

# Public Protection Partnership | Bracknell Forest Partnership West Berkshire

**Public Protection Partnership**  
**ENVIRONMENTAL HEALTH HOUSING POLICY**  
**2022 - 2025**

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A shared service provided by  
Bracknell Forest Council and  
West Berkshire Council



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## **SECTION 1 INTRODUCTION TO THE SERVICE**

### **Public Protection Partnership**

On 9th January 2017 Public Protection Partnership (PPP) was formed, this was a shared service covering environmental health, Licensing and Trading Standards provided by Bracknell Forest Council, West Berkshire Council and Wokingham Borough Council. On 1 April 2022 Wokingham Borough Council left the partnership. As such this plan will cover the work of Bracknell and West Berkshire.

### **Scope of the Programme and Compliance Team.**

Environmental Health Housing sits within the Compliance and Programme Team in PPP.

In addition the team enforces food hygiene and Infectious Disease Control; Health & Safety in all Local Authority enforced premises and have dealt with a range of Covid related enforcement and activity.

### **Scope of the Environmental Health Housing Policy**

This Environmental Health Housing policy applies specifically to each Council's Environmental Health housing enforcement functions and duties. Local Authorities are required to keep under review the housing conditions in their areas with a view to identifying what courses of actions are necessary under the Housing Acts. This includes the following:

- Regulating standards of repair, amenity and safety in the private rented sector and dealing with housing hazards.
- Investigating service requests from Registered Social Landlord.

### **Scope of the Environmental Health Housing Policy**

This Environmental Health Housing policy applies specifically to each Council's environmental health housing enforcement functions and duties and includes the following:

- Regulating standards of repair, amenity and safety in the private rented sector and dealing with housing hazards.
- Investigating service requests from Registered Social Landlords
- Carrying out investigations relating to vacant dwellings and dealing with issues they present.
- Regulating standards of management, repair, amenity and safety in houses in multiple occupation (HMOs)
- Administration of the Council's Houses in Multiple Occupation mandatory Licensing Scheme
- Inspection of bed and breakfast establishments and any private accommodation used for the temporary housing of homeless people and asylum seekers as appropriate
- Investigation and abatement of public health nuisances relating to housing
- Investigation and elimination of pests and vermin infesting land, premises and persons as may be appropriate
- The licensing of Caravan Sites and park home sites

- Administration of each Council's Landlord Accreditation Scheme where one exists
- Regulating standards in the private rented sector in relation to immigration inspections.
- Inspection of properties that fall into the Allocating Social Housing Banding System as appropriate for each council based on interventions detailed in the Housing Act 2004 and HHSRS

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5918/2171391.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5918/2171391.pdf)

An additional activity from March 2022 was in relation to Homes for Ukraine, where officers carried out home safety checks on host homes, and welfare checks when guests arrived.

### **Public Protection Partnership Vision**

To protect and support residents and legitimate business through the successful use of information and intelligence, delivering safe and healthy neighbourhoods.

### **Public Protection Partnership Mission**

The purpose of the service is to: -

- Give people information so they can make informed decisions and understand their rights and responsibilities.
- Create an atmosphere where legitimate and compliant businesses can thrive and not have their interests undermined by those who choose not to comply.
- Preserve the health, wellbeing and safety of the communities we serve.

### **Public Protection Partnership Overarching Themes**

The overarching themes for the PPP are set out in detail in schedule 5 to the Inter Authority Agreement, these are;-

- Community Protection
- Protecting and Improving Health
- Protection of the Environment
- Supporting Prosperity and Economic Growth
- Effective and Improving Service Delivery

### **Public Protection Partnership Priorities**

Cross Cutting Priorities

- E-Crime
- Climate Change
- Vulnerable Adults and Children
- Safeguarding (including Modern Slavery)
- Safer Streets

Other Priorities that are relevant in this Policy

- Housing Standards in the Private Rented Sector

Areas not deemed as the Strategic Priorities will be carried out but will not be given priority

Emerging Priorities

The work we carry out and the prioritisation we give to that work is dependant on circumstances. Should circumstances change then we adapt to meet those challenges. In recent years we have seen the impact of Covid on the prioritization of our work. More recently we have had the prioritisation of the work of the team shifted to Homes for Ukraine. This is where housing officers are carrying out visits to houses where the owners have nominated themselves to give a home to guests from Ukraine. This work started in March 2022 and it is unknown when the need for our involvement will end.

## SECTION 2 HOUSING PRIORITIES

The Role of the Compliance and Programme Team with regard to the Overarching Themes and Strategic Priorities –

Private Sector Housing

Community Protection	<p>The main role of the team is to ensure that premises for which we are the enforcing authority for private sector housing, including caravan and park homes sites are compliant with the legislation; the purpose of this legislation is to protect residents' health and safety, many of whom are vulnerable, from living in poor conditions.</p> <p>We provide safeguards to the community through an effective licensing service and will act as champions for the local area. We will deal with anti-social behaviour in identified problem areas and with aggressive and unreasonable landlords irrespective of whether they are Registered Social Landlords or those in private rental.</p> <p>Our conversion project looks to ensure commercial buildings that are converted into residential accommodation are safe and fit for purpose from the planning stage (as part of the consultation process) to responding and investigating complaints of potentially unsafe living conditions.</p>
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<p>Protecting and Improving Health</p>	<p>We enforce Housing legislation. Our role within this meets the requirement to protect health safety and wellbeing of residents within PPP irrespective of tenure, in doing so we will tackle the causes of health inequalities, both physical and mental.</p> <p>We will develop and deliver initiatives designed to improve and enhance health and wellbeing of individuals, for example. Seasonal specific projects aimed at areas such as damp houses, cold dwellings.</p>	
<p>Protection of the Environment</p>	<p>Enforcing within residential properties in connection with waste disposal and drainage, and ensuring sources of contaminants are secure.</p> <p>We will ensure Private Sector Housing and Park Homes are energy efficient, through adequate heating and repair.</p>	
<p>Supporting Prosperity and Economic Growth</p>	<p>By enforcing the legislation consistently in all residential premises ensuring that landlords are not economically advantaged by non-compliance. We will supporting compliant local businesses to thrive through the provision of advice and guidance.</p> <p>By assessing all Relevant Protected Site owners using the Fit and Proper Person Regulations we will be ensure owners are fit and proper to run their sites in a safe and well maintained manner.</p>	
<p>Effective and Improving Service Delivery</p>	<p>Working on Quality Management Systems to ensure the service is consistent and streamlines; feedback from landlord and residents ethos of continuous improvement.</p> <p>We will continue to developing PPP staff, to ensure a competent workforce that are committed to delivering and improving.</p> <p>We will work on improving PPP communication with the housing sector, through social media and Landlords Forum.</p> <p>By the implementation of the national intelligence model we identify and effectively tackle priority areas</p> <p>We will build effective working relationships with key partners within the Councils to deliver the key objectives of the Service and the Councils</p> <p>Building effective relationships with key external partners including Thames Valley Police, Royal Berkshire Fire and Rescue Service, housing providers, other local authorities, Immigration Service</p>	

### Cross Cutting PPP Issues with links to Housing

PPP have a number of cross cutting priorities, which sit over all of the work we do. In terms of Housing, the cross cutting priorities are as follows;

Protecting Vulnerable Adults and Children	The number and complexity of investigations involving people from recognised vulnerable groups has driven the PPP to adapt its risk management approach. Skills in communication, safeguarding and partnership working have never been more important in the workloads of officers and managers. This will be a key consideration in any priorities and projects initiated.
Modern Day Slavery	Thames Valley Police continue to run a number of operations looking at the issue of exploitation where people are being kept in poor conditions and forced to work for limited financial reward. An anti-slavery network has been set up across the Thames Valley. The PPP must be alive to this risk and all priorities and projects should be evaluated to consider how it may be able to improve the intelligence picture.
Safer Streets	This is an initiative to help people feel safer in their environment. Housing can help by tackling nuisance behaviour and empty homes and general disrepair.

## **SECTION 3 ENVIRONMENTAL HEALTH HOUSING WORK PLAN**

### Housing Projects and Work plan

In order to translate the service priorities into a work plan , PPP use the following as a framework;

- Prevention – What action can PPP take that would stop a problem occurring
- Intelligence – What information can the PPP gather to help make better decisions
- Enforcement – what action can the PPP take to ensure those breaking the law are taken to task.

In keeping with this, a summary of the work which will be progressed by the Compliance and

Programme team in relation to Housing is as follows;

PREVENTION	To carry out each Council's statutory duties in relation to Private Sector Housing Standards (reactive and programmed work)
	To assist in implementing each Council's Housing Strategy
	Work with LA Housing Partners to carry out House Condition Surveys; address the needs demonstrated by the Local House Condition Survey
	To review existing Park Home licences to ensure fit for purpose; to work on unlicensed sites to bring them to compliance
	To ensure unlicensed HMOs are brought to compliance; licenced applications are processed, and that licenced HMOs maintain the required standard
	We will investigate complaints from tenants, for example, about overcrowded living conditions, from other parties where they are concerned about children or vulnerable adults living in overcrowded conditions or where overcrowded conditions are legitimately impacting on a neighbours health, safety or welfare
	We will investigate complaints from residents in the Register Social Landlord sector to ensure decent housing
	We will carry out seasonal projects aimed at assisting landlords and tenants to improve housing conditions with respect to damp and cold.
	We will ensure all relevant park home sites have their nomination Fit and Proper Person identified through the process of registration – and that this information is available to all.
	We will proactively look at commercial to residential conversion premises to ensure that they are suitable
	We will carry out visits and welfare checks in connection with Homes for Ukraine
	We will respond to requests for service
	We will remain engaged with the Governments Levelling Up agenda to ensure that we are in a position to contribute when needed ( <b>see Section 6</b> for more detail).

	Active media campaigns on high risk areas
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	Assess the introduction of a Landlord Accreditation Scheme
	Hold Landlord Forums in partnership with the LA Housing Departments and the Royal Berkshire Fire and Rescue Service RBFRS
	Work with landlords to raise standards; Landlord Forums
	Where there is funding we will commission a LA House Condition Survey and use the information to target our work
	Liaise with RBFRS to understand high risk areas and target work in these areas

ENFORCEMENT	Develop staff to undertake complex housing and licensing investigations and knowledge about property tribunals
	We have dedicated case management support for housing and site licence investigations
	Training in housing topics and legislation so we can determine breaches and ensure competency in line with relevant legislation and associate regulations
	Training of officers in private sector housing investigation, evidence gathering, decision making and production of case file and Court proceedings to optimise success rates
	Ensuring competency of Authorised Officers using a competency assessment toolkit to ensure that the action taken by Authorised Officers is correct and does not cause unlawful economic implications to the businesses or put the public at risk
	Clear inspection program of targeted residential properties, including mobile home and caravan sites, and ensure non-compliance is actioned

At PPP we are aware of the importance of EH Housing, and this has been echoed by the respective Councils who view this as a priority area. Therefore, funding has been made available to enable 2 new officers to be recruited into the team over this period. This will allow areas of asessed value to be carried out, specifically;

Unlicensed caravan sites	Project – Identify unlicensed as part of the House Condition Survey and active Borough Surveillance and monitoring of reactive work
Unlicensed HMO	Project – Identify unlicensed as part of the House Condition Survey and active Borough Surveillance and to let adds, and monitoring of reactive work. Education regarding definition of HMO – landlords and tenants
Conversions of Commercial to Residential premises	Project – to Identify conversion premises commercial to residential and ensure that these meet housing standards – in conjunction with RBFRS and Building Control
Landlord Forums	Run on line forum for landlords and tenants
Landlord Accreditation Schemes	To increase confidence in landlords
Seasonal Projects	Produce newsletter and use of social media to highlight seasonal issues and practical solutions
House Condition Survey	Commission house condition survey, where funding provided, to determine overall state of housing

#### SECTION 4 STRUCTURE AND PARTNERS

<i>Service Structure</i>				
Compliance and Programme EH Housing Team Staffing (May 2022)				
Category of staff	Acceptable Housing Related Qualification such as the HHSRS	Number of Officers in post 2022	Number of Officers in May	Full Time Equivalent for carrying out Housing work May 2022
Strategic Manager	BSc in Environmental Health MSc in Environmental Health Diploma in Environmental Health	0.81		0.1 Strategic Management
Principal Environmental Health Officer	BSc in Environmental Health MSc in Environmental Health Diploma in Environmental Health	1		1 operational management
Senior/Environmental	BSc in Environmental Health	1		1

Health Officers	MSc in Environmental Health Diploma in Environmental Health		
Senior / Environmental Control Officers	HHSRS certificate BTec – housing or equivalent	2	2
Total		4.81 FTE	4.1 FTE

**Staff Development Plan**

- All staff are subject to a formal appraisal each year with interim monthly review meetings.
- Part of this appraisal process is the development of a training needs analysis for staff.
- Housing Officers must complete a competency matrix
- A matrix of the training needs of the team is compiled.
- 20 Hrs of ‘Continuing Professional Development’ (CPD) training is provided for all staff operating under the CIEH Membership; 30 hours for Corporate Members.
- Each officer is responsible for keeping a record of training undertaken and maintaining their own CPD records.
- A system of quality monitoring of work has been instigated as we are committed to continuous improvement

At PPP we are aware of the importance of EH Housing, and this has been echoed by the respective Councils who view this as a priority area. Therefore, funding has been made available to enable 2 new officers to be recruited into the team over this period.

Funding has enabled PPP to bring in contractors to carry out some of the Ukraine work, the devolvement, management and monitoring of this work has resource implications for the managers in the team.

**Key Service Partners and Partnerships**

- LA Housing Departments and Building Control; Bracknell Forest and West Berkshire.
- Royal Berkshire Fire and Rescue Service
- HM Immigration Service

## SECTION 5 SECURING COMPLIANCE

### **Securing Action by Relevant Duty Holders**

All of our inspection activity and enforcement action is carried out in accordance with our Enforcement Policy; and associated procedural guidelines.

The purpose of the intervention programmes we carry out is to improve housing outcomes by;

- Securing actions by relevant duty holders
- Targeting those that influence risk reduction
- Dealing with serious risk and least controlled hazards
- Enforcing on those that seek economic advantage from non-compliance

We are committed to ensuring compliance and will make this a focus over the coming years, to tackle non-compliance.

### **Relevant legislation and Guidance**

The list of legislation and guidance to standards in Environmental Health housing is attached as **Appendix 1**.

### **Regulators' Code 2014 Better Regulation Delivery Office**

This applies to all the work mentioned in the plan – details can be found at <https://www.gov.uk/government/publications/regulators-code>

### **Statement on Enforcement Options – Housing Act 2004**

The list of enforcement options are contained in **Appendix 2**

### **Civil Penalties**

The Housing and Planning Act 2016 introduced Civil Penalties; this enables the PPP to serve a Penalty Charge Notice or Monetary Penalty Notice.

PPP will consider the issue of civil penalties as an alternative to prosecution for relevant offences under the Housing Act 2004 in each case.

The Government's Department for Communities and Local Government (DCLG) published the following document: "Civil Penalties under the Housing and Planning Act 2016: Guidance for Local Authorities". This is statutory guidance to which local housing authorities must have regard. This statutory guidance recommends the factors a local authority should take into account when deciding on the level of civil financial penalty and recommends that local authorities develop and document their own policy on determining the appropriate level of financial penalty in a particular case.

Details can be found at **appendix 3**

### **Rent Repayment Orders**

Rent Repayment Orders (RRO) can be made by the First Tier Tribunal where they are satisfied beyond reasonable doubt that a landlord has committed certain offences (whether a landlord has been convicted of that offence or not).

Details can be found at **Appendix 4**

### **Rogue Landlord Data Base**

The majority of landlords in the private rented sector provide decent and well managed accommodation, but there are a small number of rogue landlords and property agents who knowingly flout their legal obligations and rent out accommodation which is substandard, frequently to vulnerable tenants.

Details can be found at **Appendix 5**

### **Banning Orders**

A “banning order” means an order, made by the First-tier Tribunal, banning a person from:

- letting housing in England,
- engaging in English letting agency work,
- engaging in English property management work, or
- doing two or more of those things

See also section 18 of the Act which enables a banning order to include a ban on involvement in certain bodies corporate – details can be found at **Appendix 6**

### **Empty Homes**

Where necessary we will investigate and take action to deal with the symptoms that arise when a property is left empty – details can be found at **Appendix 7**

### **Minimum Energy Efficiency Standards**

There is a requirement for any property rented out in the private rented sector to have a minimum energy rating of E on an Energy Performance Certificate (EPC). The Regulations cover new lets and renewals – details can be found at **Appendix 8**

### **Fit and Proper Person Register**

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 prohibit the use of land as a residential mobile home site unless the local authority is satisfied that the owner or manager of the site is a fit and proper person to manage the site. The purpose of the fit and proper person test is to improve the standards of park (mobile) home site management.

Details can be found at **Appendix 9**

## SECTION 6 Horizon Scanning

### Levelling Up White Paper

“Levelling up is a moral, social and economic programme for the whole of government.

The Levelling Up White Paper is a flagship document that sets out how government will spread opportunity more equally across the UK. It comprises a bold programme of systems change, including 12 UK-wide missions to anchor the agenda to 2030, alongside specific policy interventions that build on the 2021 Spending Review to deliver change now”.

#### 'Renters Reform Bill'

- will provide biggest change to renters law in a generation – improving conditions and rights for millions in private and socially rented sector
- Legislation will drive up quality for private renters, extending the Decent Homes Standard to the sector for the first time and giving all renters the legal right to a safe and warm home. There are 4.4 million households in the private rented sector and the Decent Homes Standard will place a legal obligation on the small number of landlords renting out homes that are of such low quality they are endangering the health of their tenants to quickly improve them
- It will ban Section 21 'no fault' evictions, protecting tenants from unscrupulous landlords, while strengthening landlords' legitimate grounds for taking back their property
- new legislation for social renters, with regular rigorous inspections and stronger powers to tackle failings by social housing landlords

It is the role of the Environmental Health Private Sector Housing Team to help protect those renting in the private sector.

## APPENDIX 1

### Relevant legislation and Guidance

The following is a list of legislation and guidance to standards in Environmental Health housing:

- Housing Act 2004 and associated orders and regulations
- The Management of Houses in Multiple Occupation (England) Regulations 2006
- Housing Act 1985 (as amended)
- Housing Act 1996 and Housing (HMO) Order 1997
- Housing (Fitness Enforcement Procedures) Order 1996
- Private Sector Renewal – DoE Guidance
- Local Government Miscellaneous Provisions Act 1936
- Public Health Act 1961

- The Housing (Maximum Charge for Enforcement Actions) Order 1996
- Housing Health and Safety Rating System (HHSRS) Operating Guidance
- Local Authority Coordination of Regulatory Services (LACORS)
- Environmental Protection Act 1990
- Public Health Act 1936 (as amended)
- Building Act 1984
- Caravan Site and Control of Development Act 1960
- Prevention of Damage by Pests Act 1949
- Mobile Homes Act 2013
- The Mobile Homes (Site Licensing) (England) Regulations 2014
- The Mobile Homes (Requirement for Manager of site to be fit and proper person) (England) Regulations 2020 (as amended)
- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- CIEH Fire Safety for Houses in Multiple Occupation – LACORS Housing – Fire Safety Guidance Temporary Exemption Notices (TENS) Smoke and Carbon Monoxide Alarms (England) Regulations 2015 Carbon Monoxide
- Rogue Landlords Data Base
- The Minimum Energy Efficiency Standard (MEES)
- Housing and Planning Act 2016 – Civil Penalties
- Rent Repayment Orders
- The Local Government (Miscellaneous Provisions) Act 1982

## **APPENDIX 2 ENFORCEMENT OPTIONS**

### **Housing Health and Safety Rating System (HHSRS) Category 1 Hazards**

The Housing Act 2004 puts authorities under a duty to take appropriate action in relation to a Category 1 hazard found under the Housing Health and Safety Rating System (HHSRS). A 'Category 1' hazard arises when a hazard reaches a score of 1000, or more, under the HHSRS. In such cases the Authority *must* take the most appropriate of the following courses of action:

- to serve an Improvement Notice in accordance with section 11
- to make a Prohibition Order in accordance with section 20
- to serve a Hazard Awareness Notice in accordance with section 28
- to make a Demolition Order in accordance with s265 of the Housing Act 1985 (as amended)
- to declare a clearance area in accordance with s289 of the 1985 Act (as amended)
- to serve an Emergency Remedial Action notice in accordance with section 40
- to make an Emergency Prohibition Order in accordance with section 43.

Only one of these courses of action can be taken at any one time (except for emergency measures). It is for the local authority to decide which course of action is the most appropriate in all the circumstances. The explanation for this decision will be provided with each notice served in the format of a "Statement of Reasons". The views of the manager and occupier of the property will if

possible, be considered in the decision making process.

### **Housing Health and Safety Rating System Category 2 Hazards**

The Council has similar powers to deal with Category 2 hazards as those listed above, however they cannot use the emergency measures, make a Demolition Order or declare a clearance area unless permitted by circumstances prescribed in Regulations. In deciding whether to take action to address Category 2 hazards (where action is discretionary) the following factors will be considered:

- Where the owner is being asked to deal with 'Category 1' hazards the 'Category 2' hazards should be dealt with at the same time where they materially affect the comfort of the occupying tenant or they cause the property to be in serious disrepair
- Multiple hazards may be found which on their own are not too serious but in combination present a more serious situation than one single 'Category 1' hazard
- If the hazard relates to fire safety the Fire Authority should be consulted and the appropriate action taken based on their recommendations
- If the hazard or combination of hazards materially affects the comfort of the occupying tenant or cause property to be in serious disrepair appropriate enforcement action should be taken.

A 'Category 2' hazard arises when a hazard reaches a "significant" score of up to 999 under the HHSRS; the Authority *may* take enforcement action in these circumstances.

Where there are concerns about a vulnerable person the appropriate agencies should be consulted to help make a decision regarding the appropriate enforcement action.

The Fire Authority must be consulted where a fire hazard exists in an HMO or in any common parts of a building containing one or more flats. As such officers will have regards to:

- National Guidance on Fire Safety Standards in Existing Residential Accommodation
- The Regulatory Reform (Fire Safety) Order 2005 (PRO) and
- The Protocol between Housing Authorities and Fire Authorities to improve fire safety
- The current Building Regulations, supporting Approved Documents and relevant standards and Codes of Practice to determine the Ideal.

### **Formal Enforcement Tools**

#### 1) Hazard Awareness Notices

Hazard Awareness Notices can be used in the following circumstances:

- In relation to Category 1 and 2 Hazards under section 28 and 29 Housing Act 2004
- Where the hazard is remote or minor
- Where the property is in owner occupation (unless there are concerns about the owner's ability to look after them. In such cases the appropriate agencies should be consulted prior to making a decision regarding enforcement action)
- Where the circumstances of the occupier weighed up against the risk presented result in a decision that the occupier cannot tolerate the works
- If the property is vacant.



## **2) Improvement Notices**

An improvement notice under section 11 or 12 of the Act is a possible response to a category 1 or a category 2 hazard. Under section 11, action must as a minimum remove the category 1 hazard. The Council should ensure that any works required to mitigate a hazard are carried out to a standard that prevents building elements deteriorating.

An improvement notice may relate to more than one category 1 hazard. Where there are multiple hazards including category 2 hazards, the same notice can require action to deal with both categories 1 and 2 hazards.

## **3) Prohibition Orders**

A prohibition order is a possible response to a category 1 or category 2 hazard. The order may prohibit the use of part or all of the premises for some or all purposes, or occupation by particular numbers or descriptions of people.

The Council can approve a use of a premise, and that approval should not be unreasonable withheld. Any such refusal must be notified to the applicant within 7 days of the date of the decision to refuse.

An order becomes operative 28 days after it is made, unless the order is repealed. Copies of the order will be served on everyone who, to the Council's knowledge, is an owner, occupier, is authorised to permit occupation, or a mortgage lender in relation to the whole or part of the premises. Copies will be served within 7 days of the making of the order. The requirement in respect of the occupiers may be met by fixing a copy of the order to a conspicuous part of the premises.

A prohibition in relation to a category 1 hazard must be revoked if the Council is satisfied that the hazard in respect of a category 1 hazard no longer exists. An order can also be revoked if the Council are satisfied that special circumstances exist making it appropriate to do so. An order in relation to a category 2 hazard may also be revoked or varied where appropriate.

An appeal can be made to the Residential Property Tribunal (RPT) against an order by an owner, occupier, a person authorised to permit occupation or a mortgage lender in relation to the whole or part of the premises, on the grounds that:

- an order is not the most appropriate option, or on general grounds
- against an decision on the revocation or variation of an order
- The Council's refusal to permit the use of the premises for any purpose while the prohibition order is in operation within 28 days of the date the decision was made.

### **Follow Up Enforcement Action**

- A revisit will be made to a premise as soon as practicable after expiry of a Notice
- Where appropriate, the officer will inform all interested bodies and copies of notices will be sent to all parties as required under legislation

### **Works in Default**

Where a notice, order or licence has not been complied with this Council will consider where the legislation makes provision, carrying out works to secure compliance with the notice. Except in urgent cases the owner/person responsible must be served with:

- I. The relevant notice of intention; and
- II. Information which clearly states the effect of the proposed action and its subsequent costs including administration charges and details of how such sums may be recovered or made a charge on the property. Immediate action: this includes the power to take emergency action by entry to premises, if necessary, and make safe areas or articles which are causes of imminent danger of serious harm under section 40 and 43 of the Housing Act 2004. See Appendix 2

### **Charging for Enforcement Action**

Section 49 of the Housing Act 2004 gives the Council's the power to make a reasonable charge as a means of recovering certain expenses incurred in:

- serving an improvement notice;
- making a prohibition order;
- serving a hazard awareness notice;
- taking emergency remedial action;
- making an emergency prohibition order;
- making a demolition order

The expenses are in connection with inspection of the premises, subsequent consideration of action and the service of notices. A charge will be made for all eligible enforcement action where works are not commenced by the specified date, unless there are extenuating circumstances. This charge will reflect the costs incurred by the authority.

### **Additional Actions for Dealing with Houses of Multiple Occupancy HMOs**

In addition to all of the above the following action may be taken in order to deal with HMO premises.

#### 1) Interim and Final Management Orders

Legislation applicable

Housing Act 2004, Part 4 Chapter 1 (sections 101 & (131),

- Schedule 6 (procedure and appeals), and
- Section 232 (Registers of Management Orders).

Where a Licence for an HMO is refused, the authority *must* consider whether there is any prospect of it being licensed in the near future or whether 'health and safety' is at risk. The Council is under a duty to make an Interim Management Order (IMO) where either of these applies.

### **Interim Management Order**

Interim Management Orders (IMO) transfer management of the HMO to the Council and empower it to do whatever is required to protect the health and safety and welfare of tenants, people in the vicinity and sort out the management of the house.

IMOs allow authorities to:

- Transfer management of the HMO to the Council and empower it to:
- Do whatever is required to protect the health and safety of tenants and people in the vicinity
- Sort out the management of the house
- IMOs run for 12 months, and
- apply to the whole house (but the Council can exclude a part occupied by a landlord where necessary), and
- Are made by the Council (in the case of Part 2 Licensable HMOs) and by Residential Property Tribunals (RPT) on application from the Council (all other cases).

***Factors to be taken into consideration when deciding whether to make an IMO***

HMO Condition

- How bad the conditions are
- Whether other effective remedies exist i.e. prosecution or enforcement

History

- Including complaints from tenants, from people living in the area, past involvement by the LA, Landlord and Tenant Law, EH Issues and past involvement by other agencies such as Social Services, Police etc.

Landlord track record

- Including performance on other properties, quality of supervision and management, responsiveness to notices/requests to act, treatment of tenants, scope for alternative management arrangements and their consequences.

***The health and safety condition is that:***

- The 'Health, Safety or Welfare of:
  - occupiers of the HMO; or
  - persons occupying/having an estate or interest in premises in the vicinity is at risk
- The Condition: cannot be applied to Licensable HMOs (whether Licensed or not) where:
  - the defect(s) are Cat 1 H&S hazards; AND
  - USING Part 1 enforcement powers would 'adequately protect health and safety'
- A threat to evict occupants in order to avoid Part 2 Licensing which can constitute a threat to welfare.

At the earliest possible stage the Council must also look at the time when the IMO will expire (12 months) and decide if the dwelling is handed back to the landlord or whether a Final Management Order (FMO) will have to be made.

Final Management Order

An FMO is made when:

- The Council considers it unable to grant a Licence (Part 2 Licensed HMO)
- The Council is satisfied an FMO is needed to protect the Health and Safety of occupiers of people in vicinity (non-Licensed HMO).

- It: Supersedes as IMO
- Runs for 5 years
- In practical terms, extends an IMO and increases the Council's power's and responsibilities towards the HMO
- Can itself be superseded by an FMO.

The decision to make Orders will only be taken when the Council has a legal obligation to do so having regards to sections 113 and 114 and schedule 6 of the Housing Act 2004.

### **Prosecutions / Simple Caution**

The decision to prosecute will be taken in line with the PPP Enforcement Policy.

Simple cautions will be considered for first offences and where they have assisted officers in remedying the situation but ensuring adequate warning is given should further offences be committed.

### **Recovery of Costs including Proceeds of *Crime***

Officers will provide the Governance Team with all the relevant information to enable recovery of costs to be sought at Court. Any costs application made is likely to include the time officers have spent investigating a case and the legal costs involve.

As verdicts and sentences in a criminal case are given in open court and are a matter of public record the PPP will publish sentences following prosecution on a case by case basis.

### **Work in Default**

In addition where the PPP has legally required someone to do works but they have failed to do so, powers are available to carry out works in default. The powers are provided in the legislation being used in relation to a specific case.

In most cases a person will be given notice of the PPPs intention to carry out works in default. It will be an offence if that persons tries to obstruct the PPP or any contractors working on behalf of the PPP once works have started.

The complete costs will be recovered in accordance with the relevant statutory provisions. **It should also be noted that carrying out works in default does not prevent prosecution which may also be appropriate.**

## **APPENDIX 3 CIVIL PENALTIES**

The Housing and Planning Act 2016 introduced civil penalties as a power to be used against landlords who are in breach of one or more of the sections of 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 in contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234)

The maximum penalty is £30,000, the amount of penalty is to be determined by the local housing authority in each case.

In PPP this will be based on the level of culpability, the level of harm (potential or actual), it will take account of aggravating factors and mitigating factors.

The Housing and Planning Act 2016 contains several provisions relating to licensing privately rented homes and housing enforcement related to this type of tenure. They include such measures as:

- The ability for housing authorities to impose a civil penalty in lieu of prosecution, as a means of dealing with rogue landlords.
- A civil penalty can only be imposed as an alternative to prosecution, as the legislation does not permit a Local Authority to impose a civil penalty and prosecute for the same offence. Similarly if a civil penalty has been imposed, a person cannot then be convicted of an offence for the same conduct.
- The decision on when to prosecute and when to issue a civil penalty shall be decided on a case by case basis, in accordance with PPPs Enforcement Policy, and in accordance with this PPP Private Sector Housing Policy.
- Where a civil penalty is imposed, an appeal can be lodged at the First Tier Property Tribunal (FTPT). The Housing and Planning Act 2016 contains several provisions relating to licensing of privately rented homes and housing enforcement related to this type of tenure.
- A Local Authority will then need to demonstrate 'beyond reasonable doubt' that an offence has been committed.
- Enforcement officers shall serve the required statutory notices (at least 2 to be served), deal with defendant representations and work jointly with PPP's Legal Services to defend any appeals at the FTPT.

Environmental Health Housing Team is responsible for enforcing the following requirements which can be subject to a civil penalty:

- Failure to comply with a notice requiring the provision of smoke or carbon monoxide detector (£5000 maximum)
- Failure to have a valid Energy Performance Certificate (EPC) for a rented property (£200 maximum).
- Failure to comply with the Energy Efficiency Requirements for rented properties (£5000 maximum).
- Failure to display details of the Governments approved redress scheme that businesses are

a member of (£5000 maximum).

- Failure to display fees that apply to landlords' agents and tenants (£5000 maximum).
- Failure to be a member of a Government approved residential lettings or management redress scheme when required to do so. (£5000 penalty is considered the norm).

Each case will be considered on its own merits and the relevant statutory appeal rights are to be provided with any notice served.

#### **Appendix 4 Rent Repayment Orders**

Under the Housing and Planning Act 2016 a Rent Repayment Order occurs when a tribunal order a landlord or agent to repay rent to tenant(s) because they have broken the law. This is usually between 6 months and 1 year of rent

The same Act also introduces the option of applying for a Rent Repayment Order (RRO) in respect of the following offences:

- Failure to comply with an Improvement Notice
- Failure to comply with a Prohibition Order
- Breaching of a Banning Order
- Using violence to secure entry to a property
- Illegal eviction or harassment of the occupiers of a property
- Having control of an unlicensed house in multiple occupation
- Having control of an unlicensed property

Where rent is paid by the Council, an RRO award is retained by the Council, whilst an award to tenants paying their own rent is due to the tenant considering using RRO's as a sanction, or responding to a tenant who wishes to utilise this route should first discuss this with their the line manager as this course of action seeks to recover a monetary value that sits with the host authority (namely the housing services).

Similarly, tenants paying their own rent could apply to the (First Tier Property Tribunal) FTPT for an RRO, once an offence has been secured by the Local Authority.

PPP officers should support this course of actions by assisting the tenant accordingly.

#### **Appendix 5 Rogue Landlord Database**

The measures introduced by the Government to tackle rogue landlords include the Rogue Landlord Database

Local Authorities are responsible for entering names on the database and maintaining the contents

which includes adding details if a banning order has been imposed.

All local authorities have access to the database for the purposes of identifying landlords, agents and owners with properties in more than one borough. This national database has been set up by Housing Communities & Local Government (HCLG) using a DELTA platform for the purpose of listing rogue landlords and property agents convicted of certain offences, including immigration offences.

Officers use the register as part of their usual checks regarding 'fit and proper' tests.

## **Appendix 6 Banning Orders**

Under the Housing and Planning Act 2016 a local housing authority in England may apply for a banning order against a person who has been convicted of a banning order offence.

If a local housing authority in England applies for a banning order against a body corporate that has been convicted of a banning order offence, it must also apply for a banning order against any officer who has been convicted of the same offence in respect of the same conduct.

A Relevant Housing Offence includes:

- Illegally evicting or harassing a residential occupier in contravention of the Protection from Eviction Act 1977 or the Criminal Law Act 1977 or;
- Any of the following offences with an Improvement Notice (section 30);
- Offences in relation to Licensing of Housing in Multiple Occupation (HMOs) (section 72);
- Offences in relation to licensing of houses under Part 3 of the Act (section 95);
- Allowing a HMO that is not subject to licensing become overcrowded;
- Failure to comply with management regulations in respect of HMOs (section 234)

*A relevant offence also includes:*

- An offence under section 36 of the Gas Safety (Installation and Use) Regulations 1998;
- Failure to comply with a Prohibition or Emergency Order under sections 20, 21, and 32 of the Regulatory Reform (Fire Safety) Order 2005 provided it relates to a property that is being rented out or managed by a landlord or property agent.

NB: Banning Order offences also apply to Immigration Offences, Serious Criminal offences, and Other Criminal offences.

The First-tier Tribunal may make a banning order against a person who:

- has been convicted of a banning order offence, and
- Was a residential landlord or a property agent at the time the offence was committed (but see subsection (3) of the Act).
- A banning order may only be made on an application by a local housing authority in England that has complied with section 15.

- Where an application is made under section 15(1) against an officer of a body corporate, the First-tier Tribunal may make a banning order against the officer even if the condition in subsection (1) (b) of the Act of this section is not met.

In deciding whether to make a banning order against a person, and in deciding what order to make, the Tribunal must consider:

- the seriousness of the offence of which the person has been convicted,
- any previous convictions that the person has for a banning order offence,
- whether the person is or has at any time been included in the database of rogue landlords and property agents, and
- The likely effect of the banning order on the person and anyone else who may be affected by the order.
- Duration and effect of banning order
- A banning order must specify the length of each ban imposed by the order.
- A ban must last at least 12 months.
- A banning order may contain exceptions to a ban for some or all of the period to which the ban relates and the exceptions may be subject to conditions.

### **Appendix 7 Empty Homes Policy**

Empty properties will be investigated where such properties are brought to the attention of PPP in terms of complaints relating to the state of the property affecting the community in terms of nuisance for example verminous. Where possible officers will work with owners to bring the property back into use.

Where empty properties are assessed to be a public health and safety concern officers will use The Local Government (Miscellaneous Provisions) Act 1982 Section 29 which gives powers to serve a Notice of intended works for the prevention of unauthorised entry or danger to public health. This is usually by way of boarding up to prevent unauthorised access.

### **Appendix 8 Minimum Energy Efficiency Standards**

It will be unlawful to rent a property which breaches the requirement for a minimum E rating, unless there is an applicable exemption.

A civil penalty will be imposed for breaches. All existing tenancies have needed to comply by 1st April 2020.

Officers consider the availability of wider grant-funded aid when dealing with properties not achieving the required standard and support households accordingly.



## The Domestic Private Rented Property Minimum Standard

There are several ways in which a property can be classed under these Regulations:

- A new assured tenancy or a shorthold tenancy is granted,
- Renewal or extension of an existing assured or shorthold tenancy, by agreement with the tenant, is granted,
- A statutory periodic tenancy comes into existence following the ending of a fixed term assured tenancy (shorthold or non-shorthold). At that point the law imposes a new tenancy on the parties where the tenant stays after the fixed term has run out. This is treated as a new letting for these purposes,
- A new assured tenancy by succession comes into existence when a family member takes over a Rent Act protected tenancy,
- A new tenancy is granted to a Rent Act protected tenant of the same or a different property owned by the same landlord,
- An agricultural occupancy or similar tenancy period is granted, renewed or extended but does not cover agricultural dwellings,

The requirement to have an EPC is not just looked at in respect of the property itself which is being let out. It also applies where there has been a requirement for the building, of which the property itself being let is part, to also have an EPC. This is particularly relevant to non-self-contained units such as bedsits and the position regarding these is explained further.

It should be noted that if the letting is not legally an assured tenancy (shorthold or not) or one of the other tenancy types within the scope of the Regulations then the MEES does not apply.

Where a landlord obtains an EPC, but is not legally required to have one, the landlord will not be required to meet the MEES. A voluntary MEES of this type may be registered on the official EPC database but there is no requirement to do so.

### *Flats and Bedsits*

Flats and houses are subject the Regulations. Flats within the meaning of 'self-contained' units require their own individual EPC at the point of letting or sale.

If a bedsit is within a property that does have an EPC, then the Regulations will need to be complied with before the bedsit can be rented out if its F or G (or an exemption is registered). Although normally bedsits do not need an EPC, where the house containing the bedsit has been sold the whole property needs to have an EPC. In those cases the Regulations will apply.

### Improvements which can be required

Improvement work which can be required is any energy efficiency improvement work which qualifies for Green Deal and installation of gas for an off-gas property so long as the mains are within 23 metres from the property. The landlord can choose what work needs to be carried out as long as the minimum E rating is obtained. A higher rating can also be achieved where the landlord choose to carry out additional works.

### Prohibition on Letting

A domestic private rented property is substandard if the EPC rating is F or G, unless an exemption applies. The legislation prohibits a landlord from letting out a substandard property. Where F or G properties are let the landlord is liable to penalties.

### Registration of Exceptions

All exemptions (including temporary exemptions) will be required to be notified to the PRS Exemption Register. It is a database of exemptions and is open to public inspection. Failure to register the exemption will render the exemption ineffective and will amount to non-compliance with the Regulations.

The Enforcement Authority will be entitled to require landlords to furnish them with evidence supporting a claim for an exemption. Landlords will be in breach of the Regulations if they claim an exemption to which they are not entitled.

### Enforcement

Local authorities will enforce compliance with the Regulations. Where a local authority suspects non-compliance the local authority can serve a compliance notice on the landlord requesting further information it considers necessary to confirm compliance. If provided but insufficient to provide compliance the local authority may proceed to issuing a penalty notice.

Penalties for a single offence may be cumulative, up to a maximum of £5,000. Further penalties may be awarded for non-compliance with the original penalty notice where a landlord continues to rent out a non-compliant property. Penalties are again cumulative up to a maximum of £5,000.

### Appeals

Appeals are heard at the First-Tier Tribunal (General Regulatory Chamber).

## **Appendix 9 Fit and Proper Person Assessment and Register**

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 prohibit the use of land as a residential mobile home site unless the local authority is satisfied that the owner or manager of the site is a fit and proper person to manage the site. The purpose of the fit and proper person test is to improve the standards of park (mobile) home site management.

The Regulations were made on 23 September 2020 and allowed local authorities until 1 July 2021 to prepare to receive applications from site owners. From 1 July 2021 and by 1 October 2021 all site owners must have submitted an application for a relevant person to be assessed as fit and proper persons.

The Regulations apply in relation to all relevant protected sites other than non-commercial family-occupied sites. These include both “residential parks”, which are used exclusively residentially, and “mixed use parks”, which are used for both residential and holiday purposes.

Non-statutory guidance has been published that provides local authorities help to prepare for and implement the requirements. The guidance also aims to help site owners to understand the assessment process.

The guidance refers to a “site owner” in place of the term “occupier” for ease of reference. The “applicant” must also be the occupier but where the occupier is not an individual, the application can be made on their behalf by a relevant officer. Site owner is again used in place of the applicant for ease of reference. Site owners assessed as being ‘fit and proper’ will be added to a register with or without conditions attached.