



Dorset
Council

**Housing Standards
Enforcement Policy
and Statement of
Principles for
determining Financial
Penalties 2020-2025**

3 November 2020



Housing Standards Enforcement Policy and Statement of Principles for determining Financial Penalties 2020-2025

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Housing Standards Enforcement Policy 2020-2025

1. Introduction

The Housing Standards Enforcement Policy (2020-2025) details how Dorset Council will undertake enforcement activity to regulate the safety and condition of resident's homes.

It should be read in conjunction with the '[General Statement of Enforcement Policy](#)' which provides details of the overall approach of Dorset Council to enforcement issues across all relevant services. Action will also be taken in accordance with the Officers Scheme of Delegation for Dorset Council and the Local Scheme of Nomination - Executive Director – Adults.

Our aim

To raise standards in housing; by working with all our stakeholders including property owners, landlords, letting agents and tenants by using a wide range of proportionate regulatory activities including where necessary, robust enforcement action.

Fig: 1

Dorset Council Plan 2020-24

Through this Enforcement Policy the Housing Standards Team will contribute to the [Dorset Council Plan 2020-2024](#) and our priorities of:

- **Economic growth** - we will deliver sustainable economic growth, increasing productivity and the number of high quality jobs in Dorset, creating great places to live, work and visit
- **Unique environment** - we will help to deliver sustainable development while protecting and enhancing Dorset's environment
- **Suitable housing** - we will work with registered housing providers, community land trusts and local housing partners to deliver affordable, suitable and decent housing
- **Strong, healthy communities** - we will work with residents and partners to build and maintain strong communities where people get the best start and lead fulfilling lives
- **Staying safe and well** - we will work with all of our residents to have a good quality of life

Fig 2

Decent, safe and affordable housing should be available for all. Poor housing has a wide ranging impact on our health and the wider community. The majority of properties in Dorset provide safe and healthy accommodation however this enforcement policy is aimed at a minority of property owners, landlords and letting agents who fail to provide accommodation that meets minimum housing standards. Dorset Council wants to target their enforcement resources in tackling houses owned or managed by these groups.

2. Enforcement and Equality

In undertaking our enforcement activity we are committed to ensuring that no one is discriminated against on the basis of their age, disability, employment status, ethnic or

national origins, race or colour, marital status, religious or political beliefs, responsibilities for children or dependents, gender or gender reassignment, sexuality, social class, or unrelated criminal convictions.

We will not be affected by improper or undue pressure from any source in carrying out these functions. We will always act in the interests of justice and not solely for the purpose of obtaining a conviction.

Dorset Council is a public authority for the purposes of the Human Rights Act 1998. We therefore we apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

Where there is a need for us to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 2018 and the associated General Data Protection Regulations (GDPR). Our privacy policy can be found on the Councils [website](#).

3. Legal Background

3.1. Proportionate and Fair Enforcement

This Enforcement Policy sets out what actions relevant stakeholders can expect. It specifies the range of enforcement options available and sets out when and in what circumstances enforcement action is likely to be taken.

Our enforcement policy reflects the Principles of Good Regulation set out in the Regulators Code, the Code for Crown Prosecutors and the Legislative and Regulatory Reform Act 2006.

3.2. Regulators' Code

All regulators must have regard to this [Code](#) when developing policies and operational procedures; it sets out the following key regulatory principles:

This policy will support the principle of the Regulators code by ensuring that we:

- Carry out our activities in a way that supports those we regulate to comply and grow
- Provide simple and straightforward ways to engage with those we regulate and hear their views
- Base our regulatory activities on risk
- Share information about compliance and risk
- Ensure clear information, guidance and advice is available to help those we regulate to meet their responsibilities to comply
- Ensure that our approach to our regulatory activities is transparent

Fig 3

3.3. Legislative and Regulatory Reform Act 2006

In accordance with the [Legislative and Regulatory Reform Act 2006](#), we will carry out our enforcement activities in a way which is proportionate, consistent, targeted, transparent and accountable.

Proportionate	Our activities will reflect the level of risk to the public and any enforcement action taken will relate to the seriousness of the offence
Consistent	Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.
Targeted	We will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.
Transparent	We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
Accountable	Our activities will be open to public scrutiny with clear and accessible policies and fair and efficient feedback process.

Fig 4

3.4. Our Approach to Enforcement

The enforcement of standards in housing can take a range of different approaches from informal action, the service of legal notices and orders, to the prosecution of offenders. This policy details how those decisions will be made, having regard to the above factors. The following general issues will also be taken into account:

- The degree of cooperation provided by those involved.
- The risk that the non-compliance poses to the safety, health or economic welfare of the public at large or to individuals and whether the risk is considered imminent
- Evidence that suggests that there was pre-meditation in the commission of an offence.
- Any failure to comply in full or in part with the requirements of a statutory notice or order.
- History of previous warnings or the commission of similar offences including a history of failure to respond to informal requests for action
- Aggravated circumstances such as aggressive or violent behaviour.
- The value of the action as a deterrent to the perpetrator and others.
- Removal of any financial gain from the offence
- The tenure of the person affected
- Whether the progression of the case is in the 'public interest' and it also achieves the necessary 'evidential test'

Fig 5

4. All Residential Dwellings including Houses in Multiple Occupation (HMO)

4.1. Housing Health and Safety Rating System (HHSRS)

[The Housing Act 2004](#) introduced the [Housing Health & Safety Rating System \(HHSRS\)](#). This is a risk-based assessment tool which local housing authorities are required to have regard to when assessing property conditions.

It enables housing deficiencies to be identified and assessed. The associated regulatory provisions contained in the Act then enable higher risk deficiencies to be resolved and the housing risks reduced or removed entirely. The HHSRS introduced the concept of 'Category 1' (rated A to C – higher risk deficiencies) and 'Category 2 Hazards' (rated D and below – lower risk deficiencies).

4.2. Identification and Assessment of Hazards

4.2.1. Service Request led work

The Housing Act 2004 places local housing authorities under a general duty to keep the housing conditions in their area under review, with a view to identifying any action which may be necessary. This duty is wide ranging and enables the Council to exercise its powers for any reason, when it considers it would be appropriate to do so.

The Regulators Code and the Legislative and Regulatory Reform Act 2006, provides some scope and balance to these wide ranging powers. The Council will normally inspect properties to assess housing conditions when we have been specifically requested to do so, normally by a tenant, some other occupant or affected party.

4.2.2. Proactive work

From time to time, the Council may become aware of evidence and information which means that it wants to consider a more targeted or proactive inspection and enforcement approach, meaning it may actively inspect accommodation and enforce its duties and powers, without the need to be requested to do so.

Such actions may take the form of action on defined types of properties or actions in defined geographical areas and could take the form of local or regional projects, pilot schemes or part of the implementation of wider statutory schemes such as Selective or Additional Licensing.

Such actions would be considered in the following circumstances and implemented in consultation and agreement with the Corporate Director for Housing and Housing Portfolio Holder.

- Where specific evidence such as property condition, deprivation or the like justifies the need for a targeted property inspection and enforcement approach
- Where a new or change in legislation or guidance justifies or requires a proactive enforcement approach

Fig 6

4.3. Enforcement Options

When Category 1 or 2 Hazards are identified, a number of specific enforcement options are available to the local housing authority. Deciding which option to use is based on a wide range of property, ownership, occupancy and deficiency specific factors and regard will be had to the [HHSRS enforcement guidance: housing conditions](#).

When a Category 1 or Category 2 Hazard is identified, the Housing Act 2004 enforcement options available to the Council are to serve or make a:

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

Fig 7

In removing or reducing Category 1 or 2 Hazards, Dorset Council will focus its enforcement response as detailed in fig 8:

Category 1 Hazards

Dorset Council has a *statutory duty* to take appropriate action in response to a Category 1 Hazard. Once identified the Council must decide which of the available enforcement options (detailed in Fig 7) is most appropriate to remove the Category 1 Hazard.

Category 2 Hazards

The Council has the *power* to take appropriate action in response to a Category 2 Hazard. The Council may take enforcement action in the following cases ('actionable category 2 hazards') considering the following factors:

- Where a Category 2 Hazard falls within Band 'D' or 'E' i.e. a high ranking Category 2 Hazard.
- Cases involving a vulnerable occupant, as defined within the specific hazard of the HHSRS guidance
- Cases in which multiple Category 2 Hazards of any band are identified, which when considered together, create a more serious cumulative health effect.
- Where local house condition surveys or other relevant local data highlights specific local hazards necessitating specific action i.e. risks associated with excess cold, dampness or security.
- Any other case determined by the Service Manager Housing Standards in consultation with the Corporate Director for Housing.

Fig 8

4.4. Enforcement Options and Dealing with different tenure groups

The HHSRS and the associated enforcement options detailed in [Fig 7](#) apply to all tenures of housing.

It is generally considered that owner-occupiers are primarily responsible for the repair and maintenance of their own home. They are usually in a position to make informed decisions concerning their own safety and welfare and the necessary maintenance and improvement of their home.

Tenants and particularly those occupying private rented accommodation are less able to do so and the condition, repair and safety of such accommodation is the primary responsibility of some other person; namely the property owner, landlord or letting agent.

For this reason it is normally appropriate for the Council to use its enforcement powers differently according to housing tenure.

4.4.1. Owner-Occupiers

In the first instance owner-occupiers concerned about the condition of their home will normally be provided with relevant telephone advice or information via the Councils [website](#). This may also include the offer of [financial assistance](#) in eligible cases.

Formal visits and inspections of owner-occupied properties will only normally be undertaken if there is a concern that the condition of the property gives rise to a high risk for the safety of the occupants, they are considered to be vulnerable or the property possesses a high risk to persons other than the occupant's i.e. neighbouring properties or passers-by.

If there is a need to move beyond the provision of advice, it is anticipated that a Hazard Awareness Notice is likely to be the most appropriate course of action. However, the use of other enforcement options detailed in [Fig 7](#), maybe considered appropriate in the following circumstances:

- Vulnerable owner occupiers who lack the capacity to make informed decisions about their own safety and welfare.
- Hazards that might reasonably affect persons other than the occupants i.e. neighbouring properties or passers-by.
- An imminent risk of serious harm such as electrocution or fire where appropriate and timely action is not being taken

Fig 9

4.4.2. Leaseholder/Freeholder

Circumstances can arise where a long leaseholder is experiencing ongoing poor housing conditions, where a higher landlord, such as a freeholder or management company, are not taking the necessary steps to remedy those housing defects for which they are legally responsible.

Formal visits, inspections and any appropriate enforcement action will only be considered where:

- the leaseholder has made reasonable efforts to remedy the matter with the higher landlord,
- that action has proved ineffective,
- the higher landlord is responsible for remedying the said defect(s), and;
- the defect is likely to give rise to a Category 1 or actionable Category 2 hazard

Fig 9a

4.4.3. Registered Providers of Social Housing (RPs)

Registered Providers of Social Housing (RP's) (formerly known as housing associations) provide and manage decent, affordable rented accommodation. They are often managed as a society, body of trustees or company and typically their management includes an element of tenant representation. They are regulated and their performance scrutinised by the [Regulator of Social Housing](#).

RP's normally appoint specialist teams to manage and maintain their properties and will usually have detailed arrangements for programmed stock maintenance, comprehensive systems for reporting repairs, setting out response times and also the processes for registering any complaints about service failure.

As such the Council has agreed protocols with the major RP's who have stock in the Dorset area. These protocols agree that the RP respond to all service requests (made direct to the Housing Standards Team) from their tenants in the first instance.

These protocols outline how enquires to the Housing Standards Team will be dealt with, how they are passed to the relevant RP, agreed response times and details of when further action may be necessary by the Council including property inspections and formal action.

The protocols are designed to improve communication between the Council and the relevant RP, ensure that expectations are clearly understood by all stakeholders and also enable a benchmark against which performance can be measured.

For this reason the Council will not normally take formal action against an RP unless:

- It is satisfied that the problem in question has been properly reported to the RP through the correct reporting channels, and;
- The RP has then failed to take appropriate remedial action within any agreed, recognised or reasonable timescales, and;
- Category 1 or 'high ranking Category 2' Hazards exist as detailed in [Fig 8](#).

These protocols will be reviewed periodically to ensure that they continue to meet the needs of all stakeholder and in particular the tenants of RP's. Dorset Council currently has such Protocols with the following RP's:

- [Aster Group](#)
- [Magna Housing](#)
- [Sovereign](#)
- [Stonewater](#)

Fig 11

4.4.4. Private Landlords

Most landlords provide decent quality, well managed properties to rent. Should a private tenant have concerns about the condition or safety of their rented home the Council will normally firstly advise them to contact their landlord or letting agent directly. This ensures that landlords have the opportunity to resolve any defects in the first instance.

This approach can also ensure that tenants receive some additional protection from '[retaliatory eviction](#)' as detailed below.

In the event that the Council needs to visit a property, the Housing Act 2004 requires that the landlord is notified in advance of that formal visit giving at least 24 hours' notice. This prior notification provides the property owner or landlord with the initial details of the reported deficiencies and also the opportunity to attend the inspection if they wish.

24 hour prior notice is not necessary where an inspection is required to determine any action or offences under the HMO licencing provisions or HMO Management Regulations.

In certain situations a tenants will not be required to contact their landlord prior to the Councils involvement. In addition the Council may then decide it is appropriate to visit the property without notifying the landlord or letting agent. This may be considered in the following limited circumstances:

If upon inspection a dwelling is found to possess Category 1 or actionable Category 2 Hazards, the Council will normally seek to resolve the matter by instigating the relevant formal action outlined in [fig 7](#) above.

- Where there is a history of harassment, threatened eviction and poor management practices.
- Where the tenant or other members of the household are considered vulnerable
- Where the complaint relates to the management of a property that is a House in Multiple Occupation (HMO) or a property which appears to fall within the HMO licencing provisions.
- Where the tenant could not for some other reason be reasonably expected to contact their landlord or letting agent, or their landlord or letting agent is not able to be contacted.

Fig 12

However certain circumstances may arise when it is considered inappropriate to use such formal action (as detailed in [fig 7](#)). Such cases maybe progressed via an informal method; and in deciding to take this action, the following issues will be taken into account: Where informal action is taken, the Council will explain the nature of the defects in writing and seek the landlord or letting agent's proposals for remedying the problems, normally providing 14 days for an acceptable response to be provided.

Informal action will be considered as an alternative to the relevant formal action outlined in [fig 7](#) by taking into account the following factors:

- The landlord has a good track record of performing repairs without the need for formal action
- There is very high confidence that all the works will be completed to the correct specification within recognised acceptable time periods
- It is reasonable for the officer to believe that the landlord will make a written undertaking to complete the works to the correct specification within recognised acceptable time periods
- The risks involved are considered low and in the event of non-compliance during informal action, a switch to formal action at a later stage will not place the occupants or others at undue risk of harm
- The landlord or letting agent is not disputing the need for the necessary repair works to be completed to the specified standard and reasonable time scale.
- The landlord has cooperated with the Councils investigation to date by for example, responding to correspondence, attending property inspections, making relevant paperwork available upon request etc.

Fig 13

Notwithstanding the above, formal action will be appropriate when:

- The tenant is at risk of retaliatory eviction and a category 1 or an 'actionable category 2 hazard(s)' are present as detailed in [Fig 8](#).
- The deficiencies present a high risk to the occupants and others
- There is a lack of confidence that the required work will be completed to the correct specification and in a timely way.
- The property subject to the action is being sold and it is appropriate to serve a 'notice' to ensure that any prospective owner is made aware of higher risk deficiencies via the local land charge system

Fig 14

4.5. Retaliatory Eviction

'[Retaliatory eviction](#)' refers to a situation where a tenant makes a legitimate, justified complaint to their landlord about the condition of their accommodation and in response their landlord serves them with a notice (also known as a '[no fault section 21 notice](#)') seeking possession of the property (let on an Assured Shorthold Tenancy).

[The Deregulation Act 2015](#) sought to introduce some protection for tenants against this type of retaliatory action. In summary if the Council serves an Improvement Notice or takes Emergency Remedial Action in relation to a property, the landlord will be unable to rely on using the section 21 'no-fault' notice seeking possession procedure for 6 months from the date the action was taken by the Council.

In order to rely on this protection from 'retaliatory eviction', the tenant must have initially notified the landlord in writing of the alleged defects. If after 14 days if the landlord does not reply to their requests, the reply is inadequate or they respond by issuing a 'Section 21' notice seeking possession; the tenant may approach the Council to carry out an inspection to verify the existence of a Category 1 or actionable Category 2 Hazard.

If such a hazard exists and in order to reduce or remove the risk and protect the tenant's occupation of their home, the Council will take the appropriate enforcement action as detailed in [Fig 7](#) above.

4.6. Power to Charge for Enforcement Action

The Housing Act 2004 provides local housing authorities with the power to make a reasonable charge as a means of recovering specified administrative and other expenses incurred in taking the following enforcement action:

- | | |
|--|--------|
| <ul style="list-style-type: none">• Hazard Awareness Notice;• Improvement Notice;• Prohibition Order;• Emergency Prohibition;• Demolition Order;• Emergency Remedial Action;• Review of Suspended Prohibition Order and Improvement Notice | Fig 15 |
|--|--------|

In taking the action detailed in fig 15, the Council can recover a reasonable amount for the relevant expenses incurred in connection with certain prescribed actions only.

- | |
|--|
| <ul style="list-style-type: none">• Determining whether to serve the notice (such as time spent gaining entry to the property, travelling to and inspecting the premises)• Identifying any action to be specified in the notice (such as the administrative work in identifying, risk assessing and scoring hazards, consulting any necessary guidance and legislation.• Serving the notice (such as the administration involved in drafting and then serving the notice whether by standard, registered post or by hand delivering) |
|--|

Charges will be made on a cost recovery basis, using the current hourly rates of the officers involved, plus any associated costs including travelling costs, travel time, copying charges and any relevant 'on costs' for that officer.

Details of this calculation and the minimum charge can be found in [Appendix 3](#). Where the time reasonably incurred in carrying out the above actions means that this minimum charge is exceeded, then the Council may charge for the service of that particular notice at the higher calculated rate. This minimum charge will normally be reviewed annually to allow for inflation and other relevant cost increases.

Where the action detailed in Fig 15 is taken, there will be a presumption in favour of making the appropriate administration charge. In deciding whether to make such a charge, officers will consider amongst other relevant issues the following factors:

- The degree of co-operation and communication currently or previously obtained
- The financial circumstances of the recipient of the notice or order
- The amount of time incurred by officers in taking the necessary formal action
- If the 'notice' is only required to formalise action or repairs which have already been agreed.

Fig 17

The costs incurred by the Council in carrying out Works in Default of an Improvement Notice or Emergency Remedial Action are charged separately.

4.7. Other Housing Related Enforcement Action

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

[The Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#) require landlords to ensure that under certain circumstances tenanted properties are provided with smoke and carbon monoxide alarms.

The requirements:

- a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance.

Fig 18

Where a local housing authority has reasonable grounds to believe that a landlord is in breach of one or more of the duties these Regulations, the authority *must* serve a remedial notice on the landlord.

Non-compliance with these Regulations *may* result in the imposition of a financial penalty in accordance with a specific Statement of Principles attached at [Appendix I](#) to this policy.

4.7.2. Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – Minimum Energy Efficiency Standards (MEES)

[The Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#) are designed to tackle the least energy efficient properties, in other words those rated as 'F' or 'G' on the Energy Performance Certificate (EPC) scale.

The Regulations establish a minimum standard of EPC band 'E' for private rented accommodation which now affects all tenancies, both new and existing.

Where for a range of specified reasons the landlord is unable to improve the property and the EPC rating remains at 'F' or 'G', then if they intend to continue letting the property the landlord must apply for a relevant exemption on the [PRS Exemptions Register](#) and also supply suitable and sufficient evidence for the reason why an exemption is justified.

Non-compliance with these Regulations *may* result in the imposition of a financial penalty in accordance with a specific Statement of Principles attached at [Appendix 1](#) to this policy

Non compliance

There are different forms of non-compliance, including one or more of the following:

- Continuing to let a property in breach of the Regulations i.e. letting out a property EPC rated 'F' or 'G' without an appropriate exemption
- Registering any false or misleading information on the PRS Exemptions Register

Fig 19

The local housing authority may serve a compliance and / or a Penalty Notice on a landlord etc who appears to be, or to have been at any time within the 12 months preceding the date of service of the compliance or Penalty Notice, be in breach of one or more of the requirements detailed in fig 19 above.

Penalty Notice

In deciding whether to serve a Penalty Notice, the following factors will be taken into account:

- The rating of the property – F or G on the EPC scale
- The absence of a properly made or any exemption on the PRS Exemption Register
- Any other relevant circumstances including:
 - the likely presence of a Category 1 Hazard(s) under Excess Cold or Damp or Mould
 - any positive action taken by the landlord or letting agent in order to resolve the EPC rating or exemption
 - The period of time over which the breach has occurred

Fig 19a

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

[The Redress Schemes for Letting Agency Work and Property Management Work \(Requirement to Belong to a Scheme etc.\) \(England\) Order 2014](#) requires that a person who engages in lettings agency or property management work must be a member of a [redress scheme](#) for dealing with complaints.

Non-compliance with these Regulations *may* result in the imposition of a financial penalty in accordance with a specific Statement of Principles attached at [Appendix 1](#) to this policy.

4.7.4.Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

The [Regulations](#) apply to new assured shorthold tenancies and licences to occupy from 1 July 2020 and existing tenancies and licences from 1 April 2021. Landlords of privately rented accommodation must:

- Ensure national standards for electrical safety are met. These are set out in the [18th edition of the 'Wiring Regulations'](#), which are published as British Standard 7671.
- Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years.
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test.
- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply the local housing authority with a copy of this report within 7 days of receiving a written request for a copy.
- Where the report shows that further investigative or remedial work (code C1, C2 or FI) is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.
- Supply written confirmation of the completion of the further investigative or remedial works from the electrician to the tenant and the local housing authority within 28 days of completion of the works.

Fig 20

A remedial notice *must* be served where the local housing authority is satisfied on the balance of probabilities that a landlord has not complied with one or more of their duties under the Regulations. This provides the landlord with the opportunity to respond to the alleged failures.

If a local housing authority has reasonable grounds to believe a landlord is in breach of one or more of the duties in the Regulations and the report indicates urgent remedial action is required, the local housing authority may, with the consent of the tenant or tenants, arrange for a qualified person to take the urgent remedial action and recover their costs.

Otherwise, they must serve a remedial action notice requiring the landlord to take the necessary action within 28 days. Should a landlord not comply with the notice the local housing authority may, with the tenant's consent, arrange for any remedial action to be taken themselves.

Landlords have rights to make written representation and appeal against remedial action. The local housing authority can recover the costs of taking the action from the landlord and may also impose a financial penalty of up to £30,000 on landlords who are in breach of their duties.

The Council will impose Financial Penalties where permitted, in accordance with its Statement of Principles which is attached to this policy as [Appendix 2](#) and having regard to the relevant [government guidance](#).

4.7.5.Homes (Fitness for Human Habitation) Act 2018

The [Homes \(Fitness for Human Habitation\) Act 2018](#) is designed to ensure that all rented accommodation (private and social) including any common parts of the building, are fit for human habitation at the beginning of the tenancy and throughout.

If a landlord fails to comply with the Act, tenants may have the right to take court action for breach of contract. If the court decides that the landlord has not provided their tenant with a

home that is fit for habitation, then the court can make the landlord pay compensation to their tenant or make the landlord do the necessary works to improve their property.

The courts will decide whether a property is fit for human habitation by considering the matters set out in section 10 of the Landlord and Tenant Act 1985 which includes whether any of the 29 hazards set out in the [Housing Health and Safety \(England\) Regulations 2005](#) are present. Although a Housing Health and Safety Rating System (HHSRS) assessment is not strictly necessary, a landlord or tenant might choose to carry out an assessment if they want to establish whether a serious health and safety hazard is present.

All requests for assistance under this Act will be dealt with in the same way as other service requests and in accordance with this policy.

4.7.6.Environmental Protection Act 1990 – Statutory Nuisance

Premises that are ‘prejudicial to health or a nuisance’ as defined by the [Environmental Protection Act 1990](#) may constitute a ‘*statutory nuisance*’ under this Act. It is anticipated that the vast majority of such domestic premises can be investigated and resolved using the enforcement provisions of the Housing Health and Safety Rating System (HHSRS) as detailed above.

Where for whatever reason this is not possible, (for example a privately rented park home) consideration will be given to enforcement action and the abatement of the nuisance under this Act.

Where a premises is in such a state or condition that it causes a *statutory nuisance* at an adjoining property, then these matters will normally be investigated and progressed by officers working within the Community Protection Team of Dorset Council.

4.7.7.Building Acts, Public Health Acts and other legislation

The Building Act includes wide ranging provisions including [works in default](#) relating to the resolution of defective drainage to existing buildings and dangerous structures.

Similarly, Public Health Acts enable the Council to address a range of issues which can affect the housing stock.

4.8. Powers of Entry

The Housing Act 2004 provides authorised officers of the Council with wide ranging powers of entry to residential properties, at any reasonable time to carry out its duties. In most circumstances at least 24 hours’ notice must be given to the owner of the property, preferably in writing, of the Councils intention to carry out an inspection.

Such prior notice is not required in order to inspect premises to determine any offences in relation to the licensing of Houses in Multiple Occupation, offences in relation to licensing of

houses generally (including Selective or Additional Licensing) or offences in relation to the HMO management regulations.

If entry to a property is refused, likely to be refused, the property is unoccupied or 24 hours prior notice would defeat the purpose of entry; then the Council can request from a Magistrate a warrant to enter the property, by force if necessary.

4.9. Power to Require and Obtain Information

Officers acting under this policy will routinely have need to obtain a wide range of information and evidence about a property. This includes documentation about its condition (including gas and electrical safety certification) and also the full contact details of those persons or organisations with a legal interest in the property. To obtain this information the Council has powers under the Housing Act 2004 to require landlords and agents to produce a wide range of documentation.

In addition The Local Government (Miscellaneous Provisions) Act 1976 enables the Council to seek relevant prescribed information using a 'Requisition for Information' Notice. This process will normally be used as a standard precursor to formal action under the Housing Act 2004.

The Housing Act 2004 also specifically enables access to relevant Housing Benefit and Council Tax information in order that the Council can perform necessary and appropriate duties and powers under the Act.

5. Failure to Comply with Notices and the Need for Further Action

5.1 If a notice, order or other relevant action is complied with in full, then normally no further action will be necessary. If the notice or order is not complied with, the Council will consider the following options:

- Prosecution (Fines in the magistrates court are unlimited)
- Demanding the payment of a Financial Penalty up to £30,000.
- Applying for a landlord banning order
- Insertion on the Database of 'rogue landlords' and property agents
- Carrying out the works in default;
- Issuing a Simple caution.
- Applying for a Rent Repayment Order (RRO)

Fig 21

5.2. Prosecution

The Council will consider the option of prosecution with reference to this policy document and Council's General Statement of Enforcement Policy, following consultation with the Council's Corporate Director for Legal Services.

In making this decision the Council will make reference to the Crown Prosecution Service '[Code for Crown Prosecutors](#)'. This code is a public document, issued by the Director of Public Prosecutions that sets out the general principles all prosecutors should follow when they make decisions on cases.

The Code has two main tests or stages; the *evidential stage* which considers if there is sufficient evidence to provide a realistic prospect of conviction and the *public interest stage*, which weighs up all the public interest factors tending in favour of prosecution and whether they outweigh those tending against prosecution. Only where these two tests are met will

the Council consider prosecution. In arriving at a decision to prosecute under this policy, the Council will also consider a wide range of factors including:

- The degree of cooperation provided by those involved.
- The risk that the non-compliance posed to the safety, health or economic welfare of those affected or likely to be affected
- Evidence that suggests that there was pre-meditation in the commission of an offence.
- Any history of previous warnings or the commission of similar offences including a history of failure to respond to informal and formal requests for action
- Any aggravating circumstances such as aggressive, violent behaviour, harassment or illegal eviction etc
- The value of the action as a deterrent to the perpetrator and others.
- Removal of any financial gain from the offence
- The tenure of the person affected
- Where a financial penalty is thought to have little affect then prosecution maybe deemed the most appropriate action
- The suitability of a Financial Penalty as an alternative to Prosecution (see below)

Fig 22

The following provisions are offences liable to prosecution:

Housing Act 2004 and other offences

- Section 30 - failing to comply with an Improvement Notice
- Section 31 – failing to comply with a Prohibition Order
- Section 72(1) – (Mandatory) HMO Licensing Offences – failure to licence a HMO
- Section 72(2) – (Mandatory) HMO Licensing Offences – occupation of an HMO by more persons than authorised by the licence
- Section 72(3) – (Mandatory) HMO Licensing Offences – failure to comply with a licence condition
- Section 95 – Offences in relation to Selective Licensing
- Section 139(7) – Contravention of an HMO overcrowding notice (non-licensable HMO)
- Contravention of The Management of Houses in Multiple Occupation (England) Regulations 2006 applicable to all HMO's
- Contravention of The Licensing and Management of Houses in Multiple Occupation (additional provisions) (England) Regulations 2007 (applicable to converted blocks of flats)
- Any other relevant Act or Regulation

Fig 23

The Portfolio Holder (Housing) will be informed of the proposed action for information purposes only.

5.3. Financial Penalties

The Housing and Planning Act 2016 introduced the option of Financial Penalties of up to £30,000 as an alternative to prosecution for certain prescribed offences under the Housing Act 2004 and other legislation. Although Financial Penalties are an alternative to Prosecution, they require the same standard of proof as required before a Court of Law and the application of the same evidential and public interest test as outlined above. A Financial Penalty can only be imposed as an alternative to prosecution, as such only one of these courses of action maybe taken.

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

The Council will impose Financial Penalties where permitted, in accordance with its Statement of Principles which is attached to this policy as an [Appendix 2](#) and having regard to the relevant [government guidance](#). The offences potentially liable to the imposition of such a Financial Penalty include the following:

- section 30 (failure to comply with improvement notice),
- section 72 (licensing of Houses in multiple occupation (HMOs)),
- section 95 (licensing of houses under Part 3),
- section 139(7) (failure to comply with overcrowding notice), or
- section 234 (management regulations in respect of HMOs).
- section 21 (of the Housing and Planning Act 2016 - Breach of a banning order)
- regulation 3 (of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 – failure to comply with the regulations

Fig 24

In deciding whether to prosecute an offender or whether to issue a financial penalty, Dorset Council will decide which option it wishes to pursue on a case-by-case basis in line with this policy.

In making that decision and deciding between issuing a financial penalty or prosecution, the following factors maybe taken into account:

The seriousness of the offence:

Prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past.

Where a significant financial penalty is determined to be a greater sanction than prosecution:

A civil penalty of up to £30,000 can be imposed where a serious offence has been committed and a local housing authority may decide that a significant financial penalty (or penalties, if there have been several breaches), rather than prosecution, is the most appropriate and effective sanction in a particular case

Where Dorset Council considers that a banning order may be an appropriate sanction for a landlord, in addition to prosecution:

A banning order may only be applied for where a landlord has been convicted for committing certain prescribed offences and therefore if this is considered an appropriate sanction, may lead to a presumption in favour of prosecution in such cases.

Fig 25

The reason for a particular course of action being pursued will be documented and provided to the Corporate Director for Housing and the Council's solicitor for approval. This will ensure that the proposed action meets the tests set out in the Code for Crown Prosecutors and that the preferred sanction is the most 'appropriate and effective' course of action.

The Portfolio Holder (Housing) will be informed of the proposed action for information purposes only.

5.4. Banning Orders

The Housing and Planning Act 2016 introduced the concept of ['Banning Orders'](#) as a sanction to target what the government terms ['rogue' landlords](#), who are convicted for committing certain prescribed housing offences.

Local authorities are empowered to apply to the [First-Tier Tribunal \(Property Chamber\)](#) to impose a Banning Order preventing a person or body corporate from letting houses; engaging in letting agency work or engaging in property management work for a minimum period of 12 months. There is no statutory maximum period for a banning order.

Offences enabling an application for a Banning Order are detailed in the legislation and associated regulations and cover a wide range of housing related offences including:

- Failure to comply with an improvement notice or prohibition order,
- The unlawful eviction or harassment of an occupier and violence for securing entry,
- Offences in relation to the licensing of Houses in Multiple Occupation including a failure to comply with management regulations in respect of Houses in Multiple Occupation,
- Contravention of an overcrowding notice,
- Fire safety offences under the Regulatory Reform (Fire Safety) Order 2005,
- Gas safety offences- duties on landlords, and;
- A wide range of offences relating to immigration, fraud, violence and sexual offences, theft, burglary and blackmail etc.

Fig 26

The full range of offences is detailed in the [guidance](#) produced by Ministry of Housing, Communities and Local Government.

In determining whether it is appropriate to apply for a banning order, the following factors will be taken into consideration:

- The seriousness of the offence.
- Any previous convictions or any entry on the [rogue landlord database](#)
- The harm caused to the tenant.
- The necessity to further punish the offender.
- To deter the offender from repeating the offence or similar offences again
- To deter others from committing similar offences
- Where it is thought that prosecution or a financial penalty are unlikely to prevent the landlord or letting agent offending again.

Fig 27

Should a person subsequently breach a banning order, as detailed above the Council has the power to either prosecute or impose a financial penalty.

5.5. Database of rogue landlords and property agents

The Housing and Planning Act 2016 also introduced a national '[database](#)' of landlords subject to a [Banning Order](#) or convicted for committing a Banning Order offence. Dorset Council will ensure that any landlord or agent who has committed a banning order offence as outlined in fig 26 above, is inserted on the Database of Rogue Landlords.

5.6. 'Works in Default' of an Improvement Notice

Where a recipient of an Improvement Notice fails to complete the necessary required work, the Council has the power to take the specified action required in relation to some or all of the identified hazard(s). This can be carried out with or without the agreement of the recipient of the notice.

As a general rule the Council will recover all the reasonable expenses incurred in taking that action including all reasonable administration costs. This may include for example the total time spent by officers in organising and supervising the work, all administrative work, travel, costs associated with contractors and supervisory costs including the cost of any necessary specialist reports and interest at a reasonable rate. This process is often referred to as carrying out 'Works in Default' of a notice.

In determining whether it is appropriate to carry out 'works in default' of an Improvement Notice, the investigating officers will consider the following matters in consultation with the Service Manager Housing Standards:

- The effects of not carrying out the work on the health, safety and welfare of the occupants of the property concerned.
- The opinion of any occupant.
- The reason for the work not being carried out, either on time or to the correct specification
- Any other formal action being taken with regard to the case
- Any other factors that are relevant to the particular case.

Fig 28

Until such time as 'Works in Default' costs are fully paid by the responsible person, the action and costs incurred also act as a Land Charge.

This process then gives the Council the same powers and remedies as a Mortgagee under the Law of Property Act 1925 which is relevant in the case of the potential Enforced Sale of long term [empty properties](#).

5.7. Simple Caution

A [simple caution](#) (once known as a formal caution) is a formal warning that may be given by the police or other prosecutors to persons aged 18 or over who admit to committing an offence. The simple caution scheme is designed to provide a means of dealing with low-level, mainly first-time, offending without a prosecution, Financial Penalty or other sanction. A simple caution may only be given where specified criteria are met.

In considering whether to issue a simple caution the following factors will be taken into consideration.

- there is evidence that the offender has committed an offence (to the same standard of proof as that required before a court); and,
- the offender admits to the offence; and,
- it is not in the public interest to prosecute (if a simple caution is accepted); and,
- the offender agrees to being given the simple caution.
- the offence created a scenario which was considered low risk, a technical breach of the legislation and/or a first time offence
- the offender remedied the breach in a timely way and there was no financial gain in committing the offence.

Fig 29

5.8. Rent Repayment Orders (RRO)

A [rent repayment order](#) is an order made by the First Tier Tribunal (Property Chamber) requiring a landlord to repay a specified amount of rent.

RRO's enable a local authority or a tenant to secure the repayment of rent paid during the period of a prescribed offence (for a maximum period of 12 months). In the case of the local authority the amount to be reclaimed would relate to Housing Benefit payments made. In the case of a tenant the amount reclaimed would be the rent paid personally by that tenant.

The Housing and Planning Act 2016 extended the range of offences for which a local authority is able to consider applying for a RRO against a landlord. These now include:

- Failure to obtain a mandatory HMO licence for a property under section 72(1) of the Housing Act 2004
- Failure to obtain a property licence under section 95(1) of the Housing Act 2004
- Failure to comply with an Improvement Notice under section 30 of the Housing Act 2004
- Failure to comply with a Prohibition Order under section 32 of the Hosing Act 2004
- Breach of a banning order made under section 21 of the Housing and Planning Act 2016
- Using violence to secure entry to a property under section 6 of the Criminal Law Act 1977
- Illegal eviction or harassment of the occupiers of a property under section 1 of the Protection from Eviction Act 1977.

Fig 30

While prosecution for the offence is not a prerequisite for an RRO application, should there have been a successful prosecution, the Tribunal will not revisit the facts of the case, but merely consider the appropriate amount for repayment.

In considering whether to apply to the First Tier Tribunal (Property Chamber) for an RRO, the Council will consider the following factors:

- That housing benefit has been paid to tenants resident at the property
- The seriousness of the offence.
- Any previous convictions or any entry on the [rogue landlord database](#)
- The harm caused to the tenant.
- The necessity to further punish the offender.
- To need to deter the offender from repeating the offence or similar offences again
- To deter others from committing similar offences

Fig 31

6. Houses in Multiple Occupation (HMO)

- 6.1. [HMOs](#) are properties occupied by persons who do not form a single household, in that they are not members of the same family. Occupants will also share one or more basic amenities such as a bathroom, toilet or shower.

The definition of HMO typically includes properties known as bedsits or shared houses, but can also include poorly converted blocks of flats, staff accommodation and temporary accommodation of homeless people (often bed and breakfast type accommodation).

6.2. Fire Safety in HMOs

HMOs have one of the highest incidences of fire related deaths in all types of housing. It is therefore essential that HMOs possess adequate means of escape in case of fire and adequate fire precautions. The actual level of fire protection and detection required will be determined by risk and further guidance on the typical precautions necessary can be found in the documents; '[Housing – Fire Safety](#)' ([Local Authorities Coordinators of Regulatory Services - LACORS](#)) and '[Fire safety risk assessment: sleeping accommodation](#)'.

Dorset Council has an enforcement protocol with Dorset and Wiltshire Fire and Rescue Service to determine the lead authority for different types of residential accommodation. Dorset Council is normally the lead authority for all fire safety matters in HMOs.

Once inspected all HMOs are subject to a risk assessment which will allow the prioritisation of proactive inspections to secure appropriate improvement work.

6.3. The General Management of HMOs

[The Management of Houses in Multiple Occupation \(England\) Regulations 2006](#) and [The Licensing and Management of Houses in Multiple Occupation \(additional provisions\) \(England\) Regulations 2007](#) (applicable to converted blocks of flats), require the person having control of the HMO to ensure that:

HMO Management Regulations

- 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 are provided with suitable handrails.
- All tenants fulfil their tenancy obligations.

In order to provide some interpretation and guidance of the requirements for all HMOs, Dorset Council has adopted [Amenity Standards for HMOs](#) which contains further information about the legal requirements and recommendations as to how they may be fulfilled.

Failure to comply with the 'HMO Management Regulations' is an offence liable to [Prosecution](#), the issuing of a [Financial Penalty](#) or a [Simple Caution](#) and in determining whether formal action is appropriate the following factors will be

- The seriousness of the offence.
- The presence of any imminent risks especially relating to fire safety
- The landlords past history of compliance
- Any previous convictions or any entry on the [rogue landlord database](#)
- The harm caused or likelihood of any home to the tenant(s)
- The absence of a Mandatory HMO or other type of housing licence

Fig 33

Where formal action is not considered appropriate, the Council will explain the nature of the defects in writing and seek the landlord or letting agent's proposals for remedying the problems, normally providing 14 days for an acceptable response to be provided. Failure to comply with such approach may then lead to formal action based on the factors listed in Fig 33.

6.4. Mandatory HMO Licensing

The Housing Act 2004 introduced a national mandatory licensing system for Houses in Multiple Occupation (HMO) occupied by 5 or more people who share basic facilities.

Due to the way they are occupied, HMOs often pose particular hazards in relation to fire, overcrowding and property management and maintenance. The aim of proactive licensing is to ensure that every licensable HMO is safe for the occupants and is properly managed.

The responsibility for applying for a licence rests with the person having control or the person managing the property, licences normally cover a period of three to five years and the licence is subject to an administration fee to cover the cost of the licensing issuing process which is detailed in [Appendix 4](#).

Those applying for a licence must satisfy a self-certification 'fit and proper person' 'test' and the property must be suitable for the number of proposed occupants in relation to the provision of facilities, it shall be subject to appropriate management and also possess adequate fire precautions.

6.5. Licensing Offences

The Housing Act 2004 details a number of HMO licensing offences including:

- Operating a licensable HMO without a licence
- Allowing an HMO to be occupied by more persons than a licence allows
- Breaching a condition of the licence

Fig 34

Where a HMO licencing offence has been identified the Council will assess the relevant circumstances and may base any decision for further formal action on the following matters:

- The condition and management of the HMO and the presence of any serious safety issues including any category 1 or high rating category 2 hazards
- Whether the property possesses adequate and maintained fire precautions
- The response of the landlord or responsible person when they are notified of the need for a licence
- Whether it is believed the landlord was aware of the need for a HMO licence
- Steps taken by the landlord to subsequently licence the property
- Steps taken by the landlord to carry out any necessary work within an agreed time period

Fig 35

As detailed above, if a landlord operates an un-licensed HMO the Council may [prosecute](#), issue a [Financial Penalty](#), apply for a [Rent Repayment Order \(RRO\)](#), apply for a [Banning Order](#) or issue a [Simple Caution](#).

6.6. Interim and Final Management Orders

Where there is no reasonable prospect of an HMO being licensed or certain prescribed health and safety conditions fail to be met, the Council is required to apply for an Interim Management Order (IMO). The application for an IMO is made to the First Tier Tribunal (Property Chamber), normally lasts for one year and allows the Council to take over the management of the HMO. In certain circumstances the Council can also apply for a Final Management Order (FMO) which can last a further five years.

It is likely that such powers will only be used in exceptional circumstances and will be agreed by the Service Manager Housing Standards in consultation with the Corporate Director for Housing. In considering taking this action the Council will have regard to:

- Whether the making of an interim management order is necessary for the purpose of protecting the health, safety or welfare of persons occupying the house
- Any other options have been discounted
- Any threat to evict persons occupying the house in order to avoid the house being required to be licensed or otherwise
- The history of non-compliance with housing and other relevant legislation
- The making of the Interim Management Order is in the public interest.

Fig 35a

6.7. Temporary Exemption Notices

Where a landlord is taking particular permitted steps with a view to securing that the house is no longer required to be licensed, the Council may serve a Temporary Exemption Notice (TEN). A TEN can only be granted for a maximum period of three months and in exceptional circumstances a second TEN can be served for a further three month period.

It should be noted that in granting a TEN the landlord must only take permitted steps with a view to securing that the house is no longer required to be licensed. Specifically no 'section 21' notice (recovery of possession of a shorthold tenancy) may be given in relation to a shorthold tenancy of any part of an unlicensed HMO.

6.8. HMOs not subject to licensing

Many HMO's may not require a mandatory licence. These include houses containing self-contained flats, converted buildings and smaller HMOs of either 3 or 4 persons sharing basic facilities.

Such HMO's may still pose a significant degree of risk to occupants and may also have a history of being poorly managed.

The Council may inspect such non-licensable HMO's via the enforcement of the provisions of the [Management of Houses in Multiple Occupation \(England\) Regulations 2006](#) and the [Housing Health and Safety Rating System](#) both detailed above and will target any inspections on the basis of risk and by considering the following factors:

- Whether any justified complaint has been received about the condition of the HMO
- Any intelligence or evidence provided about the condition, safety, overcrowding, management and fire precautions present within the property
- The number of stories and layout of the HMO and how that contributes to the fire and other risks to the occupants
- The known past recent history of the landlord or letting agent

Fig 36

6.9. Discretionary Property Licensing

The Housing Act 2004 makes provision for the introduction of discretionary licensing of a wider range of HMOs, referred to as Additional Licensing. It also provides for the discretionary licensing of all private sector housing in a defined area, which is known as Selective Licensing.

The Council will consider the use of these powers if the criteria for such licensing schemes are met, it is considered to be the most appropriate course of action; is consistent with the Dorset Council's objectives and has the necessary support from relevant partner agencies.

7. Empty Homes

- 7.1. Empty homes are a blight on our communities, they can fall into disrepair, attract vermin, unauthorised access, vandalism and anti-social behaviour. They also constitute a significant wasted housing resource to the property owner and wider community.

Local Housing Authorities can take a wide variety of actions to enable long term empty properties to be brought back into use. This can include working with the owners of empty homes, to support and encourage voluntary action. Alternatively where reasonable negotiations fail, subject to appropriate funding and other resources being available, it can also include certain enforcement action as detailed below.

In deciding the most appropriate course of action for an empty property and whether formal action is appropriate, regard shall be had to the following factors:

- The response of the property owner
- The length of time the property has been empty
- Its impact on the neighbourhood and the level of justified complaint
- Housing need in the area for the particular type of accommodation
- The size, condition and location of the property
- The likely cost of bringing the empty property back into use
- Any debts or other charges secured on the property
- The views of neighbours and local councillors
- The availability of funding to progress with a given case including an available partner organisation such as a housing association
- The human rights considerations of taking enforcement action

Fig 37

7.2. Empty Dwelling Management Orders (EDMO's).

Under the Housing Act 2004 the Council may apply to the First Tier Tribunal (Property Chamber) to impose an [EDMO](#) on a long term empty home which has been empty for at least six months. If granted the order gives the Council the power to manage the house, but not take the full ownership. Final EDMO's last for a maximum period of seven years, after which another order maybe applied for or some alternative action taken.

During the lifetime of the EDMO the Council is required to rent the property for residential purposes and may recover any costs incurred in improving and managing it through the rental income obtained. If there is any surplus income, then it must be passed on to the freehold owner.

The Council may work in partnership with a Registered Provider of Housing (RP – formerly known as Housing Associations) or other agencies to manage a property which has been subject to an EDMO.

The EDMO option is more likely to be considered for long term empty homes which meet the following criteria

- The property is in a relatively good state of repair, needing only cost effective works to make it suitable for rental occupancy
- Is of an appropriate size and in an area of demonstrable housing need and there is a reasonable prospect that the dwelling will become occupied if an EDMO is made
- The amount of affordable rent likely to be payable in the life of the EDMO is favourable when compared to the repair, management and other expenses incurred
- The dwelling has been unoccupied for at least six months
- There is no reasonable prospect that the dwelling will become occupied in the near future
- The Council has complied with its duties in seeking to make an EDMO and no exemptions apply

Fig 38

7.3. Enforced Sale

The 'enforced sale' of a house is an option available to local authorities where a property has certain Council legal or financial charges secured on it, which the property owner has not paid. This typically includes costs associated with works carried out in default of a notice served as outlined above. In essence the local authority exercises the power of sale conferred by the charge to recover the money it is owed.

The most common statutory provisions enabling works in default with an associated property charge are detailed below:

- Section 4 Prevention of Damage by Pests Act 1949
Requiring land to be kept free of rats and mice
- Section 79 Building Act 1984
Requiring works to remedy ruinous and dilapidated buildings and neglected sites
- Section 80 Environmental Protection Act 1990
Requiring abatement of statutory nuisance
- Section 215 Town and Country Planning Act 1990
Requiring steps to be taken for the purpose of remedying the adverse effect on amenity caused by detrimental condition of land and buildings
- Sections 11 and 12 Housing Act 2006
Requiring the taking of action to deal with category 1 or 2 hazards in residential premises
- Council Tax Debts - requires an application to court and an order for sale

The Council can seek an order from HM Land Registry (Law of Property Act 1925) to force and complete the sale of the house on the open market or via auction to recoup its costs. The freehold owner then take the balance of the sale price.

As neglected empty properties can typically require the above formal action and absent owners fail to comply with works notices and pay associated works in default costs, then this process can be particularly relevant to empty homes.

In considering whether the enforced sale procedure is appropriate for a particular long term empty property then the following criteria will be taken into account:

- The presence of an appropriate financial legal charge on the empty property
- The value of that charge
- The nature of the charge; i.e. whether the Councils charge takes priority over others
- The likelihood that the freehold owner will pay the outstanding debt
- The properties impact on the neighbourhood and the level of justified complaint
- The level of cooperation provided by the owner in bringing the property back into use

Fig 40

7.4. Compulsory Purchase Order (CPO)

Various legal provisions provide local authorities with the power to apply to the Secretary of State to acquire land, houses or other properties by compulsion for the provision of housing accommodation ([CPO](#)). The main uses of this power are to assemble land for housing and

ancillary development, to bring empty properties into housing use and to improve substandard or defective properties.

Common current practice is for authorities acquiring land or property compulsorily to dispose of it to the private sector. However where resources are available, empty properties can equally be renovated by the Council and improved to be used for private sector renting for those in housing need.

There are significant human rights implications associated with the compulsory purchase of properties and therefore an order should only be considered where there is a compelling case in the public interest.

In considering whether a Compulsory Purchase Order is appropriate for a particular long term empty property then the following criteria will be taken into account:

- The extent to which the property owner has attempted to comply with the Councils requests to bring it back into use
- What efforts the Council has made to engage the owner in bringing the property back into use
- The condition and location of the property and the likelihood it will come back into use by other means, whether Council initiated or otherwise
- The effect of the empty property on local residents and the wider community
- The balance of human rights interests, in other words the rights of the property owner balanced against the rights of those demonstrably affected by the empty property
- The purchase and likely resale cost of the property
- The benefit of improving and renovating the property for rent verses the immediate sale of the property on the open market
- The marketability of the property on the open market

Fig 41

The Secretary of State will consider a CPO application made by the Council and if the owner contests it, they will offer the owner the opportunity to put their case. This submission can take the form of a written representation or a public enquiry. In any case the circumstances will be judged by an independent Government appointed inspector.

7.5. General Empty Property Enforcement Action

Other legislation can also be considered when dealing with issues arising from empty properties, such as:

- [Local Government \(Miscellaneous Provisions\) Act 1982 s29](#) - enables the Council to secure a property that is open to access
- [Buildings Act 1984 s77 and 78](#) - enables the Council to require an owner to make a property safe or allow emergency action to be taken to make it safe
- [Town and Country Planning Act 1990 s215](#) - enables the Council to take action to address a dis-amenity to the local community and unsightly external appearance
- [Housing Act 1985 s265](#) - enables the Council to demolish a property that cannot be satisfactorily repaired (i.e. derelict properties)
- [Prevention of Damage by Pests Act 1949 Section 4](#) - Requiring land to be kept free of rats and mice
- [Environmental Protection Act 1990 Section 80](#) - Requiring abatement of statutory nuisance
- [Anti-social Behaviour, Crime and Policing Act 2014](#) – Community Protection Notice – action where a property is having a detrimental effect on the quality of life of those in the locality, and is unreasonable, and the behaviour is of a persistent or continuing nature.

Fig 42

8. Park Homes

Park Home sites offer an alternative to home ownership and many sites are occupied by older residents on low income. Local authorities are responsible for safeguarding the interests of park home owners and the public at large through the licensing regime under the [Caravan Sites and Control of Development Act 1960](#).

There are currently approximately 50 licenced sites in the Dorset Council area. The [Mobile Homes Act 2013](#) introduced a new site licensing regime for relevant protected sites (that is, park home sites and mixed sites of both residential park homes and holiday homes). The Act allowed for the service of compliance notices in relation to breaches with site licence conditions.

Compliance Notices

Where a local authority considers that a park owner is failing or has failed to comply with a site licence condition it can serve a compliance notice on the park owner listing the steps that need to be taken, within a specified time period, to comply with the requirements of the site licence. It is a criminal offence to fail to comply with a valid compliance notice.

Emergency Action

A new provision has also been introduced under this legislation that deals with emergency situations that may arise but where the park owner either refuses or is not available to take immediate action to protect people on the park. Where a situation arises that, in failing to comply with a site licence condition, there is an imminent risk to the health and safety of anyone on the park, the local authority has the power to take emergency action to remove that risk.

Fig 43

Any actions required in enforcement proceedings will be reasonable and proportionate. Dorset Council aims to work with park owners in a constructive and positive way to improve parks. In applying this policy Dorset Council aims to be consistent in its approach across all sites in Dorset and address issues that arise in relation to the site licence conditions. Formal enforcement action will be considered under the following circumstances:

- Where there are breaches of the site licence conditions
- The presence of any demonstrable risk of significant harm to persons or property
- The interests and rights of the park home owners
- Whether a breach of the site licence condition is impacting on an individual owner of a wider part of the site.
- The general level of confidence of the site licence holder at this or other sites under their control
- The general way in which the site is managed and operated and any history of justified complaint and non-compliance.

Fig 44

9. Situations where a service may not be provided

Although the Council has specific legal duties and responsibility in relation to the inspection of housing and the improvement or removal of hazards, as detailed below situations may arise where it is appropriate and justified to not provide a service:

- Where an occupant voluntarily has or is imminently intending to move out of the property subject to the enquiry
- Where a tenant unreasonably refuses access to the property to the landlord, property owner, managing agent, Council Officer or any appointed contractor, preventing them from inspecting, arranging or carrying out any required works.
- Where the only reason for contacting Housing Standards is to assess or improve a priority rating under the [Home Choice Allocations Policy](#) and the tenant has refused to allow access or cooperate to enable the accommodation to be assessed, improved or repaired.
- Where an occupant has made a relevant request for service and has then failed to reasonably respond to requests for contact, failed to keep an appointment(s) and has not reasonably responded to subsequent communication or requests.
- Where an occupant or a member of their household has been aggressive, threatening, verbally or physically abusive towards an officer of the Council or another relevant person.
- Where on visiting or inspecting the property there is found to be no justification for the complaint or the complaint is considered vexatious.
- Where upon request, an occupant unreasonably withholds from the Council any relevant information or documentation which would assist the Council in its investigation or the performance of its duties or powers.

Fig 45

10. Monitoring and review

This enforcement policy will be subject to regular review and amendment when necessary to accommodate new legislation, guidance or local needs. The policy provides authority to the Corporate Director for Housing to make minor alterations in consultation with the Portfolio for Housing.

This enforcement policy will be available on the council's website at www.dorsetcouncil.gov.uk/housingenforcement

Housing Standards will work to adopt any corporate or other appropriate system designed to obtain feedback and to assess the satisfaction of the service provided to and the diversity of landlords, letting agents and tenants and others affected by this policy. The information collected will be used to improve the delivery, fairness and effectiveness of the policy.

11. Application of the policy

Enforcement officers will refer to this policy and appended documents when making all enforcement decisions. Any departure from this policy must be made in consultation with the Service Manager Housing Standards and appropriately recorded.

12. Feedback

If you wish to comment or provide feedback about this policy please contact;

Service Manager Housing Standards
South Walks House
South Walks Road
Dorchester
Dorset DT1 1UZ

01305 251010
housingteamf@dorsetcouncil.gov.uk

Appendix 1

Statement of principles for determining financial penalties for general housing legislation

Introduction

This statement sets out the principles that Dorset Council will apply in exercising powers to impose a financial penalty for failing to meet certain legislative requirements for which they are the enforcing authority.

The Council's power to impose financial penalties.

Legislation has been introduced which has provided the Council with a power to impose and charge a financial penalty in prescribed circumstances.

- [The Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#)
- [The Redress Schemes for Letting Agency Work and Property Management Work \(Requirement to Belong to a Scheme etc.\) \(England\) Order 2014](#)
- [Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#)

Fig 46

In anticipation of further legislative provisions being introduced which enable the imposition of a financial penalty, the principles detailed in this document will be applied in setting any charge

Scope

Regulation 13 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, requires the council to prepare and publish a 'statement of principles' to which it will have regard in determining the amount of a penalty charge it will apply where a landlord is in breach of the duties under those Regulations. The Council will also apply these principles when determining any other housing related legislation that permits the Council to impose a financial penalty.

The Council may revise this statement of principles and in the event will publish the revised statement.

Where a financial penalty is charged the Council must have regard to the most current statement of principles that it has published.

General principles applied to the imposition of a financial penalty.

The primary purpose of the Council's enforcement of its regulatory powers is to protect the interests and safety of the public. The primary aims of any financial penalty will therefore be to:

- Change the behaviour of the landlord / letting agent concerned.
- Deter future non-compliance by landlords / letting agents.
- Eliminate any financial gain or benefit from non-compliance with the Regulations.
- Be proportionate to the nature of the breach of the Regulations and the potential harm outcomes.
- Reimburse the cost incurred by the Council in undertaking any work in default and fulfilling its enforcement duties.

Fig 47

In determining the amount of any financial penalty to be charged the Council may in general have regard to the following:

- The level of cooperation provided by the landlord/letting agent concerned.
- Any history of previous contraventions of Housing or Housing related legislation
- The level of risk created by the non- compliance
- The cost incurred by the Council in enforcing the relevant provision.
- Any other circumstances identified as specifically relevant to the individual matter
- The Council's current Housing Standards Enforcement Policy

Fig 48

Financial penalties applicable to specific legislation

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

Where the Council have reasonable grounds to believe that the requirements have not been met by a landlord there is a duty to serve a 'Remedial Notice' on the landlord. Failure to comply with a Remedial Notice imposes a further duty upon the Council to arrange remedial action and a power to require payment of a penalty charge. The amount of the penalty charge must not exceed £5,000.

The Council will comply with the requirements and [guidance](#) regarding the information to be contained within any penalty charge notice, including provisions for a review, and the appeal procedures. A penalty charge will be recoverable on the order of a court, as if payable under a court order.

The Dorset Council Standard Penalty Charges are as follows and in determining the amount of any financial penalty to be charged the Council may have regard to the matters raised in fig.48 above.

- The standard penalty charge for breach of duty under regulation 6(1), - compliance with a Remedial Notice - will normally be up to £1,500 for a first failure to comply with a Remedial Notice.
- An offer will usually be made on a first occurrence penalty charge for it to be reduced by 50% if paid within 14 calendar days of the date of issue of the penalty charge notice.
- Should a landlord repeatedly not comply with such Remedial Notices, the penalty charge will normally be up to £3,000 for a second occurrence, and normally be up to £5,000 (maximum) for any additional occurrences.
- There will usually be no discount offered for early payment of a penalty charge, for failure to comply with a Remedial Notice on the second and additional occurrences.

Fig 49

The Regulations make provision for a landlord to seek a review of a penalty charge notice. The Council will refer to this statement of principles in considering any request for a review, and the review will be conducted by an Officer not directly involved in the service of the original notice.

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

Whilst the majority of lettings agents and property managers provide a good service there are a minority who offer a poor service and engage in unacceptable practices. This Order requires that tenants and landlords with agents in the private rented sector will be able to complain to an independent person about the service they have received. The aim is that the requirement to belong to a redress scheme will help remove bad agents and property managers and drive up standards.

Where the council is 'satisfied on the balance of probabilities' that a person has failed to belong to a redress scheme as required by article 3 or 5 of the above Order, it may by notice require that person to pay a 'monetary penalty'. The amount of the monetary penalty must not exceed £5,000.

The Council will comply with the procedure and [guidance](#) for the imposition of a monetary penalty stipulated within the Order including provisions for the submission of representations and objections and the appeal procedures. The Council will normally provide the landlord with a reasonable period of time to remedy any breach; normally 21 to 28 days, prior to considering imposing a penalty. A monetary penalty will be recoverable on the order of a court, as if payable under a court order.

The standard monetary penalty for breach of duty under article 3 or 5 will be set initially at £5,000. The monetary penalty will be reduced by 50% if paid within 14 calendar days of the date of issue of the monetary penalty.

While this monetary penalty is set as a standard the order makes provision for a Letting Agent to make representations or objections. The Council will refer to this statement of principles in considering representations or objections received. Reviews will be conducted by an Officer not directly involved in the service of the original notice of intent.

Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

The Council may serve a penalty on the landlord where they are satisfied that the landlord is, or has been in the last 18 months in breach of the:

- prohibition on letting sub-standard property (those rated F or G on the EPC scale) or
- requirement to comply with a compliance notice or
- has uploaded false or misleading information to the Exemptions Register.

Fig 51

The Council will normally provide the landlord with a reasonable period of time to remedy any breach; normally 21 to 28 days, prior to considering imposing a penalty. The Council has discretion to decide on the amount of financial penalties, up to maximum limits set by the Regulations and associated [guidance](#). The maximum penalties are as follows:

- a. Where the landlord has let a sub-standard property in breach of the Regulations for a period of less than 3 months, a financial penalty of up to £2,000 may be imposed in addition to a publication penalty.
- b. Where the landlord has let a sub-standard property in breach of the regulations for 3 months or more, a financial penalty of up to £4,000 may be imposed in addition to a publication penalty.
- c. Where the landlord has registered false or misleading information on the PRS Exemptions Register, a financial penalty of up to £1,000 may be imposed in addition to a publication penalty.
- d. Where the landlord has failed to comply with compliance notice, a financial penalty of up to £2,000 may be imposed in addition to a publication penalty.

The Council may not impose a financial penalty under both paragraphs a. and b. above in relation to the same breach of the Regulations, but they may impose a financial penalty under either paragraph a or paragraph b., together with financial penalties under paragraphs c and d, in relation to the same breach.

Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000. The Council will initially impose the maximum penalty permitted. The Council will refer to this statement of principles in considering any request for a review and the review will be conducted by an officer not directly involved in the service of the original notice.

For all offences resulting in a financial penalty the Council will also consider a 'publication penalty'. A 'publication penalty' allows the Council to publish details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The Council will generally keep the information on the Register for at least 12 months.

Appendix 2

Statement of principles for determining financial penalties for Housing Act and other offences

Introduction

This statement sets out the principles that the Dorset Council (the Council) will apply in exercising powers to impose a financial penalty for specified criminal offences under the Housing Act 2004.

The Council's power to impose financial penalties.

Legislation and [guidance](#) has been introduced which provides local housing authorities with a power to charge a financial penalty in prescribed circumstances.

The Ministry of Housing, Communities and Local Government (MHCLG) publication is statutory guidance to which local housing authorities must have regard. It recommends certain factors a local authority should take into account when deciding on the level of financial penalty and further recommends that local authorities develop and document their own policy on determining the appropriate level of financial penalty in a particular case.

The Council has a wide discretion in making this determination and this policy provides further guidance as to how a penalty will be calculated. In developing its policy the Council has had regard to principles set out in a number of publications including the [Magistrates' Court Sentencing Guidelines](#). In anticipation of further legislative provisions being introduced enabling the imposition of a financial penalty, the principles detailed in this document will be applied in setting any charge.

Scope of the document

[The Housing and Planning Act 2016](#) ('the 2016 Act') amends the Housing Act 2004 ('the 2004 Act') to allow financial penalties, up to a maximum of £30,000, to be imposed as an alternative to [prosecution](#) for certain relevant housing offences.

The Housing Act 2004 Act prescribes the procedures that a local housing authority must follow before imposing a financial penalty, details of the appeal process and the procedure for recovery of the penalty.

Schedule 9 of the 2016 Act has introduced amendments to the 2004 Act that allow local housing authorities to impose financial penalties as an alternative to prosecution for the following relevant housing offences under the 2004 Act:

- The extent to which the non-compliance was the result of direct acts or omissions of the landlord / agent.
- Whether the non-compliance was deliberate or resulted from a matter of which the landlord / agent should reasonably be aware.
- Whether any other body has or is likely to apply sanctions associated with the non-compliance.
- The level of cooperation provided by the landlord / agent concerned.
- Any history of previous contraventions of Housing or Housing related legislation.
- The level of financial gain achieved by the non-compliance.
- The level of risk created by the non-compliance.
- The degree of responsibility held by the landlord / agent for the non-compliance.
- The cost incurred by the Council in enforcing the relevant provision.
- Any additional aggravating or mitigating factors that may warrant an increase or decrease in the financial penalty.

Fig 55

Where a financial penalty is charged the Council must have regard to a statement of principles published and in place at the time when the breach in question occurred. The Council may revise this statement of principles and where it does so, it will publish the revised statement.

General principles and factors to be applied to the imposition of a financial penalty.

The guidance on the imposition of financial penalties advises local authorities to take account of the following seven factors when calculating the amount of any penalty.

The Council will take these seven factors into account when determining the amount of any

1. Severity of the offence.
2. Culpability and track record of the offender.
3. The harm caused to the tenant.
4. Punishment of the offender.
5. Deter the offender from repeating the offence.
6. Deter others from committing similar offences.
7. Remove any financial benefit the offender may have obtained as a result of committing the offence.

Fig 54

financial penalty to be imposed and in doing so will specifically consider:

Procedure for imposing a financial penalty

The procedure for imposing a financial penalty is set out in Schedule 13A of the Housing Act 2004. Where a penalty is considered the appropriate sanction, the level of penalty will be set by reference to the '[Financial Penalty Matrix](#)' detailed below in Table 1.

The Financial Penalty Matrix accounts for the seven factors detailed in the guidance at fig 54 above and consolidates it into four headings. The resultant total 'score' in column 'A' of table 1 is then transferred to one of the eleven possible [penalty bands](#) detailed in Table 2.

Each band provides a range of possible penalties with the lowest band having a penalty of up to £250 and the highest band imposing a penalty up to the maximum of £30,000.

The maximum penalty for any band will be assumed to apply unless there are accepted mitigating circumstances associated with the case. These may include, but not limited to:

- No previous convictions or no relevant or recent convictions
- Steps voluntarily taken to remedy the problem
- A high level of cooperation with the investigation, beyond that which will always be expected
- Good previous record of maintaining the property
- Self-reporting of the issue, cooperation and acceptance of responsibility
- Good character or exemplary conduct
- Mental health issue or learning disability is linked to the commission of the offence
- Serious medical conditions requiring urgent, intensive or long term treatment

Fig 56

In all cases a view will be taken on the level of the penalty calculated from the matrix, compared to the offence committed and if necessary the penalty will be adjusted, subject to appropriate documented evidence. Prior to the final determination of a penalty the Council will satisfy itself that the penalty is just and proportionate. Decisions to adjust a civil penalty will be taken and documented by the Service Manager Housing Standards.

Where the offender is issued with more than one financial penalty, the Council will have regard to guidance from the definitive guideline on [Offences Taken into Consideration and Totality](#) and consider the totality of the penalties.

If the aggregate total of the penalties is not considered just and proportionate, the Council will consider how to reach a just and proportionate financial penalty.

The statutory guidance advises that local authorities should use their existing powers as far as possible, to make an assessment of a landlord's assets and any income (not just rental income) they receive when determining an appropriate penalty.

In setting a financial penalty, either singular or cumulative, the Council may conclude that the offender is able to pay any financial penalty imposed unless the Council has obtained, or the offender has supplied, any financial information to the contrary. An offender will be expected to disclose to the Council such data relevant to his financial position to enable the Council to assess what an offender can reasonably afford to pay.

Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the offender's means from evidence it has received and from all the circumstances of the case, which may include the inference that the offender can pay any financial penalty.

Where it is determined that a financial penalty is appropriate the Council will serve a 'notice of intent' on the person responsible for the offence within 6 months of the offence being evidenced

The Council will invite representations which must be made within 28 days of receipt of the 'notice of intent'. Having considered any representations received the Council must then decide if it still wishes to impose a civil penalty and, if so, the amount. If a civil penalty continues to be considered appropriate a 'final notice' will be served.

A person who receives a final notice may appeal to the First-tier Tribunal against the decision to impose a penalty; or the amount of the penalty. If a person appeals, the final notice is suspended until the appeal is determined or withdrawn.

Financial Penalty Matrix (Table 1)

Factors	Score = 1	Score = 5	Score = 10	Score =15	Score = 20	Total (A)
1. Severity of offence and culpability	Single low level offence and no previous enforcement history.	Single offence and minor previous enforcement history.	Offence has moderate severity or small but frequent impact(s), and /or recent second time offender.	Ongoing offence of moderate to large severity or a single instance of a very severe offence, or multiple offender.	Continuing serious offence. Serial offender. History of enforcement action being necessary.	
2. Deterrence of offender and others	High confidence that a financial penalty will deter repeat offending, and / or publicity not required to prevent similar offending by others.	Medium confidence that a financial penalty will deter repeat offending, and / or only minimal publicity required to prevent similar offending by others.	Low confidence that a financial penalty will deter repeat offending (e.g. no contact from offender), and /or some publicity will be required to prevent similar offending by others.	Little confidence that a financial penalty will deter repeat offending, and publicity will be required to prevent similar offending by others.	Very little confidence that a financial penalty will deter repeat offending, and publicity essential to prevent similar offending by others.	
3. Removal of financial benefit	Minimal assets and no or very low financial profit made by offender.	Little asset value and /or little profit made by offender.	Small portfolio landlord with low asset value, and low profit made by offender.	Medium portfolio landlord or a small Managing Agent, with Medium asset value, and medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent, with high asset value, and /or high profit made by offender.	
4. Harm to the tenants (x2 weighting)	Very little or no harm caused, and no vulnerable occupants, or tenant provides no information on impact.	Low level health/harm risk(s) to occupant deemed likely. No vulnerable occupants, and /or only poor quality information on impact available.	Moderate level health/harm risk(s) to occupant likely, or low level risk(s) to vulnerable occupants. Some information on impact available but with no primary or secondary evidence	High level of health/harm risk(s) to occupants likely, and tenant(s) will be affected frequently or by occasional high impact occurrences, or vulnerable occupants more than likely exposed to moderate level of risk. Good information on impact with primary evidence (e.g. prescription drugs present, clear signs of poor health witnessed) but no secondary evidence.	Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually affected, or vulnerable occupants exposed. Excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).	x2

Financial Penalty Bands (Table 2)

Score Range Total Score in Column A (Table 1)	Maximum Penalty
<6	£250.00
6<11	£500.00
11<21	£750.00
21<31	£1,000.00
31<41	£2,500.00
41<51	£5,000.00
51<61	£10,000.00
61<71	£15,000.00
71<81	£20,000.00
81<91	£25,000.00
91+	£30,000.00

Appendix 3

Charging for Enforcement Action

	Business Support		EHO		Team Leader		Service Manager		TOTAL
Hourly rates (2020)	17.56		30.71		38.29		48.01		
Activity for which charge maybe made	Hours	£	Hours	£	Hours	£	Hours	£	£
Inspection including travel		£ -	2.50	£ 76.78		£ -		£ -	76.78
HHSRS assessment		£ -	1.00	£ 30.71	0.50	£ 19.15	0.25	£ 12.00	61.86
Drafting schedules of work		£ -	1.50	£ 30.71	0.50	£ 19.15	0.25	£ 12.00	61.86
Sec 8 consideration (statement of reasons)		£ -	1.00	£ 30.71	0.25	£ 9.57	0.25	£ 12.00	52.29
Service of notices / orders		£ -	0.50	£ 15.36	0.25	£ 9.57	0.25	£ 12.00	36.93
Admin support	2.00	£ 35.12		£ -		£ -		£ -	35.12
TOTAL	2.00	£ 35.12	6.50	£ 199.62	1.50	£ 57.44	1.00	£ 48.01	340.18

Hourly rates are calculated using the officer salary, all 'on costs' and a productivity rate of c 70%
 The minimum charge for the service of a housing enforcement notice is £340 (round down, VAT not applicable)

Appendix 4 HMO license Fee

Action	HMO New Licence				HMO licence Renewal	
	Officer	Time allocated	Hourly Rate	Cost	Time Allocated	Cost
Pre inspection arrangements - review file, update database	EHO	1.00	£ 30.71	£ 30.71	0.50	£ 15.36
Pre inspection arrangements - review case and allocate case	TL	0.25	£ 38.29	£ 9.57	0.25	£ 9.57
Pre inspection arrangements Admin - Set up on database - letters sent to invite to apply	BS	1.00	£ 17.56	£ 17.56	1.00	£ 17.56
Inspection/report writing/plans (EHO)	EHO	3.00	£ 30.71	£ 92.13	2.00	£ 61.42
Inspection/report writing/plans (TL)	TL	1.00	£ 38.29	£ 38.29	0.25	£ 9.57
Inspections/enforcement during licence period	EHO	2.00	£ 30.71	£ 61.42	2.00	£ 61.42
Liaison with statutory bodies - fire, conservation, planning, BC - update database (EHO)	EHO	1.00	£ 30.71	£ 30.71	0.50	£ 15.36
Liaison with statutory bodies - as above (TL)	TL	0.25	£ 38.29	£ 9.57	0.25	£ 9.57
Admin: Application receipt, upload documents, allocate back to EHO	BS	1.00	£ 17.56	£ 17.56	1.00	£ 17.56
Check application documents (EHO)	EHO	1.50	£ 30.71	£ 46.07	1.50	£ 46.07
Check application documents (TL)	TL	0.50	£ 38.29	£ 19.15	0.50	£ 19.15
Draft licence (EHO)	EHO	1.50	£ 30.71	£ 46.07	1.50	£ 46.07
Draft licence (TL)	TL	0.50	£ 38.29	£ 19.15	0.50	£ 19.15
Draft licence (SM)	SM	0.10	£ 48.01	£ 4.80	0.10	£ 4.80
Draft licence sent (BS)	BS	0.50	£ 17.56	£ 8.78	0.50	£ 8.78
Payment taken	BS	0.50	£ 17.56	£ 8.78	0.50	£ 8.78
Final Licence (complete all paperwork) update database (EHO)	EHO	1.00	£ 30.71	£ 30.71	1.00	£ 30.71
Final licence (TL)	TL	0.25	£ 38.29	£ 9.57	0.25	£ 9.57
Final licence (SM)	SM	0.10	£ 48.01	£ 4.80	0.10	£ 4.80
Licence sent	BS	0.50	£ 17.56	£ 8.78	0.50	£ 8.78
IT inputting/ Public register /Register maintenance	TL	1.00	£ 38.29	£ 38.29	1.00	£ 38.29
IT costs (general)				£ 50.00		£ 50.00
General management costs	SM	1.00	£ 48.01	£ 48.01	0.50	£ 24.01
Miscellaneous costs (post/travel/fuel etc)				£ 50.00		£ 50.00
TOTAL		19.45		700.47	16.20	586.33
Total rounded down - Full Fee				700.00		580.00
10% discount for LLAP or *				70.05		58.63
Total 10% discount				630.42		527.69
10% discount rounded down				630.00		520.00
	2020 Hourly rate:					
	Business Support (BS)		£ 17.56			
	EHO		£ 30.71			
	Team Leader (TL)		£ 38.29			
	Service Manager (SM)		£ 48.01			

Glossary of Terms

Category 1 hazard – a hazard assessed under the HHSRS which is serious and a high risk to a person's health and safety for which local housing authorities have a duty to take remedial action

Category 2 hazard - a hazard assessed under the HHSRS which is deemed less serious or less urgent for which local housing authorities have a power duty to take remedial action

House in Multiple Occupation (HMO) – a house occupied by persons who do not form a single household. Commonly referred to as bedsits and shared houses, but can also include staff accommodation, temporary accommodation and the like.

Housing Health & Safety Rating System (HHSRS) – The housing health and safety rating system (HHSRS) is a risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from any deficiencies identified in dwellings. The HHSRS assesses 29 categories of housing hazard. Local authorities are required to use it when assessing housing conditions.

Ministry of Housing Communities and Local Government (MHCLG) - The Ministry of Housing, Communities and Local Government's (formerly the Department for Communities and Local Government) is the government department primarily responsible for housing policy, legislation and guidance.

Registered Provider of Social Housing (RP) – providers of social housing formerly known as Housing Associations.

Appendix 2

Equality Impact Assessment (EqIA)

Before completing this EqIA please ensure you have read the guidance on the intranet.

Initial Information

Name:	Steve March
Job Title:	Senior Environmental Health Officer
Email address:	Steven.march@dorsetcouncil.gov.uk
Members of the assessment team:	Steve March, Richard Conway
Date assessment started:	31 July 2020
Date of completion:	22 September 2020
Version Number:	2 (following EqIA group meeting)

Part 1: Background Information

Is this (please tick or expand the box to explain)

Existing	
Changing, updating or revision	x
New or proposed	
Other	

Is this (please tick or expand the box to explain)

Internal (employees only)	
External (residents, communities, partners)	x
Both of the above	

What is the name of your policy, strategy, project or service being assessed?

Housing Standards Enforcement Policy and Statement of Principles for determining Financial Penalties 2020-2025
--

What is the policy, strategy, project or service designed to do? (include the aims, purpose and intended outcomes of the policy)

The Housing Standards Enforcement Policy and Statement of Principles for determining Financial Penalties provides guidance which enforcement officers shall have regard to when making enforcement decisions in relating to regulating conditions in all houses. The document also contains the Councils policy in relation to setting fines and penalties for certain criminal and other offences under the Housing Act 2004 and associated regulations.

What is the background or context to the proposal?

In April 2020 existing Housing Enforcement Policies novated to the new Dorset Council. These policies remain in force until 31st March 2021, or until a new policy supersedes them.

The formation of Dorset Council on the 1 April 2019 required that the Council adopt one new Enforcement Policy and Statement of Principles for determining Financial Penalties across the new district area.

This enables officers to be properly guided in their enforcement decisions, to ensure a consistent and proportionate approach to regulation as required by the [Regulators Code](#).

This new Dorset Council Housing Standards Enforcement Policy represents a convergence of the original sovereign council enforcement policies and there is no significant change from these original sovereign documents.

Part 2: Gathering information

What sources of data, information, evidence and research was used to inform you about the people your proposal will have an impact on?

Relevant legal provisions including the Housing Act 2004 and associated regulations and statutory and non-statutory guidance.

Similar policy documents from the original sovereign Councils the:

- [Regulators Code](#)
- [Dorset Council Plan 2020-2024](#)
- [Legislative and Regulatory Reform Act 2006](#)
- [Area profile of the Dorset Council - Dorset Insight](#)

Nationwide good practice

Consultation with:

- Bournemouth Poole and Christchurch Council
- National Landlords Association
- Shelter

What did this data, information, evidence and research tell you?

That enforcement activity needs to be:

- Proportionate: Our activities will reflect the level of risk to the public and any enforcement action taken will relate to the seriousness of the offence

- Consistent: Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.
- Targeted: We will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.
- Transparent: We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
- Accountable: Our activities will be open to public scrutiny with clear and accessible policies and fair and efficient feedback process.
- Carry out our activities in a way that supports those we regulate to comply and grow
- Provide simple and straightforward ways to engage with those we regulate and hear their views
- Base our regulatory activities on risk
- Share information about compliance and risk
- Ensure clear information, guidance and advice is available to help those we regulate to meet their responsibilities to comply
- Ensure that our approach to our regulatory activities is transparent

Is further information needed to help inform this proposal?

No, but the policy will be reviewed periodically to ensure that it is up to date.

Part 3: Engagement and Consultation

What engagement or consultation has taken place as part of this proposal?

Consultation with - Bournemouth Poole and Christchurch Council, National Landlords Association, Housing Services Team, Portfolio Holder, Legal Services, Shelter

How will the outcome of consultation be fed back to those who you consulted with?

Final copy of report with revisions including continued contact, liaison and discussion with both internal and external partners on an ongoing basis, ensuring feedback and supporting the development of the enforcement service.³

Please refer to the Equality Impact Assessment Guidance before completing this section.

Not every proposal will require an EqIA. If you decide that your proposal does **not** require an EqIA, it is important to show that you have given this adequate consideration. The data and research that you have used to inform you about the people who will be affected by the policy should enable you to make this decision and whether you need to continue with the EqIA.

Please tick the appropriate option:

An EqlA is required (please continue to Part 4 of this document)	Yes
An EqlA is not required (please complete the box below)	

Part 4: Analysing the impact

Who does the service, strategy, policy, project or change impact?

- If your strategy, policy, project or service contains options you may wish to consider providing an assessment for each option. Please cut and paste the template accordingly.

For each protected characteristic please choose from the following options

- Please note in some cases more than one impact may apply – in this case please state all relevant options and explain in the ‘Please provide details’ box.

Positive Impact	<ul style="list-style-type: none"> the proposal eliminates discrimination, advances equality of opportunity and/or fosters good relations with protected groups.
Negative Impact	<ul style="list-style-type: none"> Protected characteristic group(s) could be disadvantaged or discriminated against
Neutral Impact	<ul style="list-style-type: none"> No change/ no assessed significant impact of protected characteristic groups
Unclear	<ul style="list-style-type: none"> Not enough data/evidence has been collected to make an informed decision.

Age:	<i>Choose impact from the list above</i>
What age bracket does this affect?	Neutral
Please provide details:	<p>There is no barrier or conditions that affect the rights of people based on their age.</p> <p>In exceptional circumstances the policy may allow enforcement action to be taken against owner occupiers who are at demonstrable imminent risk. Such owner occupiers tend to be older, vulnerable persons who may lack the mental capacity to make informed decisions about their own safety and welfare.</p> <p>Such actions are always considered in consultation with other statutory agencies including Social Care and with due regard to the persons human rights.</p>

Disability: (including physical, mental, sensory and progressive conditions)	Neutral
Does this affect a specific disability group?	No
Please provide details:	<p>There is no barrier or conditions that affect the rights of disabled people.</p> <p>In exceptional circumstances the policy may allow enforcement action to be taken against owner occupiers who are at demonstrable imminent risk. Such owner occupiers tend to be older, vulnerable persons who may lack the mental capacity to make informed decisions about their own safety and welfare.</p> <p>Such actions are always considered in consultation with other statutory agencies including Social Care and with due regard to the persons human rights.</p>

Gender Reassignment & Gender Identity:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of people who may identify as transgender or transitioning.

Pregnancy and maternity:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of pregnant or maternity residents.

Race and Ethnicity:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of race or ethnic groups.

Religion or belief:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons based on their religion or belief.

Sexual orientation:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons based on their sexual orientation.

Sex (consider both men and women):	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons based on their sex.
Marriage or civil partnership:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons based on their marriage or civil partnership status.
Carers:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of carers.
Rural isolation:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of persons living in rural isolation. Enquires to the service can be made via a number of different channels including online portal, telephone and letter. In order to assess property conditions inspections are made of persons homes irrespective of where they live.
Single parent families:	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of single parent families.
Social & economic deprivation:	Positive
Please provide details:	<p>There is no barrier or conditions that affect the rights of social and economic deprived residents.</p> <p>Enquires to the service can be made via a number of different channels including online portal, telephone and letter. In order to assess property conditions inspections are made of persons homes irrespective of where they live.</p> <p>The policy will assist those living in the poorest housing. There is a close connection between poor housing conditions and deprivation and therefore the policy has to potential to eliminate discrimination and advances equality of opportunity for this particular group.</p>

Armed Forces communities	Neutral
Please provide details:	There is no barrier or conditions that affect the rights of the armed forced community.

Part 5: Action Plan

Provide actions for **positive**, **negative** and **unclear** impacts.

If you have identified any **negative** or **unclear** impacts, describe what adjustments will be made to remove or reduce the impacts, or if this is not possible provide justification for continuing with the proposal.

Issue	Action to be taken	Person(s) responsible	Date to be completed by
Promotion	Ensure that the policy is available in the appropriate accessible formats for potential users i.e. web site, other health professionals	Steve March	Within 3 months of the policies adoption
Diversity Data Collection	Consider the collection and assessment of diversity data in relation to enforcement activity. Data in relation to the persons we enforce against (landlords) and data in relation to those who we assist via enforcement (tenants) Consider the use of the Tascomi online portal for gathering diversity data about tenants accessing the service Consider the use of a questionnaire etc to gather diversity data of landlords using the service	Steve March Corporate Issue – Business Intelligence and Performance Team to progress	Within 6 months of the policies adoption
Training	All employees to undertake online Equality and Diversity Training/Refresher Training	Steve March	Within 3 months of the policies adoption

EqIA Sign Off

Officer completing this EqIA:	Steve March	Date:	22/09/2020
Equality Lead:	Susan Ward-Rice	Date:	22/09/2020
Equality & Diversity Action Group Chair:	Bridget Downton	Date:	22/09/2020