

Private Sector Housing Enforcement Policy

**Enforcement of the Renters' Rights Act 2025 and
other housing legislation**

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Background

This policy sets out the Council's principles for enforcing and executing its duties as a Housing Authority under the relevant statutes.

S3 Housing Act 2004 imposes a duty on Councils to keep housing conditions in their district under review with a view to identifying any action that may need to be taken by them.

S107 Renters' Rights Act 2025 imposes a duty on the Council to enforce the Landlord Legislation. The Landlord Legislation is comprised of the following:

- Chapters 3 and 6 of Part 1 of the Renters' Rights Act 2025,
- Part 2 of the Renters' Rights Act 2025,
- Sections 1 and 1A of the Protection from Eviction Act 1977, and
- Chapter 1 of Part 1 of the Housing Act 1988.

S110 Renters' Rights Act 2025 imposes a duty on the Council to report to the Secretary of State on the exercise of its functions under the Landlord Legislation.

In this policy, the term 'landlord' should be read as including letting agents, managing agents, licensors, property owners, directors of corporate landlords and any other person involved in the letting or management of privately rented accommodation.

In this policy, the terms 'House of Multiple Occupation' or 'HMO' are defined by the Housing Act 2004.

Aims of the Policy

The purpose of this enforcement policy is to provide guidance for Housing Authority officers to ensure enforcement action is taken in line with the provisions of Acts and regulations covered by this policy and mandatory guidance to local authorities.

Legislation within this policy

The Renters' Rights Act and the 'Landlord Legislation' (as defined by S107) sit outside of the Regulators' Code, and its provisions do not apply.

Part 1 of the Housing Act 2004 is also outside of the Regulators' Code's scope.

Notwithstanding this, the following legislation and its enforcement does come within the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 and is therefore within the scope of the Regulators Code and the principles of good regulation:

- Parts 8, 9 and 10 of the Housing Act 1985
- Part 8 of the Housing Act 1996
- Parts 2 to 5 of the Housing Act 2004

This policy document sets out what owners, landlords, their agents or any other person involved in the letting or management of privately rented accommodation, and tenants of private rented sector properties, can expect from officers when dealing with non-compliance.

All enforcement action taken will be in accordance with relevant statutory Codes of Practice, Council procedures and protocols, and official guidance from central and local government bodies.

As a public body under the Human Rights Act 1998, the Council will apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Legislation outside this policy

The legislation relating to letting or management of private rented properties is complex. All other legislation is covered by our Corporate Enforcement Policy and outside the scope of this policy, for example:

- Protection from Eviction Act 1977
- Part 2 Housing and Planning Act 2016
- Tenant Fees Act 2019,
- Smoke and Carbon Monoxide Regulations 2015,
- Efficiency (Private Rented Property) (England and Wales) Regulations 2015,
- Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

Approach to Enforcement

The Council wants to support responsible landlords to raise housing standards. However, the Council expects landlords to have a good understanding of the housing standards and management issues that should be met in privately rented accommodation.

Council officers will often investigate and identify the need to take enforcement action through a range of routes, including (but not limited to): proactive inspections of dwellings through licensing provisions; in response to a complaint or request for assistance; and referrals from other public bodies. All investigations will be carried out in accordance with the relevant statutory requirements. The Council will ensure that appropriate governance is in place to ensure that action is taken in accordance with appropriate policies.

The Housing Act Section 5 2004 places a duty on Councils to take appropriate enforcement action where a Category 1 hazard exists.

The Housing Act Section 7 gives Councils a discretionary duty to take action where a Category 2 hazard exists. The Council will usually take action where a medium band Category 2 hazard exists.

The Council may commence enforcement with formal action instead of informal action in the first instance. In deciding whether to do so, the circumstances of the case will be taken into account. Relevant factors may include, but are not limited to:

- Where there is a risk to public health
- Where there is a blatant or deliberate contravention of the law
- Where there is history of non-compliance

The Council will usually take formal action in the first instance if there has been:

- Non-compliance with previous formal or informal action
- Offences in relation to the licensing of privately rented properties

The Council will take formal enforcement action in the first instance for breaches of the Landlord Legislation.

Investigatory Powers

In addition to the Council's informal and formal powers of enforcement, there are investigatory powers relating to the collection of information and relating to the entry of premises including, but not limited to, the powers detailed below.

Power to Investigate

S114 Renters' Rights Act 2025 gives the Council power to issue a notice to a relevant person to require the person to provide specified information to the Council.

This notice may be given to any person with an estate or interest in the land; the licensor; their agents; or a marketer of a property. It may be given in regard to any offence under the following Legislation:

- Sections 1 and 1A of the Protection from Eviction Act 1977;
- Chapter 1 of Part 1 of the Housing Act 1988;
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013;
- Sections 21 to 23 of the Housing and Planning Act 2016;
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

Failure to comply with a S114 notice is an offence under S131 Renters' Rights Act 2025, as is being obstructive and intentionally or recklessly making false or misleading statements in response to a S113 notice.

S115 Renters' Rights Act 2025 permits the Council when it reasonably suspects a breach of the Rented Accommodation Legislation to issue a notice to any person requiring them to provide the information specified. This may only be done to investigate whether a breach has occurred under the Rented Accommodation Legislation, or to determine the amount of a penalty. For the purposes of this section, the Rented Accommodation Legislation means:

- Sections 1 and 1A of the Protection from Eviction Act 1977
- Chapter 1 of Part 1 of the Housing Act 1988
- Parts 1 to 4 and 7 of the Housing Act 2004
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013
- Sections 21 to 23 of the Housing and Planning Act 2016
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

Where an individual has not complied with a S115 notice, S116 Renters' Rights Act 2025 enables the Council to make an application to the Court to enforce the provisions of the notice and seek reimbursement for the costs of the application.

S131 Renters' Rights Act provides that, in addition to the offence of non-compliance with a S114 notice, it is an offence for an individual without reasonable excuse to obstruct a Council officer seeking to exercise their powers. It is also an offence to fail without reasonable excuse to give an officer any additional assistance or information which they reasonably require.

S235 Housing Act 2004 allows the Council to issue a notice to relevant individuals, including occupiers, directing them to provide specified documents under their control for the purpose of exercising the Council's functions under Parts 1 to 4 of the Housing Act 2004, or investigating whether an offence has been committed under Parts 1 to 4 or 7 of the Housing Act 2004 in relation to qualifying residential premises.

S16 Local Government (Miscellaneous Provisions) Act 1976 also permits the Council to issue a notice to an occupier, manager, or individual with an interest in the land to compel them to provide the Council with information on the nature of their interest and the names and addresses of current occupiers and of any others with an interest in the land.

Entry to Premises

S118 Renters' Rights Act 2025 permits Council officers to enter business premises of relevant people (including landlords, letting agents, and marketers) if it is necessary for the production or seizure of documents under s122-s123 Renters' Rights Act 2025. This power will be exercised without a warrant.

S121 Renters' Rights Act 2025 allows a Council officer named in a warrant to enter premises used for a rental sector business which is not mainly accommodation if there are documents on the premises which the officer could require under S122 or seize under S123. In addition, for this power to be exercised, one of the following conditions must be met:

- That access to the premises has been or is likely to be refused, and the Council has provided notice of their intention to apply for a warrant to the occupier;
- Those documents on the premises would likely be concealed or interfered with if notice of entry were to be given; or
- That no occupier is present, and waiting for their return might defeat the purpose of the entry.

Following a S118 or S121 Renters' Rights Act 2025 entry, S122 allows an officer at any reasonable time to require a relevant person on the premises to produce any documents relating to the business and to take copies of them. This may only be exercised to ascertain whether there has been a breach of the Rented Accommodation Legislation where an officer reasonably suspects there has been a breach or an offence; or to ascertain whether the documents may be required in evidence for proceedings regarding a breach or offence.

Following a S118 or S121 Renters' Rights Act 2025 entry, S123 authorises Council officers to seize and detain documents that the officer reasonably suspects may be required as evidence in proceedings relating to a breach of, or an offence under, the Rented Accommodation Legislation. When doing so, the officer will provide evidence of the officer's identity and authority if reasonably practicable. The officer will take reasonable steps to inform the person from whom documents have been seized that they have been seized, and will provide that person with a written record of what has been taken.

S126 Renters' Rights Act 2025 permits the Council to enter residential premises used for a tenancy at a reasonable time if the officer considers it necessary as part of an investigation into potential offences specified in subsection 1(b). Where required, the Council will give at least 24 hours' notice of this entry to the occupier and individuals with an interest in the property as per subsection 1(c), detailing in writing why the entry is necessary and the suspected offences. Where there are occupiers found on the premises, the officer will provide evidence of the officer's identity and authority to at least one of the occupiers if reasonably practicable.

In addition, S239 Housing Act 2004 permits Council officers to enter, if necessary and at a reasonable time, a property in order to carry out a survey or examination. This may be done if any one of the following is met:

- to determine if any Part 1-4 or 7 enforcement functions should be exercised;
- the premises are part of an Improvement Notice or Prohibition Order;

- a management order is in force under Chapter 1 or 2 of Part 4 on the premises.

In certain circumstance the Council may obtain a warrant to enter, by force if necessary, under S240 Housing Act 2004.

No action

In certain, but limited, circumstances it may be appropriate to take no action. For example: when we decide that the health and safety risk is sufficiently low; where there are extenuating circumstances regarding the person against whom we would take action on; taking legal action would be disproportionate or inappropriate taking into account the circumstances of the case; where the tenant does not want us to take action and we consider it is appropriate not to take action in the circumstances.

We may however make recommendations which are above the legal minimum requirements, advise if there are legal avenues open to persons to resolve the issues themselves or refer to another appropriate regulator or advice service.

Informal action

Informal action taken by the Council may be written or verbal advice. Additionally, a visit may be made at the outset by Council Officers in cases where the initial complaint or contact indicates that an immediate investigation by a Council officer is warranted.

In cases where officers visit an address, whether this is a result of a landlord's failure to adequately resolve a highlighted issue or as part of an audit or other investigation, written or verbal advice may be deemed sufficient should the inspection highlight minor deficiencies.

Where written advice is deemed appropriate by the Council and is provided, timescales will normally be included to undertake any specified work or actions.

While the Council will use its discretion on whether to carry out informal action for a Category 2 hazard, it does not need to provide written or verbal advice before commencing formal action.

Formal action

If formal action is considered appropriate, the following options are available to the Council.

Housing Act 2004 Part 1

- Issue an Improvement Notice in respect of any Category 1 hazards and any Category 2 hazards on the property. This requires the person to whom it is served to undertake the remedial action specified on the Notice within a given timeframe. The mandated work and the timeframe will be determined by the Council depending on the nature and scale of the work.
- Issue a Prohibition Order in respect of any Category 1 hazards and any Category 2 hazards on the property. This prevents occupation of whole or part of the property, or can be used to limit occupant numbers, within a specified time frame.
- Issue a Hazard Awareness Notice in respect of any Category 1 hazards and any Category 2 hazards on the property. This makes the owner and occupiers aware of

the hazards identified; however, it does not require remedial action. As a result, and because it does not secure risk-reducing works within a specified timeframe, a Hazard Awareness Notice will not usually be the most appropriate course of action where remedial works are necessary to reduce the risk of harm to occupiers or potential occupiers.

- Make an Emergency Prohibition Order in respect of Category One hazards only. This immediately prohibits the use of all or part of a dwelling if there is an imminent risk of serious harm to the health or safety of the occupants or others.
- Undertake Emergency Remedial Action in respect of Category One hazards only without prior notice where there is an imminent risk of serious harm to the health or safety of the occupants or others.
- The Council also has the power to suspend action taken under Part 1 Housing Act 2004 in situations where it has the power or duty to take enforcement action through the service of an Improvement Notice or Prohibition Order. This will be at the Council's discretion and will normally be considered for the purpose of minimising inconvenience to the current occupiers. Evidence may be requested to demonstrate occupiers' wishes.
- Demolition and Clearance are options for both Category 1 or Category 2 hazards.
- S30 Housing Act 2004 provides that failure to comply with an Improvement Notice is a criminal offence, which will normally be followed by prosecution or the issuing of a civil penalty.
- S32 Housing Act 2004 provides that failure to comply with a Prohibition Order is a criminal offence, which will normally be followed by prosecution.
- Other formal notices served by the Council may not relate to the landlord undertaking remedial works but may cover a range of other matters including, but not limited to, exercising a right of entry under S239 of the Housing Act 2004 and a request to provide information or the need to abate or avoid overcrowding.

Work in default

The enforcement options for non-compliance with formal Notices include the carrying out of works specified in the Notice. This power may be exercised in addition to other enforcement proceedings taken for non-compliance. The Council has no duty to undertake works in default and it will be at its discretion.

HMO Licence Conditions

Conditions can be added to HMO licences to require work to meet specified standards or to address HMO Management Regulation requirements. This power may be exercised in addition to other enforcement proceedings taken for non-compliance.

In general, authorities should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions however this does not prevent the authority from imposing licence conditions relating to the installation or maintenance of facilities or equipment even if the same result could be achieved by the exercise of Part 1 functions.

Failure to comply with these conditions is a criminal offence, which may result in prosecution or the issuing of a civil penalty.

Prosecution

Where a Civil Financial Penalty is an available alternative to prosecution, the Council will only consider using its power to prosecute in more serious cases.

The decision to prosecute will be determined by the evidential strength of the Council's case and the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors.

In many circumstances, where an offence is committed by a body corporate, legislation enables local authorities to pursue persons involved with the body corporate in addition to, or instead of, the body corporate. These include company officers and, where applicable, company members.

The Council will determine, on a case-by-case basis, whether to take enforcement action against any person or persons that they consider fall within the scope of this category in addition to prosecuting the body corporate.

Civil (Financial) Penalties for specified offences

The Council is empowered to discharge a wide range of housing law breaches and offences via the imposition of Civil (Financial) Penalties.

Imposition of Civil (Financial Penalties) is in accordance with the evidential strength of the Council's case.

The Council's approach to determining and issuing financial penalties operates according to the standalone Housing Civil Penalties Policy.

Rent Repayment Orders

Part 2 of the Housing and Planning Act 2016 permits the Council to seek a Rent Repayment Order (RRO) at the First-tier Tribunal (Property Chamber) to require the landlord of the property where the offence(s) has been committed to refund rent to the tenants or the Council. S48 of the Housing and Planning Act 2016 places a duty on the Council to consider applying for Rent Repayment Orders.

Where a landlord has been convicted or received a Civil Financial Penalty in respect of the offence, the Tribunal must award the maximum applicable amount, except in exceptional circumstances.

This power will be considered in response to all qualifying offences and where there is sufficient evidence for a successful application to the First Tier Tribunal.

The qualifying offences are:

- Unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997
- Failure to comply with an Improvement Notice [s30 Housing Act 2004]
- Offences in relation to unlicensed HMOs [s72(1) Housing Act 2004]
- Offences in relation to unlicensed houses [s95(1) Housing Act 2004]
- Failure to comply with an Improvement Notice [s30(1) Housing Act 2004]
- Failure to comply with a Prohibition Order [s32(1) Housing Act 2004]
- Breach of a Banning Order [s21 Housing and Planning Act 2016]
- Using Violence to secure entry [s6(1) Criminal Law Act 1977]
- Knowingly or recklessly misusing a possession ground [s16J(1) Housing Act 1988]

- Letting or marketing of a property within twelve months of using the 'moving in' or 'selling' ground of eviction [s16J(2) Housing Act 1988]
- Continuous breach of certain tenancy reform requirements [s16J(3) Housing Act 1988]

An application for an RRO may be in addition to other formal action, such as prosecution proceedings or the imposition of a Civil Penalty. Where the Council has issued a Civil Financial Penalty or pursued prosecution, it will usually apply for a Rent Repayment Order where public funds have been paid to a landlord who has committed a qualifying offence.

S49 of the Housing and Planning Act 2016 enables the Council to assist tenants in applying for Rent Repayment Orders. The Council will usually assist tenants by referring or signposting them to a relevant organisation. Where the offence relates to unlicensed properties, a statement can be provided confirming presence / absence of an application for a licence (or temporary exemption) and associated dates.

Banning Orders

Part 2, Chapter 2 of the Housing and Planning Act 2016 permits a Council to apply for a Banning Order against a person who has been convicted of one or more of the relevant offences. This would prevent the landlord from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

The Council may consider a Banning Order for the more serious offenders. It will take into account the seriousness of the offence(s), whether the landlord has committed other offences (or received any Civil Penalty in relation to a Banning Order offence) and any history of failing to comply with their obligations or legal responsibilities. It will also take into account other relevant factors, including but not limited to:

- The harm, or potential harm, caused to the tenant;
- The need to punish the offender;
- The need to deter the offender from repeating the offence;
- The need to deter others from committing similar offences.

The Council's approach to application for a Banning Order operates according to the standalone Banning Order and Rogue Landlord Database Policy. This forms an appendix to this Policy.

Rogue Landlord Database

Part 2, Chapter 3 of the Housing and Planning Act 2016 states:

- An Authority must make a database entry if a banning order is granted by the First-tier Tribunal;
- An Authority may make an entry if the person was convicted of a banning order offence or has received two financial penalties in respect of specified offences in the previous twelve (12) months.

The purpose of the Rogue Landlord Database is for the purpose of sharing information with other Housing Authorities and there is no current public access.

The Council's approach to application for entry to the Rogue Landlord Database operates according to the standalone Banning Order and Rogue Landlord Database Policy. This forms an appendix to this Policy.

Fit and Proper Person Policy

Under the Housing Act 2004, if the Council is to issue a Selective or an HMO licence ("licence"), it must be satisfied that the proposed licence holder is a fit and proper person and is the most appropriate person to hold the licence. The Council must also be satisfied that the proposed manager of the house is a fit and proper person to be the manager of the house.

An existing licence may also be revoked where the Council no longer considers that the licence holder is a fit and proper person to be the licence holder, or where the Council no longer considers that the management of the house is being carried out by persons who are (in each case), fit and proper persons to be involved in its management.

The Council's approach to determining Fit and Proper Person Status operates according to the standalone Fit and Proper Persons Policy. This forms an appendix to this Policy.

Costs and Charges

The Council incurs costs in carrying out its functions. Where legislation allows, the Council will seek to recover reasonable costs and expenses associated with its enforcement, licensing and wider regulatory activity. This may include (non-exhaustively) costs arising from inspections, investigation, evidence gathering, notices and other statutory documentation, follow-up action, compliance monitoring, and works or other interventions.

Recovery may be pursued using all available lawful routes, which may include civil action, local land charges, and enforcement against the property. The Councils' Debt Recovery Policy applies for this purpose.

Where permitted, interest may be applied to outstanding sums until paid.

Notices under other Legislative alternatives

There may be other legislative alternatives available to remedy problems which an authority may choose as a more appropriate enforcement approach. Other legislative alternatives include, but are not limited to, the Smoke and Carbon Monoxide Regulations 2015, Building Act 1984, Prevention of Damage by Pests Act 1949, Public Health Act 1936 and Environmental Protection Act 1990. These options fall under the Council's Corporate Enforcement Policy.

Delegation of Authority

The Council's Constitution and Scheme of Delegations specify the extent to which enforcement powers are delegated to officers.

Authorisation, training and appointment of officers

All enforcement officers will be appropriately authorised by the Director of Planning and Regulation.

All enforcement officers are required to carry identification in the form of an “Authority to Enter” card bearing their photograph. If an officer does not show their card, they may be asked to show it by anyone who is requested to allow entry. If no card is produced, entry may be legitimately refused and no punitive enforcement action will result. If a member of the public has any doubt about the officer’s identity, they may telephone the Council 01865 259811.

All enforcement officers will be suitably trained and qualified to ensure officers are fully competent to undertake their enforcement activities.

Publicising offences

Verdicts and sentences in criminal cases are given in open court and are a matter of public record. The Council will normally publicise sentences following a prosecution, however decision whether to publicise will be made on a case by case basis. Publicising guidance has a presumption in favour of publicising outcomes of criminal cases and personal information about convicted offenders.

Financial penalties are a civil matter. The Council will periodically publish a list of penalties, consisting of offence, date and fine.

Complaints

Contact may be made with the Council about any matters listed here by website form, telephone 01865 259811 or in person at one of our customer advice centres.

<https://www.oxford.gov.uk/comments-compliments-complaints/make-comment-compliment-complaint>

A service user can still make a complaint in cases where the Council has instigated legal proceedings. However, making a complaint will not stop any impending legal action.

Where statutory notices have been served, making a complaint does not replace the statutory rights of appeal or the right to make representations. It also does not allow extra time to comply with any notice or order.

If a service user disagrees with a statutory notice, they should take action as specified in the notice or order to make an appeal, if any exists. Reference should be made to any notes that may accompany the notice or order for more detail.

Policy review and updates

To ensure this policy stays up to date with changes in legislation and relevant caselaw, this policy authorises the Director of Planning and Regulation with the Director of Law and Governance, in consultation with the Portfolio Holder for Housing to approve updates to this policy where such changes are consistent with the overall policy approach.

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