

# Private Housing Standards Intervention and Enforcement Policy



For more information about Private Housing Standards, see our website [www.sheffield.gov.uk/phs](http://www.sheffield.gov.uk/phs)

## Section A

# Introduction and General Principles

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## 1. About us

- 1.1. We are the team in the Council responsible for the regulation and support of private housing in Sheffield. Our team is called Private Housing Standards (PHS), and this is our Intervention and Enforcement Policy. Within this policy PHS team members are referred to as “officers”.
- 1.2. Our biggest work area is making sure that the private rented sector is safe and well managed. In addition, our work may also involve owner occupied homes, and long term abandoned empty properties.
- 1.3. This policy sets out the rationale and standards of enforcement that everyone should expect from us.
- 1.4. It also sets out our decision making process, from the receipt of the initial referral or complaint to conclusion of the case, which may involve court proceedings.
- 1.5. This policy replaces the Intervention and Enforcement Policy that has been in place since 2006; it takes account of the most recent Government enforcement guidance and changes in legislation.

## 2. Our approach

- 2.1. We recognise that most people want to comply with the law. So we will provide an explanation of our duties and powers, in order that people understand our reasons for getting involved.
- 2.2. Our usual preference is to give owners, landlords, agents and tenants the opportunity to co-operate with us in the first instance, unless the circumstances of the case merit immediate enforcement.
- 2.3. We want residents of Sheffield to understand the rights and obligations of living in and owning a property, so we will promote this as a key aim of this policy.
- 2.4. We will intervene and take enforcement action when voluntary or co-operative working is not succeeding to ensure that matters of health, safety and wellbeing are dealt with properly.
- 2.5. We will comply fully with the legislation that affects our work, and we will ensure that we provide information about what to do if you do not agree with our action, including any rights of appeal.
- 2.6. We want landlords and owners to meet their legal obligations. But any enforcement action we take will always be proportionate, and where we ask for repair or remedial work to be done to a property, we will fully consider the costs of

works to try and avoid unnecessary expense. We will always make sure any costs or inconvenience of works are proportionate to the risks that they are intended to reduce or remove.

2.7. We will deal with each case on an individual basis and on its own merits. Officers will exercise their professional judgement in individual cases, having regard to relevant guidance and will follow internal procedures to ensure a fair and consistent approach to regulation. Performance reporting and assessments are in place to ensure consistency in our approach to enforcement.

### 3. What we want to achieve

- 3.1. We want a private rented sector that is safe and well managed. And we know this includes making sure that everyone involved knows their rights, obligations and what it is to be a good neighbour.
- 3.2. We want people to know that if you own, rent or live in a private home, you can come to us for advice and assistance. It is important to us that all private housing in Sheffield meets the legislative minimum standards, and does not cause a physical hazard or nuisance to other people, or cause damage to someone else's property.
- 3.3. We will target our attention on landlords who persistently fail to abide by their obligations, and who repeatedly put the safety and wellbeing of others at risk. We want Sheffield to be a place where these types of practices no longer continue. The intention is that these landlords will either improve their housing and management standards or experience continued targeted, enforcement action, which removes any financial benefit of failing to comply with obligations and which acts as an effective deterrent.
- 3.4. We want to be known as a service that is fair and proportionate. We want to continue to improve the good working relationships we have with those landlords who consistently deliver good properties and management. Whilst in parallel, we want to be known for dealing firmly with landlords who persistently fail to abide by their obligations. We shall target the worst landlords for enhanced enforcement action as multiple failures to properly manage, are likely to be repeated across their housing portfolio.

### 4. Help and advice

- 4.1. We will provide clear information and advice, in plain language, about the legislation we use to enforce standards. We will be open about how we set about our work. We will publish help guides in leaflet form and which are downloadable from the Council's website.
- 4.2. We strongly believe that prevention is better than cure and we will give advice on complying with the law. However, this is not intended to be a substitute for landlords seeking their own independent legal or professional advice where that is more appropriate; e.g. from a solicitor or a surveyor.

- 4.3. Applications for any part of our service will be dealt with efficiently and promptly as possible in line with service targets and/or statutory requirements.
- 4.4. We are committed to building our range of self-help materials on our website. We know that many people are able to manage their properties effectively providing they have some guidance. This also allows us to focus our resources on those situations where more serious interventions are needed.
- 4.5. Where possible we will provide training sessions and updates about new legislation and policies to keep landlords up to date.
- 4.6. Where a person contacts us about a matter that is not our responsibility, we will direct them to the relevant Council Department or external agency.
- 4.7. Our resources will be targeted to ensure the most serious cases are tackled as a priority. Our speed of response will take account of the potential risks to health and well-being.

## 5. Tough and targeted enforcement

- 5.1. Our approach will be to ensure that the regulation of private housing is targeted where the risk is greatest. We recognise that most landlords are committed to working with us to maintain or bring their properties up to reasonable standards. We will continue to work positively with those landlords. But we also recognise that there is a minority of landlords and owners who fail to comply with their responsibilities to provide safe and good quality accommodation and appear to have little regard to their statutory duties to their tenants and/or neighbours. We feel it is right to target these types of landlords.
- 5.2. For example, where we are aware that a landlord has repeatedly failed to comply with housing regulatory and health and safety legislation, or poor tenancy management practice, we will actively focus the use of our investigatory powers on that landlord and properties in their ownership and management, and we will use appropriate enforcement action to ensure the protection of occupiers, neighbours and other members of the public.
- 5.3. The purpose of this approach is to achieve the following:
  - send a strong message that we will not tolerate uncooperative or repeat offenders
  - improve the behaviour of the landlord, or discourage them from continuing to act as a landlord if they are unable to manage properties to acceptable standards
  - efficiently reduce any financial gain or benefit from non-compliance
  - that enforcement action is proportionate, having particular regard to the effects of any failure to comply with legislation, especially considering the health and safety of any occupiers

- deter future non-compliance.

5.4 We will work with a close network of partners, such as the Department for Work and Pensions (DWP), Her Majesty's Revenue and Customs (HMRC), Council Tax, and use intelligence relating to poor tenancy management practice and property condition, to target landlords where there are clear health and safety concerns.

5.5 Persistent offenders, and those who blatantly flout the law, will face targeted enforcement action, including where appropriate, prosecution or financial penalties.

5.6 Where the law allows, we will refer landlords for further targeted action including but not restricted to, Banning Orders and Proceeds of Crime Act 2002.

## 6. Shared Enforcement

6.1 There are several enforcement agencies involved in regulating private sector housing. Where there are shared enforcement roles, e.g. with South Yorkshire Fire and Rescue Service, the Health and Safety Executive, South Yorkshire Police, the Border Agency, or with other departments of Sheffield City Council, officers will consult with partner organisations or departments where appropriate, and will actively engage in achieving a satisfactory resolution of the problem.

6.2 We will ensure that where there is a shared enforcement role, it is coordinated to avoid duplication of resources.

6.3 Where the law allows we will share intelligence and evidence gathered in the course of our business operations, with other statutory bodies and partners in accordance with any existing information sharing protocols entered into by the Council.

## 7. Complaints about our service

7.1 We are committed to providing an excellent service. But we understand that sometimes things may not go to plan. If someone is dissatisfied by how we have dealt with their case, they should contact us straight away. Our aim is to listen to their concerns and resolve the issue, as soon as possible. We aim to put things right informally. However, if we cannot do that, a complaint may be made and considered under Sheffield City Council's corporate complaint procedure.

<https://www.sheffield.gov.uk/your-city-council/how-to-contact-us/complaint.html> (check this link)

## Section B

### Intervention

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#### 8. How we intervene

8.1 This section is about the different ways in which we might get involved in a private sector housing issue.

8.2 We usually get involved at the request of a tenant, or someone working with a tenant, for example a care worker. But we also encourage landlords/owners to get in touch with us. For example, a landlord may want some advice about how to manage their tenant if they are causing problems in the property that they are struggling to deal with.

8.3 But sometimes we also choose to do proactive inspections of properties, in line with our legal responsibilities, for example where we have observed poor housing standards in certain property types, or where a landlord has several properties and we have taken action against him for other properties in his portfolio.

8.4 We may also pro-actively investigate properties that are suspected of requiring a licence because of their size or where they are located.

8.5 The way we get involved will depend on various circumstances and this is something we will discuss with the person requesting assistance when they contact us. The things we may consider include:

- the seriousness of the problem and the effect that the problem has on people living there and in neighbouring properties
- any effect the problem is having on the neighbourhood and surrounding area
- the relevant legislation, for example, some circumstances require the Council to take immediate enforcement action
- the vulnerability of any occupant, including their vulnerability to eviction
- whether the management standards are poor, particularly where there appears to be a lack of awareness of statutory requirements
- any relevant history of the landlords, owners, neighbours, or the tenancy, particularly the owner's/landlord's history of carrying out repairs either informally or following our previous intervention.

## 9. Intervention in the early stages

9.1 The first thing we usually advise, where a tenant has a problem with the condition or safety of their home, is that they should inform the landlord/tenant/neighbour of the issue and give them reasonable time to put it right. If, following this opportunity, the problem hasn't been resolved, we will open an investigation into the case.

9.2 Sometimes, in the case of an emergency situation, or if the landlord has a history of not responding, we may act straight away.

9.3 If we decide that we do not need to get involved formally at the time of the initial enquiry, we will ask the person requesting assistance to contact us again if the situation doesn't get resolved.

9.4 If we open an investigation, but cannot substantiate a complaint against a landlord/owner or tenant, we will explain why this is to the complainant and take no further action.

9.5 The following paragraphs explain how we might intervene.

- Giving advice to landlords/owners or tenants on the telephone or by letter or e-mail, unless there are reasons not to, such as where the tenant is vulnerable. Where possible we will try to resolve issues without making a visit or resorting to more formal action. Our advice will be about legal responsibilities and what the Council expects.
- If we have set an informal time limit for a problem to be resolved, and it has not been, or the situation has deteriorated, we are likely to schedule a visit to the property which may result in more formal action. Formal action could include the service of a legal notice with an imposed timescale for works to be carried out.
- Formal action straight away – where appropriate to the case, for example where emergency works are required.
- Immediate prosecution or the imposition of a civil penalty where we know an offence has already been committed, such as a licensing offence or failure to comply with management regulations.
- Opening an investigation into abandoned private empty properties where it is causing nuisance or annoyance to neighbours or the neighbourhood.

## 10. Intervention by visit or inspection, following a complaint, referral or observation

10.1 Our regulatory duties and powers enable us to carry out a visit to the property, sometimes resulting in a more formal full inspection. When we are investigating a complaint, our first visit to a property will usually be a verification visit, arranged solely with the tenant. We would not usually ask the landlord to be there on that first visit. Some tenants do not want their landlord to be involved at the earliest stage of a complaint for fear of retaliatory (revenge) eviction.

10.2 Usually, we will write to the landlord detailing repairs or improvements that are necessary or advising of the defects that are present. Where we are satisfied that immediate enforcement action is not required, we will usually encourage landlords to remedy the problem to avoid the need for more formal action. When we write to landlords detailing repairs or improvements that are necessary, or advising of defects that are present, we will usually set out:

- who the investigating officer is and how they can be contacted
- any breaches of legislation, codes or regulations
- the consequences of failure to attend to the matter informally, including what the enforcement action could be, and if it incurs - the likely cost
- the timescale for a formal inspection to which the landlord will be invited
- whether we are considering legal action, such as prosecution or a civil penalty for a particular offence
- what are legal requirements as distinct from officer opinion or good practice advice
- any other appropriate and relevant information.

10.3 Sometimes landlords like to speak to us on the telephone. We will provide a clear summary of what is required and will follow this up in writing to ensure the landlord can check the requirements at a later stage.

10.4 However where we are investigating potential cases relating to licensing offences or breaches of HMO management regulations, we will usually visit with a Notice of Entry to the occupants, allowing us immediate entry without prior notice.

10.5 Where we are refused access by the tenant or landlord when a Notice of Entry has been served, we may then seek a Warrant of Entry from the Court to permit forced entry. In exceptional circumstances where serving a Notice of Entry would defeat the purpose of the inspection, we may seek a Warrant without serving a prior Notice of Entry.

## 11. Dealing with hazards



11.1 We have a duty under the Housing Act 2004 to take enforcement action in relation to serious hazards (Category 1 hazards), and our priority is to meet this legal obligation.

11.2 We also have a discretionary power to take enforcement action on lower level hazards (Category 2 hazards).

11.3 In deciding whether to exercise this discretionary power officers will always consider the individual circumstances of the case. However, action will not normally be considered on hazards scored below band E as prescribed by the Housing Health and Safety Rating System (HHSRS).

## 12. Formal intervention straight away

12.1 In some circumstances we do not consider it appropriate to deal with landlords informally.

12.2 These circumstances include, but are not limited to, where:

- there is a serious hazard in the property which requires emergency action
- we consider there has been disregard for the law or history of non-compliance
- there are multiple serious hazards or disrepair issues present in the property, particularly where there is a significant health and safety risk
- the landlord has a history of previously being uncooperative or we are already investigating the landlord or taking enforcement action in respect of another matter
- the landlord or agent have a number of properties, have been involved in managing rented properties for some time, or who should otherwise have known of their responsibilities.

## 13. Serving Enforcement Notices / Orders

13.1 In circumstances where informal action has failed or is not appropriate to the circumstances, a formal notice or order may be served. This will usually be accompanied by a charge and an imposed timescale for completion of the works stated.

13.2 We will clearly state on any notice or order what the problems are. We will give options for remedy (where appropriate) and explain what will happen if the notice or order is not complied with.

13.3 Failure to comply with a statutory notice or order, depending on the circumstances of the case, may result in the instigation of legal action, civil penalties and/or works in default.

13.4 The service of statutory notices and the making of orders may be carried out in parallel with other action, detailed elsewhere in this policy. For example we may

serve an Improvement Notice for works to an HMO whilst investigating non-compliance with mandatory licensing or bad management at the same property.

13.5 Landlords or owners, who fail to comply with their obligations, requiring formal action by the Council, may be subject to targeted interventions on other properties they own.

13.6 Where requested, when a person is considering an appeal, or where an appeal has been made, the Officer may meet with them to discuss the case to save on potential costs and to try to reach an agreement outside of the appeal process.

## **14. Intervention where there is harassment, illegal eviction and poor tenancy management**

14.1 In Sheffield we have high expectations about the management of tenants and tenancies. We expect landlords and agents to behave in a professional and respectful way towards their tenants.

14.2 Landlords and tenants should expect us to challenge poor tenancy management practices, and seek improvements in approach.

14.3 Tenancy Relations Officers take the lead responsibility in the team for enforcing various offences to do with the behaviour of landlords towards tenants. They also regulate the requirement for landlords to provide information to tenants relating to their tenancy.

14.4 The most serious of these types of offences are to do with the harassment and illegal eviction of tenants (Protection from Eviction Act 1977). We take these offences very seriously as we have a strong commitment to:

- protecting the interests of vulnerable people
- promoting respect for the individual's home
- preventing homelessness
- promoting the health and well-being of people living in private rented accommodation

14.5 The law provides a process for landlords to lawfully regain possession of their properties and these legal requirements must be followed when a landlord wants a tenant (or licensee) to leave.

14.6 If a resident claims that they have been made to leave without the proper legal procedures being followed, this may give reason to suspect that an offence has been committed under the Protection from Eviction Act 1977. In these cases, we will investigate with a view to:

- informing the landlord and resident of their rights and responsibilities where appropriate
- prosecuting offences where there is enough evidence for there to be a reasonable prospect of conviction and where it is in the public interest to do so.

14.7 We will:

- make information available to landlords to make them aware of the relevant legal provisions for getting an occupier to leave where appropriate;
- respond promptly to complaints relating to offences under the Protection from Eviction Act

14.8 We will not become actively involved in assisting with the preparation of legal Notices or other documents on behalf of landlords. However, we do supply help and advice on this in our self-help leaflets and on our website.

14.9 We will liaise with our colleagues in the department that deals with homelessness to assess all cases where private rented tenants have been asked to leave. This is to make sure we identify any illegal or poor practice in this area.

## 15. Licensing of properties

15.1 Not all of our interventions come directly from a referral or complaint. We may, in line with the Council's legal responsibilities, carry out inspections to ensure landlords are complying with the law. For instance, management duties are applicable to all Houses in Multiple Occupation (HMOs). Breaches of management duties may be investigated with other matters, or following identification of other problems at the house.

15.2 Landlords or owners must apply to the Council for a licence to operate for some HMOs that fall within the statutory definition. We may initiate visits to HMOs where we consider that they may need to be licensed under this mandatory HMO licensing scheme, but an application has not been received.

15.3 Where the Council has designated an area for selective or additional HMO licensing, requiring some or all landlords letting properties in the area to get a licence, we will initiate visits and actions to make sure that properties comply with the conditions applying to those schemes.

15.4 We will seek to identify all properties that are required to be licensed, and where they are not licensed, we will take the appropriate legal action.

- 15.5 In addition, where we identify that a property fails to meet the relevant property standards, they will be subject to appropriate enforcement action as detailed elsewhere in this policy to ensure that all deficiencies and defects are remedied.
- 15.6 Licences have standards and conditions attached to them, which must be complied with. We may prosecute breaches of licence conditions or issue notice of a financial penalty where there is sufficient evidence and it is in the public interest to do so.
- 15.7 The Council must consider various factors when processing a licence application. More details about mandatory HMO licensing can be found at [www.sheffield.gov.uk/hmo](http://www.sheffield.gov.uk/hmo).
- 15.8 Details of any scheme of selective licensing the Council administers are detailed at [www.sheffield.gov.uk/selectivelicensing](http://www.sheffield.gov.uk/selectivelicensing).

## 16. Management Orders

- 16.1 Management Orders give Councils the opportunity to take over the management of the property from the owner/landlord where certain circumstances apply. These include Interim and Final Management Orders, Interim and Final Empty Dwelling Management Orders and Special Interim Management Orders. This is another way we may intervene in the management of a property.
- 16.2 We recognise that imposing a management order will have a significant impact on the Landlord or owner, including prohibiting them from managing the dwelling and receiving rents. The Council will therefore only decide to make a management order, where we are required to by law, or where we consider it is the most appropriate and proportionate action to take in the circumstances of the case.

## 17. Fit and Proper Persons and Satisfactory Management Arrangements

- 17.1 In Sheffield we take a rigorous approach to assessing whether landlords and agents named on a licence are Fit and Proper, and whether their management arrangements are satisfactory.
- 17.2 Under the Housing Act 2004, where a property is required to be licensed under either the mandatory HMO licensing scheme, an additional licensing scheme or a selective licensing scheme, the Council must be satisfied that the Licence Holders and other persons involved in the management of the property, are a fit and proper person to be the licence holder or to be the manager of the property.
- 17.3 In addition, the Council must be satisfied that the management arrangements are satisfactory, including that persons involved in the management of the property are fit and proper persons to be so involved, and have a sufficient level of competence, and that the management structure and funding arrangements are suitable.
- 17.4 This includes considering factors such as whether managers or Licence Holders have a criminal record or have contravened landlord and tenant law. Other factors

would include having been declared bankrupt, and also, any evidence we have about the competence of the individual or company in relation to the role it is proposed they have in managing the property.

- 17.5 We will also consider these factors in relation to landlords and managers for other schemes where we are approving the use of a private rented property; for example when discharging the Council's homelessness duty into the private rented sector, or considering whether to accept a membership application for the student housing scheme, Snug.
- 17.6 Where we are assessing management arrangements in relation to Snug, we expect a particularly high standard to be met.
- 17.7 Where we are concerned that the management arrangements proposed for a property are not satisfactory, we may make further enquiries including, for example, asking a manager to attend an interview to discuss their role in managing the property to help us decide whether they have the competence to perform that role.
- 17.8 All standards and criteria relating to our different schemes can be found on our web pages at [www.sheffield.gov.uk/phs](http://www.sheffield.gov.uk/phs)

## Part C

# Enforcing and Prosecuting

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### 18. When do we take legal action?

- 18.1 Officers will have regard to this section when making the decision as to whether to serve legal Notices, prosecute offenders, issue a formal caution, impose a financial penalty or apply for a Rent Repayment Order. Details relating to the Council's Banning Order Policy can be found in Appendix 2.
- 18.2 Where the circumstances of an offence are considered to be serious we may not give a warning before proceeding to legal action, which may result in a prosecution or a civil penalty being imposed on the landlord.

### 19. Service of Notices

- 19.1 Where a landlord does not respond to informal action, legal notices or orders may be served. For example, where a property has been inspected using the Housing Health and Safety Rating System (HHSRS) and Category 1 Hazard has been found, the Council has a duty to take appropriate action.
- 19.2 Notices are served with associated timescale for works to be started and completed. We always consider timescales that are reasonable, but this depends on the individual situation. For example, something that it is imminently dangerous may need addressing the same day, whilst less serious works may be given a longer timescale, such as 3-6 months.
- 19.3 There might also be situations where the Council determines that a dwelling or part of a dwelling is unsuitable for human habitation and a Prohibition Order is served to ensure that the property is vacated.
- 19.4 Non-compliance with an Improvement Notice or a Prohibition Order is a criminal offence unless reasonable excuse can be shown. We will prosecute these offences in the Magistrates' Court or issue a Civil Penalty in line with the following sections and Appendix 1 (Civil penalties).
- 19.5 Notices are served on all relevant parties, which may include owners, landlords, agents, mortgagees

### 20 Prosecutions

- 20.1 We will instigate legal proceedings where we are satisfied that there is sufficient, admissible and reliable evidence; that an offence has been committed by an identifiable individual or company; that there is a realistic prospect of conviction; that it is in the public interest; and that prosecution is more appropriate to the circumstances than issuing a civil penalty.

20.2 When considering the public interest factor we will have particular regard to the Council's aims and objectives, especially those to do with promoting health, safety and well-being.

20.3 Where we are prosecuting an offence or offences, and are satisfied the landlord or owner has committed other offences, we may consider whether it is in the public interest to prosecute for those other offences too. In these cases, we may ask the court to take those offences into consideration.

20.4 As a general rule, landlords or owners will be given a reasonable opportunity to resolve hazards and health and safety risks to occupiers. There are circumstances however where Officers may consider prosecution without prior warning, for example,

- where the contravention is serious, particularly where there is a significant health and safety risk
- we consider there has been disregard for the law, or
- where the landlord or owner is a repeat offender, or, for example statutory notices have been served previously as a result of failure to keep properties safe and well-maintained.

## **21. Issuing civil penalties**

21.1 A range of offences relating to the regulation of private rented housing, are punishable by a civil financial penalty, usually as an alternative to prosecution. We will issue civil penalties where we consider this is appropriate to the circumstances of that particular case.

21.2 A civil penalty is a significant matter. The sanction, as well as imposing a financial penalty, highlights a failure to comply with the relevant legislation and is a matter the Council may have regard to when deciding whether to instigate criminal proceedings in future cases.

21.3 In addition, we may also have regard to the imposition of a civil penalty when deciding whether a person is a fit and proper person, and a competent person for the purposes of awarding a licence under the Housing Act 2004 or any other scheme where the relevant person is required to be a fit and proper person and where the suitability of management arrangements must be considered

21.4 When deciding:

- whether to impose a civil penalty ,
- the amount at which the penalty is set,
- whether to impose a civil penalty or prosecute, when the option of both arises,

we will have regard to the matters set out in the Government's most current guidance on civil penalties and to the more detailed considerations set out in Appendix 1.

21.5 In addition, the Council may impose a monetary penalty in relation to the failure of those engaged in letting agency work or property management work to join a government approved redress scheme and those penalties will be imposed according to the separate policy that applies to those duties.

## **22. Issuing Cautions**

22.1 We may offer a caution, where although we consider there is sufficient evidence to prosecute or issue a financial penalty, we do not consider that it is in the public interest to do so.

22.2 We will only offer a caution:

- a) where we are satisfied on the evidence that the person committed the offence and that there is a realistic prospect of conviction and;
- b) the person admits all the elements of the offence; and
- c) the significance of a caution has been explained to the person and the person gives consent to being cautioned;

22.3 A caution is a significant matter. It is recorded and we will have regard to it where we suspect that the person has committed another offence and a decision whether or not to instigate proceedings is made. Cautions may also be referred to in subsequent court proceedings.

22.4 Also, the Council may have regard to the imposition of a caution when deciding whether a person is a fit and proper person, or a competent person, for the purposes of awarding a licence under Parts 2 and 3 of the Housing Act 2004 or any other scheme where the relevant person is required to be a fit and proper person and where the suitability of managing arrangements must be considered.

22.5 Cautions will not be appropriate where there is a continuing offence.

22.6 We may provide confirmation of any caution to other departments, other agencies or local authorities.

22.7 Where a suspected offender refuses to accept a caution, we retain the option of prosecuting the offence or issuing a Financial Penalty.



## **23. Carrying out works and charging those responsible**

- 23.1 If landlords fail to carry out works required under a formal action, for example in a notice, or an order, within reasonable timescales, or to a satisfactory standard, the Council often has the power to carry out or organise those works itself. This is an important tool, enabling the required works to be completed. The Council has the power to recover its costs, which may include securing a charge on the property, recovering the costs through rent or enforced sale.
- 23.2 The costs of the works, including the costs of officer time in arranging and supervising the works and the costs of invoicing, may be recoverable from the landlord in line with the relevant legislation.
- 23.3 We are required to ensure that the works are carried out at a fair price and to a good standard. However, carrying out works in default is expensive in officer time, increasing the cost of the works. Further, the cost of works may be increased, where urgent works are required as contractors carrying out emergency works often do so at a premium rate. It is therefore usually a much cheaper option for those responsible to arrange to carry out the works themselves.
- 23.4 With the above in mind, unless works are necessary to secure the immediate health and safety of persons affected, before we embark on the works, we will try to inform those responsible that:
- a) we are considering carrying out works;
  - b) it is likely to be more expensive if we arrange them;
  - c) we will seek to recover the full costs of works and officer time spent arranging and supervising the works and invoicing the landlord.
- 23.5 When we decide whether to do the works in default and charge those responsible we will have regard to the following matters:
- the effects of the non-completion of works especially upon the health and safety of any occupiers;
  - the history of the case;
  - the views of any complainant and other parties affected.
- 23.6 When the person responsible for works has failed to carry them out in a reasonable time, we will also consider prosecution or the imposition of a civil penalty having regard to the matters set out elsewhere in this policy.
- 23.7 A landlord who has had works in default carried out to their properties, having failed to comply with their repairing obligations may be the subject of targeted enforcement regarding other properties they own or manage.

## 24. Rent Repayment Orders

- 24.1 A rent repayment order is an order made by the First Tier Tribunal (Property Division) requiring a landlord to repay a specified amount of rent either to the tenant or the Council. An application for a rent repayment order can be made by the Council or the tenant, depending on how the rent was paid. If the tenant paid their rent themselves, then the rent must be repaid to the tenant. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be paid to the Council.
- 24.2 Rent repayment orders can be applied for when a range of various offences have been committed relating to the management of properties, whether or not there has been a conviction.
- 24.3 Where we are aware that a landlord has been convicted of any of the offences for which a Rent Repayment order can be made, and the breach was committed in Sheffield, we will always consider applying for a Rent Repayment Order. In these cases, the tribunal must order the maximum amount in line with the Housing and Planning Act 2016. This is the amount of housing benefit or universal credit paid to the landlord over a 12 month period.
- 24.4 We may apply for a Rent Repayment Order following conviction for an offence where we consider that there is sufficient merit with regard to factors including:
- whether the offender could reasonably have been expected to know that they were in breach of their legal responsibilities
  - the likelihood of further offending by the offender
  - the deterrent to others who may commit similar offences,
  - the financial circumstances of the offender,
  - the removal of any financial benefit the offender may have obtained as a result of committing the offence.
- 24.5 We may also decide to apply for a Rent Repayment Order where there has not been a conviction but we are satisfied that an offence, for which a Rent Repayment order can be made, has taken place and there is a reasonable prospect of the Council satisfying the tribunal beyond reasonable doubt that the offence was committed.
- 24.6 In these cases, when deciding whether to apply for a Rent Repayment Order where there has not been a conviction, and when deciding how much rent we should seek to recover, our considerations will include, but not be limited to, factors such as:
- the financial circumstances of the offender,
  - any previous action taken against the offender,

- whether the offender could reasonably have been expected to know that they were in breach of their legal responsibilities
- the likelihood of further offending by the offender,
- the deterrent of the order to others who may commit similar offences,
- the removal of any financial benefit the offender may have obtained as a result of committing the offence,
- any other aggravating factors,
- the conduct of the offender and the occupier.

24.7 Where there has been a conviction and the tenants have the right to pursue a rent re-payment order, we will consider offering them support in any application made to the Tribunal service where we consider that an application has merit, having regard to such factors as: the harm caused to the tenant, the deterrent value to the offender, and removing any financial value the offender may have obtained in committing the offence.

24.8 We will have regard to the Government's current Rent Repayment guidance and any other relevant Council policy when deciding whether to apply for a Rent Repayment Order.

## Part D

### General information

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#### 25. Recovering monies owed

25.1 Where there is a legal entitlement, we will seek to recover all costs and charges incurred to us in using our powers to take legal action.

25.2 This will include a range of recovery methods including, but not limited to getting a County Court Judgement, which may be enforced by bailiffs, obtaining an attachment of earnings order, placing a Charge on the property or enforcing the sale of a property to recover the debt.

#### 26. Publicity

26.1 We acknowledge that media reporting of convictions of criminal offences acts as a deterrent to others, and has the potential for reducing offending, deterring rogue landlords and improving the management and safety standards of private rented housing. To this strategic end, where we consider it appropriate, we will inform local, and where relevant national, media, of enforcement action taken within this policy.

26.2 We will encourage and assist media representation at court hearings and actively publicise convictions where we consider it may deter similar behaviour or offences from being committed.

#### 27. Policy Review

27.1 This policy will be kept under review and may be the subject of revision. This ensures that it continues to be effective and relevant, as well as reflecting current law and Government and other relevant guidance. Any changes to the policy will be publicised on the Council's website.

#### 28. How to contact us

28.1 We encourage people to get in touch with us. If you have any questions about our work, or about this policy, you can contact us in the following ways;

By post at: Private Housing Standards, Moorfoot Building, Sheffield, S1 4PL

By telephone: 0114 273 4680

By e-mail: [phs@sheffield.gov.uk](mailto:phs@sheffield.gov.uk)