



PRIVATE SECTOR HOUSING ENFORCEMENT POLICY 2017-2018

St Albans City and District Council

Private Sector Housing Enforcement Policy 2017-2018

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1. Introduction and Scope

- 1.1. The purpose of this policy is to outline the Council's approach to securing compliance with the law in relation to Private Sector Housing. The policy deals with Houses in Multiple Occupation both licensed and unlicensed as well as other private rented housing in disrepair.
- 1.2. Throughout this document the abbreviations HMO (House in Multiple Occupation), HHSRS (Housing Health and Safety Rating System) and RP (Registered Provider, also known as Housing Association) are used.
- 1.3. The policy outlines the extent to which the Council will intervene to make use of the powers held under Part 1 of the Housing Act 2004 as a result of the introduction of the HHSRS, the Council's approach to the licensing of HMOs and empty homes. The policy sets out what owners, landlords, their agents and tenants of private sector properties can expect from St Albans District Council.
- 1.4. St Albans District Council has adopted the central and local government Concordat on Good Enforcement Practice and its principles are fully incorporated into the Private Sector Housing Enforcement Policy.
- 1.5. The Council's enforcement policies are based on 5 guiding principles: transparency, fairness, proportionality, consistency and objectivity.
- 1.6. Enforcement, in the context of this policy, is not limited to formal enforcement action such as serving notices or prosecution. It includes a range of activities such as the inspection of premises to check for compliance with legislation and the provision of advice to landlords and tenants.
- 1.7. The policy seeks to support the Council's corporate aims, objectives and strategies with respect to Private Sector Housing.

2. Shared Enforcement

- 2.1. The range of enforcement matters dealt with by the Council in this policy area is such that there may be occasions when there is a need to work with other agencies. For example the Council may carry out joint inspections with the Fire Authority or the Health and Safety Executive (HSE).

Where a fire hazard is identified, the Council may consult the Fire Authority on works required before taking enforcement action. In the case of proposed emergency measures, that consultation will be so far as it is practicable to do so.

- 2.2. In determining the most appropriate form of investigation and enforcement action Officers will have regard, so far as they are aware, to any potential or existing action of other Council services or outside agencies.
- 2.3. Where matters are identified by, or reported to our Officers that are the enforcement responsibility of another Council service or outside agencies, persons involved will, so far as is reasonably practicable, be informed that the matter will be referred to the appropriate service or agency.
- 2.4. Where enforcement action is being taken by another Council service or outside agency, we will provide all reasonable assistance including the production of witness statements and collection and sharing of evidence subject to any legal constraints and the meeting of any reasonable expenses.

3. Enforcement Standards

- 3.1. All investigations into alleged breaches of legislation will follow best professional practice and the requirements of:
 - The Human Rights Act 1998.
 - The Regulation of Investigatory Powers Act 2000.
 - The Police and Criminal Evidence Act 1988- Codes of Practice.
 - The Criminal Procedures and Investigations Act 1996.
 - The Code for Crown Prosecution.
 - Enforcement Guidance issued under Section 9 of the Housing Act 2004.

4. Identifying the Need for Action

- 4.1. The Council may identify the need to act to deal with non-compliance in a number of ways. These can include following a complaint or request for enforcement action from a member of the public, or following a request for financial assistance to improve the property. For example, where a landlord refuses a grant for insulation or heating, an inspection may be necessary to determine whether anything needs to be done to protect the occupant from excess cold or damp and mould affecting the property. Where the Council considers it appropriate to inspect premises to determine whether a hazard exists, it will do so.
- 4.2. Where a concern is highlighted as full an inspection as is reasonably possible will be carried out to establish the nature and extent of non-compliance in the dwelling. Detailed records will be kept of the inspection identifying any issues or concerns.

5. Staged Approach to Enforcement

- 5.1. The following deals with accommodation in the Private Sector that is not an HMO. The specific procedure for dealing with HMOs is dealt with in section 12 of this policy.
- 5.2. The Private Sector Housing Officer may become aware of a disrepair issue in a number of different ways. For example the report may come in from a tenant living in the property, from the Council's Housing Options team or from another department.
- 5.3. Once the Private Sector Housing Officer receives the information, the tenant will be contacted within 1 week. Depending on the nature of the complaint, the occupant will either be offered advice or an offer of a visit within 3 weeks if appropriate.
- 5.4. In cases of damp and mould the tenant will be sent a questionnaire to complete to establish the nature of the damp. Upon receipt of the completed questionnaire and assessment the occupant will be offered advice or an inspection visit if appropriate. In cases where a visit is considered appropriate, the inspection of the property will not be a formal inspection under HHSRS. The visit will be an informal inspection in which any issues are noted.
- 5.5. Following the informal inspection the owner will receive a letter clearly explaining the issues that have been noted. The owner is asked in this letter to contact the Private Sector Housing Officer within 28 days confirming what action they intend to take to resolve the issues.
- 5.6. If after 28 days the landlord has not responded they will receive a further letter. This letter gives a date for a formal inspection under the HHSRS if no contact has been made within 14 days. The inspection will be conducted will be within 3 weeks of the expiry of the 14 day notification.
- 5.7. Following the formal HHSRS inspection, the Private Sector Housing Officer will carry out a formal HHSRS assessment. The Council will then decide whether enforcement action is appropriate. This Enforcement Action may take the form of an Improvement Notice or a Prohibition Order. If it is necessary to serve a Notice this will be done within 4 weeks.
- 5.8. Whilst resolution through informal action is sought in the first instance, it may be necessary to undertake formal action against a Landlord to address failings within a property.
- 5.9. Formal Enforcement includes the use of statutory (legal) notices, formal cautions, and prosecution. Service of Notices and making of Orders will generally occur

where there are significant failures of statutory requirements, and will normally be served when informal action has failed to achieve a satisfactory resolution. Formal cautions or prosecution are likely where there is a failure to comply with a notice or order within the specified time period or a breach of the regulations, or where health, safety or wellbeing is put at risk such that prosecution is the most reasonable response in all respects.

- 5.10. Works in default are carried out where the owner has failed to comply with enforcement notices.
- 5.11. Immediate action is taken in an emergency where there is an imminent risk of serious harm.
- 5.12. Where an owner or landlord agrees to undertake the required action the Council will work with them to monitor progress and ensure that the work is completed. Enforcement action will only be considered if the Landlord fails to start or complete the work within an agreed time frame.
- 5.13. In serious cases it may be appropriate to commence formal enforcement immediately. For example where the offence involves a significant breach of the law such that the residents health, safety, environment or wellbeing has been put at risk, and there are concerns that the owner or landlord will not co-operate. This may include cases where the HHSRS assessment reveals Category 2 hazards and where the current occupants are vulnerable.
- 5.14. The Council has a duty to consider the most appropriate course of action to deal with Category 1 hazards. Where it becomes clear that informal approach is not proving effective for more serious hazards, formal action will quickly follow.
- 5.15. Where reasonably practicable, the Council will ensure that both the landlord and tenant(s) have the opportunity to discuss the Council's proposed action before enforcement action is taken.

6. Non-Compliance

- 6.1. Where notices are not complied with, the Council will normally use its powers to prosecute and/or to carry out the work in the owner's default, reclaiming the costs.
- 6.2. When deciding whether or not to prosecute, the alternatives to prosecution should be considered. A Simple Caution may be relevant depending on the circumstances of the case.

7. Cautions

- 7.1. These should only be given if justified in the public interest and regard must be had to Ministry of Justice Simple Cautions for Adult Offenders Guidance from April 2015 on administering simple cautions. To issue a simple caution there must be sufficient evidence to justify criminal proceedings and the defendant's history of previous convictions must be taken in to account. The defendant must admit the offence, signing a document to demonstrate this and they must also agree to the caution.
- 7.2. The caution is not a criminal conviction but will be held on records for 5 years and may be cited (for sentencing purposes) as if it were a previous conviction in the event of a further offence.

8. Prosecution

- 8.1. The Council will use discretion in deciding whether to bring a prosecution and generally will only commence proceedings when to do so is considered to be in the public interest. The decision to pursue prosecution will be made in accordance with the Council's Corporate Prosecution Policy. Before deciding to prosecute there must be sufficient evidence for a realistic prospect of conviction, taking account of any defence that may be available. In certain circumstances prosecution without prior warning may take place.
- 8.2. The decision to prosecute will always take into account the criteria laid down in the Code for Crown Prosecutors issued by the Crown Prosecution Service.
- 8.3. The Council will ensure that decisions to prosecute and results of any legal proceedings are notified to all known interested bodies, including tenants, property managers, freeholders, leaseholders and mortgagees.

9. Housing Act 2004

9.1. HHSRS

- The Housing Act 2004, ("the Act"), together with Regulations made under it, prescribes the HHSRS as the means by which Local Authorities assess housing conditions and decide on action to deal with poor housing. It is a risk based assessment system of the effect of housing conditions on the health of occupiers. Twenty nine (29) potential hazards are assessed and scored for their severity. The scores for each hazard are ranked in Bands. Hazards falling into Bands A to C are more serious and are classed as Category 1. Less serious hazards fall into bands D to J, and are classed a Category 2.

The Council must take appropriate action in respect of a Category 1 hazard, and may do so in relation to Category 2 hazards.

- Hazards are scored based on the risk to the potential occupant who is most vulnerable to that specific hazard. In determining what action to take, the Council will take account the hazard assessment score; whether the Council has a duty or discretion to act; the views of the occupiers; the risk to the current and likely future occupiers and regular visitors; and the presence of other significant hazards in the property.

9.2. Most Appropriate Course of Action

- The Housing Act 2004 provides a range of enforcement options to address hazards. The Council will take the most appropriate course of action in relation to the hazard in all circumstances.
- There are a number of different options available to the Council that require a person, business or organisation to comply with specific requirements relating to Category 1 and 2 hazards.
- Hazard Awareness Notices give formal notification that a hazard exists and do not require the recipient to carry out any works. Improvement Notices require remedial works.
- Prohibition Orders may prohibit use of all or part of a dwelling, or use by a description of persons. Prohibition Orders may be required on part or all of a dwelling, e.g. where there is inadequate natural lighting or there is no protected means of escape in case of fire from the top floor.
- An Improvement Notice will provide the most appropriate action for most Category 1 hazards; repair or renewal is generally cost effective because of the high value of property in St Albans.
- Improvement Notices and Prohibition Orders may be suspended until a specified time or event.
- Where an Improvement Notice is served, the Council will require works to reduce the hazard to an acceptable level.

As an alternative to the notices and orders listed above, the Act also provides for further options to deal with Category 1 hazards. Please see Appendix 1.

10. Tenure

- 10.1. In considering the most appropriate course of action, the Council will have regard to the extent of control that an occupier has over works required to the dwelling. It is usually the landlord's responsibility to carry out works.
- 10.2. With owner-occupiers, in most cases they will not be required to carry out works to their own home, and a Hazard Awareness Notice is likely to be the most appropriate action.
- 10.3. The Council may in certain circumstances require works to be carried out, or to use Emergency Remedial Action, or make an Emergency Prohibition Order, in respect of an owner-occupied dwelling. This will be where there is an imminent risk of serious harm to the occupiers or to others, or where the conditions of the dwelling is such that it may adversely affect the health and safety of others outside the household. This may be because of a serious deficiency at the property such as the requirement to carry out fire precaution works.
- 10.4. An Improvement Notice or Prohibition Order may be suspended until a time or event specified, and in some cases, of any tenure, may be more appropriate than a Hazard Awareness Notice. Typically the event will be a change of occupancy. For example, an Improvement Notice may be suspended at the wishes of an elderly occupier who does not want the disturbance of extensive works, or where the vulnerable age group is not present. The notice or order might require an owner to notify the Council of a change of occupancy to ensure that the notice can be reviewed.

11. Category 1 and 2 Hazards

- 11.1. For hazards assessed as being a Category 1 hazard it is mandatory to take enforcement action. The type of action will be determined by reference to the Enforcement Guidance https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7853/safetyratingsystem.pdf and the Council's priorities to protect health and wellbeing, particularly of the vulnerable. In particular, hazards relating to physiological requirements and protection against infection are more likely to be addressed in this way.

11.2. There are discretionary powers to deal with Category 2 hazards. These hazards will only be dealt with:

- where the hazard score exceeds the national average by more than 2 bands, or;
- where the hazard band is D or E (i.e. the higher Category 2 bands), or;
- where a number of hazards at Band D or below appear, when looked at together, to create a more serious situation, and;
- due regard to the Council's priorities to protect health and wellbeing, particularly of the vulnerable. In particular, hazards relating to physiological requirements and protection against infection are more likely to be addressed in this way.

11.3. Each case will be considered on its merits. Where appropriate, action outside these guidelines may be authorised by the Principal Strategic Housing and Development Officer or Strategic Housing Manager.

12. Houses in Multiple Occupation (HMO)

12.1. An HMO is a building or part of a building occupied by three or more people who do not form a single household as their only or main residence, and there is some sharing or lack of basic amenities. This includes houses containing bedsits, hotels, and shared houses.

12.2. The definition of an HMO is contained in the Section 254 of the Housing Act 2004. HMOs of 3 or more stories containing five or more occupants require licensing. HMOs that do not fall within this definition do not require licensing and are referred to as unlicensed HMOs.

12.3. The Council requires all HMO landlords to supply copies of gas, electricity and fire safety certificates. Gas and fire safety certificates are requested annually and electricity certificates every 5 years. In cases where a landlord fails to supply a gas safety certificate the Council will report this to the HSE. In cases where a landlord fails to supply an electrical or fire certificate the Council will take enforcement action under HMO Management Regulations.

12.4. All HMOs are inspected on a routine basis. The frequency of inspections is determined by compliance with the Management Regulations, repair, and adequate fire precautions and amenities.

12.5. The first inspection of an HMO will be carried out within 1 calendar month of the Private Sector Housing Officer becoming aware that a property is potentially an HMO.

- 12.6. After the first inspection a risk assessment is completed. This will generate an interval for the next routine inspection. This will be at an interval of between 3 months and 24 months depending on the calculation of risk.
- 12.7. The Private Sector Housing Officer will also carry out additional inspections in cases where a landlord has been asked to rectify a particular safety issue. In this instance the Private Sector Housing Officer will write to the landlord giving a date within the next 3 months when a further inspection will be carried out to establish whether the issue has been resolved. In cases of a risk of imminent harm to occupants the Council will use emergency procedures to carry out work to reduce and remove the imminent risk.
- 12.8. The HMO Management Regulations will apply to all HMOs. These require HMOs to be kept in a reasonable state of repair, all installations and appliances (including those for fire safety) to be in good working order and the common parts to be kept clean and in a reasonable state of decoration.
- 12.9. The Council has adopted its own standards relating to facilities such as bathrooms and cooking facilities. An agreement has been drawn up between the Hertfordshire Fire and Rescue Service and the Hertfordshire local authorities for joint working to secure fire safety in HMOs. A guide has been produced, to help landlords meet the standards of fire precautions normally required in various types of HMO, without the need for intervention by the local authority. This guide is available on our website at www.stalbans.gov.uk.
- 12.10. The Council will however carry out an HHSRS assessment when determining actual legal requirements for each specific dwelling. Therefore the requirements may vary from the guide depending on the circumstances.

13. HMO Licensing

- 13.1. The Private Sector Housing Officer will visit before licensing an HMO, to assess compliance with the licensing requirements and the number of people the HMO should be licensed for.
- 13.2. The Council will require the licence application to be accompanied by a fee as determined by the Council. The fee will take into account all costs incurred by the Council in carrying out their HMO licensing functions. The current fees are detailed on the Council's website www.stalbans.gov.uk.
- 13.3. Licenses will be granted where the house is reasonably suitable for occupation as an HMO, or it can be made so suitable by the imposition of conditions, the management arrangements are satisfactory, and the licensee and manager are fit and proper persons. The applicant must be the most appropriate person to hold the licence.

- 13.4. The Council is required to assess whether the applicant and any manager and any person associated with them or formerly associated with them are fit and proper people to own or manage an HMO.
- 13.5. Licenses will normally be valid for 5 years and will specify the maximum number of occupiers or households. The occupancy number will depend on the number and size of rooms and the number and location of kitchen, toilet and bathroom facilities.
- 13.6. The Council will aim to issue draft licenses within 12 weeks of receipt of a complete application and licence fee. An application will be deemed to be complete once all the required information and documentation is in the possession of the Council.
- 13.7. A draft licence must be served on all interested parties, allowing at least 14 days for representations before granting the licence.
- 13.8. The Council may serve a Temporary Exemption Notice (TEN) where a landlord is, or shortly will be, taking steps to make an HMO non-licensable. A TEN can only be granted for a maximum period of three months. A second 3 month TEN can be served in exceptional circumstances. Where a licensable HMO is not licensed, and no application for a license has been made, the landlord cannot serve notice to quit on the tenant until the HMO is licensed.
- 13.9. Where a landlord fails to license a licensable HMO, or knowingly permits another person to occupy a licensed HMO and this results in the house being occupied by more households or persons than is authorised by the licence, or fails to comply with a licence condition, the Council can take a prosecution case to the Residential Property Tribunal (RPT). On conviction for failure to licence, the RPT has the power to make a Rent Repayment Order requiring that up to 12 months' rent is repaid to the tenant or to the Council where a tenant is in receipt of Housing Benefit or Universal Credit.
- 13.10. The licensee has a right of appeal to the RPT against refusal to license, licensing conditions and the maximum number of occupiers or households specified on the licence.
- 13.11. Where there is no prospect of an HMO being licensed, the Act requires that the Council uses its Interim Management Powers. These enable the Council to take over the management of an HMO and become responsible for running the property and collecting rent for up to 1 year. This may be followed by a Final Management Order for a further 5 years.
- 13.12. The Council has the power to vary the licence if it finds that there has been a change of circumstances in an HMO since it was licensed. If there is a serious

breach or there are repeated breaches of the licence conditions, or the licensee or manager are no longer fit and proper persons, the licence can be revoked. The licence can also be revoked if the property is no longer a licensable HMO or if the condition of the property means it would not be licensable were an application made at that point in time.

- 13.13. It is the landlord's responsibility to ensure that they keep a record of when a licence for their property expires and make an application for a new licence in good time or advise that the property is no longer to be used as an HMO.
- 13.14. When a licence is due to expire the landlord will be contacted 6 months prior to expiry of the licence reminding them that the notice is due to expire. It is the responsibility of the landlord to ensure that an application is made for a new licence to allow for this to be in place before the expiry of the existing licence.

14. Empty Homes

- 14.1. SADC recognises that empty homes represent not only a wasted resource but also, at times, a nuisance. It is recognised that a property may be empty for a short period of time for reasons such as probate or development. The Council is committed to bringing homes back into use which have remained empty or are causing a nuisance to neighbours.
- 14.2. There are cases where the owner is unwilling or unable to cooperate with the aim of bringing the property back in to use. In these cases action to address this should consider the individual circumstances of the owner.
- 14.3. Failure to engage with the Council may result in enforcement action being considered. This is detailed in Appendix 3. Enforcement action will be based on whether the property is having a negative impact on houses in the area, the reason for the property being vacant and how long the property has been empty.
- 14.4. In certain circumstances empty properties may be referred to an external organisation to work with the owner. These cases will be monitored and agreed by the Council.
- 14.5. There are many benefits to the Council of bringing an empty property back into use. Some examples of these are:
- It can remove blight in an area where a property is causing a nuisance. Empty properties can attract vermin and squatters and can cause damage to adjoining properties.
 - There are a number of individuals in the district who are in desperate need of housing. When properties are brought back into use this provides more housing for those who are currently without adequate housing.

14.6. There are also many benefits to owners of bringing their empty home back into use. Some examples of these are:

- Empty properties generate no income and can even require a higher rate of Council Tax to be paid. Owners will receive an income from either selling the property or letting it.
- Empty properties can create issues for owners including vermin, damp, and squatters. Bringing these properties back into use can prevent issues like these for owners.
- Owners that voluntarily bring their properties back into use within a reasonable time frame will not be subject to any enforcement measures that the Council has available.

14.7. The Law of Property Act 1925 gives Local Authorities the power to sell properties in order to recover a debt secured against that property. This power can be used where a debt has been incurred for example following works undertaken to an empty home in the owners default.

14.8. The Housing Act 1985, Section 17, allows the Local Authority to acquire underused or ineffectively used property for residential purposes if there is a general housing need in the area. The Town and Country Planning Act 1990 allows Local Authorities to acquire land or buildings if acquisition will allow improvements or redevelopment to take place.

Appendix 1

Emergency Measures, Demolition and Clearance

As an alternative to the Notices and Orders listed above, the Act also provides for the following options to deal with Category 1 hazards:

Emergency Measures	When this action may be taken
<p>Emergency Remedial Action Section 40</p>	<p>When the Council is satisfied that a Category 1 hazard exists in any residential premises and is further satisfied that the hazard involves an imminent risk of serious harm to the health and safety of any occupiers of those or any other residential premises and no management order is in force under Chapter 1 or 2 of Part 4 of the Act.</p> <p>May be taken by the authority in respect of one or more Category 1 hazards on the same premises or in the same building containing one or more flats.</p> <p>The action will be whatever remedial action the Council considers necessary to remove an imminent risk of serious harm.</p> <p>This is likely where the Council considers it is immediately necessary to remove the imminent risk of serious harm, there is no confidence in the integrity of any offer made by the owner to immediately address the hazard, and the imminent risk of serious harm can be adequately addressed through remedial action to negate the need to use an emergency prohibition order.</p> <p>If this action is taken a notice will be served within 7 days of taking the emergency remedial action, detailing the premises, the hazard, the deficiency, the nature of the remedial action, the date action taken, and rights of appeal.</p>
<p>Emergency Prohibition Orders Section 43</p>	<p>When the Council is satisfied that a Category 1 hazard exists on any residential premises and is further satisfied that the hazard involves an imminent risk of serious harm to the health and safety of any occupiers of those or any other residential premises and no management order is in force under Chapter 1 or 2 of Part 4 of the Act.</p> <p>May be taken by the authority in respect of one or more Category 1 hazards on the same premises or in the same building containing one or more flats.</p> <p>The order specifies prohibitions(s) on the use of part or all of the premises with immediate effect.</p>

	<p>This is likely where the imminent risk of serious harm cannot be adequately addressed through the use of emergency remedial action for whatever reason.</p> <p>Where this action is taken the Council will, if necessary, take all reasonable steps to help the occupants find other accommodation when the tenants are not able to make their own arrangements.</p>
Other Measures	When this action may be taken
Demolition Orders Section 46 of the Housing Act 2004, and Part 9 of the Housing Act 1985	<p>When the Council is satisfied that a Category 1 hazard exists in a dwelling or HMO which is not a flat, and a management order is not in force, or in the case of a building containing one or more flats where the Council is satisfied that a Category 1 hazard exists in one or more of the flats contained in the building or in any common parts of the building.</p> <p>When the Council is satisfied that a Category 2 hazard exists in a dwelling or HMO which is not a flat and a management order is not in force. In the case of a building containing one or more flats the Council is satisfied that a Category 2 hazard exists in one or more of the flats contained in the building or in any common parts of the building, and the circumstances of the case are circumstances specified or described in an order made by the Secretary of State. At the time of writing this policy, no such order has been made.</p> <p>This course of action will only be taken where a Neighbourhood Renewal Assessment has been carried out and this determines that this is the most appropriate action. They are not appropriate for listed buildings, and the Council would take into account the availability of suitable accommodation for rehousing the occupants, the demand for and sustainability of the accommodation if the hazard was remedied, prospective use of the cleared site, and the impact on the neighbourhood.</p>
Clearance Areas Section 47 of the Housing Act 2004, and Part 9 of the Housing Act 1985	<p>May be declared when the Council is satisfied that each of the residential buildings in the area contains a Category 1 hazard and that the other buildings (if any) in the area are dangerous or harmful to the health and safety of the inhabitants of the area.</p> <p>May be declared when the Council is satisfied that the residential buildings in an area are dangerous or harmful to the health and safety of the inhabitants of the area as a result of their bad arrangement or the narrowness, or bad arrangement of the street and that the other buildings (if any) in the area are more dangerous or harmful to the health or safety of the inhabitants of the area.</p> <p>May be declared when the Council is satisfied that each of the residential buildings in the area contains a Category 2 hazard and that the other buildings (if any) in the area are dangerous or harmful to the health and safety of the inhabitants of the area and the circumstances of the case are circumstances specified or described in an order made by the Secretary of State.</p>

	This course of action will only be taken where a Neighbourhood Renewal Assessment has been carried out and this determines that this is the most appropriate action, having regard to a range of considerations including the degree of concentration of dwellings containing serious and intractable hazards in the area, the proportion of sound premises which will also need to be cleared, and the presence of listed buildings.
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In some cases where a statutory nuisance is found to exist it may be more appropriate to serve a Notice under Section 80 of the Environmental Protection Act 1990. This Notice allows the use of shorter time frames than Improvement Notices.

Appendix 2

Summary of Legislative Powers in Relation to HMO's

Offences in relation to the Licensing of HMO's Section 72	Action may be taken for the offence of operating an HMO without a licence or for failing to satisfy the conditions of the licence without reasonable excuse. This may take the form of revocation of a licence and/or prosecution.
Offences in relation to the Selective Licensing of HMO's Section 95	Action may be taken for the offence of operating an HMO without a selective licence where required or for failing to satisfy the conditions of the licence without reasonable excuse. This may take the form of revocation of a licence and/or prosecution. However, the Council has not currently identified a need for the introduction of Selective Licensing.
Rent Repayment Order Sections 73 & 96	Where an HMO is operating without a licence or a selective licence where one is required, and notice has not been received to notify the local authority that particular steps are being taken to no longer require the house to be licensed, the Council may make an application to the Residential Property Tribunal for a rent payment order with respect to the repayment of housing benefit.
Interim Management Order (IMO) Section 102	<p>Where an HMO requiring a licence is operating without a licence, or the licence has been revoked but the revocation is not yet in force or, on coming into force the revocation will mean that the health and safety condition will be satisfied, the local authority has a duty to make an IMO.</p> <p>Where the health and safety condition is satisfied within a property that is not required to be licensed, on application to the Residential Property Tribunal, the Council may make an IMO. The health and safety condition is met where it is necessary to make an IMO to protect the health, safety or welfare of residents or others.</p>
Special Interim Management Order Section 103	Where a house, occupied under a single tenancy or licence, is in an area experiencing a significant and persistent problem of anti-social behaviour and the landlords, who have let the premises, are failing to take action to combat the problem and the health, safety and welfare of the occupiers or visitors is at risk, the local authority may apply to the Residential Property Tribunal for a special interim management order.
Final Management Order (FMO) Section 113	Must be made to replace an interim management order on the date the house would be required to be licensed but the Council consider they are unable to license it. If not required to be licensed, may be made on the date the interim management order expired, for the purpose of protecting the health, safety and welfare of the occupying persons or others affected.

Overcrowding Notice Section 139	Where no IMO or FMO is in force, and the HMO does not require a licence, the local authority may serve an overcrowding notice on one or more relevant persons if, having regard to the rooms available, it considers that an excessive number of persons is being or is likely to be, accommodated in the HMO concerned.
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Appendix 3

Summary of Legislative Powers in relation to Empty Homes

Interim Empty Dwelling Management Order (EDMO) Section 133	Where a dwelling has been wholly unoccupied for a period of at least 3 years, there is no reasonable prospect that the dwelling will become occupied unless an interim EDMO is made, the Council has made reasonable efforts to notify the proprietor of the dwelling and to ascertain what steps are being taken to occupy that dwelling, the Council may apply to the Residential Property Tribunal for an interim EDMO.
Final Empty Dwelling Management Order (EDMO) Section 136	The local authority may make a final EDMO to replace an interim EDMO, where: <ul style="list-style-type: none">• the dwelling is likely to become or remain unoccupied; they have taken all such steps as were appropriate for securing the occupation of the dwelling; and,• the interests of the community have been taken into account and the effect that the order will have on the rights of the relevant proprietor and the rights of third parties.

In addition to the actions under the Housing Act 2004 there are other enforcement actions the Council may choose to take to help bring empty homes back into use. There are three enforcement routes that may be used. In addition to the Empty Dwelling Management Orders listed above, there are 3 enforcement routes that may be used. These are:

- Improvement works.
- Enforced sale.
- Compulsory Purchase.

Any enforcement action aimed at bringing an empty property back into use will only be used when repeated attempts to encourage the owner to bring it back into use voluntarily have failed. When considering enforcement options for empty homes, each case will be assessed on its merits and will only be considered for enforcement action where there are clear benefits to the neighbourhood or it could address a housing need.

In many cases the powers that can be used to require improvements to an empty property rest with other services within the Council and will be covered by their enforcement policies. Any action taken under powers available to the Private Sector Housing Officer will be taken in accordance with the staged approach to enforcement. The following table shows the problem identified, main legislation that may be used to require improvements, and the action required of the owner. These powers are not restricted to empty homes. However, the powers under Part 1 of the Act to remedy hazard will often not be appropriate for empty homes, unless occupation seems likely.

Problem	Legislation (Service, where not Private Sector Housing)	Action required
Dangerous or dilapidated buildings	Building Act 1984, Section 77 and 78 (Building Control)	Requires the owner to make the property safe and/or enables the Local Authority to take emergency action to make the property safe
Property in such a state as to be a nuisance (e.g. causing dampness in adjoining property) or prejudicial to health	Environmental Protection Act 1990, Section 79	Requires the owner to take steps to abate the nuisance
	Building Act 1984, Section 76	Enables the Local Authority to take action to abate the nuisance
Unsecured property posing a risk of unauthorised entry or likely to suffer vandalism, arson or similar	Local Government (Misc.Prov.) Act 1982, Section 29	Allows the Local Authority to secure a property after 48 hours
	Building Act 1984, Section 78 (Building Control)	Allows the Local Authority to fence off the property
Blocked or defective drains or private sewers	Local Government (Miscellaneous Provisions) Act 1976, Section 35	Requires the owner to address obstructed private sewers
	Building Act 1984, Section 59	Requires the owner to address blocked or defective drains, gutters, etc.
	Public Health Act 1961, Section 17	Requires the owner to address defective drains or private sewers
Vermin either present or risk of attracting vermin that may detrimentally affect people's health	Prevention of Damage by Pests Act 1949, Section 4	Requires the owner to take steps to clear the land of vermin and/or requires the owner to remove waste likely to attract vermin
	Environmental Protection Act 1990, Section 79	
	Public Health Act 1936, Section 83	
Unightly land or property affecting the amenity of the area	Public Health Act 1961, Section 34	Requires the owner to remove waste from the property
	Town and Country Planning Act 1990, Section 215	Requires the owner to address unightly land or external appearance of the property
	Building Act 1984, Section 79 (Building Control)	Requires the owner to address the property adversely affecting the amenity of the area through its disrepair