or 'high ranking category 2 hazard(s)' as detailed in [Fig 8](#).
- the deficiencies present at the property can be resolved at reasonable expense (when considering the long-term use of the property)
- the works of repair are technically feasible to complete.
- The owner has indicated their intention to carry out the necessary improvement works, but for whatever reason, they have failed to start or complete the work within a reasonable period;
- The condition of the property and the associated deficiencies have the potential to affect the health, safety or welfare of neighbouring properties or the public.

Fig 14a

#### 4.4. Retaliatory Eviction

'[Retaliatory eviction](#)' refers to a situation where a tenant with an Assured Shorthold Tenancy (AST) makes a legitimate, justified complaint to their landlord about the condition of their rented home and at some point following this, their landlord serves them with a notice (also known as a '[no fault](#)' [section 21 notice](#)) seeking possession of the property.

[The Deregulation Act 2015](#) sought to introduce some protection for tenants against this type of retaliatory action. In the above circumstances, if the Council serves an Improvement Notice or takes Emergency Remedial Action in relation to a property, the landlord will potentially be unable to rely on using the section 21 'no-fault' notice seeking possession procedure for 6 months from the date the specific action was taken by the Council.

To rely on this protection from 'retaliatory eviction', the tenant must have initially notified the landlord in writing of the alleged defects. If after 14 days the landlord does not respond to their requests, the reply is inadequate, or they respond by issuing a 'Section 21' notice seeking

possession; the tenant may approach the Council to carry out an inspection to verify the existence of a Category 1 or an 'actionable Category 2 Hazard(s)'.

It is for the Courts to decide if a Section 21 notice seeking possession is valid. However, if a Category 1 or 'high ranking Category 2 Hazard' exist, and the tenant has been served with a section 21 notice after they made a justified written complaint to the landlord as detailed above, to reduce or remove the risk posed by the deficiencies and to protect the tenant's occupation of their current home, the Council will in appropriate circumstances take one of the enforcement options as detailed in [Fig 7](#) above.

#### 4.5. Power to Charge for Enforcement Action

The Housing Act 2004 provides local housing authorities with the power to make a reasonable charge as a means of recovering certain administrative and other expenses incurred in taking the following enforcement action:

- Hazard Awareness Notice;
  - Improvement Notice;
  - Prohibition Order;
  - Emergency Prohibition;
  - Demolition Order;
  - Emergency Remedial Action;
  - Review of Suspended Prohibition Order and Improvement Notice
- Fig 15

In taking the action detailed in fig 15, the Council can demand a reasonable amount for the expenses incurred in connection with the following:

- Determining whether to serve the notice (such as time spent gaining entry to the property, travelling to and from an inspection and the time spent inspecting the property itself)
  - Identifying any action to be specified in the notice (such as the time spent identifying, risk assessing and scoring hazards including consulting any necessary guidance and legislation).
  - Serving the notice or order (such as the time involved in drafting and then serving the notice/order whether by standard, registered post or delivery by hand)
- Fig 16

Charges will be made on a cost recovery basis, using the current hourly rates of the officers involved, plus any associated costs including travelling costs, travel time, copying charges and any relevant 'on costs' for that officer.

Details of this calculation and the minimum charge can be found in [Appendix 3](#). Where the time reasonably incurred in carrying out the above actions means that this minimum charge is exceeded, then the Council may charge for the service of that notice at the higher calculated rate. This minimum charge will normally be reviewed annually to allow for inflation and other changes in costs.

Where the action detailed in Fig 15 is taken, there will be a presumption in favour of demanding the minimum charge. In deciding whether to make such a charge, officers will consider amongst other relevant issues the following factors:

- The degree of co-operation and communication by the landlord.
- Where known, the financial circumstances of the recipient of the notice or order.
- The amount of time incurred by officers in taking the necessary formal action.
- The extent to which the 'notice' or order is only required to formalise action or repairs which have already been agreed.

Fig 17

The costs incurred by the Council in carrying out Works in Default of an Improvement Notice or Emergency Remedial Action are charged separately.

#### 4.6A Interim and Final Management Orders

Part 4 of the Housing Act 2004 sets out the powers available to local housing authorities to make Interim and Final Management Orders (I/FMO). Following an application to a Residential Property Tribunal, these powers enable the Council to take action to protect the health, safety or welfare of occupants, or any other steps which the authority think appropriate, with a view to ensuring proper management. To apply for an IMO, a wide range of conditions must be met, including the 'health and safety condition'. This requires that the making of an IMO is necessary for the purpose of protecting the health, safety or welfare of persons occupying the house.

In deciding whether to apply for an IMO the following factors would be considered:

- The extent to which illegal or unlawful conduct on the part of the landlord/licence holder (or his agents) put the health, safety or welfare of occupiers at risk, such as unlawful eviction or harassment.
- The extent to which the property is licensable under Part 2 (HMO licencing) of the Housing Act 2004 and whether a licence application has been accepted and/or whether there is a reasonable prospect of it being licensed in the near future.
- The management of the property or absence of any management is such that an application for an Interim Management Order is considered the most satisfactory course of action.
- The extent to which the making of the IMO is necessary to ensure the quiet enjoyment of occupiers or owners of their premises within the vicinity of the property.
- Whether any other suitable action is available to the local housing authority or other agency to reduce or manage any relevant housing and other hazards and/or enable the proper management of the property
- The property has a category 1 hazard and in removing that hazard the Council is satisfied that the health, safety and welfare of the occupiers will be protected.
- In the case of an absent owner or landlord, reasonable efforts have been made to trace the owner, next of kin or other relevant party with an interest in the house.

Fig 17a

## 4.6. Housing Related Enforcement

### 4.6.1. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

[The Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#) and [Smoke and Carbon Monoxide Alarm \(Amendment\) Regulations 2022](#) require landlords to ensure that tenanted properties are provided with smoke and carbon monoxide alarms.

#### **The requirements:**

- a smoke alarm is equipped on each storey of the premises where there is a room used wholly or partly as living accommodation;
- Ensure a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (excluding a gas cooker)
- Ensure that any faulty smoke alarms and carbon monoxide alarms are repaired or replaced.

Fig 18

Where a local housing authority has reasonable grounds to believe that a landlord is in breach of the Regulations, the authority *must* serve a remedial notice on the landlord.

Non-compliance with these Regulations *may* result in the imposition of a financial penalty in accordance with a specific Statement of Principles attached at [Appendix I](#) to this policy.

### 4.7.2. Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – Minimum Energy Efficiency Standards (MEES)

[The Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#) aim to tackle rented properties with the lowest energy rating of 'F' or 'G'. The Regulations establish a minimum standard of EPC band 'E' for private rented accommodation.

If for a range of specified reasons, the landlord is unable to improve the property and the EPC rating remains at 'F' or 'G', then if they intend to continue letting the property, they must apply for a relevant exemption using the [PRS Exemptions Register](#). They must also supply suitable and sufficient evidence for the reason why an exemption is justified.

Non-compliance with these Regulations *may* result in the imposition of a financial penalty in accordance with a specific Statement of Principles attached at [Appendix 1](#) to this policy.

#### **Minimum Energy Efficiency Standards (MEES) - Noncompliance**

There are two possible breaches of the Regulations which are:

- Continuing to let a property in breach of the Regulations i.e. letting out a property EPC rated 'F' or 'G' without an appropriate exemption
- Failing to comply with a Compliance Notice

Fig 19

Where a local housing authority considers that a landlord appears to be letting a sub-standard property (with an energy rating of F or G, without a valid exemption), they *may* serve a Compliance Notice on that landlord.



The local housing authority *may* serve a Penalty Notice on a landlord who appears to be, or to have been at any time within the 18 months preceding the date of service of the Penalty Notice, to be in breach of one or more of the requirements detailed in fig 19 above.

#### **Penalty Notice**

In deciding whether to serve a Penalty Notice, the following factors will be considered:

- The energy rating of the property
- Whether the landlord or letting agent has made an application to the PRS Exemption Register and the date of that application
- Any positive action taken by the landlord or letting agent to carry out any 'relevant energy efficiency improvements' intended to improve the properties energy rating.
- The range of 'relevant energy efficiency improvements' listed on the properties EPC, their cost and any third-party restrictions which may prevent the improvements from being carried out.
- The period over which the alleged breach has occurred.
- The level of cooperation of the landlord in trying to comply with the regulations.

Fig 19a

If a Penalty Notice is served, in addition to a financial penalty, the enforcement authority may decide to also impose a Publication Penalty. A Publication Penalty means that the enforcement authority will publish details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The enforcement authority can decide how long to leave the information on the Register, but it will be available for view by the public for at least 12 months.

#### **Publication Penalty**

In deciding whether to make a Publication Penalty (in addition to a financial penalty), the following factors will be considered:

- Where there is reduced confidence that a financial penalty of this type will deter repeat offending by this individual
- Where publicity is deemed necessary to prevent similar offending by others.
- The landlord has a portfolio of multiple rented properties, and some form of publicity enables future tenants to make an informed decision.

Fig 19b

#### **4.7.3. The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014**

[The Redress Schemes for Letting Agency Work and Property Management Work \(Requirement to Belong to a Scheme etc.\) \(England\) Order 2014](#) requires that a person who operates a lettings agency or carries out property management work must be a member of a [redress scheme](#) for dealing with tenant complaints.

Non-compliance with these Regulations *may* result in the imposition of a financial penalty in accordance with a specific Statement of Principles attached at [Appendix 1](#) to this policy.

#### 4.7.4. Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

The [Regulations](#) apply to relevant tenancies and licences. Landlords of prescribed privately rented accommodation must:

- Ensure that 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 ((often referred to as an Electrical Inspection Condition Report (EICR))) 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 (EICR) to the existing tenant within 28 days of the inspection and test.
- Supply a copy of this report (EICR) to a new tenant before they occupy the premises.
- Supply the local housing authority with a copy of this report (EICR) within 7 days of receiving a written request for a copy.
- Where the report (EICR) shows that further investigative or remedial work (code C1, C2 or FI) 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 local housing authority within 28 days of completion of the works

Fig 20

If a local housing authority has reasonable grounds to believe a landlord is in breach of one or more of the duties in the Regulations they *must* serve a Remedial Notice requiring the landlord to take the necessary action within 28 days. Should a landlord not comply with the Remedial Notice the local housing authority may, with the tenant's consent, arrange for any remedial action to be taken and recover all reasonable costs.

If a local housing authority has reasonable grounds to believe a landlord is in breach of one or more of the duties in the Regulations and the report (EICR) indicates *urgent remedial action* is required (code C1), and the landlord is not taking adequate steps to complete the action needed; the local housing authority may with the consent of the tenant(s) and after giving 48 hours' notice, arrange for a qualified person to take the necessary *urgent remedial action* and recover all reasonable costs.

Landlords have the right to make written representation to the local housing authority about a Remedial Notice. Landlords also have the right of appeal to a Residential Property Tribunal about any remedial action undertaken by the local housing authority.

The local housing authority can recover the reasonable costs of taking remedial action from the landlord and they may also impose a financial penalty of up to £30,000 on landlords who are in breach of their duties.

The Council will impose Financial Penalties where permitted, in accordance with its Statement of Principles which is attached to this policy at [Appendix 2](#) and having regard to the relevant [government guidance](#).

### **Penalty Notice**

In deciding whether to serve a Penalty Notice, the following factors will be considered:

- Any positive action taken by the landlord or letting agent to carry out any necessary remedial works.
- The period over which the alleged breach has occurred.
- The level of cooperation of the landlord in trying to seek compliance with the regulations.
- The seriousness and risk posed by the deficiencies.

Fig 20a

#### **4.7.5.Homes (Fitness for Human Habitation) Act 2018**

The [Homes \(Fitness for Human Habitation\) Act 2018](#) is designed to ensure that all rented accommodation (private and social) including any common parts of the building, are fit for human habitation at the beginning of the tenancy and throughout.

If a landlord fails to comply with the Act, tenants may have the right to take court action for breach of contract. If the court decides that the landlord has not provided their tenant with a home that is fit for habitation, then the court can make the landlord pay compensation to their tenant or make the landlord do the necessary works to improve the property.

The courts will decide whether a property is fit for human habitation by considering the matters set out in section 10 of the Landlord and Tenant Act 1985 which includes whether any of the 29 hazards set out in the [Housing Health and Safety \(England\) Regulations 2005](#) are present. Although a Housing Health and Safety Rating System (HHSRS) assessment is not strictly necessary, a landlord or tenant might choose to carry out an assessment if they want to establish whether any serious health and safety hazards are present.

All requests for assistance under this Act will be dealt with in the same way as other service requests and in accordance with this policy – see section [4.3.3](#) and [4.3.4](#) above.

#### **4.7.6.Environmental Protection Act 1990 – ‘Prejudicial to health or a nuisance’**

Premises that are ‘prejudicial to health or a nuisance’ as defined by the [Environmental Protection Act 1990](#) may constitute a ‘*statutory nuisance*’ under this Act.

It is anticipated that most defects at domestic premises can be investigated and resolved using the enforcement provisions of the Housing Health and Safety Rating System (HHSRS) as detailed above.

Where for whatever reason this is not possible, (for example poor conditions within a privately rented park home) consideration will be given to enforcement action and the abatement of the nuisance under this Act.

#### **4.7.6 A – Environmental Protection Act 1990 - ‘Statutory Nuisance’**

Where a premises (subject of the complaint) is in such a state or condition that it causes a ‘*statutory nuisance*’ at an adjoining property, then these matters can be considered as part of these provisions.

This can typically occur, for example, where a defect at a property (subject of the complaint), results in penetrating damp/state of affairs at an adjoining property, which constitutes a '*statutory nuisance*'.

Where the local authority is satisfied that a '*statutory nuisance*' exists, then they *shall* serve an abatement notice on the relevant person to abate the nuisance. In deciding whether a '*statutory nuisance*' exists the following factors will be considered:

- The nature of the defect(s) at the property which is the subject of the complaint.
- Whether on the *balance of probabilities*, the defect at the property which is the subject of the complaint, is directly attributable to the state of affairs at the complainant's property.
- The presence of any other factors which may mitigate or aggravate the state of affairs at the complainant's property and who has control of those factors.
- That the state of affairs at the complainant's property gives rise to a *statutory nuisance* that is either a *nuisance* and/or is *prejudicial to health*.
- The state of affairs at the complainant's property substantially and demonstrably interferes with the use and enjoyment of the property.

Fig 20b

#### 4.7.6 B - Landlord and Tenant Act 1985

The [Landlord and Tenant Act 1985](#) gives leaseholders the right to request a summary of the service charge costs from their landlord and to inspect receipts and accounts in relation to the last accounting year.

If a higher landlord fails to

- provide a summary or access to inspect/copy supporting documents following a request from a leaseholder or the secretary of a recognised tenants' association, and
- the landlord does not have a reasonable excuse for this,

they are committing a summary offence.

Leaseholders then have the power to commence legal proceedings against the landlord. Dorset Council will not commence legal proceedings under the Landlord and Tenant Act 1985 in such cases unless the following criteria are satisfied:

- There are deficiencies present in the building which constitute a category 1 or a Category 2 Hazard which falls within Band 'D' or 'E' i.e. a high ranking Category 2 Hazard, and;
- Those deficiencies are the responsibility of the higher landlord to remedy, whether on their own accord or with others, and;
- Those deficiencies can in part be directly attributable or linked to a failure of the higher landlord to provide an appropriate summary or access to inspect the summary of service charge costs and/or any relevant supporting documents.

Fig 20a

Where the local housing authority has relevant duties under the Housing Health and Safety Rating System with regard to leasehold properties, then these will be considered in accordance with [section 4.3.2](#) of this policy.

#### **4.7.7. Building Acts, Public Health Acts, and other legislation**

The Building Act includes wide ranging provisions including [works in default](#) relating to the resolution of defective drainage to existing buildings and dangerous structures.

Similarly, Public Health Acts enable the Council to address a range of issues which can affect the housing stock.

#### **4.8. Powers of Entry**

The Housing Act 2004 provides authorised officers of the Council with wide ranging powers of entry to residential properties, at any reasonable time to carry out relevant duties. In most circumstances at least 24 hours' written notice must be given to the owner of the property, of the Council's intention to carry out an inspection.

Such prior notice is not required to inspect premises to determine any offences in relation to the licensing of Houses in Multiple Occupation, offences in relation to licensing of houses generally (including Selective or Additional Licensing) or offences in relation to the HMO management regulations.

If entry to a property is refused, likely to be refused, the property is unoccupied (long term empty property) or giving 24 hours prior notice would defeat the purpose of entry; then the Council can apply to the Magistrates Court for a [warrant to enter](#) the property, by force if necessary.

#### **4.9. Power to Require Information**

Officers acting under this policy will routinely need to obtain a wide range of proportionate information and evidence about a property, its landlord or owner. This includes documentation about a property's condition (including gas and electrical safety certification) and the full contact details of those persons or organisations with a legal interest in the dwelling. To obtain this information the Council has powers under the [Housing Act 2004 to require landlords and agents to produce a wide range of documentation](#).

In addition, [The Local Government \(Miscellaneous Provisions\) Act 1976](#) enables the Council to seek relevant prescribed ownership and occupancy information using a 'Requisition for Information'. This process will normally be used as a standard precursor to formal action.

The Housing Act 2004 also enables [access to relevant Housing Benefit and Council Tax information](#) so that the Council can carry out its duties and powers under the Act.

### **5. Failure to Comply and the Need for Further Action**

- 5.1 If a notice, order, or other relevant action is complied with in full, then normally no further action will be necessary. If the notice, order, or licence condition is not complied with, the Council will consider a range of options including:

- Prosecution (Fines in the magistrate's court are unlimited)
- Demanding the payment of a Financial Penalty of up to £30,000.
- Applying for a landlord banning order
- Using the Database of 'rogue landlords' and property agents
- Carrying out the works in default;
- Issuing a Simple caution.
- Applying for a Rent Repayment Order (RRO)

Fig 21

## 5.2. Prosecution

The Council will consider prosecution with reference to factors detailed in this policy and the Council's '[General Statement of Enforcement Policy](#)'. The Corporate Director for Legal Services will also be consulted.

In making this decision the Council will refer to the Crown Prosecution Service '[Code for Crown Prosecutors](#)'. This code is issued by the Director of Public Prosecutions and sets out the general principles all prosecutors should follow.

The Code has two main tests. The *evidential test* considers if there is sufficient evidence to provide a realistic prospect of conviction. The *public interest test* weighs up the public interest factors in favour of prosecution and whether they outweigh those indicating against prosecution.

Only where these two tests are 'met' will the Council consider prosecution. In arriving at a decision to prosecute under this policy, the Council will also consider a wide range of factors including:

- The degree of cooperation provided by the offender and other related parties.
- The risk that non-compliance posed to the safety, health, or economic welfare of those affected or likely to be affected.
- Evidence that suggests that there was pre-meditation in the commission of an offence.
- Any history of previous warnings or the commission of similar offences including a history of failure to respond to informal and formal requests for action or the presence of any written warnings.
- Any aggravating circumstances such as aggressive, violent behaviour, harassment, or illegal eviction etc
- The value of the action as a deterrent to the perpetrator and others.
- Removal of any financial gain from the offence and offender
- The tenure of the person affected.
- Where imposing a financial penalty is likely to have little effect on the offender, then prosecution may be deemed a more suitable action.
- The suitability of a Financial Penalty as an alternative to Prosecution (see below)

Fig 22

The following provisions are offences liable to possible prosecution:

#### **Housing Act 2004 and other offences**

- Section 30 - failing to comply with an Improvement Notice
- Section 31 – failing to comply with a Prohibition Order
- Section 72(1) – (Mandatory) HMO Licensing Offences – failure to licence a HMO.
- Section 72(2) – (Mandatory) HMO Licensing Offences – occupation of an HMO by more persons than authorised by the licence.
- Section 72(3) – (Mandatory) HMO Licensing Offences – failure to comply with a licence condition.
- Section 95 – Offences in relation to Selective Licensing
- Section 139(7) – Contravention of an HMO overcrowding notice (non-licensable HMO)
- Contravention of The Management of Houses in Multiple Occupation (England) Regulations 2006 applicable to all HMO's
- Contravention of The Licensing and Management of Houses in Multiple Occupation (additional provisions) (England) Regulations 2007 (applicable to converted blocks of flats)
- Offences of illegal eviction and harassment under the The Protection from Eviction Act 1977

Fig 23

The Portfolio Holder (Housing) will be informed of the proposed action for information purposes only.

### **5.3. Financial Penalties**

The Housing and Planning Act 2016 introduced the option of Financial Penalties of up to £30,000 as an alternative to prosecution for certain prescribed offences under the Housing Act 2004 and other legislation. Although Financial Penalties are an alternative to Prosecution, they require the same standard of proof as that which would be required before a Court of Law and the application of the same *evidential* and *public interest* test as outlined above. A Financial Penalty can only be imposed as an alternative to prosecution and therefore only one of these courses of action may be taken; either prosecution or financial penalty, not both.

Income received from financial penalties can be retained by the local housing authority if it is used to further their statutory functions in relation to the enforcement of the private rented sector.

The Council will impose Financial Penalties where permitted, in accordance with its Statement of Principles which is attached to this policy at [Appendix 2](#) and having regard to the relevant [government guidance](#). The offences potentially liable to a Financial Penalty include:

- section 30 (failure to comply with improvement notice),
- section 72 (licensing of Houses in multiple occupation (HMOs)),
- section 95 (licensing of houses under Part 3),
- section 139(7) (failure to comply with overcrowding notice), or
- section 234 (management regulations in respect of HMOs).
- section 21 (of the Housing and Planning Act 2016 - Breach of a banning order)
- regulation 3 (of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 – failure to comply with the regulations.

Fig 24

In deciding whether to prosecute an offender or whether to issue a financial penalty, Dorset Council will decide which option to pursue on a case-by-case basis, in line with this policy.

In making that decision the following factors may be considered:

**The seriousness of the offence:**

Prosecution may be a more appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past.

**Where a significant financial penalty is determined to be a better sanction than prosecution:**

A penalty of up to £30,000 can be imposed where a serious offence has been committed. A local housing authority may decide that a significant financial penalty rather than prosecution, is the most appropriate and effective sanction in a particular case.

**Where Dorset Council considers that a banning order may be an appropriate sanction for a landlord, in addition to prosecution:**

A banning order may only be applied where a landlord has been convicted of certain prescribed offences. Therefore, if a banning order is considered an appropriate sanction, this may lead to a presumption in favour of progressing with a prosecution in such cases.

**The suitability of a financial penalty:**

Where imposing a financial penalty is likely to have little effect on the offender, then prosecution may be deemed a more suitable action.

Fig 25

The reason for a particular course of action being pursued will be documented and where appropriate approval sought from the Corporate Director for Housing and The Corporate Director for Legal Services. This will ensure that the proposed action meets the tests set out in the Code for Crown Prosecutors and that the preferred sanction is the most 'appropriate and effective' course of action.

The Portfolio Holder for People – Adult Social Care, Health and Housing will be informed of the proposed action for information purposes only.



## 5.4. Banning Orders

The Housing and Planning Act 2016 introduced the concept of '[Banning Orders](#)' as a sanction to target what the government terms '[rogue landlords](#)', who are convicted for committing certain prescribed housing offences.

Local authorities are empowered to apply to the [First-Tier Tribunal \(Property Chamber\)](#) to impose a Banning Order preventing a person or body corporate from letting houses; engaging in letting agency work or engaging in property management work for a minimum period of 12 months. There is no statutory maximum period for a banning order.

The offences for which a Banning Order can then be applied for are summarised below:

- Failure to comply with an improvement notice or prohibition order,
- The unlawful eviction or harassment of an occupier and violence for securing entry,
- Offences in relation to the licensing of Houses in Multiple Occupation including a failure to comply with management regulations in respect of Houses in Multiple Occupation,
- Contravention of an overcrowding notice,
- Fire safety offences under the Regulatory Reform (Fire Safety) Order 2005,
- Gas safety offences- duties on landlords, and;
- A wide range of offences relating to immigration, fraud, violence and sexual offences, theft, burglary and blackmail etc.

Fig 26

The full range of offences is detailed in the [guidance](#) produced by Ministry of Housing, Communities and Local Government now known as the Department for Levelling Up, Housing and Communities

In determining whether it is appropriate to apply for a banning order, the following factors will be taken into consideration:

- The seriousness of the offence.
- Any previous convictions or any entry on the [rogue landlord database](#)
- The harm caused to the tenant.
- The necessity to further punish the offender.
- To deter the offender from repeating the offence or similar offences again
- To deter others from committing similar offences
- Where it is thought that prosecution or a financial penalty are unlikely to prevent the landlord or letting agent offending again.

Fig 27

Should a person subsequently breach a banning order, as detailed above the Council has the power to either prosecute or impose a financial penalty.

## 5.5. Database of rogue landlords and property agents

The Housing and Planning Act 2016 also introduced a national '[database](#)' of landlords subject to a [Banning Order](#), convicted or fined for committing a Banning Order offence.

Dorset Council will ensure that any landlord or agent who has committed a banning order offence as outlined in fig 26 above or who has at least twice within a period of 12 months,

received a financial penalty in respect of a banning order offence, is added to the Database of Rogue Landlords.

## 5.6. 'Works in Default' of an Improvement Notice

Where a recipient of an Improvement Notice fails to complete the required work, the Council has the power to take the specified action required in relation to some or all of the identified hazard(s). This can be carried out with or without the agreement of the recipient of the notice.

The Council will normally seek to recover all the reasonable expenses incurred in taking that action including all reasonable administration costs. This may include for example the total time spent by officers in organising and supervising the work, all administrative work, travel, costs associated with contractors and supervisory costs including the cost of any necessary specialist reports and interest at a reasonable rate. This process is often referred to as carrying out 'Works in Default' of a notice.

In determining whether it is appropriate to carry out 'works in default' of an Improvement Notice, the following matters will be considered in consultation with the Service Manager for Housing Standards:

- The effects of not carrying out the work on the health, safety, and welfare of the occupants of the property concerned.
- The opinion of any occupant.
- Any reason for the work not being carried out and the validity of that reason.
- Any other formal action being taken with regard to the property or landlord.
- The extent and scale of the necessary work and whether all or part of it needs to be completed to reduce any risk to a satisfactory level.
- Any other factors that are relevant to the case.

Fig 28

Until such time as 'Works in Default' costs are fully paid by the responsible person, the costs incurred also act as a Local Land Charge.

This process then gives the Council the same powers and remedies as a Mortgagee under the Law of Property Act 1925 which is relevant in the case of the potential Enforced Sale of long term [empty properties](#).

## 5.7. Simple Caution

A [simple caution](#) (once known as a formal caution) is a formal warning that may be given by the police or other prosecutors to persons aged 18 or over who admit to committing an offence. The simple caution scheme is designed to provide a means of dealing with low-level, usually first-time, offending. A simple caution may only be given where specified criteria are met.

In considering whether to issue a simple caution the following factors will be taken into consideration.

- there is evidence that the offender has committed an offence (to the same standard of proof as that required before a court); and,
- the offender admits to the offence; and,
- it is not in the public interest to prosecute (if a simple caution is accepted); and,
- the offender agrees to being given the simple caution.
- the offence created a scenario which was considered low risk, a technical breach of the legislation and/or a first time offence.
- the offender remedied the breach in a timely way and there was no or minimal financial gain in committing the offence.

Fig 29

## 5.8. Rent Repayment Orders (RRO)

A [rent repayment order](#) is an order made by the First Tier Tribunal (Property Chamber) requiring a landlord to repay a specified amount of rent.

RRO's enable a local authority or a tenant to secure the repayment of rent paid during the period of a prescribed offence (for a maximum period of 12 months). In the case of the local authority the amount to be reclaimed would relate to any Housing Benefit payments made. In the case of a tenant the amount reclaimed would be the rent paid personally by that tenant.

The Housing and Planning Act 2016 extended the range of offences for which a local authority can consider applying for a RRO against a landlord. These now include:

- Failure to obtain a mandatory HMO licence for a property under section 72(1) of the Housing Act 2004
- Failure to obtain a property licence under section 95(1) of the Housing Act 2004
- Failure to comply with an Improvement Notice under section 30 of the Housing Act 2004
- Failure to comply with a Prohibition Order under section 32 of the Housing Act 2004
- Breach of a banning order made under section 21 of the Housing and Planning Act 2016
- Using violence to secure entry to a property under section 6 of the Criminal Law Act 1977
- Illegal eviction or harassment of the occupiers of a property under section 1 of the Protection from Eviction Act 1977.

Fig 30

While prosecution for the offence is not a prerequisite for an RRO application, should there have been a successful prosecution, the Tribunal will not revisit the facts of the case, but will merely consider the appropriate amount for repayment.

In considering whether to apply to the First Tier Tribunal (Property Chamber) for an RRO, the Council will consider the following factors:

- That housing benefit has been paid to tenants resident at the property
- The seriousness of the offence.
- Any previous convictions or any entry on the [rogue landlord database](#)
- The harm caused to the tenant.
- The necessity to further punish the offender.
- To need to deter the offender from repeating the offence or similar offences again.
- To deter others from committing similar offences

Fig 31

## 6. Houses in Multiple Occupation (HMO)

- 6.1. [HMOs](#) are properties occupied by persons who do not form a single household, in that they are not members of the same family. Occupants will also share one or more basic amenities such as a bathroom, toilet or shower.

The definition of HMO typically includes properties known as bedsits or shared houses, but can also include poorly converted blocks of flats, staff accommodation and temporary accommodation of homeless people (often traditionally referred to bed and breakfast accommodation).

### 6.2. Fire Safety in HMOs

HMOs have higher incidences of fire related deaths than other types of housing. It is therefore important that HMOs possess adequate means of escape in case of fire and adequate fire precautions. The actual level of fire protection and detection required will be determined by the fire risk and further guidance on the typical precautions necessary can be found in the documents; '[Housing – Fire Safety](#)' ([Local Authorities Coordinators of Regulatory Services - LACORS](#)) and '[Fire safety risk assessment: sleeping accommodation](#)'.

Dorset Council has an enforcement protocol with Dorset and Wiltshire Fire and Rescue Service to determine the lead authority for different types of residential accommodation. Dorset Council is normally the lead authority for all fire safety matters in HMOs.

Once inspected all HMOs are subject to a risk assessment which will allow the prioritisation of further proactive inspections to ensure that appropriate improvement work is carried out and so far as is reasonably possible ensure that licence conditions are met.

### 6.3. The General Management of HMOs

[The Management of Houses in Multiple Occupation \(England\) Regulations 2006](#) and [The Licensing and Management of Houses in Multiple Occupation \(additional provisions\) \(England\) Regulations 2007](#) (applicable to converted blocks of flats), require the person having control of the HMO to ensure that:

### **HMO Management Regulations**

- All services, furnishings, fixtures and fittings are maintained in good, sound, and clean condition.
- The structure is kept in good order.
- All communal areas of the interior are regularly cleaned and redecorated as necessary.
- All yards, boundary walls, fences, gardens and outbuildings are maintained in a safe and tidy condition.
- Satisfactory arrangements for the disposal of refuse and litter have been made.
- At the commencement of all tenancies the lettings are clean, in a satisfactory state of repair and decoration, and comply in all respects with these standards.
- All staircases and multiple steps are provided with suitable handrails.
- All tenants fulfil their tenancy obligations.

Fig 32

In order to provide some interpretation and guidance of the requirements for all HMOs, Dorset Council has adopted [Amenity Standards for HMOs](#) which contains further information about the legal requirements and recommendations as to how they may be achieved.

Failure to comply with the 'HMO Management Regulations' is an offence liable to [Prosecution](#), the issuing of a [Financial Penalty](#) or a [Simple Caution](#) and in determining whether formal action is appropriate the following factors will be considered:

- The seriousness of the offence.
- The presence of any imminent risks, especially relating to fire safety
- The landlords past history of compliance
- Any previous convictions or any entry on the [rogue landlord database](#)
- The harm caused or likelihood of any harm to the tenant(s)
- The absence of a Mandatory HMO or other type of housing licence

Fig 33

Where formal action is not considered appropriate, the Council will explain the nature of the defects in writing and seek the landlord or letting agent's undertaking for remedying the defects, normally providing 14 days for an acceptable response to be provided. Failure to comply with this approach may then lead to formal action based on the factors listed in Fig 33.

#### **6.4. Mandatory HMO Licensing**

The Housing Act 2004 introduced a national mandatory licensing system for Houses in Multiple Occupation (HMO) occupied by 5 or more people who share basic facilities.

Due to the way they are occupied, HMOs often pose hazards in relation to fire, crowding, property management and maintenance. The aim of proactive licensing is to ensure that every licensable HMO is safe for the occupants and is properly managed.

Those applying for a licence must satisfy a self-certification 'fit and proper person' 'test'. The HMO must possess adequate facilities so that it is suitable for the number of proposed occupants, it shall be appropriately managed and also possess adequate fire precautions.

The responsibility for applying for a licence rests with the person having control or the person managing the property. HMO licences normally cover a period of three to five years and the licence is subject to an administration fee (see [Appendix 4](#)) to cover the cost of issuing the licence.

## 6.5. Licensing Offences

The Housing Act 2004 details a number of HMO licensing offences including:

- Operating a licensable HMO without a licence
- Allowing an HMO to be occupied by more persons than a licence allows
- Breaching a condition of the licence

Fig 34

Where a HMO licencing offence has been identified, the Council will assess the relevant circumstances and may base any decision for further formal action on the following matters:

- The condition and management of the HMO and the presence of any serious safety issues including any category 1 or 'high rating category 2 hazards'
- Whether the property possesses adequate and well maintained fire precautions
- The response of the landlord or responsible person when they are notified of a licensing offence
- Whether it is believed the landlord was aware of the need for a HMO licence
- Steps taken by the landlord to subsequently licence the property.
- Steps taken by the landlord to carry out any necessary work to comply with the relevant statutory provisions within an agreed time period

Fig 35

As detailed above, if a landlord operates an un-licensed HMO the Council may [prosecute](#), issue a [Financial Penalty](#), apply for a [Rent Repayment Order \(RRO\)](#), apply for a [Banning Order](#) or issue a [Simple Caution](#).

## 6.6. Interim and Final Management Orders

Where there is no reasonable prospect of an HMO being licensed or certain prescribed health and safety conditions fail to be met, the Council is required to apply for an Interim Management Order (IMO). The application for an IMO is made to the First Tier Tribunal (Property Chamber), normally lasts for one year and allows the Council to take over the management of the HMO. In certain circumstances the Council can also apply for a Final Management Order (FMO) which can last a further five years.

It is likely that such powers will only be used in exceptional circumstances and will be agreed by the Service Manager Housing Standards in consultation with the Corporate Director for Housing. In considering taking this action the Council will have regard to:

- Whether the making of an interim management order is necessary for the purpose of protecting the health, safety or welfare of persons occupying the house
- Any other options have been discounted
- Any threat to evict persons occupying the house in order to avoid the house being required to be licensed or otherwise
- The history of non-compliance with housing and other relevant legislation
- The making of the Interim Management Order is in the public interest.

Fig 35a

### 6.7. Temporary Exemption Notices

Where a landlord is taking permitted, legal steps with a view to ensuring that a HMO is no longer required to be licensed, the Council may serve a Temporary Exemption Notice (TEN). A TEN can only be granted for a maximum period of three months and in exceptional circumstances a second TEN can be served for a further three-month period.

It should be noted that in granting a TEN the landlord must only take permitted steps with a view to securing that the house is no longer required to be licensed. Specifically, a 'section 21' notice (recovery of possession of a shorthold tenancy) may not be considered valid by the Courts if it is issued in relation to a shorthold tenancy of any part of an unlicensed HMO.

### 6.8. HMOs not subject to licensing

Many HMO's may not require a mandatory licence. These include houses containing self-contained flats, converted buildings and smaller HMOs of either 3 or 4 persons sharing basic facilities.

Such HMO's may still pose a significant risk to occupants and may also have a history of being poorly managed.

The Council may inspect such non-licensable HMO's via the enforcement of the provisions of the [Management of Houses in Multiple Occupation \(England\) Regulations 2006](#) and the [Housing Health and Safety Rating System](#) both detailed above and will target any inspections on the basis of risk and by considering the following factors:

- Whether any justified complaint has been received about the condition of the HMO
- Any intelligence or evidence provided about the condition, safety, overcrowding, management and fire precautions present within the property
- The number of stories and layout of the HMO and how that contributes to the fire and other risks to the occupants
- The known past recent history of the landlord or letting agent

Fig 36

### 6.9. Discretionary Property Licensing

The Housing Act 2004 makes provision for the introduction of discretionary licensing of a wider range of HMOs, referred to as Additional Licensing. It also provides for the

discretionary licensing of all private sector housing in a defined area, which is known as Selective Licensing.

The Council will consider the use of these powers if the criteria for such licensing schemes are met, it is considered to be the most appropriate course of action; is consistent with the Dorset Council's objectives and has the necessary support from relevant partner agencies.

## 7. Long Term Empty Homes

- 7.1. Empty homes are a blight on our communities, they can fall into disrepair, attract vermin, unauthorised access, vandalism, and anti-social behaviour. They also constitute a significant wasted housing resource to the property owner and wider community.

Local Housing Authorities can take a wide variety of actions to enable long term empty properties to be brought back into use. This can include working with the owners of empty homes, to support and encourage voluntary action. Alternatively, where reasonable negotiations fail, subject to appropriate funding and other resources being available, it can also include certain enforcement action as detailed below.

In deciding the most appropriate course of action for an empty property and whether formal action is appropriate, regard shall be had to the following factors:

- The response of the property owner
- The length of time the property has been empty.
- The impact of the empty property on the neighbourhood and the level of justified complaint
- Housing need in the area for the particular type of accommodation
- The size, condition and location of the property
- The likely cost of bringing the empty property back into use.
- Any debts or other charges secured on the property.
- The views of the owner and their intended use for the property including any timescale
- The views of neighbours and other local residents
- The availability of funding to progress with a given case including an available partner organisation such as a housing association
- The human rights considerations of taking enforcement action, both for the property owner and affected residents

Fig 37

## 7.2. Empty Dwelling Management Orders (EDMO's).

Under the Housing Act 2004 the Council may apply to the First Tier Tribunal (Property Chamber) to impose an [EDMO](#) on a house which has been empty for at least six months. If granted the order gives the Council the power to manage the house, but not take the full ownership. Final EDMO's last for a maximum period of seven years, after which another order maybe applied for or some alternative action taken.

During the lifetime of the EDMO, the Council is required to rent the property for residential purposes and may recover any costs incurred in improving and managing it through the rental income obtained. If there is any surplus income, then it must be passed on to the freehold owner.



The Council may work in partnership with a Registered Provider of Housing (RP – formerly known as Housing Associations) or other agencies to manage a property which has been subject to an EDMO.

The EDMO option is more likely to be considered for long term empty homes which meet the following criteria

- The property is in a relatively good state of repair, needing only cost-effective works to make it suitable for rental occupancy
- Is of an appropriate size and in an area of demonstrable housing need and there is a reasonable prospect that the dwelling will become occupied if an EDMO is made
- The amount of affordable rent likely to be payable in the life of the EDMO is favourable, when compared to the repair, management and other expenses that will be incurred by the Council during the 7 year life of the Order
- The dwelling has been unoccupied for at least six months
- There is no reasonable prospect that the dwelling will become occupied in the near future
- The Council has complied with its duties in seeking to make an EDMO and no exemptions apply
- The human rights considerations of taking enforcement action, both for the property owner and affected residents have been considered and assessed

Fig 38

### 7.3. Enforced Sale

The 'enforced sale' of a house is an option available to local authorities where a property has certain unpaid legal or financial charges secured on it. This typically includes costs associated with works carried out 'in default' of a notice. In these cases the local authority exercises the power of sale conferred by the charge, to recover the money it is owed.

The most common statutory provisions enabling works in default with an associated property charge are detailed below:

- Section 4 Prevention of Damage by Pests Act 1949  
Requiring land to be kept free of rats and mice
- Section 79 Building Act 1984  
Requiring works to remedy ruinous and dilapidated buildings and neglected sites
- Section 80 Environmental Protection Act 1990  
Requiring abatement of statutory nuisance
- Section 215 Town and Country Planning Act 1990  
Requiring steps to be taken for the purpose of remedying the adverse effect on amenity caused by detrimental condition of land and buildings
- Sections 11 and 12 Housing Act 2006  
Requiring the taking of action to deal with category 1 or 2 hazards in residential premises
- Council Tax Debts - requires an application to court and an order for sale

Fig 39

The Council can seek an order from HM Land Registry (Law of Property Act 1925) to force and complete the sale of the house on the open market or via auction to recoup its costs. The freehold owner is then entitled to the balance of the sale price.

As neglected long term empty properties can typically require the above formal action, combined with the fact that absent owners often fail to comply with works notices and pay the associated 'works in default' costs, then this process can be relevant to empty homes.

In considering whether the enforced sale procedure is appropriate for a particular long term empty property, then the following criteria will be taken into account:

- The presence of an appropriate financial legal charge on the empty property
- The value of that charge
- The nature of the charge; i.e. whether the Council's charge takes priority over others
- The likelihood that the freehold owner will pay the outstanding debt.
- The properties impact on the neighbourhood and the level of justified complaint
- The level of cooperation provided by the owner in bringing the property back into use
- The human rights considerations of taking enforcement action, both for the property owner and affected residents

Fig 40

#### 7.4. Compulsory Purchase Order (CPO)

Various legal provisions provide local authorities with the power to apply to the Secretary of State to acquire land, houses or other properties by compulsion ([CPO](#)). CPO action can be considered in a range of circumstances including action on an empty home to ensure the provision of housing accommodation. CPO can also be used to enable an empty property to be renovated and improved and brought back into beneficial use, which will remedy its adverse environmental, economic, and social impact on the surrounding area.

There are significant human rights and equality implications associated with the compulsory purchase of empty homes. Therefore a CPO should only be considered where there is a compelling case in the public interest.

In considering whether a CPO is appropriate for a particular long term empty property then the following criteria will be taken into account:

- The extent to which the property owner has attempted to comply with the Councils requests to bring it back into use.
- What efforts the Council has made to engage the owner in bringing the property back into use
- The condition and location of the property and the likelihood it will come back into use by other means, whether initiated by the Council or otherwise.
- The effect of the empty property on residents and the wider community
- The balance of human rights interests, in other words the rights of the property owner balanced against the rights of those demonstrably affected by the empty property.
- Consideration of any protected characteristics the property owner may have under the Public Sector Equality Duty and any reasonable adjustments to the CPO process
- The purchase and likely resale value of the property
- The benefit of improving and renovating the property for rent verses the immediate sale of the property on the open market
- Should a CPO be successful, the likely interest from the open market in acquiring and renovating the property.
- The demand for rented or other accommodation in the area and whether the size, type and location of the empty property is such that it's the type that is in demand from council services such as Housing Solutions, Adult or Childrens Services

Fig 41

The relevant Secretary of State will consider a CPO application made by the Council and if the owner contests it, they will offer the owner the opportunity to put their case. This submission can take the form of a written representation or a public enquiry. In any case the circumstances will be judged by an independent Government appointed inspector.

## 7.5. General Empty Property Enforcement Action

Other legislation can also be considered when dealing with issues arising from empty properties, such as:

- [Local Government \(Miscellaneous Provisions\) Act 1982 s29](#) - enables the Council to secure a property that is open to access
- [Buildings Act 1984 s77 and 78](#) - enables the Council to require an owner to make a property safe or allow emergency action to be taken to make it safe
- [Town and Country Planning Act 1990 s215](#) - enables the Council to take action to address a dis-amenity to the local community and unsightly external appearance
- [Housing Act 1985 s265](#) - enables the Council to demolish a property that cannot be satisfactorily repaired (i.e. derelict properties)
- [Prevention of Damage by Pests Act 1949 Section 4](#) - Requiring land to be kept free of rats and mice
- [Environmental Protection Act 1990 Section 80](#) - Requiring abatement of statutory nuisance
- [Anti-social Behaviour, Crime and Policing Act 2014](#) – Community Protection Notice – action where a property is having a detrimental effect on the quality of life of those in the locality, and is unreasonable, and the behaviour is of a persistent or continuing nature.

Fig 42

## 8. Park Homes

Park Home sites offer an alternative to home ownership and many sites are occupied by older residents on low income. Local authorities are responsible for safeguarding the interests of park homeowners and the public at large through the licensing regime under the [Caravan Sites and Control of Development Act 1960](#).

There are currently approximately 50 licenced sites in the Dorset Council area. The [Mobile Homes Act 2013](#) introduced a new site licensing regime for relevant protected sites (that is, park home sites and mixed sites of both residential park homes and holiday homes). The Act allowed for the service of compliance notices in relation to breaches with site licence conditions.

### **Compliance Notices**

Where a local authority considers that a park owner is failing or has failed to comply with a site licence condition it can serve a compliance notice on the park owner listing the steps that need to be taken, within a specified time period, to comply with the requirements of the site licence. It is a criminal offence to fail to comply with a valid compliance notice.

### **Emergency Action**

A new provision has also been introduced under this legislation that deals with emergency situations that may arise but where the park owner either refuses or is not available to take immediate action to protect people on the park. Where a situation arises that, in failing to comply with a site licence condition, there is an imminent risk to the health and safety of anyone on the park, the local authority has the power to take emergency action to remove that risk.

Fig 43

Any actions required in enforcement proceedings will be reasonable and proportionate. Dorset Council aims to work with park owners in a constructive and positive way to improve parks. In applying this policy Dorset Council aims to be consistent in its approach across all sites in Dorset and address issues that arise in relation to the site licence conditions.

Formal enforcement action will be considered under the following circumstances:

- Where there are breaches of the site licence conditions
- The presence of any demonstrable risk of significant harm to persons or property
- The interests and rights of the park homeowners
- Whether a breach of the site licence condition is impacting on an individual owner of a wider part of the site.
- The general level of confidence of the site licence holder at this or other sites under their control
- The general way in which the site is managed and operated and any history of justified complaint and non-compliance.

Fig 44

## **8.1 'Fit and Proper Person'**

The Mobile Homes (Requirements for Manager of Site to Fit and Proper) (England) Regulations 2020 introduced an assessment to ensure that the person responsible for managing a "Relevant Protected Site" (a park home site) is suitable and of good character, and as such does not pose a risk to the welfare or safety of persons occupying mobile homes on the site.

It is an offence for a site licence holder to operate a park home site unless they, or their appointed manager, are a 'fit and proper person'.

Site owners operating a relevant protected site must apply for the relevant person (themselves or an appointed manager) to be included on the register of fit and proper persons. Site owners must apply if the circumstances relating to the nominated 'fit and proper person change' for example if:

- there is a transfer of a site licence,

- there is a change in management of a site or
- a person has been removed from the register by the local authority.

A person will not be added to the public register unless they have applied using the Council's application form, pay the required fee and are considered to be a 'fit and proper' person. In making this decision the Council will consider the following:

- the owners past compliance with the site licence conditions
- the long-term maintenance of the site
- whether the person is considered to have a sufficient level of competence to manage a site
- the current or proposed management structure and funding arrangements for the site

We also consider whether the relevant person:

- has the right to work within the UK.
- has committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements)
- has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law.
- has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business.
- has harassed any person in, or in connection with, the carrying on of any business.
- has had an application rejected by any other local authority.
- is or has been personally insolvent within the past 10 years.
- is or has been disqualified from acting as a company director within the last 10 years.
- We will also consider the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work, or other basis), if it appears that person's conduct is relevant.
- We will also consider any evidence/information on any other relevant matters.

Fig 44a

## 8.1 Harassment and Illegal Eviction

The Protection from Eviction Act 1977 details the powers available to local housing authorities in cases of alleged harassment and illegal eviction. The Caravan Sites Act 1968 details similar provisions for protected sites.

Illegal eviction is normally defined as action taken by a landlord or any other person, to unlawfully deprive an occupier of access to all or part of the accommodation without following correct procedures.

As such it is essential for the investigating officer to fully understand the nature of the properties occupation and any agreement that may exist, whether in writing or otherwise, as this will then determine what the correct, legal procedures are in each case.

Harassment is normally defined as:

- Acts likely to interfere with the peace and comfort of those living in the premises, or
- Persistent withdrawal or withholding of services that are reasonably required for occupation of the premises.

Acts calculated to interfere with peace and comfort may include, for instance, threats of violence, removal of fittings or belongings or the breaking of windows. Secondly, the 'persistent' withdrawal of services denotes more than one occurrence and relates to water, gas and electricity.

It must be shown that the landlord or his/her agent had *intent or reasonable cause to believe* that their action was likely to cause the occupier to give up occupation or refrain them from exercising their rights or remedies.

The burden of proof for demonstrating harassment should be considered a 'high' one. For example, actions taken by a landlord maybe distressing to the tenant and undermine their sense of security; however, the courts may not interpret this as harassment.

Typical actions in response to proven cases of illegal eviction and/or harassment include those listed at [fig 21](#) above. In determining if a case of alleged illegal eviction or harassment is subject to formal or other action, then the following matters will be considered:

#### **General Considerations**

- Whether the evidence satisfies the 'evidential test' as outlined above including the quality and availability of direct evidence from any affected occupants or witnesses including formal witness statements.
- The public interest in progressing the alleged offence formally,
- Any mitigating or aggravating circumstances associated with the alleged offence including:
  - The risk that non-compliance posed to the safety, health or economic welfare of those affected,
  - Evidence that suggests that there was pre-meditation in the commission of an offence.
  - Any relevant history or the commission of similar offences including a history of failure to respond to informal and formal requests for action
  - The value of the action as a deterrent to the perpetrator and others.
  - Removal of any financial gain from the offence and offender
  - The extent to which the perpetrator cooperated with the Councils investigation or any advice or instructions that were provided as part of the investigation or homelessness prevention process.

Fig 44b

#### **9. Situations where a service may not be provided.**

Although the Council has specific legal duties and responsibility in relation to the inspection of housing and the improvement or removal of hazards, as detailed below situations may arise where it is appropriate and justified to not provide a service:

- Where an occupant voluntarily has or is imminently intending to move out of the property subject to the enquiry
- Where a tenant unreasonably refuses access to the property to the landlord, property owner, managing agent, Council Officer or any appointed contractor, preventing them from inspecting, arranging or carrying out any required works.
- Where the only reason for contacting Housing Standards is to assess or improve a priority rating under the [Home Choice Allocations Policy](#) and the tenant has refused to allow access or cooperate to enable the accommodation to be assessed, improved or repaired.
- Where an occupant has made a relevant request for service and has then failed to reasonably respond to requests for contact, failed to keep an appointment(s) and has not reasonably responded to subsequent communication or requests.
- Where an occupant or a member of their household has been aggressive, threatening, verbally or physically abusive towards an officer of the Council or another relevant person.
- Where on visiting or inspecting the property there is found to be no justification for the complaint or the complaint is considered vexatious.
- Where upon request, an occupant unreasonably withholds from the Council any relevant information or documentation which would assist the Council in its investigation or the performance of its duties or powers.

Fig 45

## 10. Monitoring and review

This enforcement policy will be subject to regular review and amendment when necessary to accommodate new legislation, guidance, or local needs. The policy provides authority to the Corporate Director for Housing to make minor alterations in consultation with the Portfolio for People – Adult Social Care, Health and Housing.

This enforcement policy will be available on the council's website at [www.dorsetcouncil.gov.uk/housingenforcement](http://www.dorsetcouncil.gov.uk/housingenforcement)

Housing Standards will work to adopt any corporate or other appropriate system designed to obtain feedback and to assess the satisfaction of the service provided and the diversity of landlords, letting agents and tenants and others affected by this policy. The information collected will be used to improve the delivery, fairness, and effectiveness of the policy.

## 11. Application of the policy

Enforcement officers will refer to this policy and appended documents when making all enforcement decisions. Any departure from this policy must be made in consultation with the Service Manager for Housing Standards and appropriately recorded.

## 12. Feedback

If you wish to comment or provide feedback about this policy please contact;

Service Manager Housing Standards  
 Housing Standards Team  
 Dorset Council  
 County Hall  
 Colliton Park  
 Dorchester



DT1 1XJ

01305 251010

[Housingstandards@dorsetcouncil.gov.uk](mailto:Housingstandards@dorsetcouncil.gov.uk)

## Appendix 1

### Statement of principles for determining financial penalties for general housing legislation

#### Introduction

This statement sets out the principles that Dorset Council will apply in exercising powers to impose a financial penalty for failing to meet certain legislative requirements.

#### The Council's power to impose financial penalties.

Legislation has been introduced which has provided the Council with a power to impose and charge a financial penalty in prescribed circumstances.

- [The Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015 and Smoke and Carbon Monoxide Alarm \(Amendment\) Regulations 2022](#)
- [The Redress Schemes for Letting Agency Work and Property Management Work \(Requirement to Belong to a Scheme etc.\) \(England\) Order 2014](#)
- [Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#)

Fig 46

#### Scope

The Council will apply these principles when determining any housing related legislation that permits the Council to impose a financial penalty.

Where a financial penalty is charged the Council must have regard to the statement of principles and Housing Standards Enforcement Policy that was in force at the time the penalty was issued.

#### General principles applied to the imposition of a financial penalty.

The primary purpose of the Council's enforcement of its regulatory powers is to protect the interests and safety of the public. The primary aims of any financial penalty will therefore be to:

- Change the behaviour of the landlord/letting agent concerned.
- Deter future non-compliance by landlords/letting agents.
- Eliminate any financial gain or benefit from non-compliance with the Regulations.
- Be proportionate to the nature of the breach of the Regulations and the potential harm outcomes.
- Reimburse the cost incurred by the Council in undertaking any work in default and fulfilling its enforcement duties.

Fig 47

In determining the amount of any financial penalty to be charged the Council may in general have regard to the following:

- The level of cooperation provided by the landlord/letting agent concerned.
- Any history of previous contraventions of Housing or Housing related legislation
- The level of risk created by the non- compliance
- The cost incurred by the Council in enforcing the relevant provision.
- Any other circumstances identified as specifically relevant to the individual matter
- The Council's current Housing Standards Enforcement Policy
- Any specific legal provisions and requirements relating to Penalty Notices under the specific statutory provisions.
- The maximum permitted Penalty Charges for offences
- Regard to any aggravating or mitigating factors raised
- In setting a proportionate penalty, regard shall also be had to the Financial Penalty Matrix at Table 1.
- If requested to do so, it is good practice that local authorities use their existing powers as far as is reasonably possible, to assess a landlord's assets and any income (not just rental income) they receive when determining an appropriate penalty.

Fig 48

Where a financial penalty is issued, and no representation or appeal is made. If following the service of the penalty the recipient carries out the necessary work within any specified period, there will be a presumption in favour of demanding the full penalty amount from the recipient.

### **Financial penalties applicable to specific legislation**

#### **The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022**

Where the Council have reasonable grounds to believe that the requirements of the above Regulations have not been met by a landlord, there is a duty to serve a 'Remedial Notice'. Failure to comply with a Remedial Notice imposes a further duty upon the Council to arrange remedial action and a power to demand the payment of a penalty charge. The amount of the penalty charge must not exceed £5,000.

In setting a proportionate penalty, regard shall be had to the Financial Penalty Matrix at Table 1.

A penalty charge will be recoverable on the order of a court, as if payable under a court order.

The Regulations make provision for a landlord to seek a review of a penalty charge notice. The Council will refer to this statement of principles in considering any request for a review, and the review will be conducted by an Officer not directly involved in the service of the original notice.

#### **The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014**

This Order requires that letting agents belong to an [approved redress scheme](#). The intention is that if a tenant or customer has a complaint about a letting agent that cannot be resolved between the relevant parties, they can complain to the scheme.

Where the council is 'satisfied on the balance of probabilities' that a person has failed to belong to an [approved redress scheme](#) as required by article 3 or 5 of the above Order, it may by notice require that person to pay a 'monetary penalty'. The amount of the monetary penalty must not exceed £5,000.

The Council will normally provide the landlord with a reasonable period of time to remedy any breach; normally up to 28 days, prior to considering imposing a penalty.

In setting a proportionate penalty, regard shall be had to the Financial Penalty Matrix at Table 1.

A monetary penalty will be recoverable on the order of a court, as if payable under a court order.

Reviews will be conducted by an Officer not directly involved in the service of the original notice of intent.

### **Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015**

The Council may serve a penalty notice on a landlord where they are satisfied that the landlord is, or has been in the last 18 months in breach of the:

- prohibition on letting sub-standard property (those rated F or G on the EPC scale) or
- requirement to comply with a compliance notice or
- has uploaded false or misleading information to the Exemptions Register.

Fig 51

The Council will normally provide the landlord with a reasonable period of time to remedy any breach, prior to considering imposing a penalty. The Council has discretion to decide on the amount of financial penalties, up to maximum limits set by the Regulations and associated [guidance](#). The maximum penalties are as follows:

- a. Where the landlord has let a sub-standard property in breach of the Regulations for a period of less than 3 months, a financial penalty of up to £2,000 may be imposed in addition to a publication penalty.
- b. Where the landlord has let a sub-standard property in breach of the regulations for 3 months or more, a financial penalty of up to £4,000 may be imposed in addition to a publication penalty.
- c. Where the landlord has registered false or misleading information on the PRS Exemptions Register, a financial penalty of up to £1,000 may be imposed in addition to a publication penalty.
- d. Where the landlord has failed to comply with compliance notice, a financial penalty of up to £2,000 may be imposed in addition to a publication penalty.

Fig 52

The Council may not impose a financial penalty under both paragraphs a. and b. above in relation to the same breach of the Regulations, but they may impose a financial penalty under either paragraph a or paragraph b., together with financial penalties under paragraphs c and d, in relation to the same breach.

Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.

The Council will refer to this statement of principles in considering any request for a review and the review will be conducted by an officer not directly involved in the service of the original notice.

In setting a proportionate penalty, regard shall be had to the Financial Penalty Matrix at Table 1.

For all offences resulting in a financial penalty the Council will also consider a 'publication penalty'. A 'publication penalty' allows the Council to publish details of the landlord's breach on a

publicly accessible part of the PRS Exemptions Register. The Council will generally keep the information on the Register for at least 12 months.

## Appendix 2

### Statement of principles for determining financial penalties for the Housing Act 2004 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

#### Introduction

This statement sets out the principles that the Council will apply in exercising powers to impose a financial penalty for specified criminal offences under the Housing Act 2004 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

#### The Council's power to impose financial penalties.

Legislation and associated [guidance](#) provides local housing authorities with the power to charge a financial penalty in prescribed circumstances.

The then Ministry of Housing, Communities and Local Government (MHCLG – now the Department for Levelling Up, Housing and Communities) publication provides statutory guidance to which local housing authorities must have regard. It recommends certain factors a local authority should take into account when deciding on the level of financial penalty and further recommends that local authorities develop and document their own policy to determine the appropriate level of financial penalty in a particular case.

The Council has a wide discretion in making this determination and this policy provides further guidance as to how a penalty will be calculated. In developing its policy the Council has had regard to principles set out in a number of publications including the [Magistrates' Court Sentencing Guidelines](#). In anticipation of further legislative provisions being introduced enabling the imposition of a financial penalty, the principles detailed in this document will be applied in setting any charge.

#### Scope

[The Housing and Planning Act 2016](#) ('the 2016 Act') amends the Housing Act 2004 ('the 2004 Act') to allow financial penalties, up to a maximum of £30,000, to be imposed as an alternative to [prosecution](#) for certain relevant housing offences.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 introduces financial penalties for breach of duties under the regulations which must not exceed £30,000.

The Housing Act 2004 (as amended) prescribes the procedures that a local housing authority must follow before imposing a financial penalty, details of the appeal process and the procedure for recovery of the penalty.

Schedule 9 of the 2016 Act has introduced amendments to the 2004 Act that allow local housing authorities to impose financial penalties as an alternative to prosecution for the following relevant housing offences under the 2004 Act:

- section 30 (failure to comply with improvement notice),
- section 72 (licensing of Houses in multiple occupation (HMOs)),
- section 95 (licensing of houses under Part 3),
- section 139(7) (failure to comply with overcrowding notice), or
- section 234 (management regulations in respect of HMOs).
- section 21 (of the Housing and Planning Act 2016 - Breach of a banning order)
- regulation 3 (of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 – failure to comply with the regulations

Fig 53

Where a financial penalty is charged the Council must have regard to a statement of principles published and in place at the time when the breach in question occurred. The Council may revise this statement of principles and where it does so, it will publish the revised statement.

### **General principles and factors to be applied to the imposition of a financial penalty.**

The relevant guidance advises local authorities to take account of the following seven factors when calculating the amount of any penalty.

1. Severity of the offence.
2. Culpability and track record of the offender.
3. The harm caused to the tenant.
4. Punishment of the offender.
5. Deter the offender from repeating the offence.
6. Deter others from committing similar offences.
7. Remove any financial benefit the offender may have obtained as a result of committing the offence.

Fig 54

The Council will take these seven factors into account when determining the amount of any financial penalty to be imposed and in doing so will specifically consider:

- The extent to which the non-compliance was the result of direct acts or omissions of the landlord/letting agent.
- Whether the non-compliance was deliberate or resulted from a matter of which the landlord/letting agent should reasonably be aware.
- Whether any other body has or is likely to apply sanctions associated with the non-compliance.
- The level of cooperation provided by the landlord/letting agent concerned.
- Any history of previous contraventions of Housing or Housing related legislation.
- The level of financial gain achieved by the non-compliance.
- The level of risk created by the non-compliance.
- The degree of responsibility held by the landlord/letting agent for the non-compliance.
- The cost incurred by the Council in enforcing the relevant provision.
- Any additional aggravating or mitigating factors that may warrant an increase or decrease in the financial penalty.

Fig 55

### Procedure for imposing a financial penalty

The procedure for imposing a financial penalty is set out in Schedule 13A of the Housing Act 2004. Where a penalty is considered the appropriate sanction, the level of penalty will be set by reference to the [‘Financial Penalty Matrix’](#) detailed below in Table 1.

The Financial Penalty Matrix accounts for the seven factors detailed in the guidance at fig 54 above and consolidates it into four headings. The resultant total ‘score’ in column ‘A’ of table 1 is then transferred to one of the eleven possible [penalty bands](#) detailed in Table 2.

Each band provides a range of possible penalties with the lowest band having a penalty of up to £250 and the highest band imposing a penalty up to the maximum of £30,000.

The maximum penalty for any band will be assumed to apply unless there are appropriate mitigating circumstances associated with the case. These may include, but not limited to:

- No previous relevant convictions
- Any steps taken by the landlord/letting agent to remedy the offence
- The level of cooperation with the investigation from the landlord/letting agent, beyond that which is normally or reasonable to expect
- Any previous record of maintaining and managing rented or other properties
- Any self-reporting of the issue by the landlord/letting agent, including the level of cooperation and acceptance of responsibility
- The existence of any protected characteristic under equality legislation which is linked to the commission of the offence

Fig 56

In all cases a view will be taken on the level of the penalty calculated from the matrix, compared to the offence committed and if necessary, the penalty will be adjusted, subject to appropriate documented evidence. Prior to the final determination of a penalty the Council will satisfy itself that the penalty is just and proportionate. Decisions to adjust a penalty will be taken by a second



officer, normally a Team Leader, who has not investigated the original offence and any amendments documented in writing.

Where the offender is issued with more than one financial penalty, the Council will have regard to the relevant guidance [Offences Taken into Consideration and Totality](#).

If the aggregate total of the penalties is not considered just and proportionate, the Council will consider how to reach a just and proportionate financial penalty.

The statutory guidance advises that local authorities should use their existing powers as far as possible, to make an assessment of a landlord's assets and any income (not just rental income) they receive when determining an appropriate penalty.

In setting a financial penalty, either singular or cumulative, the Council will conclude that the offender is able to pay any financial penalty imposed unless the Council has obtained, or the offender has supplied upon review, any financial information to the contrary. An offender will be expected to cooperate with the Council and provide such data relevant to their financial position to enable the Council to assess what an offender can reasonably afford to pay i.e. the last set or audited accounts or a profit/loss account.

Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the offender's means from evidence it has received and from all the circumstances of the case, which may include the inference that the offender can pay the financial penalty.

Where it is determined that a financial penalty is appropriate the Council will serve a 'notice of intent' on the person responsible for the offence within 6 months of the offence being evidenced

The Council will invite representations which must be made within 28 days of receipt of the 'notice of intent'. Having considered any representations received the Council must then decide if it still wishes to impose a penalty and, if so, the amount. In making this decision the Council will have regard to the factors outlined above, and specifically detailed in fig 54, 55 and 56.

If a penalty continues to be considered appropriate a 'final notice' will be served.

A person who receives a final notice may appeal to the Residential Property (First-tier Tribunal) against the decision to impose a penalty; or the amount of the penalty. If a person appeals, the final notice is suspended until the appeal is determined or withdrawn.

**Financial Penalty Matrix (Table 1)**

Factors	Score = 1	Score = 5	Score = 10	Score =15	Score = 20	Total <b>(A)</b>
1. Severity of offence and culpability	Single low level offence and no previous enforcement history.	Single offence and minor previous enforcement history.	Offence has moderate severity or small but frequent impact(s), and /or recent second time offender.	Ongoing offence of moderate to large severity or a single instance of a very severe offence, or multiple offender.	Continuing serious offence. Serial offender. History of enforcement action being necessary.	
2. Deterrence of offender and others	High confidence that a financial penalty will deter repeat offending, and / or publicity not required to prevent similar offending by others.	Medium confidence that a financial penalty will deter repeat offending, and / or only minimal publicity required to prevent similar offending by others.	Low confidence that a financial penalty will deter repeat offending (e.g. no contact from offender), and /or some publicity will be required to prevent similar offending by others.	Little confidence that a financial penalty will deter repeat offending, and publicity will be required to prevent similar offending by others.	Very little confidence that a financial penalty will deter repeat offending, and publicity essential to prevent similar offending by others.	
3. Removal of financial benefit	Minimal assets and no or very low financial profit made by offender.	Little asset value and /or little profit made by offender.	Small portfolio landlord with low asset value, and low profit made by offender.	Medium portfolio landlord or a small Managing Agent, with Medium asset value, and medium profit made by offender.	Large portfolio landlord or a medium to large Managing Agent, with high asset value, and /or high profit made by offender.	
4. Harm to the tenants (x2 weighting)	Very little or no harm caused, and no vulnerable occupants, or tenant provides no information on impact.	Low level health/harm risk(s) to occupant deemed likely. No vulnerable occupants, and /or only poor quality information on impact available.	Moderate level health/harm risk(s) to occupant likely, or low level risk(s) to vulnerable occupants. Some information on impact available but with no primary or secondary evidence	High level of health/harm risk(s) to occupants likely, and tenant(s) will be affected frequently or by occasional high impact occurrences, or vulnerable occupants more than likely exposed to moderate level of risk. Good information on impact with primary evidence (e.g. prescription drugs present, clear signs of poor health witnessed) but no secondary evidence.	Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually affected, or vulnerable occupants exposed. Excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).	x2

**Financial Penalty Bands (Table 2)**

Score Range Total Score in Column A (Table 1)	Maximum Penalty
<6	£250.00
6<11	£500.00
11<21	£750.00
21<31	£1,000.00
31<41	£2,500.00
41<51	£5,000.00
51<61	£10,000.00
61<71	£15,000.00
71<81	£20,000.00
81<91	£25,000.00
91+	£30,000.00

### Appendix 3

#### Charging for Enforcement Action

	Business Support		EHO		Team Leader		Service Manager		TOTAL
Hourly rates (2023)	£15.67		£27.35		£34.10		£40.72		
Activity for which charge maybe made	Hours	£	Hours	£	Hours	£	Hours	£	£
Inspection including travel	0	£-	2.50	£68.38	0	£-	0	£-	76.78
HHSRS assessment	0	£-	2.00	£54.70	0.50	£17.05	0.25	£10.18	61.86
Drafting schedules of work	0	£-	2.00	£54.70	0.50	£17.05	0.25	£10.18	61.86
Draft statement of reasons	0	£-	1.50	£41.03	0.25	£8.50	0.25	£10.18	52.29
Service of notices / orders	0	£-	0.50	£13.68	0.25	£8.50	0.25	£10.18	36.93
Admin support	2	£31.34	0	£-	0	£-	0	£-	35.12
<b>TOTAL</b>	<b>2</b>	<b>£31.34</b>	<b>8</b>	<b>£232.49</b>	<b>1.50</b>	<b>£ 57.44</b>	<b>1.00</b>	<b>£40.72</b>	<b>£361.99</b>

Hourly rate: April 23 plus 'on costs' (NI, Pension)

Fee for service of notice rounded to nearest pound = £362

## Appendix 4 HMO licence Fee

The HMO licence fee has been increased to account for inflation and other price increases to:

New Licence            Full Fee            £735.00  
                                 Discounted        £661.50

Licence Renewal      Full Fee            £609.00  
                                 Discounted        £546.00

Action	HMO New Licence				HMO licence Renewal	
	Officer	Time allocated	Hourly Rate	Cost	Time Allocated	Cost
Pre inspection arrangements - review file, update database	EHO	1.00	£ 30.71	£ 30.71	0.50	£ 15.36
Pre inspection arrangements - review case and allocate case	TL	0.25	£ 38.29	£ 9.57	0.25	£ 9.57
Pre inspection arrangements Admin - Set up on database - letters sent to invite to apply	BS	1.00	£ 17.56	£ 17.56	1.00	£ 17.56
Inspection/report writing/plans (EHO)	EHO	3.00	£ 30.71	£ 92.13	2.00	£ 61.42
Inspection/report writing/plans (TL)	TL	1.00	£ 38.29	£ 38.29	0.25	£ 9.57
Inspections/enforcement during licence period	EHO	2.00	£ 30.71	£ 61.42	2.00	£ 61.42
Liaison with statutory bodies - fire, conservation, planning, BC - update database (EHO)	EHO	1.00	£ 30.71	£ 30.71	0.50	£ 15.36
Liaison with statutory bodies - as above (TL)	TL	0.25	£ 38.29	£ 9.57	0.25	£ 9.57
Admin: Application receipt, upload documents, allocate back to EHO	BS	1.00	£ 17.56	£ 17.56	1.00	£ 17.56
Check application documents (EHO)	EHO	1.50	£ 30.71	£ 46.07	1.50	£ 46.07
Check application documents (TL)	TL	0.50	£ 38.29	£ 19.15	0.50	£ 19.15
Draft licence (EHO)	EHO	1.50	£ 30.71	£ 46.07	1.50	£ 46.07
Draft licence (TL)	TL	0.50	£ 38.29	£ 19.15	0.50	£ 19.15
Draft licence (SM)	SM	0.10	£ 48.01	£ 4.80	0.10	£ 4.80
Draft licence sent (BS)	BS	0.50	£ 17.56	£ 8.78	0.50	£ 8.78
Payment taken	BS	0.50	£ 17.56	£ 8.78	0.50	£ 8.78
Final Licence (complete all paperwork) update database (EHO)	EHO	1.00	£ 30.71	£ 30.71	1.00	£ 30.71
Final licence (TL)	TL	0.25	£ 38.29	£ 9.57	0.25	£ 9.57
Final licence (SM)	SM	0.10	£ 48.01	£ 4.80	0.10	£ 4.80
Licence sent	BS	0.50	£ 17.56	£ 8.78	0.50	£ 8.78
IT inputting/ Public register /Register maintenance	TL	1.00	£ 38.29	£ 38.29	1.00	£ 38.29
IT costs (general)				£ 50.00		£ 50.00
General management costs	SM	1.00	£ 48.01	£ 48.01	0.50	£ 24.01
Miscellaneous costs (post/travel/fuel etc)				£ 50.00		£ 50.00
<b>TOTAL</b>		<b>19.45</b>		<b>700.47</b>	<b>16.20</b>	<b>586.33</b>
<b>Total rounded down - Full Fee</b>				<b>700.00</b>		<b>580.00</b>
<b>10% discount for LLAP or *</b>				<b>70.05</b>		<b>58.63</b>
<b>Total 10% discount</b>				<b>630.42</b>		<b>527.69</b>
<b>10% discount rounded down</b>				<b>630.00</b>		<b>520.00</b>
		<b>2020 Hourly rate:</b>				
		<b>Business Support (BS)</b>	<b>£ 17.56</b>			
		<b>EHO</b>	<b>£ 30.71</b>			
		<b>Team Leader (TL)</b>	<b>£ 38.29</b>			
		<b>Service Manager (SM)</b>	<b>£ 48.01</b>			

## Appendix 5

**Table of Amendments**

<b>Section</b>	<b>Summary of amendment</b>	<b>Date</b>
1.0	Council owned stock excluded from this policy	
4.2.1	Inclusion of a triage approach in managing cases of disrepair in private rented homes	
4.2.3	Detail of likely action in the event of low ranking category 2 hazards only	
4.3.2	Inclusion of shared ownership	
4.3.4	Inclusion of a triage approach in managing cases of disrepair in private rented homes	
4.3.5	Inclusion of possible use of HHSRS and Housing Act 2004 action for long term empty homes	
4.5	Update to minimum charge for enforcement action	
4.6A	Inclusion of Interim and Final Management Orders	
4.6.1	Update to legal provisions relating to smoke and carbon monoxide alarm regulations	
4.7.2	Inclusion of circumstances where a publication penalty maybe considered	
4.7.4	Inclusion of circumstances when a penalty notice should be considered for electrical safety regulations	
4.7.6 A	Inclusion of statutory nuisance as a possible action	
4.7.6 B	Inclusion of circumstances when action maybe considered under the Landlord and Tenant Act 1985	
8.1	Inclusion of circumstances when action will be considered in the event of alleged harassment and Illegal eviction	
App 1	Various omission and inclusions. Link level of possible fine to matrix table in App 2	
App 2	Amendment to detail that large portfolio landlord is generally for stock holdings of more than 25 (and not 5 as originally detailed)	
App 3	Update to minimum charge for enforcement action	

## Appendix 6

### Glossary of Terms

**Category 1 hazard** – a hazard assessed under the HHSRS which is serious and a high risk to a person's health and safety for which local housing authorities have a duty to take remedial action

**Category 2 hazard** - a hazard assessed under the HHSRS which is deemed less serious or less urgent for which local housing authorities have a power duty to take remedial action

**Department for Levelling Up, Housing and Communities** (former known as the Ministry of Housing Communities and Local Government (MHCLG)) is the government department primarily responsible for housing policy, legislation and guidance

**Long Term Empty Property** – residential houses which have been unoccupied for at least 6 months and there is no realistic prospect of the property coming back into use in the near future.

**House in Multiple Occupation (HMO)** – a house occupied by persons who do not form a single household. Commonly referred to as bedsits and shared houses, but can also include staff accommodation, temporary accommodation and the like.

**Housing Health & Safety Rating System (HHSRS)** – The housing health and safety rating system ( HHSRS ) is a risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from any deficiencies identified in dwellings. The HHSRS assesses 29 categories of housing hazard. Local authorities are required to use it when assessing housing conditions.

**Ministry of Housing Communities and Local Government (MHCLG)** - former government department primarily responsible for housing policy, legislation and guidance – now replaced by the Department for Levelling Up, Housing and Communities

**Registered Provider of Social Housing (RP)** – providers of social housing formerly known as Housing Associations.

**'Works in Default'** - Where a recipient of a legal notice fails to complete the necessary required work, the Council has the power to take the specified action required in relation to some or all of the identified hazard(s). This can be carried out with or without the agreement of the recipient of the notice and it is considered that the works are being undertaken the Council 'in default' of the notice.

## Appendix 7



### Equality Impact Assessment (EqIA)

Before completing this EqIA please ensure you have read the guidance on the intranet.

#### Initial Information

Name:	Steve March
Job Title:	Senior Environmental Health Officer
Email address:	Steven.march@dorsetcouncil.gov.uk
Members of the assessment team:	Steve March, Richard Conway
Date assessment started:	31 July 2020
Date of completion:	22 September 2020
Version Number:	2 (following EqIA group meeting)

#### Part 1: Background Information

Is this (please tick or expand the box to explain)

Existing	
Changing, updating or revision	x
New or proposed	
Other	

Is this (please tick or expand the box to explain)

Internal (employees only)	
External (residents, communities, partners)	x
Both of the above	

What is the name of your policy, strategy, project or service being assessed?

Housing Standards Enforcement Policy and Statement of Principles for determining Financial Penalties 2020-2025
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What is the policy, strategy, project or service designed to do? (include the aims, purpose and intended outcomes of the policy)

The Housing Standards Enforcement Policy and Statement of Principles for determining Financial Penalties provides guidance which enforcement officers shall have regard to when making enforcement decisions in relating to regulating conditions in all houses. The document also contains the Councils policy in relation to setting fines and penalties for certain criminal and other offences under the Housing Act 2004 and associated regulations.
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What is the background or context to the proposal?

In April 2020 existing Housing Enforcement Policies novated to the new Dorset Council. These policies remain in force until 31st March 2021, or until a new policy supersedes them.

The formation of Dorset Council on the 1 April 2019 required that the Council adopt one new Enforcement Policy and Statement of Principles for determining Financial Penalties across the new district area.

This enables officers to be properly guided in their enforcement decisions, to ensure a consistent and proportionate approach to regulation as required by the [Regulators Code](#).

This new Dorset Council Housing Standards Enforcement Policy represents a convergence of the original sovereign council enforcement policies and there is no significant change from these original sovereign documents.

## Part 2: Gathering information

What sources of data, information, evidence and research was used to inform you about the people your proposal will have an impact on?

Relevant legal provisions including the Housing Act 2004 and associated regulations and statutory and non-statutory guidance.

Similar policy documents from the original sovereign Councils the:

- [Regulators Code](#)
- [Dorset Council Plan 2020-2024](#)
- [Legislative and Regulatory Reform Act 2006](#)
- [Area profile of the Dorset Council - Dorset Insight](#)

Nationwide good practice

Consultation with:

- Bournemouth Poole and Christchurch Council
- National Landlords Association
- Shelter

What did this data, information, evidence and research tell you?

That enforcement activity needs to be:

- Proportionate: Our activities will reflect the level of risk to the public and any enforcement action taken will relate to the seriousness of the offence
- Consistent: Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.

- Targeted: We will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.
- Transparent: We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
- Accountable: Our activities will be open to public scrutiny with clear and accessible policies and fair and efficient feedback process.
- Carry out our activities in a way that supports those we regulate to comply and grow
- Provide simple and straightforward ways to engage with those we regulate and hear their views
- Base our regulatory activities on risk
- Share information about compliance and risk
- Ensure clear information, guidance and advice is available to help those we regulate to meet their responsibilities to comply
- Ensure that our approach to our regulatory activities is transparent

Is further information needed to help inform this proposal?

No, but the policy will be reviewed periodically to ensure that it is up to date.

**Part 3: Engagement and Consultation**

What engagement or consultation has taken place as part of this proposal?

Consultation with - Bournemouth Poole and Christchurch Council, National Landlords Association, Housing Services Team, Portfolio Holder, Legal Services, Shelter

How will the outcome of consultation be fed back to those who you consulted with?

Final copy of report with revisions including continued contact, liaison and discussion with both internal and external partners on an ongoing basis, ensuring feedback and supporting the development of the enforcement service.<sup>3</sup>

**Please refer to the Equality Impact Assessment Guidance before completing this section.**

Not every proposal will require an EqlA. If you decide that your proposal does **not** require an EqlA, it is important to show that you have given this adequate consideration. The data and research that you have used to inform you about the people who will be affected by the policy should enable you to make this decision and whether you need to continue with the EqlA.

**Please tick the appropriate option:**

An EqlA is required	<b>Yes</b>
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(please continue to Part 4 of this document)	
An EqIA is <b>not</b> required (please complete the box below)	

#### Part 4: Analysing the impact

Who does the service, strategy, policy, project or change impact?

- If your strategy, policy, project or service contains options you may wish to consider providing an assessment for each option. Please cut and paste the template accordingly.

For each protected characteristic please choose from the following options

- Please note in some cases more than one impact may apply – in this case please state all relevant options and explain in the ‘Please provide details’ box.

Positive Impact	<ul style="list-style-type: none"> <li>the proposal eliminates discrimination, advances equality of opportunity and/or fosters good relations with protected groups.</li> </ul>
Negative Impact	<ul style="list-style-type: none"> <li>Protected characteristic group(s) could be disadvantaged or discriminated against</li> </ul>
Neutral Impact	<ul style="list-style-type: none"> <li>No change/ no assessed significant impact of protected characteristic groups</li> </ul>
Unclear	<ul style="list-style-type: none"> <li>Not enough data/evidence has been collected to make an informed decision.</li> </ul>

Age:	<i>Choose impact from the list above</i>
What age bracket does this affect?	Neutral
Please provide details:	<p>There is no barrier or conditions that affect the rights of people based on their age.</p> <p>In exceptional circumstances the policy may allow enforcement action to be taken against owner occupiers who are at demonstrable imminent risk. Such owner occupiers tend to be older, vulnerable persons who may lack the mental capacity to make informed decisions about their own safety and welfare.</p> <p>Such actions are always considered in consultation with other statutory agencies including Social Care and with due regard to the persons human rights.</p>

Disability:	Neutral
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(including physical, mental, sensory and progressive conditions)	
Does this affect a specific disability group?	No
Please provide details:	<p>There is no barrier or conditions that affect the rights of disabled people.</p> <p>In exceptional circumstances the policy may allow enforcement action to be taken against owner occupiers who are at demonstrable imminent risk. Such owner occupiers tend to be older, vulnerable persons who may lack the mental capacity to make informed decisions about their own safety and welfare.</p> <p>Such actions are always considered in consultation with other statutory agencies including Social Care and with due regard to the persons human rights.</p>

Gender Reassignment & Gender Identity:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of people who may identify as transgender or transitioning.

Pregnancy and maternity:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of pregnant or maternity residents.

Race and Ethnicity:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of race or ethnic groups.

Religion or belief:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons based on their religion or belief.

Sexual orientation:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons based on their sexual orientation.

Sex (consider both men and women):	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons based on their sex.

Marriage or civil partnership:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons based on their marriage or civil partnership status.

Carers:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of carers.

Rural isolation:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons living in rural isolation. Enquires to the service can be made via a number of different channels including online portal, telephone and letter. In order to assess property conditions inspections are made of persons homes irrespective of where they live.

Single parent families:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of single parent families.

Social & economic deprivation:	Positive
Please provide details:	<p>There is no barrier or conditions that affect the rights of social and economic deprived residents.</p> <p>Enquires to the service can be made via a number of different channels including online portal, telephone and letter. In order to assess property conditions inspections are made of persons homes irrespective of where they live.</p> <p>The policy will assist those living in the poorest housing. There is a close connection between poor housing conditions and deprivation and therefore the policy has to potential to eliminate discrimination and advances equality of opportunity for this particular group.</p>

Armed Forces communities	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of the armed forced community.

## Part 5: Action Plan

Provide actions for **positive**, **negative** and **unclear** impacts.

If you have identified any **negative** or **unclear** impacts, describe what adjustments will be made to remove or reduce the impacts, or if this is not possible provide justification for continuing with the proposal.

Issue	Action to be taken	Person(s) responsible	Date to be completed by
Promotion	Ensure that the policy is available in the appropriate accessible formats for potential users i.e. web site, other health professionals	Steve March	Within 3 months of the policies adoption
Diversity Data Collection	Consider the collection and assessment of diversity data in relation to enforcement activity. Data in relation to the persons we enforce against (landlords) and data in relation to those who we assist via enforcement (tenants) Consider the use of the Tascomi online portal for gathering diversity data about tenants accessing the service Consider the use of a questionnaire etc to gather diversity data of landlords using the service	Steve March Corporate Issue – Business Intelligence and Performance Team to progress	Within 6 months of the policies adoption
Training	All employees to undertake online Equality and Diversity Training/Refresher Training	Steve March	Within 3 months of the policies adoption

### EqlA Sign Off

Officer completing this EqlA:	Steve March	Date:	22/09/2020
Equality Lead:	Susan Ward-Rice	Date:	22/09/2020
Equality & Diversity Action Group Chair:	Bridget Downton	Date:	22/09/2020