

# HOUSING AND TRANSITION PORTFOLIO

## DECISION SCHEDULE



**Tuesday 18 October 2011**

**at 4.00 pm**

**in Committee Room A  
Civic Centre, Hartlepool**

Councillor J Brash, Cabinet Member responsible for Housing and Transition will consider the following items.

**1. KEY DECISIONS**

No items

**2. OTHER ITEMS REQUIRING DECISION**

- 2.1      Housing Services Enforcement Policy – *Assistant Director (Regeneration and Planning)*

**3. ITEMS FOR INFORMATION**

- 3.1      Housing Adaptation Policy 2010-2013 Progress Report – *Assistant Director (Regeneration and Planning)*

## **HOUSING AND TRANSITIONS PORTFOLIO**

Report to Portfolio Holder

18 October 2011



**Report of:** Assistant Director (Regeneration & Planning)

**Subject:** HOUSING SERVICES ENFORCEMENT POLICY

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### SUMMARY

#### **1. PURPOSE OF REPORT**

To inform the Portfolio Holder of the overarching Housing Enforcement Policy, as set out in **Appendix 1** to this report, covering the general principles of good enforcement, partnership working, protocols and authorisation of Officers. The purpose of the policy is to consolidate existing policies already in use across the whole housing services area, including housing standards, empty properties, licensing of houses in multiple occupation, selective licensing, statutory nuisance and protection of tenants.

#### **2. SUMMARY OF CONTENTS**

The report summarises the purpose, content and application of the policy.

#### **3. RELEVANCE TO PORTFOLIO MEMBER**

The Portfolio Holder has responsibility for housing services.

#### **4. TYPE OF DECISION**

Non-key.

#### **5. DECISION MAKING ROUTE**

Portfolio Holder meeting on 18<sup>th</sup> October 2011.

**6. DECISION(S) REQUIRED**

- i) That the Portfolio Holder approves the Housing Services Enforcement Policy.
- ii) That the Portfolio Holder approves the proposal to pursue a proactive and co-ordinated approach in the use of the Town and Country Planning, section 215 powers in relation to empty dwellings and agrees that updates on the use of these powers will be provided at future Portfolio meetings as part of the Empty Homes Strategy update.
- iii) That a further report be brought to the Portfolio Holder once an appraisal has been carried out on the enforcement of unauthorised encampments, together with any proposed changes to the policy approved in 2004.

**Report of:** Assistant Director (Regeneration & Planning)

**Subject:** HOUSING SERVICES ENFORCEMENT POLICY

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## **1. PURPOSE OF REPORT**

To inform the Portfolio Holder of the overarching Housing Enforcement Policy, as set out in **Appendix 1** to this report, covering the general principles of good enforcement, partnership working, protocols and authorisation of Officers. The purpose of the policy is to consolidate existing policies already in use across the whole housing services area, including housing standards, empty properties, licensing of houses in multiple occupation, selective licensing, statutory nuisance and protection of tenants.

## **2. BACKGROUND**

- 2.1 A number of policies already exist across the range of housing services and enforcement activity is carried out in accordance with those policies.
- 2.2 This overarching policy brings together and formalises the existing policies which extend across the whole range of housing services.
- 2.3 It is considered good practice to have a written published policy which is widely available.
- 2.4 Existing policies are based on the principles of good enforcement as set out in the Cabinet Office Enforcement Concordat adopted in November 1998. Following on from the Hampton Report and Macrory Review, Council's were required to review their enforcement policies, to reflect the Regulatory Reform Agenda with the aim of reducing the administrative burden on businesses.
- 2.5 This policy has been drafted in accordance with the Government's Better Regulation Agenda, and implements the good practice recommended by the Cabinet Office Enforcement Concordat, the Regulator's Compliance Code and the regulatory principles required by the Legislative and Regulatory Reform Act 2006.
- 2.6 To comply with official guidance, the Housing Services Enforcement Policy requires Portfolio approval.

#### **4. PURPOSE OF POLICY**

- 4.1 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;
  - raise general awareness of the powers available;
  - raise housing standards
- 4.2 We consider that the appropriate use of enforcement powers, including prosecution, is important to secure compliance with the law and to ensure that those who have duties may be held accountable for failures to comply.

#### **5. CONTENT AND APPLICATION OF POLICY**

- 5.1 The policy sets out the range of enforcement options available to the Council generally ranging from informal advice through to prosecution. In accordance with the policy, the most appropriate action will be selected depending on the circumstances of the case but as a general rule the Council would always seek to use informal action in the first instance.

- 5.2 General enforcement options available include:

- Service of legal notice
- Refusal, suspension or revocation of a licence/permit
- Simple caution
- Prosecution

- 5.3 The policy applies to the whole range of enforcement activities undertaken by Housing Services which includes:

- Housing Standards
- Empty Dwellings
- Licensing of Houses in Multiple Occupation (HMOs) and Other Residential Accommodation (Selective Licensing)
- Protection of Tenants

- Statutory Nuisance
- Private Drainage
- Unauthorised Encampments

5.3.1 There are a number of pieces of legislation that govern the condition of residential accommodation. The Housing Act 2004 is the most frequently used and its provisions relate to all residential accommodation. However, its application in accordance with this enforcement policy would not apply to owner-occupied properties, with the exception of HMOs where landlords are in residence.

The majority of housing condition complaints are currently resolved by means of informal action. In accordance with this policy this will continue to be the preferred initial course of action but enforcement action will be taken where this fails, there is a history of non-compliance or works required are of an urgent nature.

The primary purpose of the enforcement work carried out is to drive up housing standards and this policy will be applied to ensure that this is achieved.

5.3.2 The Housing Services Enforcement Policy sets out a range of options in relation to empty properties both with regards to dealing with their condition and for securing the re-occupation of them.

With regards to the re-occupation, properties are prioritised for action depending on the length of time empty, condition and previous action taken. Any enforcement action aimed at bringing empty properties back into use will only be used when repeated attempts to encourage the owner to bring them back into use fails. 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.

The Empty Homes Strategy 2010 – 2015 Action Plan identified that Town and Country Planning Act 1990, section 215 powers could be used to improve the external appearance of unsightly land considered detrimental to the amenity of the neighbourhood. Housing Services will adopt a pro-active approach to the use of these powers and work alongside Planning Officers in the application of this enforcement power to improve the external condition of empty properties.

All appropriate charges raised for works in default carried out will be registered as a local land charge against the property until recovered in full. With regards to empty homes, the Council will consider recovering this debt by enforcing the sale of the property under the provisions of the Law of Property Act 1925.

5.3.3 The policy sets out the Council's duties in relation to mandatory and discretionary licensing of Houses in Multiple Occupation (HMOs) and

discretionary licensing of other residential accommodation (Selective Licensing). Enforcement action may be considered for operating a HMO or property in a designated selective licensing area or for failure to comply with licence conditions.

5.3.4 Where investigations into harassment or illegal eviction are undertaken, the primary aim of Housing Services would be to require the cessation of harassment or re-instatement of the tenancy. The policy sets out the circumstances under which formal action, including prosecution would be taken.

5.3.5 The policy covers a wide range of circumstances 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 the health of the occupier, e.g. a defective gas appliance
- Filthy or verminous living conditions
- Pests emanating from a property

A range of legislation is available to deal with such matters and in most cases an informal solution will be sought.

Depending upon the circumstances, enforcement action may be taken against the owner, occupier or person responsible for the nuisance.

5.3.6 From 1 October 2011, enforcement responsibility for private sewers and some sections of private drains transferred to Northumbrian Water Ltd following extensive consultation. The effect of this transfer reduces the enforcement responsibilities for Housing Services. The Council will remain responsible for enforcement of legislation relating to private drains serving individual properties where the defect falls within the boundary of the dwelling and private systems such as septic tanks. It is expected that most of these cases will be dealt with by informal advice. However, enforcement action will be taken where there is considered to be a public health risk. Enforcement action may be taken against owners or occupiers.

The adoption of pumping stations will be phased in over a five year period, so any issues with those will be dealt with on a case by case basis in consultation with Northumbrian Water.

5.3.7 Housing Services currently play the lead role in enforcement action in respect of unauthorised encampments, however, the preparation of this overarching policy has highlighted the need to review the Unauthorised Encampments Policy previously approved by the Portfolio Holder for

Public Health on 18 October 2004 in light of operational changes that have occurred since that date.

## **6. RECOMMENDATIONS**

- 6.1 That the Portfolio Holder approves the Housing Services Enforcement Policy.
- 6.2 That the Portfolio Holder approves the proposal to pursue a pro-active and co-ordinated approach in the use of the Town and Country Planning, section 215 powers in relation to empty dwellings and agrees that updates on the use of these powers will be provided at future Portfolio meetings as part of the Empty Homes Strategy update.
- 6.3 That a further report be brought to the Portfolio Holder once an appraisal has been carried out on the enforcement of unauthorised encampments, together with any proposed changes to the policy approved in 2004.

## **7. CONTACT OFFICER**

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# 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 'Dutyholder'

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
- Unauthorised Encampments

A summary of the legislation enforced by Housing Services is attached at **Appendix 2.**

'Enforcement' in the context of this policy, includes action taken by officers aimed at ensuring that individuals or businesses comply with the law.

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 dutyholder. 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 'dutyholder' 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 Cabinet Office Enforcement Concordat, the Regulators' Compliance Code and the regulatory principles required under the Legislative and Regulatory Reform Act 2006 and other relevant guidance.

Following on from the Hampton Report and Macrory Review, Council's were required to review their enforcement policies, to reflect the Regulatory Reform Agenda with the aim of reducing the administrative burden on businesses. Hartlepool Borough Council's Housing Service is committed to better regulation, in line with the Hampton and Macrory principles.

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' Compliance Code.

In accordance with the Regulators' Compliance Code, our approach to the sanctions and penalties available to us, will aim to:

- change the behaviour of the offender;
- change attitudes in society to offences which may not be serious in themselves, but which are widespread;
- 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;
- restore the harm caused by regulatory non-compliance, where appropriate; and
- 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.

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. 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) and Article 8 (which provides that everyone is entitled to respect for their private and family life, home and correspondence). Due regard will be had to those rights when carrying out enforcement functions.

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 the Criminal Justice and Police Act 2001, 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. This is in accordance with the Regulators' Compliance 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**

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;

- Officers apply current Government guidance and relevant codes of practice; and
- Everyone understands the principles which are applied when enforcement action is considered.

The principles of good enforcement include:

- Openness;
- Helpfulness;
- Proportionality;
- Consistency;
- Targeting;
- Transparency; and
- Accountability.

### **2.1 Openness:**

- We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible;
- We will be open about our work;
- We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties;
- We will make it clear what should be expected from the Council as an Enforcement Authority;
- We will respond to requests for Information under the Freedom of Information Act within the prescribed timescales.

### **2.2 Helpfulness:**

- We believe that prevention is better than cure and we will actively work with individuals and businesses to advise and assist;
- Our staff will identify themselves by name and provide a courteous and efficient service;
- We will provide a contact point and telephone number for further dealings with us and we will encourage individuals and businesses to seek advice / information from us;
- Applications for approval of establishments, licensing, registration or authorisation will be dealt with efficiently and promptly; and
- We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlap and time delays.

### **2.3 Proportionality:**

- We aim to minimise the costs of compliance for business by ensuring that any action required is proportionate to the risk;
- As far as the law allows, we will take account of the circumstances of the case and the attitude of the dutyholder when considering action;

- We will help to promote a thriving local economy by maintaining a fair trading and working environment for private landlords and managing agents;
- We will take particular care to work with small landlords and managing agents so that they can meet their legal obligations without unnecessary expense, where practicable; and
- Where dutyholders must control risks so far as is reasonably practicable, we will, when considering protective measures taken by them, take account of the degree of cost, whether in money, time or trouble, involved in the measures necessary to avert the risk. However unless it can be shown that there is a gross disproportion between these factors and that risk is insignificant in relation to the cost, we will require the dutyholder to take measures and incur costs to reduce the risk.

### 2.4 Consistency:

- We will carry out our duties in a fair, equitable and consistent manner;
- Officers are expected to exercise judgement in individual cases, but we will endeavour to ensure that a similar approach is taken in similar circumstances;
- We will take account of advice offered to us through Government bodies such as the Local Government Association (LGA), the Environment Agency and the Department for Business, Innovation and Skills (BIS);
- Where there is a wider regulatory interest, we will liaise and co-operate with or pass information to the appropriate enforcement agency. This may include the sharing of intelligence with other Government Agencies, Police Forces, Fire Authorities, Statutory Undertakers or other Local Authorities;
- We will liaise with our colleagues in other Tees Valley Authorities and Regulatory Services, to share information with a view to developing a consistent approach to enforcement.

### 2.5 Targeting:

- We will ensure resources are targeted primarily on those whose activities give rise to the most serious risks or where the hazards are least well controlled;
- We will ensure that action is focussed on the dutyholders who are responsible for the risk and who are best placed to control it through a graduated enforcement approach;
- We will seek to ensure our resources are used with maximum effectiveness to avoid burdening businesses with the costs of unnecessary interventions.

### 2.6 Transparency:

- We will help duty holders to understand what is expected of them and what they should expect from officers;

- We will clearly distinguish between legal requirements and good practice advice and guidance;
- We will have regard to this enforcement policy when making decisions about the appropriateness of enforcement actions.
- Where for any reason a decision needs to be taken outside of, or in contravention of this policy, a clear and reasoned argument will be recorded as to why that decision was taken.

## **2.7 Accountability:**

- We will ensure that we have policies and procedures against which our work can be assessed;
- We will ensure that affected parties are made aware that there is mechanism for dealing with comments and complaints in line with the corporate Comments, Compliments and Complaints procedure;
- Officers are responsible to Elected Members, the public and Government bodies for their actions.

## **2.8 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.

## **2.9 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 Housing Services Manager or the Assistant Director (Regeneration & Planning).

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.

# **3. Enforcement Action**

## **3.1 Enforcement Options**

We will take a balanced approach to enforcement. 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); or
- in the case of a new business, an assessment of the dutyholder willingness to undertake any work identified by an authorised officer;
- confidence in the dutyholder'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, these include:

- Abatement Notices
- Improvement Notices
- Prohibition Orders
- Emergency Remedial Action
- Management Orders
- Enforced Sale
- Compulsory Purchase Orders
- Revocation of licences
- Prosecution

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 dutyholder 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

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

### 3.1.2 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. Where the law allows it, we may then charge the person/business served with the notice for any costs we incur in carrying out the work.

### 3.1.3 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.

### 3.1.4 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 some cases, an application must be advertised and the determination of the licence or permit will depend upon the receipt of representations. In certain circumstances, the Council will arrange a hearing to determine the application, commonly resulting in a decision to grant the licence or permit, with or without conditions, or to refuse the licence or permit.

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. Aggrieved parties can usually appeal against these decisions to a Magistrates' Court.

In certain circumstances, and in most cases involving a risk to public safety, a licence may be suspended with immediate effect. When this is done the licence holder will be informed of the appropriate appeals procedure and/or the actions required that may result in the suspension being lifted.

### **3.1.5 Simple Caution**

A Simple Caution may be offered where there is an admission and acceptance of guilt by the dutyholder. 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 2 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 record of the Simple Caution will be kept on file for 2 years. If during the time the Simple Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in court, and this may influence the severity of the sentence that the court imposes. If the offer of a Simple Caution is refused, then a prosecution should automatically follow.

**3.1.6 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.

**3.1.7 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.

**3.2 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

**3.2.1 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.

**3.2.2 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.

**3.2.3 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.

### **3.4 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.

### **3.5 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.

### **3.6 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 (e.g. Anti-Social Behaviour Orders) 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.

### **3.7 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.

### **3.8 Notifying Alleged Offenders**

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 dutyholders 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.

### **3.11 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.

### **3.12 Costs**

We will seek to recover all our legitimate costs from convicted offenders.

## **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 set 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).

We will provide a copy of the Housing Health and Safety Rating System guidance, as attached in appendix 1 whenever we contact a landlord regarding property condition and with correspondence sent out regarding licensing and landlord accreditation.

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 dutyholder (usually by letter) to advise what action may be taken to reduce the identified hazards to an acceptable level. This is to allow an opportunity to the dutyholder 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 dutyholder accordingly and make recommendations.

#### **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.

#### **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 seek to recover all costs incurred from the owner.

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

We will 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 dutyholder 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 taking enforcement action.

This 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.

#### **4.1.12 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**

**4.2.1** 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.

**4.2.2** 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 requiring that the building is made secure with 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, 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.

**4.2.3** 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.

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

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

#### **4.2.5 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.

**4.2.6 Empty Dwelling Management Order (EDMO)**

Where a dwelling has been unoccupied for a period of at least six months 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.

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.

**4.2.7 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)**

**4.3.1** 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. This power has not been utilised in Hartlepool as there has been no evidence to support its introduction.

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

**4.3.2** Part 3 of the Act also introduced a further discretionary power to introduce selective licensing in areas suffering from low demand and/or persistent anti-

social behaviour. This power was formally adopted by Hartlepool Borough Council in 2009 and a scheme requiring all privately rented dwellings, in a designated area, to be licensed became effective from 1 May 2009.

**4.3.3** 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.

#### **4.3.4 Applications for Licences**

Applications for HMO and Selective Licences will only be accepted if made on application forms supplied by Housing Services and accompanied by all required supporting documentation. Any deficient application received will be returned to the applicant for amendment or clarification.

We will offer appropriate support and guidance to applicants to ensure that applications may be considered 'duly made' and may be processed in a timely manner.

#### **4.3.5 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.

**4.3.6** 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. This will require that the consultation starts again.

**4.3.7** 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.

**4.3.8** 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.

**4.3.9** In most cases we will apply a set of standard conditions to each licence issued. We will take into account any representations made by any person having an interest in the property or any other consultee. 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.

**4.3.10** We will usually 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.

#### **4.3.11 Revoking a Licence**

The Act sets out a number of circumstances under which a licence may be revoked. Before deciding whether to revoke a licence we will provide advice and guidance to prevent the need for doing this if the property is to remain licensable. If the property is to remain licensable, we must make an interim management order. This will be considered an option of last resort.

#### **4.3.12 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.

#### **4.3.13 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.

**4.3.14 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.

**4.3.15 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**

**4.4.1** 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 this (usually the Tenancy Relations Officer (TRO)) under the provisions of the Protection from Eviction Act 1977 and with reference to the Criminal Law Act 1977 (sections 6 & 7).

**4.4.2** 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.

**4.4.3** 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.

- 4.4.4** 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. As with all prosecutions the public interest consideration has to be made as well as the means of the perpetrator and any likely defences. 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.
- 4.4.5** 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. We would expect compliance of re-instatement within no more than three working days.
- 4.4.6** The case will normally be assessed by the TRO and the Council’s Solicitor and 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.
- 4.4.7** 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.
- 4.4.8** If the TRO 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. All parties will be notified within two working days

## **4.5 Statutory Nuisance**

- 4.5.1** 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

- 4.5.2** 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.

**4.5.3** Where possible we will attempt to reach an informal solution.

**4.5.4** 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 Adults Services before proceeding with any enforcement action.

## **4.6 Private Drainage**

**4.6.1** With effect from 1 October 2011, Northumbrian Water Ltd assume responsibility from the Council for all private sewers and some drains where the problems are outside the boundary of the dwelling. We will retain a number of powers in relation to drainage however it will be our policy (as agreed with the Water Company) to refer all enquiries to Northumbrian Water in the first instance. Where the drainage problem remains our responsibility we will usually deal with such matters by service of legal notice where there is a public health impact.

## **4.7 Unauthorised Encampments**

**4.7.1** We have a duty to have regard to the Human Rights Act 1998 when considering whether to take action to evict or take other enforcement action against gypsies and travellers who are camped on Council land without authority. A determination will be made as to whether we are able to 'tolerate' the encampment and if so, for how long.

We will take a number of matters into consideration, including:

- Whether the location is a site of special scientific interest or where it would affect a sensitive environment or wildlife;
- Whether it is in a school car park or playing field;
- Whether it is on the verge of a busy road where it could pose a danger to the campers or motorists; or
- Where it is likely to have an impact on potential investment.

We will arrange a visit to the site to determine whether there are any educational, welfare or medical needs of the travellers or any genuine reasons for stopping such as vehicle breakdown. We will also attempt to establish the expected date of departure and assuming the date is reasonable and the site is vacated by that date no enforcement will be carried out.

Should an eviction be required we will liaise with all council departments affected, such as Educational Welfare, Solicitors, Estates and Neighbourhood Services.

Where an unauthorised encampment is on private landlord, we will advise the landowner about civil action that may be taken and will only consider enforcement action where this fails.

**5. Ancillary Matters Concerning the Enforcement Policy****5.2 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.

**5.3 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 Housing Services Manager or relevant Director/Assistant Director.

Where enforcement action is being considered which is believed may be (or the Division is informed is) 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 the relevant Tees Valley Liaison Group.

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.

**5.4 Appeals 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, Housing Services Manager or Assistant Director. This does not affect the right of any aggrieved person to exercise their rights under formal or informal appeal processes.

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.

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

Details on how to make a complaint will be provided upon request.

**5.5 Review of the Policy**

This policy will be periodically reviewed, or as changes in legislation occur.

**5.6 How to Obtain a Copy of the Policy or Comment on it**

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

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

If you would like a paper copy of the policy and/or you would like to comment on the policy, please contact us by writing to:

Housing Services  
Regeneration & Neighbourhoods  
Hartlepool Borough Council  
Bryan Hanson House  
Hanson Square  
Hartlepool  
TS24 7BT

On request, this policy will be made available on tape, in Braille or large type.

**This policy was agreed by Hartlepool Borough Council's Portfolio Holder for Housing and Transitions on <<date>>**

# THE HOUSING HEALTH AND SAFETY RATING SYSTEM

The Housing Act 2004 introduced a new way for local authorities to assess housing conditions in England and Wales. **This new system replaces the old housing fitness standard** and came into force on 6th April 2006.

The new risk assessment approach called the Housing Health and Safety Rating System (HHSRS) enables Council officers to identify hazards to health and safety in dwellings and to recommend works to remove or minimise those hazards.

The HHSRS is used to assess conditions in all private properties including those that are owner occupied, rented to single people and families, and houses in multiple occupation (HMOs).

Properties are assessed against 29 potential hazards, including issues such as 'excess cold', 'falls on stairs', 'damp and mould growth' and 'noise'. Some of these hazards could not be dealt with by the Council under the previous legislation.

When a hazard is identified in a property, two tests must be applied:

- What is the likelihood of a dangerous occurrence as a result of this hazard?
- If there is a dangerous occurrence, what would be the likely outcome?

The likelihood and the severity of the outcome combine to generate a **hazard score**. Hazard scores are divided into 10 bands, with Band A being the most serious and Band J the least serious. Hazards which fall into bands A to C are called **Category 1 hazards** and those in bands D to J are **Category 2 hazards**.

**Councils have a duty to take some enforcement action where Category 1 hazards exist.** They also have a **discretionary power** to take enforcement action where there are **Category 2 hazards**.

Enforcement action involves the Council serving legal notices on the owner and/or manager of the property, and requiring them to carry out certain works in a specific timescale. Action includes to:

- Serve an Improvement Notice – requires works to remove the hazard.
- Make a Prohibition Order – prohibits use of residential dwellings or part of a residential dwelling.
- Serve a Hazard Awareness Notice – advises of hazard and recommends remedial action.
- Take Emergency Remedial Action - where there is imminent danger, the Council can carry out emergency works.
- Make an Emergency Prohibition Order – where there is imminent danger, Council can prohibit use of property immediately.

**It is an offence not to comply with these legal notices.**

If you require more information/guidance as to whether your property needs improvement to comply with HHSRS requirements, please contact one of our Housing Standards Officers who will be able to give you the correct advice.

Hartlepool Borough Council  
Housing Services  
Bryan Hanson House  
Hanson Square  
Hartlepool  
TS24 7BT

Telephone 01429 284024  
Email: [privatesectorhousing@hartlepool.gov.uk](mailto:privatesectorhousing@hartlepool.gov.uk)  
[www.hartlepool.gov.uk](http://www.hartlepool.gov.uk)





**2.1 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>	Unsightly land or external appearance of property
<b>Law of Property Act 1925</b>	Enforced Sale to recover debts secured against a property



**2.1 Appendix 1****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.**

Guidance on Managing Unauthorised Camping  
February 2004  
Office of the deputy Prime Minister/Home Office

**4.**

Town and Country Planning Act 1990 Section 215 Best Practice Guidance  
January 2005  
Office of the Deputy Prime Minister: London

**5.**

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)

**6.**

Regulatory Justice: Making Sanctions Effective  
Final Report  
November 2006  
Professor Richard B. Macrory

**7.**

Reducing Administrative Burdens: Effective Inspection and Enforcement  
March 2005  
Philip Hampton  
HM Treasury

## **HOUSING AND TRANSITION PORTFOLIO**

Report to Portfolio Holder

18<sup>th</sup> October 2011



**Report of:** Assistant Director (Regeneration and Planning)

**Subject:** HOUSING ADAPTATIONS POLICY 2010 –  
2013 PROGRESS REPORT

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### **SUMMARY**

#### **1. PURPOSE OF REPORT**

To update the Housing and Transition Portfolio Holder about progress made with implementation of the Housing Adaptations Policy 2010 – 2013 and annual Implementation Plan for delivery of this Policy.

#### **2. SUMMARY OF CONTENTS**

This report is to provide an update on the progress of the Housing Adaptations Policy and Implementation Plan 2010 to 2013 since its approval by Cabinet on 10<sup>th</sup> January 11.

#### **3. RELEVANCE TO PORTFOLIO MEMBER**

The Portfolio Holder is responsible for housing policy development and implementation.

#### **4. TYPE OF DECISION**

Non Key (for information).

#### **5. DECISION MAKING ROUTE**

Portfolio Holder Meeting 18<sup>th</sup> October 2011

**6. DECISION REQUIRED**

Portfolio Holder to note the contents of the report and progress made against the Housing Adaptations Policy Implementation Plan.

**Report of:** Assistant Director (Regeneration and Planning)

**Subject:** HOUSING ADAPTATIONS POLICY 2010 –  
2013 PROGRESS REPORT

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## **1. PURPOSE OF REPORT**

- 1.1 To update the Housing and Transition Portfolio Holder about progress made with implementation of the Housing Adaptations Policy 2010 – 2013 and annual Implementation Plan for delivery of this Policy.
- .

## **2. BACKGROUND**

- 2.1 Cabinet adopted the Housing Adaptations Policy 2010 - 2013 and associated Implementation Plan on the 10 January 2011.
- 2.2 A review of Disabled Facilities Grants (DFGs) was undertaken and this was used to develop the Housing Adaptations Policy. Previously the Council did not have a policy for approving disabled adaptations and this resulted over time in an increase in the waiting list for adaptations and an over stretched budget.
- 2.3 The Council administers Mandatory DFGs to all owner-occupiers, social and private housing tenants who are able to satisfy the criteria laid out in the Housing Grants, Construction and Regeneration Act 1996.
- 2.4 The objectives of the Housing Adaptations Policy are to:
- Enable and support people to live independently in their current and future homes
  - Promote, encourage and ensure fair access for disabled people to all appropriate adaptations services
  - Work in partnership to deliver a seamless service to disabled people, providing services and equipment that are cost effective and value for money
  - Make best use of Registered Providers' existing housing stock

## **3. DELIVERY OF THE HOUSING ADAPTATIONS POLICY 2010 - 2013**

- 3.1 Since the Housing Adaptations Policy was adopted a Delivery Group has been formed which meets on a quarterly basis and monitors progress against the Implementation Plan.

- 3.2 The Delivery Group is represented by Officers from Housing Services, Occupational Therapy and Head of Service within Child and Adults. It is chaired by the Housing Services Manager.

#### **4. HOUSING ADAPTATIONS POLICY IMPLEMENTATION PLAN PROGRESS**

- 4.1 The implementation of the Housing Adaptations Policy began following approval of the Policy by Cabinet and progress is monitored quarterly.
- 4.2 The Implementation Plan was updated at the end of March 2011 and is attached as **Appendix 1**.

#### **5. PROGRESS AGAINST KEY ACTIONS**

- 5.1 Objective One: Enable People to living independently in their current and future homes:
- All actions identified for completion during 2010/2011 have been completed
- 5.2 Objective Two: Promote, encourage, and ensure fair access for disabled people to all appropriate adaptations services:
- All actions identified for completion during 2010/2011 have been completed
- 5.3 Objective Three: Work in partnership to deliver a seamless service to disabled people, providing services and equipment that are cost effective and value for money:
- There is one action which was identified for completion during 2010/2011 that has not been fully completed;
  - Action 3.1.7 is to “Review the effectiveness of advice centres in Hartlepool assisting people to secure attendance allowance”. The reason for this action was to ensure that the Council is attracting the maximum amount that it is entitled to for funding from government for DFGs;
  - For 2011/12 the Council received a greater allocation than previously and as a consequence the necessity to pursue this action is being reviewed. The new Government has revised the way that it calculates entitlement to DFG funding.
- 5.4 Objective Four: Make best use of Registered Providers’ existing housing stock:

- All actions identified for completion during 2010/2011 have been completed

## **6. 2011 – 2012 ANNUAL DELIVERY PLAN**

- 6.1 For 2011 – 2012 an annual delivery plan has been devised and comprises the actions from the Implementation Plan. Progress against the actions is monitored by the Delivery Group on a quarterly basis.
- 6.2 All actions contained within the annual delivery plan are on track for completion within the agreed timescales.

## **7. UPDATE - CABINET REPORT 10.1.11**

### **7.1 ESTABLISHMENT OF THE ADAPTATIONS OPERATIONS PANEL**

- 7.1.1 At the Cabinet meeting on 10<sup>th</sup> January 2011 it was agreed that a flexibly convened Adaptations Operations Panel should be established based on the proposed Terms of Reference.
- 7.1.2 The Panel was established to make best use of resources by exploring all options in addition to DFG using a referral system from the Special Needs Housing team.
- 7.1.3 Since the approval to establish this Panel it has only been relevant to hold one meeting.
- 7.1.4 This meeting highlighted the need to revise how the Panel should operate; review the authority to assess alternative options to an adaptation; and re-evaluate the stage in the process where the most appropriate option for the client is decided. As a result, more time is needed to test the operation of the Panel.

### **7.2 RECHARGES TO OWNERS**

- 7.2.1 It was proposed in the report that went to Cabinet that, depending on the nature of the work carried out; the Council may impose a local land charge against the property. The introduction of charges will allow the Council to recycle some funds back into the DFG budget. It was stated that best practice would be followed for this aspect of the policy.
- 7.2.2 This action is in the 2011-2012 Annual Delivery Plan and has a current timescale of December 2011 for a procedure to be developed to be able to consider this more fully.

- 7.2.3 This action is on track for completion and best practice is being discussed with neighbouring authorities in the North East.

### 7.3 FINANCIAL CONSIDERATIONS

- 7.3.1 In the report to Cabinet it was stated that a consideration would be made for assistance for the hire of equipment for people with a terminal illness. It was agreed that costs would be recorded over a 6 month period to assess this proposal. At the end of 2010/2011 it was noted that there had been no cases of people without a terminal illness, approaching the service. People with cancer are assisted by Macmillan Grants.
- 7.3.2 It was also proposed that the Council would explore the feasibility of facilitating loans to people waiting for DFG. This is an ongoing action and option for the lifetime of the Implementation Plan. At the end of 2010/2011 it was noted that the DFG waiting list had reduced and that there was less need to implement this.
- 7.3.3 It was further stated that the Council would provide assistance to people to help them move. Since the adoption of the Policy in January there has only been one instance where this has been necessary.
- In July 2009 an application for an adaptation for a child was received and approved for a DFG. The request was for a ground floor bedroom and bathroom extension and it was estimated that the cost for this work would be £26,400.
  - Planning permission was submitted and approved for the works; however a Party Wall agreement could not be reached with the neighbouring property. In order to reach agreement a solicitor would need to have been appointed which would have taken the DFG over the limit (currently £30,000). The family advised that they could not afford to pay this and would be happy to explore alternative options.
  - A new 3 bedroom bungalow is currently being built by Housing Hartlepool close to where the family live. An agreement has been made with Housing Hartlepool to allocate the property to the applicant's family. From the DFG budget the Council has agreed to pay removal costs and carpets for the new bungalow. The cost savings from the DFG budget by applying the policy in this instance will be **£22,782**.

## 8. BENCHMARKING

- 8.1 The Council began benchmarking its service against other Local Authorities in the North East since April 2011 as part of the North East Adaptations Group.

- 8.2 The benchmarking is undertaken by monitoring the overall time taken from first contact (the date a person first approaches social services with a need for help and assistance) to certified date (date that the works are confirmed as completed). For the end of Quarter 1 2011-2012 Hartlepool Borough Council's average was 173 days. 7 Local Authorities benchmarked their activity during this quarter and the average time taken was 171 days. The Council is therefore performing satisfactorily in line with neighbouring Authorities.
- 8.3 At the time of the Strategic Review in August 2010 an analysis was carried out and at this time the service took on average 407 days from first contact to certified date. The Council has therefore improved its time taken by **243 days**. The reason for taking so long in 2010 was based on a historical backlog and lack of funding.
- 8.4 Funding was identified for 2010-2011 through re-ablement funding, Council Capital Fund, social services and DCLG funding. Staff have reviewed their working practice and through the extra funding identified the historical backlog of people waiting for a DFG has cleared and consequently led to an improved overall performance. At the end of Quarter 1 2011-2012 there were 60 applicants on the DFG waiting list. This demonstrates a significant improvement since the Strategic Review in August 2010 when there were 129 applicants on the waiting list.

## 9. WAITING LIST INFORMATION

- 9.1 A strategic review of the Adaptations service was carried out in August 2010 as background to developing the Housing Adaptations Policy.
- 9.2 In July 2010 there were 320 people registered on the Compass Choice Based Lettings Scheme requiring a certain type of property due to their disability. September 2011 figures show that this figure has increased to 350. This is consistent with the demographic trends highlighted in the Strategic Review.
- 9.3 During 2009-2010 117 households were rehoused into adapted accommodation. During 2010-2011 this figure was 120.

## 10. SCOPING MEETINGS WITH HOUSING HARTLEPOOL

- 10.1 Objective Three of the Implementation Plan is to work in partnership to deliver a seamless service to disabled people, providing services and equipment that are cost effective and value for money.
- 10.2 During June and July meetings were held with Housing Hartlepool. The first of these was held with their Director of Housing Services to

look at the Council's strategic position. The second was held with the Special Needs Manager at Housing Hartlepool to scope out how both Housing Hartlepool and the Council deliver their front-line services to clients for minor and major adaptations.

- 10.3 The focus of these meetings was on the Council's strategic position and a follow up meeting is scheduled with the Director of Housing Services.

## **11. RECOMMENDATIONS**

- 11.1 Portfolio Holder to note the contents of the report and progress made against the Housing Adaptations Policy Implementation Plan.

## **12. CONTACT OFFICER**


Karen Kelly  
Housing Strategy Officer  
Regeneration and Neighbourhoods Department  
Bryan Hanson House  
Hanson Square  
Hartlepool  
TS24 7BT  
Telephone: (01429) 284117  
Email: karen.kelly@hartlepool.gov.uk

# **Hartlepool Borough Council**

## **Housing Adaptations Policy**


### **Implementation Plan 2010-2013**



 <b>Objective One: Enable and support people to live independently in their current and future homes</b>					
Key Action	Tasks / Actions Involved	Lead Department	Resources	Timescale	2010/11 End of Year Progress
1.1 Consider assistance for hire of equipment for terminal illness e.g. stair lifts	1.1.1 Establish the average number of terminally ill people who approach the service each year for equipment	Occupational Therapy (C&AS)	Existing and Macmillan Grants	March 2011	There have been no cases this year of people (without cancer) approaching the service. Any urgent requests have been processed. <b>ACTION COMPLETE</b>
	1.1.2 Formalise the agreement with Lift Able to provide reconditioned lifts at a reduced rate to install, remove and recycle	Occupational Therapy / Commissioning (C&AS)	Staff Time	March 2011	This agreement is in place. <b>ACTION COMPLETE</b>
	1.1.3 Establish where funding will come from	Occupational Therapy (C&AS)	Existing	March 2011	Funding is available through the DFG budget and Social Services capital budget. <b>ACTION COMPLETE</b>
1.2 Explore opportunities through the LSP and LAA to secure funding contributions from health and social services partners on the basis that adaptations offer a means to invest in the life chances of	1.2.1 Clarify the legal position	Commissioning (C&AS)	Staff Time	January 2011	This has been clarified, health can contribute towards adaptations when money is available, i.e. re-ablement funding was secured at the year end. Funding can also be achieved for individual cases where

disabled people					<p>there is a primary health need.</p> <p>The OT budget is also monitored quarterly and when it is under spent money is released for DFGs.</p> <p>An additional £75k has been secured for 11/12 from social services adaptations budget.</p> <p><b>ACTION COMPLETE</b></p>
	1.2.2 Look at best practice in other Tees Valley local authorities	Housing Services (R&P)	StaffTime	March 2011	<p>JW attends quarterly meetings of the North East Adaptations Group which discusses best practice, compares expenditure and performance. Queries are discussed through an email forum. It has been evident that through representation on this group HBC is working more strategically than its partners LAs.</p> <p><b>ACTION COMPLETE</b></p>
	1.2.3 Explore whether health can fund people on hygiene grounds	Commissioning (C&AS)	StaffTime	January 2011	<p>This work is ongoing and existing channels are used on a case by case basis based on primary health need.</p>

					The mechanism for delivering this is via the case assessment process. <b>ACTION COMPLETE</b>
1.3 Consider and implement where possible the use of S106 agreements as a means of providing new build housing options (suitable for disabled people) within new housing developments.	1.3.1 Formalise current arrangements with developers	Housing Services (R&P)	Staff Time	2013	Agreements are made on a case by case and site by site basis with developers. This is ongoing.  For 10/11 a fully adapted bungalow was secured (through the planning agreement) on the Cecil House site and once built it will be managed by Housing Hartlepool.
	1.3.2 5% of properties built to wheelchair accessible standards	Housing Services (R&P)	Staff Time	2013	This information needs to be collected from Planning Policy. Ongoing.

 <b>Objective Two: Promote, encourage, and ensure fair access for disabled people to all appropriate adaptations services</b>					
<b>Key Action</b>	<b>Tasks / Actions Involved</b>	<b>Lead Department</b>	<b>Resources</b>	<b>Timescale</b>	<b>2010/11 End of Year Progress</b>
2.1 Explore the benefits of setting up a HIA	2.1.1 Liaise with Foundations	Housing Services (R&P)	StaffTime	September 2011	KK and JW need to continue work on this action. Ongoing.
	2.1.2 Pursue the opportunity to develop a Tees Wide HIA	Housing Services (R&P)	StaffTime	March 2012	This action is ongoing.
2.2 Maintain and monitor a comprehensive record of where DFGs and adaptations have been installed in the private sector	2.2.1 Expand the database to capture the costs for each DFG / adaptation	Housing Services (R&P)	StaffTime	December 2010	This has been developed and the costs are now captured. <b>ACTION COMPLETE</b>
2.3 Provide advice and guidance for disabled people	2.3.1 Develop a signposting service to assist people and utilise Hartlepool Now, Duty Team, Centre for Independent Living and Contact Centre to support individuals	Commissioning (C&AS)	StaffTime	March 2011	An assessment centre has been running from the Centre for Independent Living since March 2011.  An on-line self assessment tool is also being developed.  A member of OT staff now also sits within the Duty Team and takes all OT referrals so people do not need to

					wait for an assessment if they do not need one. <b>ACTION COMPLETE</b>
	2.3.2 Develop a list of contacts for local suppliers	Commissioning (C&AS)	StaffTime	October 2011	<p>As part of the on-line self assessment tool local suppliers are being identified. The on-line tool is expected to go live in October 2011.</p> <p>The current list of suppliers needs updating and making more accessible.</p> <p>Timescale amended from December 2010 to October 2011.</p>




**Objective Three: Work in partnership to deliver a seamless service to disabled people, providing services and equipment that are cost effective and value for money**

Key Action	Tasks / Actions Involved	Lead Department	Resources	Timescale	2010/11 End of Year Progress
3.1 Reduce the DFG waiting list	3.1.1. Identify the resources needed	Housing Services (R&P)	Staff Time	December 2010	Funding has been identified through re-ablement funding, SCRAP, social services and CLG funding. The allocation for 11/12 reflects recognition of the greater need of the town. <b>ACTION COMPLETE</b>
	3.1.2 Identify one off and recurring funding for DFG work.	Housing Services (R&P)	Staff Time	Ongoing	As above. <b>ACTION COMPLETE</b>
	3.1.3 Identify the resources needed for funding to employ extra staff to clear the backlog	Housing Services (R&P)	Staff Time	Ongoing	It has been assessed that funding for extra staff is no longer required. Currently employed staff have the capacity to clear the backlog and this has been managed by staff adapting how they work <b>ACTION COMPLETE</b>
	3.1.4 Target appropriate people for rehousing to Extra Care Housing using the	Commissioning (C&AS)	Staff Time	December 2010	Referrals are now made direct with the financial profile completed. Sales have been achieved as

	financial profile				a result of this. <b>ACTION COMPLETE</b>
	3.1.5 Create a single rehousing form for all rehousing options	Commissioning (C&AS)	StaffTime	December 2010	A mechanism has been established to share information between OT and Extra Care allocations so a single form is no longer required. <b>ACTION COMPLETE</b>
	3.1.6 Explore the feasibility of facilitating loans to people waiting for DFG	Housing Services (R&P)	StaffTime	Ongoing	It is feasible to do this. The DFG list has reduced and there is less need to do this. This is still an option for the future.
	3.1.7 Review the effectiveness of advice centres in Hartlepool assisting people to secure attendance allowance.	Commissioning (C&AS)	StaffTime	March 2011	Figures about the numbers of claimants for AA, and DLA for 31 <sup>st</sup> March 2010 and 2011 have been obtained.
	3.1.8 Maximise the number of people claiming attendance allowance in order to maximise the DFG allocation from CLG	Occupational Therapy / Commissioning (C&AS)	StaffTime	Ongoing	Figures about the numbers of claimants for AA, and DLA for 31 <sup>st</sup> March 2010 and 2011 have been obtained.
3.2 Look at options to provide major adaptations more quickly	3.2.1 Develop service standards and timescales	Housing Services (R&P)	StaffTime	September 2011	KK and JW to continue work on this. On target for completion.
	3.2.2 Review the	Housing Services	StaffTime	September 2011	Work was undertaken

	system for employing contractors and consider introducing standard specifications and prices	(R&P)			through the NEAG and it was proven that HBC prices are competitive. There is no identified need to introduce standard specifications as this may lead to an increase in costs. <b>ACTION COMPLETE</b>
3.3 Simplify the processes / streamline the service	3.3.1 Through the Service Delivery Options Review consider the most appropriate location of OT and SNHT services	Housing Services (R&P) / Occupational Therapy (C&AS)	StaffTime	2013	Following the review and implementation of the Housing Adaptations Policy Implementation Plan, 2 restructures have taken within the Regeneration and Neighbourhoods Department, the SNHT now sit in a Housing Services Division and there are no further plans to review this in the near future. <b>ACTION COMPLETE</b>
	3.3.2 Establish an Adaptations Operations Panel for case review and service user issues	Commissioning (C&AS) / Housing Services (R&P)	StaffTime	January 2011	The Terms of Reference and membership has been agreed. Meetings are scheduled until March 2012. <b>ACTION COMPLETE</b>
	3.3.3 Explore whether Housing Hartlepool's workforce have the expertise and	Housing Services (R&P)	StaffTime	December 2010	This has been explored and HH go out to contractors for major adaptations, therefore

	capacity to undertake major adaptations work				they do not have the capacity. <b>ACTION COMPLETE</b>
3.4 Review partnership working of different agencies	3.4.1 Develop a common framework agreement with all RPs on the level of minor works they are willing to fund	Housing Services (R&P)	StaffTime	September 2011	Discussions are ongoing with RPs.
	3.4.2 Consider introducing a 60:40 split of costs with RPs on major adaptations	Housing Services (R&P)	StaffTime	September 2011	A consultation event with all North East RPs is being held on 6.6.11 and they will be asked for a minimum 20% contribution. Action ongoing.
3.5 Undertake regular monitoring of the Adaptations service and learn from best practice	3.5.1 Continue to benchmark through the North East Adaptations Group	Housing Services (R&P)	StaffTime	Ongoing	This is ongoing on a quarterly basis.
3.6 Consider introducing recharges to owners		Housing Services (R&P)	StaffTime	December 2011	A procedure needs to be developed. It was agreed to amend the timescale to December 2011.

 <b>Objective Four: Make best use of Registered Providers' existing housing stock</b>					
Key Action	Tasks / Actions Involved	Lead Department	Resources	Timescale	2010/11 End of Year Progress
4.1 Maintain a comprehensive record of where DFGs and adaptations have been installed in the RP sector	4.1.1 Ensure CBL adverts highlight where adaptations have been installed in a void property	Housing Services (R&P)	Staff Time	September 2011	All properties that have any form of adaptation installed are already advertised highlighting this, and also applicants are made aware that people with assessed needs applying for these properties are given priority for the properties. <b>ACTION COMPLETE</b>
	4.1.2 Expand the database to capture the costs for each DFG / adaptation	Housing Services (R&P)	Staff Time	December 2010	The database has been expanded and the costs now captured. <b>ACTION COMPLETE</b>
	4.1.3 Obtain and monitor how much RPs are spending on adaptations each year	Housing Services (R&P)	Staff Time	March 2011	This information was collected from RPs via a questionnaire. Ongoing information is collected on the quarterly monitoring returns for all housing activity. <b>ACTION COMPLETE</b>
	4.1.4 Seek to ensure already adapted properties are re-let to households who match the needs	Housing Services (R&P)	Staff Time	Ongoing	This is being monitored on an ongoing basis.
4.2 Make better	4.2.1 Investigate the	Housing Services	Staff Time	March 2012	KK / NJ need to

use of RP homes by encouraging them to refuse adaptations where alternative accommodation can be provided and if homes are under-occupied – consider the benefits of discretionary relocation grant*	<p>feasibility of the following actions:</p> <p>Have regard to the longer-term letting value of properties and encourage RPs to refuse to undertake, or give consent for works, which may make the future letting of the property problematic</p> <p>Refuse landlord consent for adaptation work to be carried out if the needs of the resident can be met by transferring a tenant</p> <p>Refuse to carry out adaptation works where the property is substantially under-occupied and alternative accommodation has been refused.</p>	(R&P)			progress this action with Legal. Action Ongoing. It was agreed to amend the timescale to March 2012.
4.3 Work with RPs to explore the feasibility of an incentive scheme to encourage people to move out of adapted properties if the adaptations are not needed	4.3.1 Provide practical assistance to people to help them move	Housing Services (R&P)	StaffTime	March 2012	Through the money obtained from SCRAPT there is the flexibility to do this. A procedure is required about who qualifies and should link to the Operations Panel.

	4.3.2 Develop a support package for OTs and Social Workers to use to look at rehousing options with their clients	Occupational Therapy / Commissioning (C&AS)	Staff Time	September 2011	<p>A free guide to extra care has been developed. A further edition will be published in 6 months time and this will be widened to cover other housing options.</p> <p>A flow chart will also be developed that looks at options appropriate to persons tenure.</p> <p>KK to liaise with Lynda Igoe about developing a simple guide for OTs and social workers to use with clients.</p>
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\* only if this is legal – need to check