

Private Sector Housing Enforcement Policy

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Communities

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1. Purpose Statement

This Policy details how the Council will regulate standards in Private Rented Housing and tackle empty homes in Bournemouth, Christchurch and Poole. It also provides a background to the legislation and guidance on which it is based.

It is important for local authorities to have an enforcement policy to ensure consistency of approach among Council Officers and for members of the public to know what to expect from the service. An enforcement policy also provides clarity if the Council takes legal proceedings or enforcement action is appealed against.

Our aim is to raise standards in Private Sector Housing throughout Bournemouth, Christchurch and Poole, working with owners, landlords, letting agents and tenants to achieve this. However, it is recognised that if the law is broken, then enforcement action may be necessary to protect the public and the environment.

In applying this policy, we must remain impartial to both landlord and tenant to be fair to both sides and give help and advice to achieve our aim but we must also be firm in taking enforcement action if appropriate.

This Policy is the application of relevant legislation, however is also authorised by the Council's Cabinet. Relevant trained Council officers are authorised through the Council's Scheme of Delegation to apply the legislation as per the policy detail.

2. Who the policy applies to

This policy applies to all persons responsible for property within the private rented sector to include tenants, landlords, owners, leaseholders, freeholders, managing agents, letting agents, estate agents, property licence holders and any other person with a legal or financial interest in rented premises.

3. This policy replaces

This policy replaces:

- Bournemouth Borough Council Private Sector Housing Enforcement Policy 2017.
- Christchurch and East Dorset Council Private Sector Housing Enforcement Policy.
- Poole Borough Council Private Sector Housing Enforcement Policy.

4. Approval process

The policy is approved by BCP Council's corporate management board and BCP Council's Cabinet. The lead portfolio holder for this policy is the portfolio holder for Housing.

5. Introduction

The Private Sector Housing Enforcement Service is part of the Council's Communities Service Unit .

The Private Sector Housing Enforcement Policy outlines the Council's general approach to enforcement across a wide range of activities. This policy provides details of the Council's specific approach to regulating housing standards in Bournemouth, Christchurch and Poole.

The Private Sector Housing Enforcement Policy confirms that:

- The Council will provide awareness, advice and assistance whenever possible to the public, businesses and organisations to help them meet their legal obligations in relation to the relevant legislation before embarking on the enforcement process
- The Council is committed to carrying out its duties in a fair and consistent manner, ensuring that enforcement action is proportional to the seriousness of failure to comply with statutory requirements
- The decision to use enforcement action will depend on the severity of the non-compliance

Effective and well targeted regulation is essential in promoting fairness and protection from harm. The Regulators' Compliance Code is a statutory code of practice for regulators hereafter referred to as 'The Code'. www.gov.uk/government/publications/regulators-code

From 6 April 2014, the Council has been required to comply with the Code when regulating private rented housing standards and its specific obligations have been included in this policy. The overriding principle of the Code is that regulation and its enforcement should be proportionate and flexible enough to allow or even encourage economic progress.

6. Enforcement objectives

In normal circumstances enforcement action will be carried out with the objectives to ensure that:

- symptoms arising from empty homes are tackled to ensure the amenity of the area is not affected, the property is safe and secure and not causing a statutory nuisance;
- tenants of a private landlord or a Registered Provider of Social Housing live in homes free of enforceable hazards which affect their health and safety;
- privately rented houses, including Houses in Multiple Occupation (HMOs), are managed in accordance with any relevant statutory regulations or other legal requirements.
- reasonable and practicable steps are taken to prevent or reduce any anti-social behaviour by the occupiers or visitors to privately rented properties.
- all licensable rented properties are licensed, and licence conditions are met;
- owners or occupiers who are vulnerable and unable to support independent living, live in accommodation which is free of significant risks to their health and safety;
- owners or occupiers of privately owned land or property do not cause a statutory nuisance to other land or property owners, or do not present an unacceptable risk to public health, safety or the environment.
- persons are held responsible for their actions which are detrimental to local environmental quality or to the health safety and welfare of other residents.
- where required privately rented accommodation meets minimum energy efficiency ratings and that Energy Performance certificates are provided.
- letting professionals meet the legal requirements that apply to their business such as; to register with a Government Redress scheme; to advertise fees appropriately; and to comply with any other legislation that regulates services they provide.
- private rented sector tenants or residential occupiers are not subjected to unlawful eviction or harassment under the Protection from Eviction Act 1977 (or other relevant housing law). This includes taking appropriate action as a deterrent against other similar illegal behaviour.
- Private rented sector tenants are provided with required information about their tenancy under Housing Act 1988.

- the Private Sector Housing Enforcement team meets the Council's statutory duties which it is responsible for or to carry out the powers it has adopted.
- the Private Sector Housing Enforcement team undertake relevant investigation to prevent and address rogue landlord behaviours through a use of robust enforcement.

7. What to expect from us

7.1 Landlords

- We will advise you of the legislation and help you understand how you can comply with it
- We will advise you of any action you need to take to comply with the legislation and will ask you to respond with your proposal of how you intend to comply with any requirements of any Notice
- If we are satisfied with your proposal, we will work with you to comply within agreed timescales
- If we are not satisfied with your proposal or how the work is progressing, we will initiate formal action in a proportionate manner as appropriate to the circumstances
- In making any decision to prosecute we will have regard to how serious the offence is, the benefit of enforcement action and whether some other action would be appropriate
- A charge will be made for the service of the Notice

7.2 Tenants

- We will expect you to advise your landlord of any issues within your property, preferably in writing, before contacting us. Advice and guidance is given on the BCP Council website (www.bcpCouncil.gov.uk).
- We will advise you as to what action we can take and advise you of the expected timescales
- We will expect you to cooperate with the landlord to get the works carried out and to advise/update us of any action taken by the landlord

7.3 Owners

- We will expect owners to maintain the properties they live in
- Enforcement action will be considered if there is an imminent risk to a person's life

7.4 Owners of Empty Homes

- We will work proactively with owners of empty homes to encourage and assist in bringing their empty homes back into use
- Where an empty property is having detrimental impact on the neighbouring area enforcement action will be considered as appropriate
- If owners fail to take responsibility for their properties, are not willing to engage or negotiations have failed, and where there is little prospect of a property being brought back into use voluntarily, enforcement action (Compulsory Purchase Order, Empty Dwelling Management Order, and Enforced Sale) will be considered

8. Enforcement policy and principles

8.1 Role of the Private Rented Sector

The supply of good quality, affordable, privately rented accommodation is essential to meeting local housing need. In order to adequately meet that need, we must strive to provide professionally managed and well-maintained homes. We will work with landlords to improve and sustain good quality accommodation and will only intervene when there is a risk to the health and safety of occupants, neighbours or visitors to a property.

8.2 Risk Assessment

The Private Sector Housing Enforcement Team use risk assessments to concentrate resources in the areas that need them most and on the properties in the worst condition. In doing so, we also take account of any safeguarding issues and vulnerability of the occupant.

Suitably trained Officers routinely use the Housing Health and Safety Rating System (HHSRS), which is a statutory, evidence-based, risk assessment method for assessing and dealing with poor housing conditions.

Following the receipt of a service request or complaint about poor housing conditions, an initial risk assessment will normally be carried out. Follow-up advice or action will be dependent on the outcome of the initial risk assessment and may not always involve a visit to the property.

Complaints about Social Housing properties will be referred to the Providers to investigate in the first instance. However, where it is necessary that intervention is required, we will do so.

8.3 Housing Health & Safety Rating System (HHSRS)

The Housing Act 2004 introduced the **Housing Health & Safety Rating System (HHSRS.)** Statutory guidance released in November 2018 includes an addendum to the HHSRS pertaining to assessment of high-rise residential buildings with unsafe cladding systems. The Council will give due regard to this guidance and undertake relevant action where a significant risk is identified.¹

HHSRS is a calculation of the effect of 29 possible hazards on the health of occupiers. The legislation provides a range of actions for addressing identified hazards. It is a two-stage calculation combining the likelihood of an occurrence taking place and then the range of probable harm outcomes that might arise from that occurrence which would result in a numerical rating. This is repeated for each of the hazards present. The assessment is not based upon the risk to the actual occupant but upon the group most vulnerable to that particular risk. Once scored, any action that is then considered will take into account the effect of that risk upon the actual occupant.

The scores for each hazard present are then banded from A to J. Bands A to C (ratings of 1,000 points and over) are the most severe and are known as **Category 1 hazards** when considering action. Bands D to J, the less severe (rating less than 1,000 points) are known as **Category 2 hazards**.

HHSRS provides a combined score for each hazard identified and does not provide a single score for the dwelling as a whole. It is applied to all residential premises, whether owner-occupied or rented.

This Policy takes account of guidance provided by the Government and sets out how the Council will use its powers and reach its decisions in relation to the Housing Health & Safety Rating System (Part 1 of the Housing Act 2004).

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760150/Housing_Health_and_Safety_Rating_System_WEB.pdf

The Council has a duty to take appropriate action in response to a **Category 1 hazard**. (When a Category 1 hazard is identified, the Council must decide which of the available enforcement options it is most appropriate to use. These are explained in more detail below.)

The Council will exercise its discretion and consider individual cases and circumstances when deciding whether to take action in response to **Category 2 hazards**.

8.4 Advice and Guidance

The Private Sector Housing Enforcement Service will provide authoritative, accessible advice around Private Sector Housing. The Council's website is used to provide general information, advice and guidance to make it easier for landlords, agents, home owners and others to understand their obligations, is provided in clear, concise and accessible language, using a range of appropriate formats and media. The Private Sector Housing Enforcement Service will consult with landlords' associations and other appropriate stakeholders when developing the content and style of this guidance.

When offering compliance advice, the Private Sector Housing Enforcement Service will distinguish between statutory requirements and advice or guidance aimed at improvements above minimum standards. Advice will be confirmed in writing, if requested.

The Private Sector Housing Enforcement Service welcomes enquiries from home owners and landlords about complying with minimum standards and ensuring homes are safe and warm. However, the Service will not act as a consultant for home owners or landlords and is not able to complete non-statutory, detailed assessments for specific properties (such as fire safety risk assessments; confirming in detail the work that would be required to let a property in multiple occupation; or detail the work required to reduce the risk from significant hazards in a property to an acceptable level).

8.5 Inspections, Other Visits and Information Requirements

No inspection will take place without reason. Inspections and other visits will take place in response to a reasonable complaint or request for service or where poor conditions have been brought to our attention;

- In accordance with risk-based programmes
- In accordance with statutory inspection requirements (such as for mandatory licensing of houses in multiple occupation, HMOs)
- Or on receipt of relevant intelligence

Unless the visit is intended for advice purposes only, the landlord or his or her agent will be contacted and given the opportunity to accompany the Investigating Officer at the visit. Following an inspection, positive feedback will be given wherever possible to encourage and reinforce good practices.

The Private Sector Housing Enforcement Service will focus its resources on the highest risk properties, those in worst condition and properties owned by landlords who regularly fail to comply with regulations or frequently have properties with poor conditions. The Service will endeavour not to ask for unnecessary information or to ask for the same piece of information twice.

8.6 Compliance and Enforcement Actions

The Private Sector Housing Enforcement Service will seek to identify landlords, agents, property owners or businesses that persistently break regulations and ensure that they face proportionate

and meaningful sanctions. By facilitating compliance through a positive and proactive approach, the Private Sector Housing Enforcement Service aims to achieve higher compliance rates and reduce the need for reactive enforcement actions. However, those who deliberately or persistently break the law will be targeted.

When considering formal enforcement action the Private Sector Housing Enforcement Service will, where appropriate, discuss the circumstances with those suspected of a breach and take these into account when deciding on the best approach. This will not apply where immediate action is required to prevent or respond to a serious breach or to deal with an imminent risk to health or safety, or where to do so is likely to defeat the purpose of the proposed enforcement action.

The Private Sector Housing Enforcement Service will ensure that clear reasons for any enforcement action are given and complaints and appeals procedures are explained at the same time. PSHE will work with other officers within Communities and wider enforcement agencies to consider use of powers outside of the remit of this specific policy where problematic landlords, properties or tenants require it.

The Private Sector Housing Enforcement team will work with other officers within the Communities service and wider partnerships to consider use of powers outside of the remit of this specific policy where problematic landlords, properties or tenants require it.

8.7 Accountability

The Service will be accountable for the efficiency and effectiveness of its activities, while remaining independent in the decisions that it takes. Employees will provide a courteous, prompt and efficient service and will identify themselves by name. A contact point, telephone number and email address will be provided. Applications for licences etc., will be dealt with efficiently and promptly and services will be effectively coordinated to minimise unnecessary overlaps and time delays.

Information about independent appeal mechanisms, such as to the First-Tier Tribunal (Property Chamber) can be found here:

<https://www.gov.uk/courts-tribunals/first-tier-tribunal-property-chamber>

Complaints about our service will be handled in line with the Council's corporate complaints procedure which is found on the BCP Council website.²

9. Tenure

The Housing Health and Safety Rating System (HHSRS) outlined at Section 9.3 of this policy applies all tenures of housing. Furthermore, it does not specify that particular approaches or solutions should be used on the basis of ownership or the occupier's status. All enforcement options are available to the Council regardless of whether the premises in question are owner-occupied, privately rented or belong to a Social Housing Provider. Generally, the Council considers that owner-occupiers are usually in a position to take informed decisions concerning maintenance and improvement issues that might affect their welfare and are then able to set their financial priorities accordingly; tenants however, are not usually able to do so.

For this reason, the Council proposes that it is appropriate for its powers to be used according to tenure, as follows:

9.1 Owner-Occupiers

² <https://www.bcpCouncil.gov.uk/Contact-Us/comments-and-complaints.aspx>

The Council anticipates that Hazard Awareness Notices will frequently be the appropriate course of action. However, the use of Improvement Notices, Prohibition Notices and their emergency equivalents will be considered in cases involving:

- Vulnerable elderly people who are judged incapable of making informed decisions about their own welfare
- Vulnerable individuals who require the intervention of the Council to ensure their welfare is best protected
- Hazards that might reasonably affect persons other than the occupants
- Serious risk of life-threatening harm such as electrocution or fire

Unless an identified hazard is judged to pose an imminent risk of serious harm, the Council will contact the owner to confirm its involvement, explain the nature of the hazard and confirm the action it is intending to take. The Council will take account of any proposals or representations made by, or on behalf of the owner. The Council will solicit and take account of the opinion of the relevant Welfare Authority in considering both the vulnerability and capability of such persons as well as in determining what action it will then take.

9.2 Social Landlords

Housing Providers exist to provide suitable and properly maintained accommodation for their tenants. They are managed by Boards (which typically include tenant representatives) and their performance is scrutinised by Homes England). Housing Providers normally employ staff to both manage and maintain their properties and will usually have written arrangements for reporting problems, setting out the response times they aim to achieve, and also for registering any complaints about service failure.

On this basis, the Council will not normally take formal action against Housing Provider unless:

- It is satisfied that the problem in question has been properly reported to the Housing Provider and
- The Housing Provider has then failed to take appropriate action

If the Council determines that it is appropriate to take action, it will then normally notify the Housing Provider that a complaint has been received and/or a hazard identified and seek the Housing Provider's comments and proposals. Only in cases where it judges that an unsatisfactory response has been received will the Council take further action and will then determine which of the available enforcement options is the most appropriate, considering the facts of the case.

9.3 Private Landlords

The Council will have regard to the principles of statutory guidance and relevant guidance from the First-tier Tribunal (Property Chamber) decisions and will initially seek to proceed informally.

Formal action will be initiated immediately if a hazard in question is judged by the Council:

- To pose an imminent risk of serious harm to any person (whether or not immediate action is required, and whether the hazard(s) in question is likely to affect a tenant, an employee or a member of the public), or
- The landlord in question is known to have failed, on a previous occasion, to take appropriate action in response to an informal approach
- Where a hazard exists and retaliation eviction as defined by the Deregulation Act 2015 is in process or is likely to occur

When arranging an inspection, the Council will write to the landlord (or his/her relevant agent) to confirm their involvement and the time and date of the visit. Following the inspection, the Council will explain the nature of any hazard(s) identified in writing and seek the landlord/agent's proposals for remedying the problem. Unless the Council already holds the required information, a Requisition for Information Notice may also be served at this point.

Following the inspection, the Council will not normally need to take any further action to discharge its duties as long as:

- Satisfactory proposals and timescales for the work to be carried out are received and agreed within 14 days and
- The work is carried out to a satisfactory conclusion within agreed timescales

Landlords are expected to either:

- Provide any agent acting for them with sufficient authority to act on their behalf, in the event that they are contacted by the Council, or
- To ensure that they maintain appropriate communication with their agent in order that appropriate decisions and responses can be provided to the Council

The failure of an agent to respond to communication from the Council or any failure to take appropriate action may be treated as a failure by the landlord.

If the Council receives:

- No response from the landlord/agent or
- A response it judges inadequate or
- Proposals that were judged acceptable but which are not then followed through (for example if works fail to start when agreed, fail to make proper progress or are completed to an inadequate standard) or
- In the event of retaliation eviction as defined by the Deregulation Act 2015 is in process or is likely to occur.

it will proceed with formal action by taking the most appropriate enforcement action in accordance with this Policy.

9.4 What is expected of Tenants

Before considering taking any action in respect of a tenanted property, the tenant(s) will normally be required to contact their landlord about the problems (preferably in writing), allowing a reasonable time period for the landlord to make representation.

Legislation covering landlord and tenant issues requires that tenants notify their landlords of any problems with the property. This is because it is more difficult for landlords to carry out their obligations under the legislation, unless they have been made aware of the problem.

Where the matter appears to present an imminent risk to the health and safety of the occupants, it is expected that tenants will continue to try to contact their landlord, even if this is after they have contacted the Private Sector Housing Enforcement Services. Copies of correspondence between the landlord and tenant should be provided for Officers.

In certain situations, tenants, will not be required to write to their landlord first, for example:

- Where there is a history of harassment/threatened eviction/poor management practice
- Where the tenant appears to be vulnerable or where there are vulnerable members of the household

- Where the tenant could not for some other reason be expected to contact their landlord/managing agent
- Where the property is a House in Multiple Occupation which appears to fall within HMO licensing

Tenants are responsible for keeping Officers informed of any contact they have had with their landlord (or the landlord's agent or builder, etc.) which may affect the action the Council is taking or considering taking. Tenants should also consider seeking independent legal advice about their own individual powers to resolve any dispute with their landlord.

Housing Provider tenants have standard procedures to follow if their landlord does not carry out repairs in a satisfactory manner and also a final right of appeal to the Housing Ombudsman Service. However, if the Housing Provider has not taken appropriate action to deal with problems with the property, then the Council will investigate and take appropriate action.

9.5 Retaliatory Evictions

Retaliatory eviction is where a tenant makes a legitimate complaint to their landlord about the condition of their property and, in response, instead of making the repair, their landlord serves them with an eviction notice. On 1st October 2015, a number of provisions in the Deregulation Act 2015 came into force. These provisions are designed to protect tenants against unfair eviction.

Where a tenant makes a genuine complaint about the condition of their property that has not been addressed by their landlord, their complaint has been verified by a local authority inspection, and the local authority has served either an improvement notice or a notice of emergency remedial action, a landlord cannot evict that tenant for 6 months using the 'no fault' eviction procedure (a section 21 eviction). The landlord is also required to ensure that the repairs are completed.

In order to rely on the protection against retaliatory eviction that the Deregulation Act 2015 provides, a tenant must approach the landlord in writing in the first instance. If, after 14 days from the tenant making a complaint, the landlord does not reply, that reply is inadequate, or they respond by issuing a Section 21 eviction notice, the tenant should approach the Private Sector Housing Enforcement Team and ask them to carry out an inspection to verify the need for a repair. We will then undertake an HHSRS inspection. If the inspection verifies the tenant's complaint, the enforcement officer will take appropriate action.

If the council serves an Improvement Notice or Notice of Emergency Remedial Action, the landlord cannot evict the tenant for 6 months using the no-fault eviction procedure.

We will work with landlords to understand their obligations and the implications of this legislation, and will work alongside the Council's Housing Options team and other advice agencies to provide support, advice and guidance to the tenant in these circumstances.

10. Situations where a service may not be provided

Where any of the following situations arise, consideration will be given to not providing or cease to provide a service:

- Where the tenant(s) unreasonably refuse access to the landlord, managing agent or landlord's builder, to arrange or carry out works
- Where the tenant(s) have, in the opinion of the Council, clearly caused the damage to the property they are complaining about, and there are no other items of disrepair
- Where the tenant's only reason for contacting the Private Sector Housing Enforcement Service, in the opinion of the Council, is in order to pursue a position on the housing

register or by means of a contrived homeless application. The Council will aim to bring their present accommodation up to standard as a first priority

- Where the tenant(s) have requested a service and then failed to keep an appointment and not responded to a follow-up letter or appointment card
- Where the tenant(s) have been aggressive, threatening, verbally or physically abusive towards Officers
- Where there is found to be no justification for the complaint, on visiting the property
- Where the tenant unreasonably refuses to provide the Council with relevant documentation

11. Specific enforcement policies

11.1 Authority to Investigate or Enforce

The Housing Act 2004 and associated secondary legislation sets out the duties and powers that the Council has in relation to regulating housing standards in its capacity as the Local Housing Authority. Powers are also contained in the Housing Act 1985, as amended, and other legislation, such as the Environmental Protection Act 1990, the Town and Country Planning Act 1990, the Public Health Acts 1936 and 1961, the Mobile Home Act 2013, the Housing and Planning Act 2016, Deregulation Act 2015, Anti-Social Behaviour Crime and Policing Act 2014, Tenant Fees Act 2019. This is not a complete list of the powers available.

11.2 Authorisation of Officers

Only Officers who are competent by training, qualification and/or experience will be authorised to undertake enforcement action. The Council's Scheme of Delegation sets out the delegated powers given to Officers.

Officers who undertake criminal investigations will be conversant with the provisions of all relevant criminal investigation law.

Officers are sometimes asked to give evidence on behalf of one of the parties in a private action. In order to prevent any implication that the officer has taken sides, officers will usually only attend in response to a witness summons.

11.3 Powers of Entry and Power to Require Information

The Council has the power of entry to properties at any reasonable time to carry out its duties under Section 239 of the Housing Act 2004 provided that:

- The Officer has written authority from an appropriate Officer stating the particular purpose for which entry is authorised
- The Officer has given 24 hours' Notice to the owner (if known) and the occupier (if any) of the premises they intend to enter

No Notice is required where entry is to ascertain whether an offence has been committed under Sections 72 (offences in relation to licensing of HMOs), 95 (offences in relation to licensing of houses) or 234(3) (offences in relation to HMO Management Regulations).

If admission is refused, premises are unoccupied or prior warning of entry is likely to defeat the purpose of the entry, then a warrant may be granted by a Justice of the Peace on written application. A warrant under this section includes power to enter by force, if necessary.

The Council also has power under Section 235 of the Housing Act 2004 to require documentation to be produced in connection with:

- Any purpose connected with the exercise of its functions under Parts 1-4 of the Housing Act 2004
- Investigating whether any offence has been committed under Parts 1-4 of the Housing Act 2004

The Council also has powers under Section 237 of the Housing Act 2004 to use the information obtained above and Housing Benefit and Council Tax information obtained by the authority to carry out its functions in relation to these parts of the Act.

11.4 Choice of Appropriate Enforcement Action

Unless there is an imminent risk to the health and safety of the occupant or visitors to the property, the Council will attempt to secure the required improvements informally and within a reasonable amount of time.

Where this approach fails, the Council will determine which of the specific enforcement options it will use, taking into account the facts and circumstances in each individual case.

A statement of reasons will be provided with any Notice it serves, explaining why the Council has decided to take a particular course of action.

11.5 Enforcement Action

In accordance with the Enforcement Policy, the decision to use enforcement action will depend on the severity of the non-compliance. Factors that will be taken into consideration include:

- The risk that the non-compliance poses to the safety, health or economic welfare of the public at large or to individuals
- The culpability of the responsible party
- Evidence that suggests that there was premeditation in the commission of an offence
- Whether the alleged offence involves a failure to comply in full or in part with the requirements of a statutory Notice or order
- Whether there is a history of previous warnings or the commission of similar offences
- Aggravated circumstances such as aggressive or violent behaviour

Enforcement action will be consistent with the Council's overall Housing Strategy and the Private Sector Housing Enforcement Service will adopt a coordinated approach with other Council services and other relevant agencies, in particular with preventing and dealing with homelessness.

11.6 Power to Charge for Enforcement Action

The Local Authority has the power under Section 49 of the Housing Act 2004 to make a reasonable charge as a means of recovering certain administrative and other expenses incurred in serving an Improvement Notice, Hazard Awareness Notice, making a Prohibition, Emergency Prohibition or Demolition Order or taking Emergency Remedial Action. The Council will charge under the following:

Housing Act 2004	
Section	Type of Notice
Section 11 and 12	Improvement Notices
Section 20 and 21	Prohibition Notice
Section 28 and 29	Hazard Awareness Notice

Section 40	Emergency Remedial Action
Section 43	Emergency Prohibition Order
Section 64	Licence for House in Multiple Occupation
Section 265 HA 1985	Demolition Order

11.7 Charges for Notices & Orders

Where a charge is made, the Council can recover a reasonable amount for expenses incurred in connection with time spent gaining entry, visiting and inspecting the premises to determine appropriate action and the administration costs for the production of a Notice, Order or Remedial Action.

Costs incurred carrying out Work in Default or Remedial Action will be charged separately. When the charge demand becomes operative, the sum recoverable will be a local land charge. Costs will be charged at an hourly rate for enforcement officer, administration and management costs.

11.8 Failure to Comply with Notices

If a Notice is complied with, no further action will be taken. However, if the Notice is not complied with, the Council will consider the following options:

- Prosecution;
- Carrying out the works in default;
- Carrying out the works in default and prosecution;
- Whether a simple caution is appropriate;
- Civil Penalty

Failure to comply with an Improvement Notice or a Prohibition Order is an offence punishable by an unlimited fine. Following conviction, it is an offence to carry on using the premises in breach of the Prohibition Order, attracting a daily fine.

The Council will take action to recover its costs in connection with works in default. The Council will also take action to recover the costs incurred in carrying out works associated with Emergency Remedial Action.

As a charge on the property, the costs give the Authority the same powers and remedies as a Mortgagee under the Law of Property Act 1925 (Enforced Sale).

11.9 Revocation and Variation of Notices

The Council must revoke an Improvement Notice once the Notice has been complied with. If part of the work required within the Notice is carried out, then the Notice can be varied.

11.10 Review of Enforcement Action

If there is a change in the occupation of a premises (leading to either an increase or decrease in the apparent risk to occupiers) the current state of any outstanding enforcement action should be reviewed by the investigating officer, in consultation with his or her line manager, to ensure that it is still appropriate and proportionate to the risk posed from the identified hazard(s).

11.11 Recovery of Debts

Where charges for enforcement action are levied, they will be registered as a local land charge against the owner's property. This means that when the property is sold the debt has to be repaid

including any interest accrued on the initial charge. The Council will vigorously pursue all debts owed to it as a result of enforcement charges or charges for carrying out works in default (as well as any other charges). This includes smaller debts where the cost of recovery is greater than the debt owed. To recover debts the Council will use some of the following means;

- The enforced sale procedure under the Law and Property Act 1925. This allows the Council to force the owner to sell their property in order to recover its costs
- Use tracing services to track down debtors and secure judgments to recover debts
- Demand rents are paid to the Council instead of the landlord to recover outstanding debts (where the legislation allows and it is appropriate to do so).

11.12 Improvement Notices

It is anticipated that Improvement Notices will be an appropriate and practical remedy for most hazards.

Where the Council determines that an Improvement Notice should be served in respect of a Category 1 Hazard, it will:

- Require works that will either remove the hazard entirely or
- Will reduce its effect so that it ceases to be a Category 1 hazard,

The Council will take whichever of these two options it considers appropriate, having considered the circumstances of the case. If the Council determines that the hazard can only be reduced to a Category 2 hazard rather than removed, it will require works to be carried out as far as is reasonably practical to reduce the likelihood of harm.

Where the Council determines that an Improvement Notice should be served in respect of a Category 2 Hazard, it will:

- Require works it considers sufficient either to remove the hazard or
- Reduce it to an appropriate degree

The Council will take whichever of these two options it considers appropriate having considered the circumstances of the case.

11.13 Suspended Improvement Notice

The Council has the power to suspend an Improvement Notice once served and will consider this course of action where it is reasonable in the circumstances, to do so. The following are situations in which it may be appropriate to suspend an Improvement Notice:

- The need to obtain planning permission (or other appropriate consent) that is required before repairs and/or improvements can be undertaken
- Works which cannot properly be undertaken whilst the premises are occupied and which can be deferred until such time as the premises falls vacant or temporary alternative accommodation can be provided
- Personal circumstances of occupants; for example, temporary ill health, which suggests that works ought to be deferred

When deciding whether it is appropriate to suspend an Improvement Notice, the Council will have regard to:

- The level of risk presented by the hazard(s)
- The turnover of tenants at the property
- The response or otherwise of the landlord or owner

- Any other relevant circumstances (e.g. whether the vulnerable age group is present)

Suspended Improvement Notices will be reviewed on an ongoing basis, at least every 6 months.

11.14 Prohibition Orders

Prohibition Orders can be used in respect of both Category 1 and Category 2 hazards for all or part of a dwelling and are likely to be used if repair and/or improvement appear inappropriate on grounds of practicality or excessive cost (i.e. the cost is unrealistic in terms of the benefit to be derived). Examples include:

- A dwelling or part of a dwelling where adequate natural lighting or adequate fire escape cannot realistically be provided
- In an HMO, to prohibit the use of specified dwelling units or of common parts. This might, for example, be used if the means-of-escape is unsatisfactory
- To specify the maximum number of persons who can occupy a dwelling where it is too small for the household's needs, in particular in relation to the number of bedrooms
- In relation to premises lacking certain facilities but which are nonetheless suitable for a reduced number of occupants

In addition to prohibiting all uses in relation to the whole or part of the premises in question (other than uses specifically approved by the Council), Prohibition Orders can prohibit specific uses (Section 22 (4)(b) Housing Act 2004); this option may be employed to prevent occupation by particular descriptions of persons. Use of this power may be appropriate in situations such as the following:

- Premises with steep staircases or uneven floors which make them particularly hazardous to elderly occupants
- Premises with open staircase risers or widely spaced balustrades that make them particularly unsuitable for infants

11.15 Suspended Prohibition Order

The Council has the power to suspend a Prohibition Order once served and will consider this course of action where it is reasonable in the circumstances to do so. Suspended Prohibition Orders will be reviewed on an ongoing basis, at least every 6 months.

The Council will consider any written requests made for alternative uses of premises or part-premises which are subject to a Prohibition Order and will not withhold its consent unreasonably. Any such consent will be confirmed in writing.

11.16 Hazard Awareness Notice

Hazard Awareness Notices may be served to notify owner-occupiers of the existence of hazards (for example where the risk from the hazard is mitigated by the long-standing nature of the occupancy). It might also be applicable where:

- It is judged appropriate to draw a landlord's attention to the desirability of remedial action
- To notify a landlord about a hazard as part of a measured enforcement response

11.17 Emergency Remedial & Prohibition Action

The situations in which Emergency Remedial Action and Emergency Prohibition Orders may be used are specified by Sections 40 to 45 of the Housing Act 2004. Specifically, the Council must be satisfied that:

- A Category 1 hazard exists, and that
- The hazard poses an imminent risk of serious harm to health or safety, and that
- Immediate action is necessary

If these conditions are met, the Council intends will take appropriate emergency action.

Situations in which emergency action may be appropriate include:

- Residential accommodation located above commercial premises which lack a safe means of escape in the event of fire because there is no independent access
- Risk of electrocution, fire, gassing, explosion or collapse

11.18 Demolition Orders

The Housing Act 2004 provides the Council with the power to make Demolition Orders. Demolition Orders are a possible response to a Category 1 hazard (where they are judged the appropriate course of action). In determining whether to issue a Demolition Order, the Council will take account of Government guidance and will consider all the circumstances of the case.

11.19 Clearance Areas

The Council can declare an area to be a Clearance Area if it is satisfied that each of the premises in the area is affected by one or more Category 1 hazards (or that they are dangerous or harmful to the health and safety of inhabitants as a result of a bad arrangement or narrowness of streets). In determining whether to declare a Clearance Area, the Council will act only in accordance with Section 289 of the Housing Act 1985 (as amended) and having had regard to relevant Government guidance on Clearance Areas and all the circumstances of the case.

11.20 Simple Cautions

Officers may use Simple Cautions where someone has committed a less serious offence. Simple Cautions warn people that their behaviour has been unacceptable and makes them aware of the legal consequences should they commit further offences. Simple cautions can only be issued where:

- There is evidence an offender is guilty
- The offender is eighteen years of age or over
- The offender admits they have committed the crime
- The offender agrees to be given a caution – if the offender does not agree to receive a caution then they are likely to be prosecuted instead

Simple cautions are normally not appropriate where there is history of offending within the last 2 years or where the same type of offence has been committed before. In these circumstances prosecution is more appropriate.

11.21 Works in Default

Works in Default will be considered if all other methods to try to remedy the necessary works have been unsuccessful. In determining if work in default is appropriate, Officers will report to the Tier 4 management who will consider approval based on the following information;

- The effects of not carrying out the work on the health and safety of the occupant of the property concerned
- The wishes of the tenant where the Notice has been served in respect of a rented property

- The reason for the work not being carried out in the first place
- Any other factors that are specific to individual properties
- The Council will normally seek to recover all of the costs associated with undertaking work in default (including time spent by its Officers, administrative costs, contractors costs, the cost of any specialist reports, supervisory costs etc.)

In the case of Officer time, the Council will calculate costs as follows:

- The actual time spent by Council Officers on the chargeable activities and recorded using file notes and database
- Time spent will be converted into a monetary figure using the appropriate hourly rate set for the Officer(s) concerned.

The expenses incurred are to be recovered from the person(s) on whom the Notice or Order is/are served (“the relevant person”). Where the relevant person receives the rent on behalf of another, the expenses are also to be recovered from that other person. The expenses will carry interest from the date of service until payment of all sums due under the demand at a rate of 1% over the Bank of England Base Rate. The recoverable expenses, together with interest accrued on them, are a charge on the premises.

In addition, as a means of recovering the costs, the Council may also serve Recovery Notices to recover, receive and give a discharge for any rent or sums in the nature of rent.

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

Where the Council has reasonable grounds to believe that the requirements of these Regulations have not been met by a landlord, there is a duty on the Council to serve a ‘remedial notice’. Failure to comply with a remedial notice imposes a further duty on the Council to arrange remedial action and a power to require payment of a penalty charge. Penalty charges for non-compliance are set within Appendix A.

In determining the level of the fixed penalty notice the Council has considered the likely costs it will incur and the amount required sufficient to provide a deterrent to non-compliance. Increasing the fine for a second or third offence reflects the seriousness of the offence and is designed to deter repeat offending.

While these charges are set as standard, a landlord may seek to review a penalty charge notice within 28 days by service of notice on the Council. A senior officer not directly involved in the service of the original notice, will carry out this review. The reviewing officer will consider the representations made by the landlord and decide whether to confirm, vary or withdraw the penalty charge notice.

In doing so the reviewing officer will have regard to the amount required for the Council to recover its costs and that the Council has considered and agreed a level of fine that it considers is sufficient to provide a deterrent to non-compliance. After reviewing the fixed penalty notice the reviewing officer will inform the landlord by service of notice of their decision. The 50% reduction for a first offence will apply to any revised charge set should payment be within 14 days of service of the revised notice.

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

Where the Council is ‘satisfied on the balance of probabilities’ that a person has failed to belong to a redress scheme as required by article 3 or 5 of the 2014 Order it may by notice require that person to pay a ‘monetary penalty’.

The Council will follow the procedure for issuing a monetary penalty as set out in the 2014 Order. This includes serving notice that it intends to issue a monetary penalty for specified reasons. It will also outline how the person notified can submit any representations and what the appeal process is.

The standard penalty charge for breach of duty under article 3 or 5 is set as follows:

Breach of duty under article 3 or 5	£5,000	Reduced to £2,500 if paid within 14 days for first offence only
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In determining the level of the fixed penalty notice the Council has considered the likely costs it will incur and the amount required sufficient to provide a deterrent to non-compliance. If written representations are received within 28 days of the service of the notice of intent, a senior officer not directly involved in the service of the original notice, usually the appropriate Head of Service will carry out a review.

When considering any formal review of a notice of intent, the reviewing officer will consider the representations and decide whether to serve the final notice. The final notice shall state the reasons for imposing the monetary penalty, the amount to be paid, how to pay and by when. The notice shall include information about rights of appeal and the consequences of non-payment which would normally be prosecution.

The 50% discount will apply to any revised charge set should payment be within 14 days of service of the revised notice. The reviewing officer will refer to this protocol in considering any request for a review.

14. Civil penalties

The Housing & Planning Act 2016 introduces a range of measures to tackle rogue landlord practice including the power for Councils to issue Civil Penalties of up to £30,000 as an alternative to prosecution for certain specified offences. This power came in to force on 6 April 2017 and was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016.

Funds received from a Civil Penalty can be retained by the local housing authority provided that it is used to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.

A civil penalty may be imposed as an alternative to prosecution for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (section 30)
- Offences in relation to licensing of Houses in Multiple Occupation (section 72)
- Offences in relation to licensing of houses under Part 3 of the Act (section 95)
- Offences of contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234)

The amount of penalty is to be determined by the Council in each case. In determining an appropriate level of penalty, the Private Sector Housing Enforcement Team will have regard to statutory guidance given in the DCLG publication 'Civil Penalties under the Housing and Planning Act 2016'.

Only one penalty can be imposed in respect of the same offence and a civil penalty can only be imposed as an alternative to prosecution. However, a civil penalty can be issued as an alternative to prosecution for each separate breach of the House in Multiple Occupation management regulations. Section 234(3) of the Housing Act 2004 provides that a person commits an offence if he fails to comply with a regulation. Therefore, each failure to comply with the regulations constitutes a separate offence for which a civil penalty can be imposed.

The same criminal standard of proof is required for a civil penalty as for prosecution. This means that before taking formal action, the Council must satisfy itself that if the case were to be prosecuted in a magistrates' court, there would be a realistic prospect of conviction. In order to achieve a conviction in the magistrates' court, the Private Sector Housing Enforcement Team must be able to demonstrate beyond reasonable doubt that the offence has been committed.

14.1 Determining the Sanction

The following principles will apply to each case to be considered in relation to a Civil Penalty;

- Each case will be considered on its own merits
- There must be sufficient, reliable evidence to justify the action taken
- The action taken must be in the public interest
- Any mitigating circumstances will be considered
- The decision to prosecute an individual is a serious step and has serious implications for all involved. Decisions to prosecute should always be fair and consistent.

14.2 Factors to be taken into consideration when Determining the Penalty

In accordance with the statutory guidance, the Council will consider the following factors to help ensure that the civil penalty is set at an appropriate level:

- Severity of the offence: the more serious the offence, the higher the penalty should be.
- Culpability and track record of the offender: a higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
- The harm caused to the tenant: this is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
- Punishment of the offender: a civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.
- Deter the offender from repeating the offence: the ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- Deter others from committing similar offences: while the fact that someone has received, a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An

important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.

- Remove any financial benefit the offender may have obtained as a result of committing the offence: the guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

14.3 Penalties Structure

For the purpose of the offence, a fine will usually be calculated using the financial penalty notice matrix Appendix 1. The selection of the relevant fine range, and the position of the individual offence within that range, is determined by the seriousness of the offence. The following factors will be considered;

- In assessing seriousness there is a need to consider both culpability and harm

There can be an imbalance i.e.

- Harm that results is greater than the harm intended by the offender
- Culpability may be at a higher level than the harm resulting from the offence

Culpability will be greater if;

- The offender deliberately causes more harm than necessary
- The offender targets a vulnerable victim (old age, youth, disability)
- The culpability of the offender should be the initial factor in determining the seriousness of the offence

14.4 Procedure

The Council will issue the person deemed to have committed a relevant offence a notice of its proposal ('notice of intent') to impose a financial penalty. This will set out;

- The amount of the proposed financial penalty;
- The reasons for proposing to impose the penalty;
- Information about the right of the landlord to make representations.

The notice of intent must be given no later than 6 months after the Council has sufficient evidence of the conduct to which the penalty relates, or at any time when the conduct is continuing.

A person who is given a notice of intent may make written representations to the Council about the intention to impose a financial penalty within 28 days from the when the notice was given.

Where written representations are made, a senior officer not previously involved with the case will consider the appeal. This will usually be the Appropriate Head of or another relevant officer at this level within the Council's structure. The decision of the senior officer will set out their reasons for making their decision clearly and the following options will be available to them;

- Withdraw a notice of intent or final notice; or
- Reduce the amount specified in a notice of intent or final notice
- Uphold the original decision to issue the notice of intent

At the end of the 28-day period, the Council will decide whether to impose a penalty and, if so, will set the amount of the penalty. If the decision is made to impose a financial penalty, we will give

the person a final notice requiring that the penalty is paid within 28 days. The final notice will include the following information;

- The amount of the financial penalty;
- The reasons for imposing the penalty;
- Information about how to pay the penalty;
- The period for payment of the penalty (28 days);
- Information about rights of appeal; and
- The consequences of failure to comply with the notice.

A person who receives a final notice may appeal to the First-tier Tribunal (Property Chamber.) against:

- The decision to impose a penalty; or
- The amount of the penalty.

In these circumstances, the final notice is suspended until the appeal is determined or withdrawn.

15. Rent Repayment Orders

In addition to the powers provided by the Housing Act 2004 to apply Rent Repayment Orders (RROs) in regard to offences related to HMOs as outlined at section 73 and 74 of Housing Act 2004, the Housing and Planning Act 2016 extended the power to apply RROs in respect of the following offences committed after 6th April 2017;

- 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

The maximum amount of rent that can be recovered is capped at 12 months. A criminal standard of proof is required. The Council must apply to the First Tier Property Tribunal for an RRO. BCP Council will consider application for RROs in all cases where a successful prosecution has been achieved.

16. Houses in Multiple Occupation

The Housing Act 2004 introduced a mandatory licensing system for certain types of Houses in Multiple Occupation (HMO). The aim of licensing is to ensure that every licensable HMO is safe for the occupants and visitors and is properly managed. The Housing Act 2004 enables Local Authorities to charge a fee to cover the administration of such schemes, details of the fee can be found on the Council's website³.

From 1st October 2018 all HMOs with 5 or more persons and two or more households must apply to the Council to have their properties licensed. The responsibility for applying for a licence rests with the person having control of or the person managing the property.

There are certain exemptions to the mandatory licensing of HMO's within purpose-built blocks of flats and further advice should be sought from the Private Sector Housing team regarding this.

³ <https://www.bournemouth.gov.uk/Housing/Landlords/housesinmultipleoccupation.aspx>

A House in Multiple Occupation, where a license is currently not required, can also be defined as:

- a converted block of flats where the standard of the conversion does not meet the relevant building standards and fewer than two-thirds of the flats are owner-occupied
- a premises where three or more people from two or more households are in occupation with shared facilities.

All HMO's are required to have a Gas Safe Certificate⁴ to ensure the safety of the occupants and relevant documentation will be required within the licencing process.

The HMO legislation allows for the Council to issue a licence for up to a maximum of 5 years. Where there is ongoing enforcement work or likely to be enforcement action taken by the Council, or an established pattern of rogue landlord behaviour and practice, the licence may be issued for shorter period, at the discretion of the Authorised Officer. Where a property is not classed as a house in multiple occupation under planning usage, a shorter licence may be granted following consultation with the relevant enforcement team.

The Housing Act 2004 also provides the Council with the power to apply Discretionary Licensing, either by way of Additional or Selective Licensing based on specific conditions being met. Should an area within Bournemouth, Christchurch and Poole ever become subject to discretionary licensing, a full detailed designation of the specific area would be made.

When considering the Amenities required in a House in multiple occupation regard will be made to the BCP Amenity Standards, locally adopted standards relating to sizes of premises, heat and amenities provided. The amenity standards are found on the BCP website.⁵

16.1 Licensing Offences

The Housing Act 2004 sets out a number of licensing related offences all of which carry an unlimited fine, including:

- Operating an unlicensed HMO or allowing an HMO to be occupied by more persons than a licence allows
- Breach of licence condition
- Supplying incorrect information in a licence application

In addition to the above, a landlord who operates an unlicensed HMO can be subject to a Rent Repayment Order (RRO) by a First-tier Tribunal (Property Chamber) under sections 96 and 97 of the Housing Act 2004. The Council may also decide to apply a Civil Penalty for certain offences using the Housing and Planning Act 2016. The approach to these sanctions is outlined at sections 10.

A RRO requires repayment of rent received by the landlord over a period of up to 12 months. The Council will usually consider applying for such a measure if the landlord has received rent that has been paid by Housing Benefit.

Where an unlicensed HMO is identified, the Council will assess whether there are good reasons why an application has not been received. If there are no good reasons, the Council will look to take formal proceedings with a view to prosecution in the courts or by way of issuing a Civil Penalty.

⁴ <https://www.gassaferegister.co.uk/help-and-advice/renting-a-property/information-for-landlords/>

⁵ <https://www.bournemouth.gov.uk/Housing/PDFs/Amenity-Standards.pdf>

If a landlord of an unlicensed HMO approaches the Council for licensing and the landlord fully cooperates with the Council, including addressing any management, safety or amenity issue within an agreed timescale, the Council would not normally take enforcement action.

Generally, any breach of licence condition will be dealt with informally initially. However, if the breach is serious and affects the safety of the occupants or the responsible person does not carry out necessary works within an agreed timescale, the Council will pursue legal proceedings.

16.2 Interim and Final Management Orders

An Interim Management Order (IMO) transfers the management of a residential property to the Council for a period of up to twelve months. The circumstances in which an order can be made are discussed below. In particular, the IMO allows the Council possession of the property against the immediate landlord, and subject to existing rights to occupy can;

- Do anything in relation to the property, which could have been done by the landlord, including repairs, collecting rents etc.
- Spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the property
- To create new tenancies (with the consent of the landlord).

Under an IMO the Council must pay to the relevant landlord (that is the person(s) who immediately before the order was made was entitled to the rent for the property) any surplus of income over expenditure (and any interest on such sum) accrued during the period in which the IMO is in force. It must also keep full accounts of income and expenditure in respect of the house and make such accounts available to the relevant person.

The Council must take enforcement action in respect of a licensable property (which means an HMO subject to Part 2, or other residential property subject to Part 31) by making an IMO if:

- The property ought to be licensed, but is not, and the Council considers there is no reasonable prospect of it granting a licence in the near future. An IMO may not, however, be made on these grounds if an effective application is outstanding with the authority for the grant of a licence or a temporary exemption notice or if such a notice is in force
- The Private Sector Housing Enforcement Service is satisfied that the Health and Safety Condition isn't met and, therefore, it would not have granted an application for a licence
- The Private Sector Housing Enforcement Service intends to revoke the licence on one or more of the grounds specified in Parts 2 or 3 of the Act, other than the property has ceased to be licensable, and upon revocation there will be no reasonable prospect of the property being licensed in the near future (e.g. to another suitable person)
- The Private Sector Housing Enforcement Service is satisfied that when the licence is revoked the Health and Safety Condition test will be met

16.3 Final Management Orders

In exceptional circumstances the Council can also apply for a Final Management Order (FMO) which can last for up to five years. Such powers will only be used in exceptional circumstances and will be agreed by relevant senior manager as per the Council's scheme of delegation.

A FMO cannot be made unless an IMO or another FMO was already in force. An FMO transfers the management of the house to the Private Sector Housing Enforcement Service for the duration of the order. In particular, the FMO allows the Council;

- Possession of the property against the immediate landlord, but subject to existing rights of occupation

- To do anything in relation to the property, which could have been done by the landlord, including repairs, collecting rents etc.
- To spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the property;
- To create new tenancies (without the consent of the landlord).

16.4 Management Order Management Schemes

The Council must adopt a management scheme for a property subject to an FMO. The scheme must set out how the Council intends to manage the house. In particular, the management scheme must include:

- The amount of rent it will seek to obtain whilst the order is in force
- Details of any works which the Council intends to undertake in relation to the property
- The estimate of the costs of carrying out those works
- Provision as to the payment of any surpluses of income over expenditure to the relevant landlord, from time to time
- In general terms how the authority intends to address the matters that caused the Council to make the order. The Council must also keep full accounts of income and expenditure in respect of the house and make such accounts available to the relevant landlord.

16.5 Temporary Exemption Notices

Where a landlord is, or shortly will be taking steps to make an HMO non-licensable, the Council may serve a Temporary Exemption Notice (TEN). A TEN can only be granted for a maximum period of three months. In exceptional circumstances a second TEN can be served for a further three-month period. A TEN will be served where the owner of the HMO states in writing that steps are being taken to make the HMO non- licensable within 3 months.

16.6 Raising Standards in HMOs

Under current legislation many HMOs do not currently require a licence. These include houses containing self-contained flats and smaller HMOs. Many of these still pose a significant degree of risk to occupants and/or have a history of being poorly managed. The Council will continue to regulate such HMOs through enforcement of the HMO Management Regulations and by use of the Housing Health and Safety Rating system. All HMOs will however, be subject to a risk assessment which will allow the prioritisation of proactive inspections to secure appropriate improvement work.

16.7 Fire Safety in HMOs

Statistically, HMOs have one of the highest incidents of deaths caused by fire in any type of housing. It is therefore essential that any HMO possesses an adequate means of escape in event of a fire and adequate fire precautions. The actual level of fire protection and detection required will be determined by a risk assessment.

The Private Sector Housing Enforcement Team is generally the lead enforcing authority for fire safety in HMOs, however where an HMO contains communal areas, a Fire Risk Assessment must be carried out in accordance with the Regulatory Reform Order which is administered by Dorset and Wiltshire Fire & Rescue Service. For clarification, and/or general fire safety guidance, contact the Private Sector Housing Enforcement Team.

16.8 General Management of HMOs

The Management of Houses in Multiple Occupation (England) Regulations 2006 require the person having control of the house to ensure that: -

- 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 should be provided with suitable handrails
- All Tenants should fulfil their tenancy obligations.

17 Empty Homes

Empty homes can be a blight on our community as well as a wasted housing resource. Our approach will be to work alongside owners of empty homes with a solution-based approach to support and encourage voluntary action. However, we are also committed to using appropriate enforcement action where owners fail to take responsibility for their properties, reasonable negotiations fail or there is little prospect of the property being bought back into use voluntarily.

A number of factors will be considered in deciding the best course of action for an empty home with due regard given to Empty Homes Strategy 2016 – 2022.

The Council will provide advice, assistance and possible financial assistance to the owners of empty properties to help bring the home back into use, subject to appropriate funding being available. It will however also consider using any of the following enforcement options:

17.1 Empty Dwelling Management Orders (EDMO)

Where a property has been left empty for over two years and is attracting anti-social behaviour, the Council may seek an EDMO, the provisions for which are contained in the Housing Act 2004. An EDMO allows the Council to take over full management of the property for up to seven years, reclaiming any management and refurbishment costs from the rental income.

17.2 Compulsory Purchase Orders (CPO)

CPOs can be made under s17 of the Housing Act 1985 or s226 of the Town & Country Planning Act 1990. They allow local authorities to purchase properties in specific circumstances without the owner's consent.

17.3 Statutory Nuisance Provisions

If a property is unsafe, causing or is likely to cause a nuisance to the locality, there are several legislative tools available to the Council to ensure that the condition of the property is improved. A full list of these enforcement powers is available on request. The powers included provisions to ensure the property is safe, secure and not adversely affecting the amenity of the area.

17.4 Enforced sale procedure

The Law of Property Act 1925 allows the recovery of debt secured by a registered charge by forcing the sale of a property. In situations where the Council has served notices requiring the

owner to ensure that their property is not unsafe or having a negative impact, but they have failed to act, the Council may be forced to carry out the works in default. If the costs incurred are not paid, the Council will register a charge against the property and should the owner still not pay this debt, the Council can commence legal proceedings to sell the property to recover the costs. An enforced sale under a different procedure can also be used to recover Council Tax arrears.

18 Tenant Fees Act 2019

Landlords or agents are no longer able to require tenants in the private rented sector in England, or any persons acting on behalf of a tenant or guaranteeing the rent, to make certain payments ***in connection with a tenancy***. In the legislation “***in connection with a tenancy***” is defined as requirements:

- in consideration of, or in consideration of arranging for, the grant, renewal, continuance, variation, assignment, novation or termination of a tenancy;
- on entry into a tenancy agreement containing relevant provisions;
- pursuant to a provision of a tenancy agreement, or pursuant to an agreement relating to such a tenancy with a letting agent, which requires or purports to require the person to do any of those things in the event of an act or default of the person or if the tenancy is varied, assigned, novated or terminated; and
- as a result of an act or default related to the tenancy unless pursuant to, or for breach of, a tenancy agreement or other agreement; and
- in consideration of providing a reference for a former tenant.

Permitted payments are defined in the Act as:

- the rent
- refundable tenancy deposit capped at no more than five weeks rent, where the annual rental income is below £50,000 and six weeks rent where an annual rental income is above £50,000
- refundable holding deposit (to reserve a property) capped at no more than one weeks rent
- payment in the event of a default of the tenant
- payments on assignment, novation or variation of a tenancy when requested by the tenant, capped at £50 or reasonable costs incurred if higher
- payments associated with early termination of a tenancy, when requested by the tenant
- payments in respect of utilities, communication services and council tax

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

Where an offence is committed, the Council may impose a financial penalty of up to £30,000 as an alternative to prosecution. In such a case, the Council will have discretion over whether to prosecute or impose a financial penalty. Where a financial penalty is imposed this does not amount to a criminal conviction.

A breach of the requirement to repay the holding deposit is a civil offence and will be subject to a financial penalty of up to £5,000.

The final determination of any financial penalty will be considered alongside the general principle that a penalty should be fair and proportionate but, in all instances, act as a deterrent and remove any gain as a result of the breach. Further information on Civil Penalties are found in Section 14 of this policy. The application of such civil penalties and decision matrix is attached at Appendix B.

19 Minimum Energy Efficiency Standards

Since April 2018 landlords with properties which are let to the Private Rented Sector are required to have a minimum energy performance certificate rating of E or above. This applies to new lets, tenancy renewals or extensions and tenancies that fall into a statutory periodic tenancy starting on or after 1 April 2018. It will apply to all tenancies from 1 April 2020.

A landlord with a property with an EPC rating below an E (F&G) are required to improve their properties with energy efficiency improvements to bring the property up to at least an E rating before the property is rented out, unless the landlord qualifies for an exemption and the exemption is registered on the Public Exemptions Register.

It is unlawful to rent a property which breaches the requirement for a minimum E rating, unless there is an applicable exemption. A civil penalty of up to £4,000 will be imposed for breaches. The application of such civil penalties and decision matrix is attached at Appendix C.

20 Protection Against Eviction 1977

Under S1(2) Protection from Eviction Act 1977 it is an offence for any person to unlawfully deprive a residential occupier of the premises (or any part of it) that they occupy.

In the main, an eviction Notice, followed by a Possession Summons, then a Possession Order is the usual procedure for landlords to regain possession of a premises. Even when the Possession Order expires, the tenants can remain in occupation until the landlord obtains a Bailiffs Warrant of Execution. Only the County Court Bailiff can carry out the eviction.

The Council can prosecute for breaches of the Protection Against Eviction Act 1977 and such prosecutions can amount to a criminal offence. Enforcement officers will work alongside the Housing Options team and support providers such as Citizens Advice and Shelter in order to gather evidence and undertake prosecution where required.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Penalty charges for non-compliance are currently as follows:

First offence	£1500	Reduced to £750 if paid within 14 days
Second offence	£3,000	No reduction for early payment
Any additional offences	£5,000	No reduction for early payment

Civil Penalties Matrix- Housing Act 2004 offences

	Financial Penalty Matrix				
	Score =1	Score = 5	Score = 10	Score =15	Score = 20
FACTORS					
1. Severity of offence and culpability	No previous enforcement history. Single low level offence.	Minor previous enforcement. Single offence.	Recent second time offender. Offence has moderate severity or small but frequent impact(s).	Multiple offender. Ongoing offence of moderate to large severity or a single instance of a very severe offence.	Serial offender. Multiple enforcement over recent times. Continuing serious offence.
2. Deterrence of offender and others	High confidence that a financial penalty will deter repeat offending. Informal publicity not required as	Medium confidence that a financial penalty will deter repeat offending. Minor informal publicity required for	Low confidence that a financial penalty will deter repeat offending (e.g. no contact from offender). Some informal publicity will be required to prevent similar offending in the landlord community.	Little confidence that a financial penalty will deter repeat offending. Likely informal publicity will be required to prevent similar offending in the landlord community.	Very little confidence that a financial penalty will deter repeat offending. Informal publicity will be required to prevent similar offending in the landlord community.

	a deterrence.	mild deterrence in the landlord community.			
4. Removal of financial benefit	No significant assets. No or very low financial profit made by offender.	Little asset value. Little profit made by offender.	Small portfolio landlord (between 2- 3 properties). Low asset value. Low profit made by offender.	Medium portfolio landlord (between 4-5 properties) or a small Managing Agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.
3. Harm to the tenants (x2 weighting)	Very little or no harm caused. No vulnerable occupants. Tenant provides no information on impact.	Likely some low-level health/harm risk(s) to occupant. No vulnerable occupants. Tenant provides poor quality information on impact	Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed. Tenant provides some information on impact but with no primary or secondary evidence	High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently or by occasional high impact occurrences. Vulnerable occupants. more than likely exposed. Small HMO (3-4 occupants), multiple occupants exposed. Tenant provides good information on impact with primary evidence (e.g. prescription drugs present, clear signs	Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually affected. Multiple vulnerable occupants. exposed. Large HMO (5+occupants), multiple occupants exposed. Tenant provides excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).

				of poor health witnessed) but no secondary evidence.	
Score range	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 B- Civil Penalty Matrix Tenant Fees Act 2019

FACTORS	Score =1	Score = 2	Score = 3	Score =4	Score = 5
1. Severity of offence and culpability	No previous enforcement history. Single low level offence.	Minor previous enforcement. Single offence.	Recent second time offender. Offence has moderate severity or small but frequent impact(s).	Multiple offender. Ongoing offence of moderate to large severity or a single instance of a very severe offence.	Serial offender. Multiple enforcement over recent times. Continuing serious offence.
2. Deterrence of offender and others	High confidence that a financial penalty will deter repeat offending. Informal publicity not required as a deterrence.	Medium confidence that a financial penalty will deter repeat offending. Minor informal publicity required for mild deterrence in the landlord community.	Low confidence that a financial penalty will deter repeat offending (e.g. no contact from offender). Some informal publicity will be required to prevent similar offending in the landlord community	Little confidence that a financial penalty will deter repeat offending. Likely informal publicity will be required to prevent similar offending in the landlord community.	Very little confidence that a financial penalty will deter repeat offending. Informal publicity will be required to prevent similar offending in the landlord community.
3. Removal of financial benefit	No significant assets. No or very low financial profit made by offender.	Little asset value. Little profit made by offender.	Small portfolio landlord (between 2- 3 properties). Low asset value. Low profit made by offender.	Medium portfolio landlord (between 4-5 properties) or a small Managing Agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.

4. Harm to the tenants	Very little or no harm caused. No vulnerable occupants. Tenant provides no information on impact.	Likely some low level health/harm risk(s) to occupant. No vulnerable occupants. Tenant provides poor quality information on impact	Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed. Tenant provides some information on impact but with no primary or secondary evidence	High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently or by occasional high impact occurrences. Vulnerable occupants. more than likely exposed. Tenant provides 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. Multiple vulnerable occupants. exposed. Tenant provides excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).	
Total						

Penalties

Score range	Penalty		17-19	£4,000.00
1-4	£500.00		20	£5,000.00
5-8	£1000.00			
9-12	£2000.00			
13-16	£3000.00			

TOTAL PENALTY AMOUNT £

Appendix C- Civil penalty Matrix Energy Performance Certificates

FACTORS	Score =1	Score = 2	Score = 3	Score =4	Score = 5
1. Severity of offence and culpability	No previous enforcement history. Single low level offence.	Minor previous enforcement. Single offence.	Recent second time offender. Offence has moderate severity or small but frequent impact(s).	Multiple offender. Ongoing offence of moderate to large severity or a single instance of a very severe offence.	Serial offender. Multiple enforcement over recent times. Continuing serious offence.
2. Deterrence of offender and others	High confidence that a financial penalty will deter repeat offending. Informal publicity not required as a deterrence.	Medium confidence that a financial penalty will deter repeat offending. Minor informal publicity required for mild deterrence in the landlord community.	Low confidence that a financial penalty will deter repeat offending (e.g. no contact from offender). Some informal publicity will be required to prevent similar offending in the landlord community	Little confidence that a financial penalty will deter repeat offending. Likely informal publicity will be required to prevent similar offending in the landlord community.	Very little confidence that a financial penalty will deter repeat offending. Informal publicity will be required to prevent similar offending in the landlord community.
3. Removal of financial benefit	No significant assets. No or very low financial profit made by offender.	Little asset value. Little profit made by offender.	Small portfolio landlord (between 2- 3 properties). Low asset value. Low profit made by offender.	Medium portfolio landlord (between 4-5 properties) or a small Managing Agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.

4. Harm to the tenants	Very little or no harm caused. No vulnerable occupants. Tenant provides no information on impact.	Likely some low level health/harm risk(s) to occupant. No vulnerable occupants. Tenant provides poor quality information on impact	Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed. Tenant provides some information on impact but with no primary or secondary evidence	High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently or by occasional high impact occurrences. Vulnerable occupants. more than likely exposed. Tenant provides 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. Multiple vulnerable occupants. exposed. Tenant provides excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).	
Total						

Penalties

- Landlord has let a sub-standard property in breach of regulations for period of less than 3 months OR failed to comply with compliance letter:

Score range	Penalty		17-20	£2,000.00
4	£250.00			
5-8	£500.00			
9-12	£1000.00			
13-16	£1500.00			

TOTAL PENALTY AMOUNT £

- Landlord has let a sub-standard property in breach of regulations for period of more than 3 months:

Score range	Penalty
4	£500.00
5-8	£1000.00
9-12	£1500.00
13-16	£2000.00

17-19	£3,000.00
20	£4,000.00

**TOTAL PENALTY
AMOUNT £**

- Landlord has registered false or misleading information on the PRS exemptions register.

Score range	Penalty
4	£100.00
5-8	£250.00
9-12	£500.00
13-16	£750.00

17-20	£1,000.00

**TOTAL PENALTY
AMOUNT £**

A financial penalty can be imposed for both the landlord letting a sub-standard property AND failing to comply with a compliance letter or registering false or misleading information on the PRS exemption register for the same breach

Executive Summary and Conclusions

Once the Equality Impact Assessment Template has been completed, please summarise the key findings here.

The Private Sector Housing Enforcement Policy is designed to benefit the community through consistent regulation of the private rented sector. There should be no adverse effect on those classed as having protected characteristics and it is expected that some protected characteristics such as race, socio-economic, disability and age will be disproportionately positively impacted by this policy due to the demographic of housing and its occupation.

Part 1 - The Project

Policy/Service under development/review:	Private Sector Housing Enforcement Policy
Service Unit:	Communities
Service Lead:	Kelly Ansell
Equality Impact Assessment Team:	Sophie Ricketts, Steven Day, Kelly Ansell, Johanne McNamara, Sam Johnson, Sean Whitney, Kerry Ruff, Lorraine Mealings, Cat McMillan
Date assessment started:	02/09/2019
Date assessment completed:	

Part 1 - The Project	
What are the aims/objectives of the policy/service?	To regulate housing conditions within the private rented sector.
What outcomes will be achieved with the new or changed policy/service?	There will be an improvement in the quality of housing within the private sector that is available to prospective tenants. Informal and formal enforcement options will be made available to ensure housing conditions in the private rented sector meet the prescribed legislative standard. The implementation of new and updated legislation will be utilised to bring better regulation to the private rented sector in a consistent manner. Engagement with stakeholders to support and educate responsible persons of the correct standards of accommodation. Communication with key stakeholders to ensure the licensing of relevant premises.
Are there any associated services, policies or procedures?	<p>Yes</p> <p>Services: Trading Standards, Community Enforcement, Environmental Health, Targeted Enforcement, Residential Landlords Association, National Landlords Association, Council Tax, Housing Benefit, Shelter, Citizens Advice Bureau, Ministry of Housing Communities and Local Government, Ministry of Housing, Chartered Institute of Housing, Anti-social Behaviour Team, Dorset Police, Dorset and Wiltshire Fire and Rescue Services, Community Development, Communities, Housing, Community Safety, Licensing, Planning, Planning Enforcement</p> <p>Policies: Bournemouth Private Sector Housing Enforcement Policy 2017, Poole Borough Council Private Sector Housing Enforcement Policy, Christchurch and East Dorset Private Sector Housing Enforcement Policy, Housing Strategy</p> <p>Procedures: Civil Penalty Procedure, Energy Performance Certificate Procedure.</p>

Part 1 - The Project	
Please list the main people, or groups, that this policy/service is designed to benefit, and any other stakeholders involved:	Private Rental tenants Landlords, estate agents, letting agents, managing agents, freeholders, leaseholders, licence holders Landlord regulatory bodies Redress schemes Tenancy support services
With consideration for their clients, please list any other organisations, statutory, voluntary or community that the policy/service/process will affect:	Shelter Citizens Advice Bureau National Landlords Association Residential Landlords Association Dorset Race Equality Council Community Groups Social Registered landlords

Part 2 – Supporting Evidence ⁶
<p>Please list and/or link to below any recent & relevant consultation & engagement that can be used to demonstrate a clear understanding of those with a legitimate interest in the policy/service/process and the relevant findings:</p> <p>Community Overview and Scrutiny Committee February 2019 Empty Homes Survey 2018 Housing Conditions Survey 2008 Bournemouth Opinion Survey 2017, 2015, 2013 Selective Licensing Consultation 2017 ONS - UK private rented sector: 2018 2018 publication</p> <p>The surveys listed support the use of relevant enforcement to regulate the private rented sector. The surveys support the proportion of private rented accommodation across BCP and the requirement for the application of the listed legislation within the policy. Public perception of property conditions within certain areas of private rented accommodation is negative and therefore enforcement and regulation needs to be consistent and easily accessible.</p>

⁶ This could include: service monitoring reports, research, customer satisfaction surveys & feedback, workforce monitoring, staff surveys, opinions and information from trade unions, previous completed EIAs (including those of other organisations) feedback from focus groups & individuals or organisations representing the interests of key target groups or similar.

Part 2 – Supporting Evidence⁶

If there is insufficient consultation or engagement information please explain in the Action plan what further consultation will be undertaken, who with and how.

Please list or link to any relevant research, census and other evidence or information that is available and relevant to this EIA:

Census 2011
Indices of Deprivation 2015
Indoors sub-domain from IMD from CLG, 2015

Please list below any service user/employee monitoring data available and relevant to this policy/service/process and what it shows in relation to any Protected Characteristic:

Enforcement is take against responsible persons, namely landlords and residential property businesses. Demographic data of landlords is not collected as standard by the enforcement team.

If there is insufficient research and monitoring data, please explain in the Action plan what information will be gathered:

Part 3 – Assessing the Impact by Equality Characteristic

Use the evidence to determine to the impacts, positive or negative for each Equality Characteristic listed below. Listing negative impacts will help protect the organisation from potential litigation in the future, it does not mean the policy cannot continue.

[Click here](#) for more guidance on how to understand the impact of the service/policy/procedure against each characteristic.

If the impact is not known please explain in the Action plan what steps will be taken to find out.

	Actual or potential positive outcome	Actual or potential negative outcome
1. Age ⁷	<p>Under the risk assessment profile, those over 55 are classed as a vulnerable age group for hazards relating to cold. This policy looks to ensure conditions of accommodation are suitable regardless of age, through enforcement and engagement with property owners. Houses in Multiple Occupation are more likely to be occupied by young people under the age of 35⁸ as shared accommodation is often the only type of affordable accommodation available to benefit reliant tenants as a result of housing benefit caps for young people. Many of these individuals are forced to accept accommodation within the private rented sector as they usually have no access to social housing. Better regulation and proactive enforcement of the private rented housing sector will ensure that suitable action is taken against landlords and managers who do not comply with the law or licence conditions. This is expected to help drive bad landlords out of the market which should have the beneficial effect of better quality and well managed private rented housing.</p>	<p>There is no negative outcome.</p> <p>There is a risk that complaints regarding non-compliance could result in unfair eviction notices. This could adversely impact on those under 35, legislation such as the Protection Against Eviction Act 1977 and Deregulation Act 2015 should assist with the mitigation of this.</p>

⁷ Under this characteristic, The Equality Act only applies to those over 18.

⁸ Office for National Statistics - UK private rented sector: 2018

Part 3 – Assessing the Impact by Equality Characteristic

Use the evidence to determine to the impacts, positive or negative for each Equality Characteristic listed below. Listing negative impacts will help protect the organisation from potential litigation in the future, it does not mean the policy cannot continue.

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If the impact is not known please explain in the Action plan what steps will be taken to find out.

	Actual or potential positive outcome	Actual or potential negative outcome
2. Disability ⁹	<p>Those with disabilities are more likely to be negatively affected by poor housing conditions, therefore robust enforcement to ensure housing conditions are regulated will positively impact on disabled persons</p> <p>There are a significant number of tenants with mental health disabilities living in HMO' in the private rental sector. The envisaged benefits of better quality shared housing accommodation that is well managed and complies with all relevant standards will have a positive impact on this group. HMO residents are eight times more likely than the general population to suffer from mental health problems as well as having other problems¹⁰:</p>	Unknown due to lack of data available
3. Sex	<p>Lower paid job roles may lead those on minimal wages to occupy lower cost accommodation. It is unknown the effect of gender pay gaps locally to establish if there is disproportionate gender affected by poor quality low cost accommodation, however if this is the case, this gender group are likely to be subject to increased benefit of consistent regulation of housing conditions.</p>	Unknown due to lack of data available

⁹ Consider any reasonable adjustments that may need to be made to ensure fair access.

¹⁰ Shaw M, Danny D and Brimblecombe N (1998) Health problems in houses in multiple occupation.

Part 3 – Assessing the Impact by Equality Characteristic

Use the evidence to determine to the impacts, positive or negative for each Equality Characteristic listed below. Listing negative impacts will help protect the organisation from potential litigation in the future, it does not mean the policy cannot continue.

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If the impact is not known please explain in the Action plan what steps will be taken to find out.

	Actual or potential positive outcome	Actual or potential negative outcome
4. Gender reassignment ¹¹	n/a	Unknown due to lack of data available
5. Pregnancy and Maternity	n/a	Where properties are occupied to a maximum occupancy through licence conditions, this may cause adverse affect on those that have children within the premises. This could lead to eviction notices, however, housing options advice and assistance will be offered.
6. Marriage and Civil Partnership	n/a	n/a
7. Race	<p>There is a significant concentration of migrant households in the private rented sector and in particular in shared HMO accommodation as they are often on low wages meaning low quality homes are the only affordable form of accommodation for a working household.</p> <p>Vulnerable tenants, such as new arrivals in the country may be more likely to be exploited and affected by poor housing conditions.</p> <p>Overcrowding disproportionately affects migrants.</p> <p>Tenants within ethnic minority groups are therefore likely to be positively affected by this policy due to better quality accommodation and landlord management practices that will result</p>	Unknown due to lack of data available

¹¹ Transgender refers to someone who considers that they do not identify strictly to one gender to the other, identifying themselves as neither male nor female. NO

Part 3 – Assessing the Impact by Equality Characteristic

Use the evidence to determine to the impacts, positive or negative for each Equality Characteristic listed below. Listing negative impacts will help protect the organisation from potential litigation in the future, it does not mean the policy cannot continue.

[Click here](#) for more guidance on how to understand the impact of the service/policy/procedure against each characteristic.

If the impact is not known please explain in the Action plan what steps will be taken to find out.

	Actual or potential positive outcome	Actual or potential negative outcome
	from better enforcement of the sector. Greater protection from eviction should also result from increased powers to use civil penalties against those landlords who harass or unlawfully evict tenants as these will serve as a deterrent for potential offenders.	
8. Religion or Belief	There is insufficient data available to measure accurately the potential effect of these proposals in relation to religion or belief of tenants.	Unknown due to lack of data available
9. Sexual Orientation	There is insufficient data available to measure accurately the potential effect of these proposals in relation to sexual orientation of tenants.	Unknown due to lack of data available
10. Any other factors/groups e.g. socio-economic status/carers etc ¹²	Those that live in deprived areas are statistically more likely to suffer from poor housing conditions, therefore regulation of the private rented sector will positively improve their health and wellbeing Vulnerable residents and those on low incomes have found that access to housing appropriate to their needs has been restricted by a lack of affordability and large numbers find themselves living in the worst properties or shared accommodation. Changes to the national welfare system has had a further negative	n/a

¹² People on low incomes or no income, unemployed, carers, part-time, seasonal workers and shift workers

Part 3 – Assessing the Impact by Equality Characteristic

Use the evidence to determine to the impacts, positive or negative for each Equality Characteristic listed below. Listing negative impacts will help protect the organisation from potential litigation in the future, it does not mean the policy cannot continue.

[Click here](#) for more guidance on how to understand the impact of the service/policy/procedure against each characteristic.

If the impact is not known please explain in the Action plan what steps will be taken to find out.

	Actual or potential positive outcome	Actual or potential negative outcome
	<p>impact on the provision of quality housing options due to displacement of benefit dependent households into cheaper shared accommodation as a result of the Local Housing Allowance rent caps.</p> <p>Greater regulation and enforcement of the Private rented sector, particularly those HMO' that are required to be licensed, may force some landlords to leave the private rented sector altogether which could negatively impact tenants due to a reduction in the supply of HMO's and subsequent increase in evictions and homelessness.</p> <p>On the positive side, a significant protection that would be provided for assured shorthold tenants is that a s.21 Notice to evict tenants cannot be used by a landlord where a property has not been licensed when it is required to be. The Courts will therefore refuse to issue Possession Orders on that basis and enforcement action will be taken against those landlords who evict tenants unlawfully.</p> <p>The life chances of residents are closely linked to the quality of their neighbourhoods and their housing accommodation. Better enforcement of the private housing sector seeks to address some of these issues by improving housing</p>	

Part 3 – Assessing the Impact by Equality Characteristic

Use the evidence to determine to the impacts, positive or negative for each Equality Characteristic listed below. Listing negative impacts will help protect the organisation from potential litigation in the future, it does not mean the policy cannot continue.

[Click here](#) for more guidance on how to understand the impact of the service/policy/procedure against each characteristic.

If the impact is not known please explain in the Action plan what steps will be taken to find out.

	Actual or potential positive outcome	Actual or potential negative outcome
	conditions and security of tenure, particularly for the poorest tenants, over the longer term.	
11. Human Rights	n/a	Where warrants of entry are required to access a premises, Article 6 HRA may be affected, however due notice is previously given. Entry is required to positively impact the resident to ensure housing conditions are suitable.