BOURNEMOUTH BOROUGH COUNCIL
Housing and Communities

Private Sector Housing

Enforcement Policy

July 2016
## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summary</td>
<td>3</td>
</tr>
<tr>
<td>What to expect from us</td>
<td>4</td>
</tr>
<tr>
<td>1 Introduction</td>
<td>5</td>
</tr>
<tr>
<td>2 General enforcement policy and principles</td>
<td>5</td>
</tr>
<tr>
<td>3 Specific enforcement policies</td>
<td>8</td>
</tr>
<tr>
<td>4 Tenure</td>
<td>13</td>
</tr>
<tr>
<td>5 Situations where a service may not be provided</td>
<td>16</td>
</tr>
<tr>
<td>6 Powers of entry and power to require information</td>
<td>16</td>
</tr>
<tr>
<td>7 Power to charge for enforcement</td>
<td>17</td>
</tr>
<tr>
<td>8 Failure to comply with Notices, etc.</td>
<td>17</td>
</tr>
<tr>
<td>9 Revocation and variation of Notices</td>
<td>18</td>
</tr>
<tr>
<td>10 Works in default</td>
<td>18</td>
</tr>
<tr>
<td>11 Authorisation of Officers</td>
<td>19</td>
</tr>
<tr>
<td>12 Houses in Multiple Occupation</td>
<td>19</td>
</tr>
<tr>
<td>13 Empty Homes</td>
<td>21</td>
</tr>
<tr>
<td>14 Monitoring and review</td>
<td>22</td>
</tr>
<tr>
<td>15 Application of the policy</td>
<td>22</td>
</tr>
<tr>
<td>16 Related policies and documents</td>
<td>23</td>
</tr>
</tbody>
</table>
Summary of Private Sector Housing Enforcement Policy

The Private Sector Housing Enforcement Policy details how the Council will regulate standards in private housing in Bournemouth. It also provides a background to the legislation and guidance on which it is based.

It is important for local authorities to have an enforcement policy to ensure consistency of approach among Council Officers. Members of the public also know what to expect from the service.

An enforcement policy also aids clarity if the Council takes legal proceedings or enforcement action is appealed against.

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

In developing our policy we must be fair to both sides and give help and advice to achieve our aim but we must also be firm in taking enforcement action if appropriate.
What to expect from us:

Landlords

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

Tenants

1. We will expect you to advise your landlord of the issues within your property before contacting us.
2. We will advise you as to what action we can take and advise you of the expected timescales.
3. We will expect you to cooperate with the landlord to get the works carried out and to advise us of any action taken by the landlord.

Owners

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

Owners of Empty Homes

1. We will work proactively with owners of empty homes to encourage and assist in bringing their empty homes back into use.

If owners fail to take responsibility for their properties, are not willing to engage or negotiations have failed, and where there is little prospect of a property being bought back into use voluntarily, enforcement action (Compulsory Purchase Order, Empty Dwelling Management Order, and Enforced Sale) will be considered.
1. **Introduction**

The Private Sector Housing Service is part of the Council’s Housing and Communities Service and aims to protect and improve lives by ensuring homes are safe and warm.

The Policy outlines the Council’s general approach to enforcement across a wide range of activities. This policy provides details of the Council’s specific approach to regulating housing standards in Bournemouth.

The General Enforcement Policy confirms that:

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

Effective and well targeted regulation is essential in promoting fairness and protection from harm. The Regulators’ Compliance Code is a statutory code of practice for regulators.

From 6 April 2007, the Council has been required to have regard to the Code when regulating housing standards and its specific obligations have been included in this policy. The overriding principle of the Code is that regulation and its enforcement should be proportionate and flexible enough to allow or even encourage economic progress.

The aim of this policy is to ensure that regulation and enforcement of housing standards is consistent, risk-based, targeted and proportionate and is carried out in line with the General Enforcement Policy and other relevant detailed guidance, such as the Housing Health and Safety Rating System (HHSRS) Enforcement Guidance and HHSRS Operating Guidance.

2. **General Enforcement Policy and Principles**

**Economic Progress**

The Private Sector Housing service will only intervene when there is a risk to the health and safety of occupants, neighbours or visitors to a property. The supply of good quality, affordable, privately rented accommodation is essential to meet local housing need and is closely linked to Bournemouth’s economic progress. Private landlords in the area range from those with large portfolios to those with one or two properties.
Risk Assessment
The Service will use risk assessment to concentrate resources in the areas that need them most and on the properties in the worst condition.

Following the receipt of a service request or complaint about poor housing conditions, an initial risk assessment will normally be carried out and any follow up advice or action will be depend on the outcome of the initial assessment, which may not always involve a visit to the property. Complaints about housing association properties will be referred to the association to investigate first. Suitably trained Officers routinely use the Housing Health and Safety Rating System (HHSRS), which is a statutory, evidence-based, risk assessment method for assessing and dealing with poor housing conditions.

Advice and Guidance
The Service will provide authoritative, accessible advice easily and affordably. Wherever possible, this will be provided free on the Council’s website. General information, advice and guidance to make it easier for landlords, agents, home owners and others to understand their regulatory obligations will be provided in clear, concise and accessible language, using a range of appropriate formats and media. The Service will consult with landlords’ associations and others when developing both the content and style of this guidance.

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

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

Inspections, Other Visits and Information Requirements
No inspection will take place without a reason. Inspections and other visits will take place in response to a reasonable complaint or request for service or where poor conditions have been brought to our attention; in accordance with risk-based programmes; in accordance with statutory inspection requirements (such as for mandatory licensing of houses in multiple occupation [HMOs]); or on receipt of relevant intelligence.

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

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

**Compliance and Enforcement Actions**

The Service will seek to identify the few landlords, agents, property owners or businesses that persistently break regulations and ensure that they face proportionate and meaningful sanctions. By facilitating compliance through a positive and proactive approach, the Service aims to achieve higher compliance rates and reduce the need for reactive enforcement actions. However, those who deliberately or persistently break the law will be targeted.

Landlords who have achieved good levels of compliance, for example through accreditation schemes, will receive lighter inspections, where risk assessment justifies this. When considering formal enforcement action the Service will, where appropriate, discuss the circumstances with those suspected of a breach and take these into account when deciding on the best approach. This will not apply where immediate action is required to prevent or respond to a serious breach or to deal with an imminent risk to health or safety, or where to do so is likely to defeat the purpose of the proposed enforcement action.

The Service will ensure that clear reasons for any enforcement action are given and complaints and appeals procedures are explained at the same time.

**Accountability**

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

Information about independent appeal mechanisms, such as to the First-Tier Property Tribunal, and the Council’s corporate complaints procedure will be explained where necessary. The complaints procedure has four stages and the final stage involves the complainant taking the matter directly to the independent Local Government Ombudsman Service, which is external to the Council. The complaints procedure will be followed for any complaints received about the Service or the application of this enforcement policy.
3. Specific Enforcement Policies

Authority to Investigate or Enforce
The Housing Act 2004 and associated secondary legislation sets out the duties and powers that Bournemouth Borough Council has in relation to regulating housing standards in its capacity as the Local Housing Authority. Powers are also contained in the Housing Act 1985, as amended, and other legislation, such as the Environmental Protection Act 1990, the Public Health Acts 1936 and 1961 and the Mobile Home Act 2013. This is not a complete list.

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

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

Enforcement action will be consistent with the Council’s overall Housing Strategy and the Service will adopt a co-ordinated approach with other Council services and other relevant agencies, in particular in connection with preventing and dealing with homelessness.

This policy will deal with housing enforcement in:

- All private residential dwellings
- Houses in Multiple occupation
- Empty dwellings
- Mobile Home Parks

Private Residential Dwellings
The Housing Act 2004 introduced the Housing Health & Safety Rating System (HHSRS). It is a calculation of the effect of 29 possible hazards on the health of occupiers. The legislation provides a range of actions for addressing identified hazards. It is a two-stage calculation combining the likelihood of an occurrence taking place and then the range of probable harm outcomes that might arise from that occurrence which would result in a numerical rating. This is repeated for each of the hazards present. The assessment is not based upon the risk to the actual occupant but upon the group most vulnerable to that particular risk. Once scored, any action that
is then considered will take into account the effect of that risk upon the actual occupant.

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

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

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

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

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

**Choice of Appropriate Enforcement Action**

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

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

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

The enforcement options available to the Council are as follows:

- Improvement Notice (including Suspended Improvement Notice)
- Prohibition Order (including Suspended Prohibition Order)
- Hazard Awareness Notice
- Emergency Remedial Action or Emergency Prohibition Order
- Demolition Order
- Clearance Area
**Improvement Notices**

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

Where the Council determines that an Improvement Notice should be served in respect of a Category 1 Hazard, it will require works that will either remove the hazard entirely or will reduce its effect so that it ceases to be a Category 1 hazard, and will take whichever of these two options it considers appropriate, having considered the circumstances of the case.

If the Council determines that the hazard can only be reduced to a Category 2 hazard rather than removed, it will require works to be carried out as far as is reasonably practical to reduce the likelihood of harm.

Where the Council determines that an Improvement Notice should be served in respect of a Category 2 Hazard, it will require works it judges sufficient either to remove the hazard or reduce it to an appropriate degree, and will make these decisions having considered the circumstances of the case.

**Suspended Improvement Notice**

The Council has the power to suspend an Improvement Notice once served and will consider this course of action where it is reasonable, in all the circumstances, to do so.

The following are situations in which it may be appropriate to suspend an Improvement Notice:

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

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

- The level of risk presented by the hazard(s)
- The turnover of tenants at the property
- The response or otherwise of the landlord or owner
- Any other relevant circumstances (e.g. whether the vulnerable age group is present)

Suspended Improvement Notices will be reviewed after a maximum of 12 months and then at intervals of not more than 12 months, but suspension will not normally exceed 6 months.
Prohibition Orders
Prohibition Orders can be used in respect of both Category 1 and Category 2 hazards for all or part of a dwelling and are likely to be used; if repair and/or improvement appear inappropriate on grounds of practicality or excessive cost (i.e. the cost is unrealistic in terms of the benefit to be derived). An example might include a dwelling or part of a dwelling where adequate natural lighting or adequate fire escape cannot realistically be provided or

- In an HMO, to prohibit the use of specified dwelling units or of common parts. This might, for example, be used if the means-of-escape is unsatisfactory or
- To specify the maximum number of persons who can occupy a dwelling where it is too small for the household’s needs, in particular, in relation to the number of bedrooms or
- In relation to premises lacking certain facilities but which are nonetheless suitable for a reduced number of occupants

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

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

Suspected Prohibition Order
The Council has the power to suspend a Prohibition Order once served and will consider this course of action where it is reasonable to do so if the facts of a particular case appear to justify it.

Suspended Prohibition Orders will be reviewed after a maximum of 12 months and then at intervals of not more than 12 months, but suspension will not normally exceed 6 months.

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

Hazard Awareness Notice
Hazard Awareness Notices may be served to notify owner-occupiers of the existence of hazards (for example where the risk from the hazard is mitigated by the long-standing nature of the occupancy). It might also be applicable where:
• It is judged appropriate to draw a landlord’s attention to the desirability of remedial action
• To notify a landlord about a hazard as part of a measured enforcement response

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

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

If these conditions are met the Council intends to take appropriate emergency action, but it does not anticipate that this will be a frequent event.

Situations in which emergency action may be appropriate include:

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

Demolition Orders
The Housing Act 2004 has retained the power to make Demolition Orders but has amended Section 265 of the Housing Act 1985 to align it with the new method of hazard assessment and enforcement provisions.

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

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

The HHSRS applies equally to all tenures. Further, it does not specify that particular approaches or solutions should be used on the basis of ownership or the occupier’s status. All of the enforcement options are available to the Council regardless of whether the premises in question are owner-occupied, privately rented or belong to a Registered Social Landlord (RSL). However, the Council considers that owner-occupiers are usually in a position to take informed decisions concerning maintenance and improvement issues that might affect their welfare and are then able to set their financial priorities accordingly; whereas tenants are not usually able to do so.

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

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

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

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

Social Landlords
RSLs exist to provide suitable and properly maintained accommodation for their tenants. They are managed by Boards (which typically include tenant-representatives) and their performance is scrutinised by the Housing Corporation. RSLs normally employ staff to both manage and maintain their properties and will usually have written arrangements for reporting problems, setting out the response times they aim to achieve, and also for registering any complaints about service failure.
On this basis the Council will not normally take formal action against an RSL unless:

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

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

**Private Landlords**
The Council will have regard to the principles of the Enforcement Concordat and relevant guidance from the Residential Property Tribunal decisions and will initially seek to proceed informally.

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

- To pose an imminent risk of serious harm to any person (whether or not immediate action is required, and whether the hazard(s) in question is likely to affect a tenant, an employee or a member of the public), or
- The landlord in question is known to have failed, on a previous occasion, to take appropriate action in response to an informal approach.

Where an inspection is arranged, the Council will write to the landlord (or his/her relevant agent) to confirm their involvement and the time and date of the visit. Following the inspection, the Council will explain the nature of the hazard(s) in writing and seek the landlord/agent’s proposals for remedying the problem.

Unless the Council already holds the required information, a Requisition for Information Notice may also be served at this point.

Following the inspection, if the Council considers that satisfactory proposals and timescales for the work to be carried out are received and agreed within 14 days, and provided matters then proceed to a satisfactory conclusion, the Council will not normally need to take any further action to discharge its duties.

Landlords are expected either to provide any agent acting for them with sufficient authority to act on their behalf, in the event that they are contacted by the Council, or to ensure that they maintain appropriate
communication with their agent in order that appropriate decisions and responses can be provided to the Council. The failure of an agent to respond to communication from the Council or any failure to take appropriate action may be treated as a failure by the landlord.

If the Council receives:

- No response from the landlord/agent or
- A response it judges inadequate or
- Proposals that were judged acceptable but which are not then followed through (for example if works fail to start when agreed, fail to make proper progress or are completed to an inadequate standard)

it will proceed with formal action by taking whichever of the various available enforcement actions it judges to be the most appropriate in accordance with this Policy.

What is expected of Tenants?
Before considering taking any action in respect of a tenanted property, the tenant(s) will normally be required to contact their landlord about the problems first.

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

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

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

- Where there is a history of harassment/threatened eviction/poor management practice
- Where the tenant appears to be vulnerable or where there are vulnerable members of the household
- Where the tenant could not for some other reason be expected to contact their landlord/managing agent
- Where the property is a House in Multiple Occupation which appears to fall within HMO licensing

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

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

5. Situations where a Service may not be Provided

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

- Where the tenant(s) unreasonably refuse access to the landlord, managing agent or landlord’s builder, to arrange or carry out works
- Where the tenant(s) have, in the opinion of the Council, clearly caused the damage to the property they are complaining about, and there are no other items of disrepair
- Where the tenant’s only reason for contacting the Private Sector Housing Service, in the opinion of the Council, is in order to get re-housed. The Council will aim to bring their present accommodation up to standard
- Where the tenant(s) have requested a service and then failed to keep an appointment and not responded to a follow up letter or appointment card
- Where the tenant(s) have been aggressive, threatening, verbally or physically abusive towards Officers
- Where there is found to be no justification for the complaint, on visiting the property
- Where the tenant unreasonably refuses to provide the Council with relevant documentation

6. Powers of Entry and Power to Require Information

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

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

No Notice is required where entry is to ascertain whether an offence has been committed under Sections 72 (offences in relation to licensing of HMOs), 95 (offences in relation to licensing of houses) or 234(3) (offences in relation to HMO Management Regulations).
If admission is refused, premises are unoccupied or prior warning of entry is likely to defeat the purpose of the entry, then a warrant may be granted by a Justice of the Peace on written application. A warrant under this section includes power to enter by force, if necessary.

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

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

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

7. **Power to Charge for Enforcement Action**

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

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

Costs incurred carrying out Work in Default or Remedial Action will be charged separately.

When the charge demand becomes operative, the sum recoverable will be a local land charge.

8. **Failure to Comply with Notices**

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

- Prosecution;
- Carrying out the works in default;
- Carrying out the works in default and prosecution;
- Whether a simple caution is appropriate.
Failure to comply with an Improvement Notice or a Prohibition Order is an offence punishable by a fine of up to Level 5 (currently £5,000). Following conviction, it is an offence to carry on using the premises in breach of the Prohibition Order, attracting a daily fine.

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

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

9. Revocation and Variation of Notices

The Council must revoke an Improvement Notice once the Notice has been complied with.

If part of the work required within the Notice is carried out, then the Notice can be varied.

10. Works in Default

Works in Default will be considered if all other methods to try to remedy the necessary works have been unsuccessful.

In determining if work in default is appropriate, Officers will consider and report on the following for Head of Housing Management, Housing and Communities:

- The effects of not carrying out the work on the health and safety of the occupant of the property concerned
- The wishes of the tenant where the Notice has been served in respect of a rented property
- The reason for the work not being carried out in the first place
- Any other factors that are specific to individual properties
- The Council will normally seek to recover all of the costs associated with undertaking work in default (including time spent by its Officers, administrative costs, contractors costs, the cost of any specialist reports, supervisory costs etc.)
- In the case of Officer time, the Council will calculate costs as follows:
  - The actual time spent by Council Officers on the chargeable activities and recorded using file notes and database
  - Time spent will be converted into a monetary figure using the appropriate hourly rate set for the Officer(s) concerned.

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

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

11. Authorisation of Officers

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

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

12. Houses in Multiple Occupation

The Housing Act 2004 introduced a mandatory licensing system for certain types of Houses in Multiple Occupation (HMO). The aim of licensing is to ensure that every licensable HMO is safe for the occupants and visitors and is properly managed.

From April 2006 owners of certain types of HMOs must apply to the Council to have their properties licensed. The responsibility for applying for a licence rests with the person having control of or the person managing the property.

Licensing Offences
The Housing Act lays down a number of licensing related offences including:

- Operating an unlicensed HMO or allowing an HMO to be occupied by more persons than a licence allows: fine up to £20,000
- Breach of licence condition: fine up to £5,000
- Supplying incorrect information in a licence application: fine up to £5,000

In addition to the above, a landlord who operates an unlicensed HMO can be subject to a Rent Repayment Order (RRO) by a Residential Property Tribunal.

An RRO requires repayment of rent received by the landlord over a period of up to 12 months. The Council will usually consider applying for such a measure if the landlord has received rent that has been paid by Housing Benefit.
Where an unlicensed HMO is identified by the Council, the Council will assess whether there are good reasons why an application has not been received. If there are no good reasons, the Council will look to take formal proceedings with a view to prosecution in the courts.

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

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

**Interim and Final Management Orders**
Where there is no prospect of an HMO being licensed, the Council is required to apply to the Residential Property Tribunal to grant an Interim Management Order. This will allow the Council to take over the management of an HMO, become responsible for running the property and collecting the rent.

This normally lasts up to a year. In exceptional circumstances the Council can also apply for a Final Management Order. This lasts up to 5 years. Such powers will only be used in exceptional circumstances and will be agreed by the Head of Housing Management, Housing and Communities. As management of any HMO will be resource intensive, the Council will look to develop a procedure with partner RSLs and managing agents to manage such properties on behalf of the Council.

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

**Raising Standards in HMOs**
Many HMOs will not require a licence. These include houses containing self-contained flats and smaller HMOs. Many of these still pose a significant degree of risk to occupants and/or have a history of being poorly managed. The Council will continue to regulate such HMOs through enforcement of the HMO Management Regulations and by the use of the Housing Health and Safety Rating system. Currently these HMOs will only be inspected when the Council receives a complaint or enquiry about the property. All HMOs will however be subject to a risk assessment which will allow the prioritisation of proactive inspections to secure appropriate improvement work.
Fire Safety in HMOs
Statistically HMOs have one of the highest incidents of deaths caused by fire in any type of housing. It is therefore essential that any HMO possesses an adequate means of escape in event of a fire and adequate fire precautions.

The actual level of fire protection and detection required will be determined by a risk assessment.

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

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

- All services, furnishings, fixtures and fittings are maintained in good, sound, and clean condition
- The structure is kept in good order
- All communal areas of the interior are regularly cleaned and redecorated as necessary
- All yards, boundary walls, fences, gardens and outbuildings are maintained in a safe and tidy condition
- Satisfactory arrangements for the disposal of refuse and litter have been made
- At the commencement of all tenancies the lettings are clean, in a satisfactory state of repair and decoration, and comply in all respects with these standards
- All staircases and multiple steps should be provided with suitable handrails
- All Tenants should fulfil their tenancy obligations.

13. Empty Homes

Empty homes can be a blight on our community as well as a wasted housing resource. Our approach will be to work with the owners of empty homes to support and encourage voluntary action, but we are committed to take appropriate enforcement action where reasonable negotiations fail, subject to appropriate funding being available to do so.

A number of factors will be considered in deciding the best course of action for an empty home and for more information please see the Bournemouth Empty Homes Strategy 2016 - 2022 or contact the Empty Homes Officer (web links can be found at the end of this document).
14. Monitoring and Review

The Service will keep its regulatory activities and interventions under review, with a view to considering the extent to which it would be appropriate to remove or reduce the regulatory burdens they impose, where the Council has direct control of these matters.

Changes will be introduced into this document where necessary to accommodate new legislation, guidance and local needs.

The satisfaction of service users will be assessed through regular random sample customer questionnaires.

The information collected will be used to improve the delivery of the Service's private sector housing work.

15 Application of the Policy

All Officers must have regard to this policy and the Environmental Health and Consumer Services General Enforcement Policy when making enforcement decisions.

If you have any comments or queries on this policy, please contact:

Steven Day, Private Sector Housing Enforcement Manager

By Email: steven.day@bournemouth.gov.uk

By telephone: 01202 451083

Or at this Address:

Private Sector Housing
Castlepoint Office
Castlepoint Library
Castle Lane West
Bournemouth
BH8 9UP.
Related policies and documents

- Bournemouth Housing Strategy
- Bournemouth Private Sector Housing Renewal Strategy
- Bournemouth Empty Homes Strategy
- Bournemouth Private Sector Housing Grants Policy

All of the above are available at: http://www.bournemouth.gov.uk/Residents/housing/strategies_and_plans.asp

- Housing and Communities - Private Sector Housing Enforcement Policy

Printed copies of these are also available by emailing:

privatesector.housing@bournemouth.gov.uk

or by telephoning: 01202 451083