



Hartlepool Borough Council

Housing Services

Enforcement Policy

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# 1. Introduction

## 1.1 Purpose of the Policy

The purpose of this policy is to explain clearly the approach of the Council's Housing Service towards enforcement. It provides guidance to enforcement officers, businesses, consumers and the general public on the range of options that are available to achieve compliance with the legislation that we enforce.

The aims of the enforcement policy are to:

- ensure that the law is enforced in a fair, equitable and consistent manner;
- assist authorised officers to make informed decisions as to appropriate enforcement action at an early stage;
- help businesses and individuals understand our actions; and
- raise general awareness of the powers available.

## 1.2 Scope and meaning of 'Enforcement' and 'Duty Holder'

This policy applies to the whole range of enforcement activities undertaken by Hartlepool Borough Council's Housing Services, including -

- Housing Standards
- Empty Dwellings
- Licensing of Houses in Multiple Occupation (HMOs) & Other Residential Accommodation (Selective Licensing)
- Protection of Tenants
- Statutory Nuisance
- Private Drainage

A summary of the legislation enforced by Housing Services is attached at **Appendix 1**.

'Enforcement' in the context of this policy, includes action taken by officers aimed at ensuring that individuals or businesses comply with the law. Enforcement does not extend to enforcement against the Local Authority but does extend to tenants of the Local Authority.

The term 'enforcement' therefore has a wide meaning and applies to all dealings between the Council and those upon whom the law places responsibilities; i.e. the duty holder. It is not limited to formal enforcement action such as prosecution, but can include a range of interventions that seek to achieve compliance with the law, such as the provision of advice.

Within the context of this policy the term 'duty holder' applies to all individuals or corporate bodies who have a statutory duty under any of the legislation enforced by Housing Services e.g. private landlords, letting agents, proprietors and licence holders and, in respect of statutory nuisance, members of the public.

### **1.3 Legal Status of the Enforcement Policy**

This policy is intended to provide guidance for officers, businesses, consumers and the public. It is not in itself a statement of law and does not affect the discretion of the Council to take legal proceedings where this is considered to be in the public interest.

### **1.4 General Principles**

This policy is written in accordance with the Government's 'Better Regulation Agenda'. Specifically, it implements good practice recommended by the Regulators' Code and the regulatory principles required under the Legislative and Regulatory Reform Act 2006 and other relevant guidance.

Each case is unique and will be considered on its own merits. However, there are general principles that apply to the way each case must be approached. These are set out in this Policy, departmental procedures and in the Regulators' Code.

Decisions on enforcement action are taken in accordance with the principles set out by the Macrory Review, which expects policies to:

- aim to change the behaviour of the offender;
- aim to eliminate any financial gain or benefit from non-compliance;
- be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- be proportionate to the nature of the offence and the harm caused;
- aim to restore the harm caused by regulatory non-compliance, where appropriate; and
- aim to deter future non-compliance.

All enforcement decisions will be fair, independent and objective. They will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Such decisions will not be affected by improper or undue pressure from any source.

The Council will employ the services of interpreters and use such other means as necessary to help enable effective communication.

We will take into account the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss, and its significance, in making the decision to take formal action. This may include actual harm or loss or the impact on the well being of the individual or animal, or potential or actual harm to the environment.

All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the statutory powers of the officer and all other relevant legislation. This legislation includes, but is not limited to, the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and in accordance with any formal procedures and Code of Practice made under this legislation in so far as they relate to our enforcement powers and responsibilities.

This policy aims to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens, in accordance with the Regulators' Code. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

## **2. Principles of Good Enforcement**

### **2.1 Principles of Good Regulation**

The Legislative and Regulatory Reform Act 2006, Part 2, requires Hartlepool Borough Council to have regard to the Principles of Good Regulation when exercising a specified regulatory function<sup>1</sup>. For local authorities, the specified functions include those carried out by housing services.

We will exercise our regulatory activities in a way which is:

- (i) Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence;
- (ii) Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures;
- (iii) Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where communications are similar, we will endeavour to act in similar ways to other local authorities;
- (iv) Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return; and
- (v) Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

The Council places great importance on the consistent use of enforcement action and does not set itself numerical targets for prosecutions or the service of statutory notices. Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be appropriate, or to assist such claims.

Fair and effective enforcement is essential to protect the health and safety and economic interests of the public, businesses and the environment. Decisions about enforcement action, and in particular the decision to prosecute, have serious implications for all involved.

Housing Services will apply this policy to ensure that:

- Decisions about enforcement action are fair, proportionate, risk-based and consistent and will take into consideration factors such as the size and capacity of the business;
- Officers apply current Government guidance and relevant codes of practice; and

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<sup>1</sup> Specified by the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, available at [www.legislation.gov.uk](http://www.legislation.gov.uk)

- Everyone understands the principles which are applied when enforcement action is considered.

## **2.2 The Regulators' Code**

Hartlepool Borough Council has had regard to the Regulators' Code, in the preparation of this policy. In certain circumstances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

## **2.3 Human Rights Act 1998**

Hartlepool Borough Council is a public authority for the purposes of the Human Rights Act 1998. We will, therefore, 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 Human Rights Act 1998. The rights most relevant to enforcement are those set out in Article 6 (which provides that everyone is entitled to a fair and public hearing), Article 8 (which provides that everyone is entitled to respect for their private and family life, home and correspondence) and Article 1 Protocol 1 (protection of property).

## **2.4 Data Protection Act 1998**

Where there is a need for Hartlepool Borough Council to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 1998.

## **2.5 The Code for Crown Prosecutors**

When deciding whether to prosecute, Hartlepool Borough Council has had regard to the Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test':

- a) Evidential Test – is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, Hartlepool Borough Council will consider what evidence can be used in court and is reliable. We must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender.

- b) Public Interest Test – is it in the public interest for the case to be brought to court?

Hartlepool Borough Council will balance factors before and against prosecution carefully and fairly, considering each case on its merits. The public interest factors that we will take into account are detailed under the enforcement options available to us in section 3.

## **2.6 Working in Partnership**

Where appropriate, enforcement activities within Housing Services will be co-ordinated with other regulatory bodies and enforcement agencies, both within and outside the Council. In this way, we will seek to maximise the appropriateness and effectiveness of any enforcement and have an integrated approach to problem solving.

## **2.7 Authorisations and Indemnification of Officers**

All appointed officers will be properly authorised and act in accordance with our policy and the scheme of Delegation contained in the Council's Constitution. We will ensure that enforcement officers are suitably trained and competent for the purpose of enforcing Housing functions.

The final decision on whether to prosecute in all cases will be made by the relevant Head of Service or Assistant Director.

The Council will indemnify authorised inspectors against the whole of any damages and costs or expenses provided they act honestly, within their powers and not against instructions/operating procedures.

Only authorised inspectors that have been indemnified by the Council will take enforcement action and exercise their statutory powers.

## **2.8 Conduct of Investigations**

All investigations will be carried out under the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Housing Services:

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.



## **2.9 Powers of Entry and Obstruction**

Authorised officers are given various powers of entry, inspection and seizure under a variety of statutes. Persons should not attempt to stop an authorised officer who is properly exercising any of these powers as such action constitutes an offence.

## **3. Enforcement Action**

### **3.1 Enforcement Options**

#### **3.1.1 Advice, Guidance and Support**

We will take a balanced approach to enforcement, using compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action.

Decisions about the most appropriate enforcement action to be taken are based upon professional judgement, legal guidelines, statutory codes of practice and priorities set by the Council and/or Central Government.

Decisions will take account of the following:

- the nature and seriousness of the offence;
- any obstruction on the part of the offender;
- the past history of the offender(s);
- in the case of a new business, an assessment of the duty holder's willingness to undertake any work identified by an authorised officer;
- confidence in the duty holder's willingness and ability to prevent a recurrence;
- the consequence of non-compliance;
- the likely effectiveness of various enforcement options;
- what is in the public interest;
- the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss, and its significance;
- sufficiency of evidence to support the action.

We have a range of specific enforcement options available to us, which are set out in detail in section 4.

#### **3.1.2 Statutory (Legal) Notices**

In respect of many breaches, Hartlepool Borough Council has powers to issue statutory notices, for example, Improvement Notices and Prohibition Notices. Such notices are legally binding and failure to comply can be a criminal offence which can lead to prosecution and/or (where appropriate), the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be done. Some notices may require activities to cease immediately where circumstances relating to health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed to rectify a contravention

will be reasonable, and take into account the seriousness of the contravention, the implications of the non-compliance and the appeal period for that notice.

Statutory notices will only be served when the following criteria apply;-

- where one or more contraventions have occurred and they are likely to be repeated; and/or
- standards are generally poor with little management awareness of statutory requirements; and/or
- there is history of non-compliance or a lack of confidence in the duty holder responding to an informal approach; and/or
- the consequence of non-compliance could be potentially serious; and/or
- in the case of a statutory nuisance, where the nuisance requires abating.

In serious cases, it may be necessary to adopt a variety of enforcement options, which may include prosecution as well as serving notice.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

### **3.1.3 Financial Penalties**

Hartlepool Borough Council has powers to issue fixed penalty notices in respect of some breaches. A fixed penalty notice is not a criminal fine and does not appear on an individual's criminal record. If a fixed penalty is not paid, we may commence criminal proceedings or take other enforcement action in respect of the breach.

If a fixed penalty is paid in respect of a breach, we will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from further action in respect of similar or recurrent breaches.

The Council is only able to issue fixed penalty notices where it has specific powers to do so. If fixed penalty notices are available, their use is at our discretion.

Where there is a clear breach of legislation, which is punishable by the imposition of a monetary penalty, we will only impose this penalty when the statutory guidance and relevant Council policy has been followed. We will take into account all relevant factors and will (in accordance with legislation and guidance) give prior notification that we are considering the imposition of a penalty. Once a penalty has been issued, clear guidance will be provided in order for the aggrieved party to make an appeal.

We will consider the merits of each case when deciding on the level of fine imposed, having regard to a range of factors which may include, history of compliance, relevant convictions and incidence of offending. We will also consider mitigating factors such as evidence of steps taken to remedy the issue and co-operation with the Council.

If we deem fit, we may grant a business or an individual a grace period in which to comply with the terms of the relevant legislation rather than imposing a monetary penalty immediately.

### **3.1.4 Simple Caution**

A simple caution may be offered where there is an admission and acceptance of guilt by the duty holder. Normally a caution will only be offered for first offences; the offender should not have received a simple caution for a similar offence within the last two years.

The aim of a simple caution is to:

- deal quickly and simply with less serious offenders;
- divert them from unnecessary appearance in the criminal courts; and/or
- reduce the chances of their re-offending.

For a simple caution to be issued a number of criteria must be satisfied:

- sufficient evidence must be available to prove the case;
- the offender must admit the offence;
- it must be in the public interest to use a simple caution; and
- the offender must be 18 years of age or over and understand the significance of accepting a simple caution.

This course of action is normally considered when the criteria for prosecution are met but extenuating circumstances suggest a more lenient approach would achieve the same objectives.

A simple caution will appear on the offender's criminal record. It is likely to influence how Hartlepool Borough Council and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

Simple cautions will be used in accordance with Home Office Circular 016/2008 and other relevant guidance.

### **3.1.5 Prosecution**

We will use discretion in deciding whether to initiate a prosecution. Our primary purpose is to help prevent harm, and while prosecution can draw attention to the need for compliance with the law, other approaches to enforcement can be more effective.

When deciding whether to prosecute we will consider the following factors:

- the seriousness of the offence;
- whether statutory defences are satisfied;
- whether action has been taken to avoid further offences;
- the validity of any explanation offered;
- what course of action best serves the public interest;
- the availability of any important witnesses and their ability and willingness to co-operate;
- if there is a realistic chance of conviction.

Circumstances which are likely to warrant prosecution are where:

- death was a result of a breach of legislation;
- there has been a blatant or reckless disregard of the law;
- there have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance;
- the offence involves a risk to public health, safety or wellbeing, harm to the environment or where an unacceptable business advantage is gained;
- the offender has failed to correct potential risks after being given a reasonable opportunity to do so;
- the offence involves failure to comply with a Statutory Notice or a repetition of a breach which was subject to a Simple Caution;
- evidence suggests that the offence was premeditated;
- an officer was intentionally obstructed or deceived in the course of their duties.

We will also consider prosecution, where the following circumstances apply:

- it is considered appropriate in the circumstances as a way to draw general attention to the need for compliance with the law and the maintenance of standards required by law, and conviction may deter others from similar failures to comply with the law;
- a breach that gives rise to significant risk has continued despite relevant warnings from employees, or their representatives, or from others affected by a work activity; and
- where officers are assaulted we will also seek Police assistance with a view to seeking the prosecution of offenders.

Throughout the decision making process proper and informed legal advice will be taken.

### **3.1.6 Refusal, Suspension and Revocation of a Licence/Permit**

A business or individual may require prior approval such as a licence, registration or permit before carrying out a certain activity. The Council administers numerous licensing regimes, each having different rules for making applications and their determination.

Usually the Council will grant a licence or permit upon receipt of a valid application if the requirements for licensing are met. These standards may be specified in legislation, local byelaws, or other suitability criteria adopted by the Council. In most cases, an application must be consulted upon and the determination of the licence or permit may be affected by representations received. We will determine the application and grant the licence or permit, with or without conditions, or to refuse the licence or permit within a reasonable time period.

Where a licence or other form of prior approval is refused, the business/individual will be advised on the reason for refusal, and where appropriate the action which must be taken in order to enable the authority to issue the appropriate licence/approval. Advice will be given on the appeal processes open to the business or individual concerned.

Various sanctions are available to the Council where breaches of statute, licence or permit conditions are identified. Informal advice or warnings may result, alternatively the conditions of the licence or permit may be modified or varied and where it is

deemed necessary in the interests of public safety or where there is a risk of serious pollution a licence or permit may be suspended or revoked with immediate effect.

In certain circumstances, a licence may be revoked. A decision to revoke a licence will only be made as a last resort when all other avenues have been exhausted.

### **3.1.7 Orders**

In some circumstances, we will need to apply to the court or Residential Property Tribunal to confirm an order before a statutory power can be enacted. In such cases, the reasons for making such applications and the effect of the order will be fully explained in addition to the grounds and process for making objections.

### **3.1.8 Enforcement Action against Individuals (including Prosecution, Disqualification or Prohibition)**

Subject to the above, we will identify and prosecute individuals if we consider that a conviction is warranted and can be secured. Additionally we will actively consider the management chain and the role played by individual directors and managers. We will take action against them where it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part.

Where appropriate we will seek disqualification of directors under the Company Directors Disqualification Act 1986.

### **3.1.9 No Action**

In some circumstances it will be appropriate to take no action. This includes where there is no statutory contravention, or risk to public health or safety and where there is evidence of satisfactory practices and management controls.

It may be also appropriate to take no action where the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community.

A decision to take no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where the offender has ceased to trade, or is elderly and frail or suffering from mental health issues or serious ill health, and formal action would seriously damage their wellbeing. In such cases, we will take into account the public interest principle and advise the offender and/or the complainant of the reasons for taking no action.

Where the law provides the complainant with other options to resolve the issues which affect them, such as civil remedies we will make sure that they are directed to the most appropriate source of information to assist them. This may involve referral to other council departments, external organisations or advising them to seek independent legal advice.

### **3.2 Right of Appeal against Notices, Withdrawal and Works in Default**

Where there are rights of appeal against a statutory notice or any other statutory action, advice on appeal procedures will be clearly set out in writing at the time the action is taken, together with an explanation of the implications of non-compliance. Whenever possible, this advice will be issued with the notice.

Certain types of notice allow works to be carried out in default. This means that if a notice is not complied with (a breach of the notice) we may decide to carry out any necessary works to satisfy the requirements of the notice ourselves. In most cases, there will be an additional charge to cover administration costs incurred in arranging the work as well as the costs incurred for the work itself. We will ensure that the recipient of a notice is made aware of the possibility of works in default.

If a notice is withdrawn, we will notify the person or organisation of this and an explanation as to the reason.

Where an offence is punishable by the issuing of a Penalty Charge Notice, the offender will be given prior notice of the Council's intention to issue a monetary fine and will be allowed a period of time in which to make a representation, in accordance with the relevant legislation. There will be a procedure in place which will be followed to ensure consistency. Full details on how to make a representation and subsequent appeals will be issued with the notice.

### **3.3 Warrant to Enter Premises**

Officers may apply to a Magistrates' Court for a warrant to enter premises in the following circumstances:

- necessary entry is required at an unreasonable time; and/or
- entry to a premises is refused; and/or
- entry is expected to be refused; and/or
- the premises are vacant and entry is required.

In all cases, officers will exercise their powers courteously and with respect for persons and property, and only use reasonable force when this is considered necessary and proportionate to the circumstances.

### **3.4 Determining Whether Formal Enforcement Action is Viable and Appropriate**

Two 'tests' will be applied to determine whether a prosecution or simple caution is viable and appropriate. Enforcement officers will follow guidance set by the Crown Prosecution Service when applying the tests.

The two tests are:

- The Evidential Test
- The Public Interest Test

### **3.4.1 The Evidential Test**

When deciding whether there is enough evidence to charge, the investigating officer(s) must consider whether the evidence can be used in court and if it is reliable. The Council must be satisfied that there is sufficient evidence to provide a 'realistic prospect of conviction' against each defendant on each charge. A realistic prospect of conviction is an objective test that means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a separate test from the one that the criminal courts themselves must apply.

### **3.4.2 The Public Interest Test**

A prosecution will usually take place, unless the public interest factors against prosecution clearly outweigh those in favour of prosecution. When applying the test the Council will balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect. Some factors may increase the need to prosecute but others may suggest that another course of action would be more appropriate.

A Simple Caution or prosecution proceedings will only be progressed when the case has passed both the evidential test and the public interest test. The principles outlined apply equally to the other types of formal enforcement action that are available.

Circumstances which might indicate that it is not appropriate to prosecute include cases where:

- a conviction is likely to result in a nominal penalty; and
- the offence resulted from a genuine mistake and the offender is prepared to rectify the problem and its causes; or
- the loss or harm caused was minor;
- there has been undue delay in bringing the matter to court (unless the delay was the fault of the offender);
- prosecution proceedings are likely to have a significant detrimental effect on the victim's physical or mental health;
- the offender is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is a real possibility that it may be repeated.

Deciding on what is in the public interest is not simply a matter of adding up the number of factors for or against prosecution. An overall assessment must be made as to the relative importance of each factor.

Throughout the decision making process proper and informed legal advice will be taken.

### **3.5 Action by the Courts**

Where appropriate we will draw the court's attention to all the factors that are relevant to the court's decision as to what sentence is appropriate on conviction. This may include guidance given by the Court of Appeal.

### **3.6 Representation to the Courts**

In cases of sufficient seriousness, and where legislation allows, we will consider indicating to the magistrates that the offence is so serious that they may send it to be heard or sentenced in the higher court where higher penalties can be imposed.

### **3.7 Keeping Parties Informed**

If we receive information (for example from a complainant) that may lead to enforcement action against a business or individual, we will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or to the general public.

During the progression of enforcement investigations or actions, all relevant interested parties such as duty holders and witnesses will be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a Court when required and/or in accordance with the Data Protection Act 1998.

### **3.8 Publicity**

We will consider, in all cases, drawing media attention to factual information about charges that have been laid before the courts, but will take great care to avoid any publicity which could prejudice a fair trial. We will also consider publicising any conviction that could serve to draw attention to the need to comply with legal requirements, or deter anyone tempted to disregard their duties.

### **3.9 Costs and Debt Recovery**

We will seek to recover all our costs associated in undertaking works in default, utilising the Council's corporate debt recovery. Where legislation allows, we will make a charge for preparing and serving statutory notices and making orders. We will also seek to recover any costs incurred obtaining specialist reports which assist in identifying any action to be specified on a notice served under the provisions of the Housing Act 2004. The sums recoverable in most cases will become a local land charge on the property concerned.

Where we take enforcement action through the courts we will seek to recover legitimate costs from convicted offenders.



### **3.10 Civil Action**

The enforcement action we take is distinct from any civil claims for compensation. We will not necessarily pursue enforcement actions in all cases where civil claims are anticipated, nor will the Council actively assist in such cases. We will share relevant information with aggrieved parties where relevant.

## **4. Detailed Enforcement Powers**

### **4.1 Housing Standards**

The Housing Act 2004 is the primary piece of legislation used to enforce housing standards in all residential accommodation (including Houses in Multiple Occupation), however, there are other pieces of legislation that may provide a more appropriate enforcement tool. Officers are expected to exercise their discretion when deciding the most appropriate piece to use. In some cases it may be appropriate to employ a range of enforcement options.

The Housing Health & Safety Rating System (England) Regulations 2005 sets out the method for assessing a dwelling house (see appendix 1) and determines whether a hazard rates as a 'category 1' or a 'category 2' and the possible enforcement actions available under the Act. The Authority is under an obligation to take action with respect to category 1 hazards, whilst there is discretion to act with regards to lower scoring category 2 hazards.

It is the policy of Housing Services to deal with all category 2 hazards which fall within bands D to F (i.e. scoring more than 100) and officers are expected to apply discretion when scores fall below that level. Where it is not deemed appropriate to take enforcement action, advice will be provided to both the tenant and the landlord and recommendations made where appropriate.

We will provide a summary of the Housing Health and Safety Rating System whenever we contact a landlord regarding property condition.

When determining the most appropriate course of action, officers will have regards to the Housing Health and Safety Rating System Operating Guidance and Enforcement Guidance.

We will also take into account the wishes of the occupier before proceeding with any action.

There are a number of enforcement tools available to deal with category 1 and 2 hazards across all tenures.

- Informal Action and Advice
- Improvement Notice
- Prohibition Order
- Emergency Prohibition Order
- Emergency Remedial Action
- Hazard Awareness Notice
- Demolition Order

- Clearance Area

#### **4.1.1 Informal Action and Advice**

In most cases following an inspection, officers will informally contact the duty holder (by letter, telephone or email) to advise them what action may be taken to reduce the identified hazards to an acceptable level. This is to allow an opportunity to the duty holder to agree a proposed course of action.

Informal action can take the form of advice, a verbal warning or a request for action. Informal action may not be considered appropriate if a serious risk is identified and taking informal action would cause undue delay. It may also be considered inappropriate where there is a poor history of non-compliance.

In cases where the hazard score falls below that which we would act upon, we would advise the duty holder accordingly and make recommendations. We will advise the occupying tenant that we are unable to take enforcement action at that time but advise them to let us know if circumstances change.

#### **4.1.2 Improvement Notice**

This notice would specify remedial works, which in the opinion of the officer would reduce the severity of a hazard to an acceptable level and would prevent the recurrence or worsening of the hazard in a reasonable period. A minimum of 28 days must be allowed for compliance, in accordance with the legislation.

#### **4.1.3 Prohibition Order**

A Prohibition Order may be used to close the whole or part of a building, restrict the number of occupants or prohibit the occupation of the dwelling by vulnerable persons where:

- Remedial Action is considered unreasonable, impractical or unreasonably expensive; or
- The dwelling is a listed building

#### **4.1.4 Emergency Prohibition Order**

We may use this course of action if there is a category 1 hazard present and there is an imminent risk of serious harm. For example, this may be used to prohibit the use of a House in Multiple Occupation (or part of it) if there are inadequate means of escape in case of fire.

This will prevent the occupation of all or part of the house with immediate effect.

#### **4.1.5 Emergency Remedial Action**

This form of action may only be taken if there is a category 1 hazard present and there is an imminent risk of serious harm. Under these circumstances we will take appropriate action to remove that risk. For example, this may be used where there is

evidence of a defective gas appliance posing a risk to the health or safety of the occupant. In this instance, the Council may take steps to make the appliance safe.

If this course of action is followed, we are obliged to serve a notice on the owner to inform them of the action taken and the reason for doing so.

We will then seek to recover all costs incurred from the owner.

#### **4.1.6 Hazard Awareness Notice**

We may serve a Hazard Awareness Notice in circumstances where:

- There is not a vulnerable person in occupation;
- Remedial Action is considered unreasonable, impractical or unreasonably expensive;
- The duty holder has already agreed to take action; or
- The occupant has requested that no formal action is taken.

#### **4.1.7 Demolition Order**

Demolition Orders may be used to deal with category 1 and 2 hazards, but when reaching a decision, consideration will be given to:

- The availability of accommodation for re-housing occupants;
- The demand for, and sustainability of, the accommodation if the hazard was remedied;
- The prospective use of the cleared site;
- The impact of a cleared site on the appearance and character of the local environment.

The use of Demolition Orders in respect of dwellings containing category 2 hazards will be subject to an order made by the Secretary of State.

#### **4.1.8 Clearance Area**

A Clearance Area may be declared:

- If it can be shown that each residential building in an area contains one or more category 1 hazard and that the other buildings (if any) in the area are dangerous or harmful to the health and safety of the inhabitants of the area; or
- The residential buildings are dangerous or harmful to the inhabitants of the area as a result of their bad arrangement or the narrowness or bad arrangement of the streets, and that the other buildings (if any) are dangerous or harmful to the health and safety of the inhabitants of an area.

#### **4.1.9 Housing Standards in Houses in Multiple Occupation (HMOs)**

In addition to the enforcement powers described above, the Management of Houses in Multiple Occupation (England) Regulations 2006 apply to all HMOs and cover management and repair. There are no notice provisions with these regulations. If we are unable to deal with these issues informally we will seek to prosecute unless the matters could be dealt with using alternative legislation.

#### 4.1.10 General Provisions of Housing Act Enforcement

Only one form of enforcement action may be taken at any one time under the provisions of part 1 of the Housing Act 2004 in relation to any hazard, but more than one form of action may be taken in relation to two or more hazards. For example it would not be possible to serve an improvement notice to deal with an excess cold hazard at the same time as a hazard awareness notice, but it would be possible to use both notices to deal with two different hazards.

We will make a charge for taking enforcement action under the provisions of the Housing Act as allowed under section 49 for covering administrative and other expenses incurred in the following circumstances:

- 1) Serving an Improvement Notice;
- 2) Making a Prohibition Order;
- 3) Serving a Hazard Awareness Notice;
- 4) Taking Emergency Remedial Action;
- 5) Making an Emergency Prohibition Order;
- 6) Making a Demolition Order under section 265 of the Housing Act 1985.

Before taking enforcement action under part 1 of the Housing Act 2004, we are obliged to give notice to the owner that an inspection will be carried out. We will carry out an initial survey with the consent of the occupier and will notify the owner informally that hazards have been identified and provide a schedule of work that will reduce these hazards to an acceptable level. If we do not receive satisfactory proposals or the owner fails to undertake proposals, we will invite them to a joint inspection at the property before deciding whether to take enforcement action.

This prior notice provision will not apply if we have reason to believe that Emergency Remedial Action will be required to avoid unnecessary delay.

All Housing Act enforcement decisions will be accompanied by a **statement of reasons** stating why that particular course of action has been taken. This statement will provide a detailed explanation as to why that particular course of action has been taken rather than any other.

#### 4.1.11 Environmental Protection Act 1990

Under the Provisions of this Act we are under a duty to investigate and take action to abate statutory nuisances; this includes 'any premises in such a state as to be prejudicial to health or a nuisance'. If a state of affairs exists that required urgent action and it is considered that the premises are prejudicial to health, consideration will be given to serve a notice under the provisions of section 80 of the Environmental Protection Act. This would allow for certain works to be carried out in a shorter timescale. Examples of issues where this notice could be used are:

- Dangerous gas appliance or installation;
- Dangerous electrical installation;
- Defective heating or hot water; or
- Water leaks that may result in collapse of an element.

## 4.2 Empty Properties

There are a number of enforcement options available to deal with empty dwellings, either aimed at making them safe, secure and/or reducing the impact of their appearance; or returning them into residential use. In most cases we will use informal means to deal with empty properties unless there is a risk to the public and/or a nuisance which is prejudicial to health.

Where an empty property is insecure and/or presents a risk to public health we will normally serve a notice under the provisions of the Local Government (Miscellaneous Provisions) Act 1982, section 29 advising that we intend to make the building secure giving at least 48 hours notice. When officers consider that it is necessary to carry out works immediately, for example if there is a likelihood that the property could be subject to a deliberate fire, they will arrange for the property to be secured without the service of a notice.

Officers will take steps to secure openings to the property, including yard gates, entrance doors and ground floor windows. Openings to the first floor will not generally be required to be secured unless they are accessible, for example via a flat roof.

There are a number of other legislative powers available to us to deal with the condition of an empty property including:

- Town and Country Planning Act 1990, section 215 to improve the external appearance of unsightly property or land considered detrimental to the amenity of the neighbourhood;
- Building Act, sections 77 & 78 to deal with dangerous or dilapidated buildings. This would enable us to require the owner to make the property safe;
- Environmental Protection Act 1990, section 80 requires the owner to abate a nuisance;
- Building Act 1984, section 76 enables the Council to take emergency action to abate a nuisance;
- Building Act 1984, section 78 allows the Council to fence off a property if there is a risk of unauthorised entry or if it likely to suffer vandalism, arson or similar.

Any enforcement aimed at bringing empty properties back into use will only be used when repeated attempts to encourage the owner to bring the property back into use have failed. We will ensure that appropriate advice and guidance is offered and that property owners are made fully aware of the potential enforcement options. When considering enforcement options for empty homes, each case will be assessed on its merits and will only be recommended for enforcement action where there are clear benefits to the neighbourhood or it could address a housing need.

There are three enforcement options available to secure re-occupation of an empty dwelling –

- Compulsory Purchase Order
- Empty Dwelling Management Order
- Enforced Sale

#### **4.2.1 Compulsory Purchase Order**

The Housing Act 1985, section 17 allows the Local Authority to acquire dwellings where there is a general housing need. Therefore, we will only use this enforcement option where there is evidence of a housing need.

#### **4.2.2 Empty Dwelling Management Order (EDMO)**

Where a dwelling has been unoccupied for a period of at least two years and the owner does not intend to take steps to secure the re-occupation and there is a reasonable prospect that the dwelling will become occupied if an interim EDMO is made, we will consider applying to the Residential Property Tribunal for an interim EDMO. The use of this power is limited to properties that have become magnets for vandalism, squatters and other forms of anti-social behaviour that blight the local neighbourhood. We must give the property owner at least three months notice before the order can be issued.

We will monitor any progress during the 12 months period in which the interim EDMO is in force and will assess the need to make a final EDMO to replace the interim order where:

- The dwelling is likely to become or remain unoccupied (for example if the owner refused to allow a tenancy to be granted);
- We have taken all such steps as appropriate for securing the occupation of the dwelling; and
- We have taken account of the interests of the community and the effect that the order will have on the rights of the relevant proprietor and the rights of third parties.

We will ensure that a management scheme is in place for any property to be subject to a final EDMO which will set out how we intend to manage the property and account for all money spent or collected.

#### **4.2.3 Enforced Sale**

Where a debt has been secured against a property we will consider the use of the enforced sale powers as set out by the Law of Property Act 1925. If successful, this would give the Council the ability to sell the property in order to recover any debts outstanding against it. We will only consider using this power when the debt amount reaches a minimum level and that we are reasonably confident that the sale would be successful and that the sale value would cover our costs.

#### **4.3 Mandatory & Discretionary Licensing of Houses in Multiple Occupation (HMOs) & Discretionary Licensing of other Residential Accommodation (Selective Licensing)**

Certain Houses in Multiple Occupation (HMOs) are required to be licensed under the provisions of part 2 of the Housing Act 2004 (the Act), broadly speaking these are HMOs that are occupied by 5 or more occupants and are three or more storeys in size. The Housing Act also introduced a discretionary power under part 2 of the Act to introduce licensing of other HMOs, if it can be demonstrated that there are specific problems associated with them.

We will continue to review the need to introduce discretionary licensing of other HMOs and seek approval to adopt this power if deemed necessary.

Part 3 of the Act also introduced a further discretionary power (which was amended in 2015) to introduce selective licensing in areas experiencing one or more of the following:

- low housing demand,
- a significant or persistent problem caused by anti-social behaviour;
- poor property conditions;
- an influx of migration;
- a high level of deprivation or high levels of crime.

Since 2009, the Council has introduced two schemes which designated selective licensing areas in the Borough (one of which remains in force); this requires all privately rented dwellings in the area to be licensed.

The Council has a duty to ensure all reasonable steps are taken to ensure applications are made. Should enforcement action become necessary for failure to make an application, we will be required to demonstrate the steps we have taken.

#### **4.3.1 Applications for New Licences and Renewals of Existing Licences**

Applications for HMO and Selective Licences will only be accepted if made on application forms submitted electronically through the gov.uk website or (in the case of HMO licence applications supplied by Housing Services) and must:

- Contain all of the required information;
- Be accompanied by the supporting documentation, as indicated; and
- Be accompanied by the appropriate licence fee.

Any deficient application received will be deemed invalid and the applicant will be contacted and given advice on how to rectify it.

In the case of HMO licence applications, we will offer pre-application guidance with regards to standards on space and amenities, making the property suitable for the proposed occupants and the maximum number of households and individuals that the property may accommodate.

#### **4.3.2 Approving and Issuing Licences**

In order to be able to issue a licence, there are a number of tests that must be satisfied:

- The proposed licence holder must be a fit and proper person – this assessment will be based primarily on a self declaration by the applicant. We will also consult with relevant partners and agencies, including other local authorities. We will also undertake further investigations where necessary to follow up on the validity of information provided.
- The proposed management arrangements must be satisfactory having regard to the competence of the proposed manager, whether the proposed manager is a fit and proper person and that the proposed management structure and funding arrangements are acceptable.

- In the case of HMO licence applications, we will determine whether the property is suitable for the proposed number of occupants having regard to the provision of amenities such as bathrooms and cooking facilities.

Once consultation has taken place, a notice must be served stating the reasons for granting the licence, the main terms of the licence and the date by which representations regarding the proposed licence or conditions. Any representations will be considered and may result in the amendment of the licence or conditions which will also need to be consulted on.

We will refuse a licence application if we are not satisfied that the property can be made suitable for the number of individuals or householders (in the case of an HMO); the proposed licence holder or manager is not a fit and proper person; or the management arrangements are not deemed to be satisfactory.

If we are unable to grant a licence for any reason, we will explain this to the applicant and offer advice and guidance to enable the licensing to proceed.

We will apply a set of mandatory conditions to each licence issued in addition to any discretionary conditions which relate to the management, use and occupation of the house and its condition and contents. We will take into account any representations made by any person having an interest in the property or any other consultees. In the case of HMOs we may require additional amenities be provided or works carried out within a given timescale to make the property suitable for the number of occupants.

We may issue a Temporary Exemption Notice (TEN) where we are notified that the owner of a licensable property is taking steps to ensure that the property is no longer required to be licensed, e.g. if the owner intends to occupy the property themselves. A second TEN will only be granted where there are exceptional circumstances and all requests will be assessed on a case by case basis.

#### **4.3.3 Revoking a Licence**

The Housing Act 2004 sets out a number of circumstances under which a licence may be revoked. This can be either:

- on the Council's own initiative, without the agreement of the licence holder, where the prescribed circumstances are met; or
- at the written request of the licence holder or relevant person.

The licence holder and all relevant persons have a right of appeal against the Council's decision to revoke or refusal to revoke a licence.

If the property is to remain licensable, we must make an interim management order. This will be considered an option of last resort.

#### **4.3.4 Offences in relation to operating unlicensed HMOs or other dwellings**

It is an offence to operate a HMO or other dwelling in a designated selective licensing area without a licence. If we have made all reasonable efforts to ensure that an



application is made, or have been unable to issue a licence there are a number of enforcement options available, in addition to pursuing a prosecution:

- Rent Repayment Order
- Management Order

We will also advise the landlord that they will not be able to issue a section 21 notice (under the Housing Act 1988) to recover possession on termination of a shorthold tenancy, whilst the property is unlicensed.

#### **4.3.5 Rent Repayment Order**

We will consider applying to the Residential Property Tribunal for a Rent Repayment Order where a landlord has received housing benefits whilst the property should have been licensed but had not. We will take these steps either: following a prosecution for the offence of operating without a licence; or if our officers are satisfied that an offence has been committed.

Where rent has not been paid by housing benefits, we will advise tenants about their rights to make a claim for a rent repayment order.

#### **4.3.6 Interim and Final Management Orders**

The Council has a duty to implement Interim Management Orders (IMOs) with regards to un-licensed dwellings (including HMOs) in defined circumstances in order to protect the health, safety or welfare of residents, or other persons in the vicinity, who may be affected. This would include properties where the licence has been, or is about to be revoked.

An IMO would enable the Council to take immediate steps to protect the health, safety or welfare of residents, or other persons in the vicinity, who may be affected. It would also enable the Council to take further steps to secure the proper management of the property.

Where the health and safety condition is satisfied within a property that is not required to be licensed, on application to the Residential Property Tribunal, the Council may make an IMO.

Where a house is in an area experiencing a significant and persistent problem with anti-social behaviour and the landlord is failing to take action to combat the problem and the health and safety of occupiers or others is at risk, the local authority may apply to the Residential Property Tribunal for a Special Interim Management Order.

A Final Management Order must be made to replace an IMO on the date the house would be required to be licensed but the Council consider that they would be unable to license it.

If not required to be licensed, may be made on the date the IMO expired, for the purpose of protecting the health, safety or welfare of the occupying persons or others affected.

#### **4.3.7 Offences in relation to breaching licence conditions**

When deciding on the most appropriate action to deal with breaches of licence condition, we will have regard to the seriousness of the breach and the likely or actual impact of the breach.

#### **4.4 Harassment and Illegal Eviction**

When an allegation of illegal eviction or harassment of private sector tenants is reported to the council, it is the duty of the council to investigate under the provisions of the Protection from Eviction Act 1977 and with reference to the Criminal Law Act 1977 (sections 6 & 7).

We will make a judgement on the appropriate action to be taken having regard to 'proportionality' and the seriousness of the alleged offence and a judgement will be made on a realistic and achievable outcome.

We will endeavour to keep complainants informed of every stage of the proceedings and process. We will try to resolve the complaint as expediently as possible and discuss the various options available.

The Council views its role not only as the 'prosecution authority' but also to mediate and negotiate with the complainant and the alleged perpetrator and to encourage and promote good practice within the private rented housing sector. Decisions will also take into account the vulnerability of the complainant, and any previous history of the perpetrator. Complainants will be referred to a legal advisor to take a civil action or obtain an injunction against the perpetrator if this deemed appropriate.

Where a complainant can be re-instated back into the property in safety and without fear of further reprisals all parties would be advised of their rights and responsibilities, this could include a verbal or written warning to the perpetrator and the rights and obligations of the complainant.

These cases will be assessed by the Housing Advice Team and be referred on to the Senior Landlord Tenant Officer or the Principal Housing Advice Officer if unable to satisfactorily resolve by agreement. Where all other options have been explored a decision will then be made whether or not to take a formal statement from the complainant and proceed with a formal PACE interview for the perpetrator.

If the perpetrator admits the offence under caution, a 'simple caution' may be given to the perpetrator which can be used by the complainant to obtain civil damages against them.

If the Principal Housing Advice/Senior Landlord Tenant Officer in conjunction with the Council's Solicitor decide a case should be discontinued an explanation will be given as to why action is not being pursued.

#### **4.5 Statutory Nuisance**

We will deal with a wide range of complaints that may be considered a 'nuisance' arising primarily from domestic premises, including:

- Accumulations or deposits, e.g. household refuse, animal faeces

- Defective premises that affect a neighbouring property, e.g. defective guttering causing dampness
- Premises that may be prejudicial to health to the occupier, e.g. with a defective gas appliance
- Filthy or verminous living conditions
- Pests emanating from a property

There are a number of pieces of legislation that are available to us to deal with these situations, including

- Environmental Protection Act 1990
- Public Health Act 1936
- Public Health Act 1961
- Prevention of Damage by Pests Act 1949

We will ensure that the most appropriate legislation is used having regard to the actual circumstances and as to whether the nuisance situation requires swift abatement in order to protect the health or safety of the occupier and other affected parties.

Where possible we will attempt to reach an informal solution.

With regard to properties considered 'filthy' or 'verminous', we will investigate the circumstances around the occupier(s) as in many cases such individuals could be described as vulnerable. We will liaise fully with colleagues in Child & Adult Services before proceeding with any enforcement action.

We may consider the use of Town and Country Planning Act 1990, section 215 powers to improve the external appearance of unsightly property or land considered detrimental to the amenity of the neighbourhood. This would be considered in conjunction with colleagues in Planning Services

#### **4.6 Private Drainage**

With effect from 1 October 2011, Northumbrian Water Ltd assumed responsibility from the Council for all private sewers and some drains where the problems are outside the boundary of the dwelling, although a number of powers in relation to drainage were retained. It is the Council's policy, as agreed with the Water Company to refer all enquiries to Northumbrian Water in the first instance. Where the drainage problem remains the householder's or landlord's responsibility, we will usually deal with such matters by service of statutory notice where there is a public health impact.

#### **4.7 The Letting Agents Redress Scheme**

The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 made it a legal requirement for all letting agents and property managers in England to join one of three Government approved schemes from 1 October 2014. We will notify letting agents and property managers of the requirement to be registered when we become aware that they are not registered and in most cases will allow a grace period in which they can apply for membership.

Failure to belong to an approved scheme is punishable by the imposition of a financial penalty which is expected to be set at the maximum as the norm. Reduced fines will be set if there are extenuating circumstances. It will be the policy of Hartlepool Borough Council to reduce the fine if an agent joins a scheme following notification.

Where a financial penalty is imposed, the agent will be given full details on how to appeal, as required by the Order. Where a fine is not paid, we will take action to recover the sum imposed, as detailed in the Order.

#### **4.8 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015**

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 require that landlords fit smoke and carbon monoxide (where applicable) alarms in privately rented properties or face a financial penalty for non-compliance. The regulations require local housing authorities to publish a statement of principles which it proposes to follow in determining the amount of a penalty charge.

The Council has a duty to enforce these regulations; the only discretion is around the level of fine which is set. Before issuing a penalty charge notice, the Council is obliged to give notice to the landlord of their intention to do so. This allows the landlord a specific timescale in which they have the opportunity to comply, or to make written representations.

Where a financial penalty is imposed, the landlord will be given full details on how to appeal, as required by the regulations. Where a fine is not paid, we will take action to recover the sum imposed.

### **5. Ancillary Matters Concerning the Enforcement Policy**

#### **5.1 Monitoring the Policy**

It is essential that officers adhere to the enforcement policy and management systems will be maintained to monitor the quality and nature of enforcement activity in order to ensure, as far as is practicable, consistency in approach and quality of service.

#### **5.2 Departure from the Policy**

All authorised officers taking enforcement action and making enforcement decisions shall abide by this policy.

Any departure from this policy will only be accepted in exceptional circumstances where actions are capable of justification and where there has been full consultation with the Head of Service or relevant Director/Assistant Director. All such departures will be recorded on the relevant case file.

Where enforcement action is being considered which is believed may be inconsistent with that adopted by other enforcing authorities or contrary to advice issued by competent authorities, we will seek further advice including from our Legal Section and with relevant regional and national advisory groups.

If a reasonable consensus group view cannot be achieved, or if the issue appears to be of national significance, or it is felt that the existing guidance is not adequate the relevant liaison group will seek appropriate advice.

### **5.3 Compliments, Comments and Complaints about the Service**

If any person is unhappy with the action taken, or the information or advice given by the Council's Housing Services staff, they will be given the opportunity of discussing the matter with the officer's line manager, Head of Service or Director/Assistant Director. This does not affect the right of any aggrieved person to exercise their rights under formal or informal appeal processes.

Details on how to make representations or appeals about any order or notice will be clearly set out in the notice or order issued as required by the relevant legislation.

Hartlepool Borough Council has a corporate Compliments, Comments and Complaints procedure. This sets out the procedure to follow to make a complaint about our services or the conduct of staff. Details on how to make a complaint are publicly available on the Council's website.

We are committed to providing quality services, and the suggestions and criticisms about any aspect of our service will help us to do this.

### **5.4 Development and Review of the Policy**

A draft of this policy was published on the Council's website between 20 January and 17 March 2017 and comments invited through a short questionnaire powered by Survey Monkey. The link was circulated to members of the Housing Partnership and landlords & managing agents known to be operating in the borough. This policy will be periodically reviewed or in line with changes in relevant legislation, or Regulators' Code. Reports on any changes considered to have a major impact will be presented to future committees and incorporated into the policy where necessary.

### **5.5 Feedback**

We value input to ensure that our service is meeting your needs. We would like to hear from you whether your experience of us has been good, or in need of improvement. This helps us to ensure that we keep doing the right things and make changes where we need to. We would welcome your feedback at any time.

A copy of this policy is available on the Hartlepool Council website at:

<http://www.hartlepool.gov.uk/>

You can provide feedback to us in the following ways:

By telephone: 01429 523705

By email: [privatesectorhousing@hartlepool.gov.uk](mailto:privatesectorhousing@hartlepool.gov.uk)

Web: [www.hartlepool.gov.uk](http://www.hartlepool.gov.uk)

By post, or in person at: Housing Services, Regeneration & Neighbourhoods  
Hartlepool Borough Council, Civic Centre, Victoria Road  
Hartlepool TS24 8AY

Opening Hours: Monday to Thursday 8:30am to 5:00pm, Friday 8:30am to 5:00pm

**This policy was approved by Hartlepool Borough Council's Regeneration Services Committee on 19 June 2017**

## Appendix 1 - Summary of Legislation Enforced by Housing Services

The following table sets out the main legislation enforced by Housing Services and includes all relevant regulations and Statutory Instruments made under these enactments.

<b>Housing Act 2004</b>	Housing Conditions – Housing Health and Safety Rating System HMO Licensing Selective Licensing Management Orders Empty Dwellings Management Orders
<b>Housing Act 1985</b>	Overcrowding HMO Regulations Compulsory Purchase Orders Demolition/Closing Orders Clearance Areas
<b>Environmental Protection Act 1990</b>	Statutory Nuisance – premises, accumulations or deposits
<b>Building Act 1984</b>	Defective drainage Sanitary Conveniences Dangerous or dilapidated buildings Nuisance Premises Properties adversely affecting amenity of area through disrepair
<b>Public Health Acts 1936 &amp; 1961</b>	Sanitary Conveniences Defective Drainage Filthy or Verminous Premises Accumulations of Rubbish
<b>Local Government (Miscellaneous Provisions) Act 1976</b>	Power to Obtain Information regarding interest in land
<b>Prevention of Damage by Pests Act 1949</b>	Power to clear land of vermin and/or removal of waste
<b>Local Government (Miscellaneous Provisions) Act 1982</b>	Securing Empty Properties
<b>Protection from Eviction Act 1977</b>	Unlawful Eviction & Harassment
<b>Landlord And Tenant Act 1987 &amp; 1988</b>	Tenants Rights
<b>Town and Country Planning Act 1990</b>	Unightly land or external appearance of property
<b>Law of Property Act 1925</b>	Enforced Sale to recover debts secured

	against a property
<b>The Smoke and Carbon Monoxide Alarm (England) Regulations 2015</b>	Requirement that landlords fit smoke alarms (and carbon monoxide alarms in some instances)
<b>The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014</b>	Requirement for letting agents and property managers to belong to an approved scheme
<b>The Housing and Planning Act 2016</b>	<ul style="list-style-type: none"> <li>Banning Orders</li> <li>Database of Rogue Landlords/ Property Agents</li> <li>Civil Penalties</li> <li>Changes to Mandatory Licensing</li> <li>Tenancy Deposit data information sharing</li> <li>Powers on electrical safety and client money protection</li> <li>New process to recover abandoned properties</li> </ul>



## **Appendix 2 - Publications/Guidance**

### **1.**

Housing Act 2004 Housing Health and Safety Rating System  
Operating Guidance

Housing Act 2004 Guidance about inspections and assessment of hazards given under  
Section 9

February 2006

Office of the Deputy Prime Minister: London

### **2.**

Housing Health and Safety Rating System  
Enforcement Guidance

Housing Act 2004

Part 1: Housing Conditions

February 2006

Office of the Deputy Prime Minister: London

### **3.**

Town and Country Planning Act 1990 Section 215 Best Practice Guidance

January 2005

Office of the Deputy Prime Minister: London

### **4.**

Professional Practice Note – The Law of Statutory Nuisance – Part 1 “Premises”  
1992

David Ormandy

Institute of Environmental Health Officers (Now Chartered Institute of Environmental Health)

### **5.**

Regulators’ Code

April 2014

Department for Business Innovation & Skills

Better Regulation Delivery Office

### **6.**

The Code for Crown Prosecutors

January 2013

CPS