

# Chesterfield Borough Council



## Private Sector Housing Enforcement Policy 2019

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## **1.0 Introduction**

This Private Sector Housing Enforcement Policy relates specifically to the enforcement activity of the Council's Private Sector Housing Team.

Chesterfield Borough Council is committed to improving standards in private sector housing within the borough. It is therefore important for the Council to have an enforcement policy that ensures consistency of approach among Council Officers and for members of the public to know what to expect from the service. An enforcement policy also provides clarity if the Council takes enforcement action or legal proceedings.

The Council has statutory powers and duties to regulate private sector housing. To do this we will request information, carry out inspections, process licence applications, assist in bringing empty properties back into use, encourage and promote good practice, provide owners and landlords with advice and information, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders.

## **2.0 Scope of the Policy**

This policy provides the framework within which the Private Sector Housing Team will operate in relation to private sector housing and details the Council's approach to regulating private sector housing in Chesterfield.

## **3.0 Aims of Policy**

The aim of this policy is to set out the Council's approach to enforcement within private sector housing and the regulation of housing standards. We aim to ensure that:

- Tenants of private landlords or a Registered Provider of social housing live in homes that are free of hazards which affect their health and safety.
- Privately rented houses, including Houses in Multiple Occupation (HMO) are managed in accordance with any relevant statutory regulations or other legal requirements.
- All licensable Houses in Multiple Occupation are licensed and all licensing conditions are met.
- Private housing is not left empty for an unreasonable amount of time, to ensure the amenity of the area is not affected, the property is safe and secure and not causing a statutory nuisance.
- Letting professionals meet the legal requirements that apply to their business including registering with a Government Redress Scheme; advertising fees appropriately; and complying with any other legislation that regulates services they provide.
- Privately owned property and land does not present a statutory nuisance and does not directly or indirectly present an unacceptable risk to public health, safety or the environment; and
- The Private Sector Housing Team meets the Council's statutory duties for which it is responsible and to carry out the powers it has adopted.

#### **4.0 Principles of Good Enforcement**

When exercising its enforcement powers the Private Sector Housing Team will have regard to **Chesterfield Borough Council's Corporate Enforcement Policy**, the Councils overarching enforcement policy.

The Private Sector Housing Team will also have regard to the Regulators Code. This is a statutory Code of Practice introduced under Section 23 of the Legislative and Regulatory Reform Act 2006. The Regulators' Code came into effect on 6 April 2014 under the [Legislative and Regulatory Reform Act 2006](#) and provides a clear, flexible and principles-based framework for how regulators including Local Authorities should engage with those they regulate.

Chesterfield Borough Council will have regard to the principles of good regulation when exercising its enforcement duties including:

##### **Proportionate**

Our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence. We will, as far as the law allows, work with business and individuals so that they can meet their legal obligations.

##### **Accountable**

We recognise the importance of the public services we provide and the impact they have on protecting the safety and health of the public. Our activities will therefore be open to public scrutiny, with clear and accessible policies, together with a fair and efficient complaints procedure.

##### **Consistent**

We will carry out our duties in a fair, equitable and consistent manner. Our advice to those we regulate will be robust and reliable and we will take into account published guidance and good practice. We will also aim to share good practice with other Local Authorities.

##### **Transparent**

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return. We will ensure that through our interventions and inspections, where regulatory noncompliance is found, our officers make clear the form of action and next steps they propose to take. They will also make it clear what are legal requirements and what are recommendations.

##### **Targeted**

We will focus our resources on higher risk situations. We will take enforcement action against those duty holders who are responsible for the risk and who are best placed to control it.

## **5.0 Investigation**

Investigations will be carried out in accordance with all associated guidance or codes of practice and the following legislation:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Criminal Justice and Police Act 2001
- Regulatory Enforcement and Sanctions Act 2008
- Human Rights Act 1998

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

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

## **6.0 Shared Enforcement and Primary Authority**

Officers may work with other services within the authority, such as the Planning Department and Building Control, Welfare Rights, Benefits and Council Tax, Housing Options and Anti-Social Behaviour Teams, as well as other enforcing authorities who have the power to take enforcement action. These authorities may include:

- Derbyshire Fire and Rescue Service;
- Derbyshire Police;
- UK Visas and Immigration;
- Health and Safety Executive;
- Trading Standards
- Other Local Authorities.

In circumstances where shared enforcement or joint working is required, officers will ensure that:

- Investigations are undertaken by the most appropriate enforcing authority;
- Enforcement action is undertaken in accordance with agreed protocols and will involve the relevant authority or service in the investigations, information gathering and sharing to ensure it is carried out effectively.

Officers will have regard to the General Data Protection Act 2018 (GDPA) when handling all manual and computerised personal data. Any requests for access to information to the Council will be executed in accordance with the Freedom of Information Act 2000 and the GDPA.

### **Primary Authority Status**

Where a business has registered with a Primary Authority under the Regulatory Enforcement and Sanctions Act 2008 for legislation which this service is enforcing, the Council will comply with these Primary Authority requirements.

## **7.0 Authority to Investigate or Enforce**

The legislation enforced by Chesterfield Borough Council sets out the duties and powers that the authority has in relation to the investigation and enforcement of the legal powers available to it. The Housing Act 2004 and associated regulations are the principal pieces of legislation available to the Private Sector Housing Team, however other legislation is enforced by the Team such as the Housing Act 1985 (as amended), Environmental Protection Act 1990, the Town and Country Planning Act 1990, the Public Health Acts 1936 and 1961, the Building Act 1984, the Mobile Home Act 2013 and the Housing and Planning Act 2016, Protection from Eviction Act 1977, Anti-social Behavior, Crime and Policing Act 2014, Proceeds of Crime Act 2002. Please note that this is not an exhaustive list of the powers available to the Private Sector Housing Team.

### **Authorisation of Officers**

Decisions on enforcement action are a matter of professional judgement and officers will need to exercise discretion. Only Officers who are competent by training, qualification and/or experience will be authorised to undertake enforcement action. Authorisation of officers will be made under delegated powers to a level that is considered appropriate to the competence of the individual officer. **Appendix A** sets out the powers delegated to officers in the Private Sector Housing Team.

## **8.0 Tenure**

The Private Sector Housing Service has investigative and enforcement powers relating to all private housing regardless of tenure. However the approach may vary depending on the tenure of the household.

### **Owner Occupiers**

Owner occupiers, including long leaseholders, are usually in a position to make informed decisions about maintenance or safety issues in their homes. Officers would always aim to provide owner occupiers with appropriate advice and recommendations as to how they can mitigate any hazards identified. Formal enforcement action against this tenure group, therefore, would usually be limited to exceptional circumstances.

Such cases may involve:

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

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

## **Private Tenants**

Tenants within privately rented accommodation have less control of their homes than other tenures. They are reliant on landlords or their agents to adequately maintain their homes in accordance with legal requirements. They can also be the subject of harassment and illegal eviction from landlords/agents which occupiers of other tenures will not experience.

The Council will take enforcement action where required against landlords or agents who are putting the health and safety of their tenants at risk, where the stability of the tenancy is threatened, or in circumstances where conditions are causing serious issues to neighbouring property.

## **Registered Provider Properties**

These are usually housing associations, being private, non-profit making organisations that provide low cost “social housing” for people in need. Their performance is scrutinised by Homes England and the [Regulator of Social Housing](#). Registered Providers have written arrangements for reporting problems and clear response times for addressing these issues, in addition to having systems for registering any complaints about service failure. The Council will therefore not normally consider action against registered providers unless:

- They are satisfied that the problem in question has been properly reported by the tenant to the registered provider; and
- The registered provider has then failed to take appropriate action within a reasonable timescale, taking into account its published or other realistic response targets.

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

## **9.0 What to expect from The Private Sector Housing Team**

### **Landlords**

- We will advise of the legislation and how to comply with it.
- We will advise of any action needed in order to comply with the legislation.
- Where landlords have been served with a legal notice we provide the option of proposing an alternative method of compliance to that suggested in the notice where appropriate.
- If we are satisfied with the proposal, we will work with the landlord to agree acceptable timescales.
- If we are not satisfied with the proposal or how the work is progressing, we will initiate formal action in a proportionate manner as appropriate to the circumstances.
- In making any decision to proceed to work in default/prosecution/formal caution/civil penalty we will have regard to how serious the offence is, the

benefit of enforcement action and whether some other action would be appropriate.

- A charge will be made for the service of a notice under the Housing Act 2004.

### **Tenants**

- We will expect tenants to advise their landlord of any issues within the property, preferably in writing, before contacting us.
- We will advise them as to what action we can take and advise them of the expected timescales.
- We will expect them to cooperate with the landlord to get the works carried out and to advise us of any action taken by the landlord.

### **Owners**

- We will expect owners to maintain the properties they live in.
- Enforcement action will be considered if there is an imminent risk of serious harm or other exceptional circumstances as described in section 8 above.

### **Owners of Empty Homes**

- We will work proactively with owners of empty homes to encourage and assist in bringing their empty homes back into use.
- Where an empty property is having a detrimental impact on the neighbouring area enforcement action will be taken if appropriate.
- If owners fail to take responsibility for their properties, are not willing to engage with the Council or negotiations have failed, and where there is little prospect of a property being brought back into use voluntarily, enforcement action (Compulsory Purchase Order, Empty Dwelling Management Order, and Enforced Sale) will be considered

## **10 Situations where service may not be provided**

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

- Where the tenant(s) unreasonably refuse access to the landlord, managing agent or landlord's contractor, to arrange or carry out works.
- Where the tenant(s) have requested a service and then failed to keep an appointment and not responded to a follow-up correspondence.
- Where the tenant(s) have been aggressive, threatening, verbally or physically abusive towards Officers.
- Where there is found to be no justification for the complaint after visiting the property.
- Where hazards are found but deemed not to be significant and of a minor nature such as a low scoring Category 2 hazard.

## **11 Advice and Guidance**

The Private Sector Housing Team will provide authoritative, accessible advice regarding Private Sector Housing. The Council's website is used to provide general information, advice and guidance to make it easier for landlords, agents, home owners and tenants to understand their obligations. It is provided in clear, concise and accessible language, using a range of appropriate formats and media. When offering compliance advice, the Private Sector Housing Team will distinguish between statutory requirements and advice or guidance aimed at improvements above minimum standards. Advice will be confirmed in writing, if requested.

The Private Sector Housing Team welcomes enquiries from home owners and landlords about complying with minimum standards and ensuring homes are safe and warm. However, the team cannot act as consultant for home owners or landlords and reserve the right to decline or to charge a fee as detailed in appendix A to complete non-statutory, detailed assessments for specific properties such as fire safety risk assessments, confirming in detail the work that would be required to let a property in multiple occupation, or detail the work required to reduce the risk from significant hazards in a property to an acceptable level.

## **12 Our approach to enforcement**

### **Informal action**

If possible the Private Sector Housing Team aims to resolve issues informally. Circumstances when informal action as described above will be deemed appropriate include:

- The act or omission is not serious enough to warrant formal action
- The individual or company's past history of compliance is good
- Confidence in the management's/owner's ability to correct a defect is high
- Standards are generally good suggesting a high level of awareness of statutory responsibilities
- The consequences of non-compliance are acceptable, e.g. minor matters, or the time period allowed to seek compliance does not present a risk to public health.

In such circumstances the Private Sector Housing team will:

- Discuss compliance failures or problems with anyone experiencing difficulties
- Arrange appointments, within office hours, at times convenient to people using the service.
- Comply with the Council's Customer Service Standards
- Perform inspections on an advisory basis
- Supply literature and information.
- Provide advice and assistance through the DASH (Decent and Safe Homes) Landlord Accreditation Scheme.
- Persons in receipt of an informal notice (verbal or written) will be given every opportunity to discuss the requirements with the inspecting officer to agree an appropriate programme and timetable. Encouragement will be given to recipients to seek advice at each stage of the process.

## **Formal action**

When a housing law contravention has been identified and informal action is either inappropriate or has been unsuccessful, the Private Sector Housing Team will tackle the issue through formal action. The choices available for enforcement are:

- Power to require Information
- Powers of Entry
- Service of Statutory Notices
- Works in default of a Statutory Notice
- Management Orders
- Rent Repayment Orders
- Financial penalties
- Prosecution
- Simple Caution

When considering which of these actions is appropriate the Private Sector Housing Team will consider the following:

- The number of hazards and their significance ie whether they are Category one or Category two hazards.
- Whether the Council is under a duty or has a power to take formal action in respect of the hazard(s) identified.
- The level of risk posed to the current occupiers, including whether there is an imminent risk of serious harm
- The views and intentions of the occupier(s) (or occupiers representative(s)) and landlord
- The risk of social exclusion of a vulnerable group or individual)
- The compliance record of the person(s) in control of the premises
- Whether the chosen option is practical, reasonable and proportionate in reducing the hazard(s) to an acceptable level
- The building is listed or located within a conservation area
- The potential for alternative use of the premises or site
- The physical impact on adjoining buildings
- The longer term viability of the premises and area
- The impact on the local community and on the appearance of the local area
- Availability of alternative housing for current occupants
- Likely demand for accommodation if the hazards were remedied

## **Reactive Inspections**

Officers will normally carry out reactive inspections following a complaint from a tenant or owner occupier or a referral from a partner agency concerning unsatisfactory housing or overcrowded conditions.

Where an inspection is undertaken officers will assess compliance with all enforceable legal requirements principally with regard to the Housing Act 2004. This will include a risk assessment under the Housing Health and Safety Rating System (HHSRS) and also HMO licence conditions and HMO Management Regulations, where applicable. This may involve referrals to other agencies or local authority service areas. It is the Council's aim to action requests for service within appropriate timescales.

Requests for service can be received from:

- Tenants/occupiers;
- The general public;
- Property letting and managing agents;
- Referrals from other Council services, and
- Referrals from external agencies.

The Private Sector Housing Team will be unable to act on anonymous complaints, unless the risk posed is serious. Relevant information will, however, be recorded in case of any future complaints.

### **Proactive Inspections**

The Council may decide that it is appropriate to carry out inspections in properties where no complaints have been made. In such circumstances we will adopt an intelligence led approach to our compliance interventions and enforcement actions. This will normally be in relation to:

Inspections of all rented homes within a targeted geographical area, including properties owned by Registered Providers, in which all owners will be notified in advance of the start of the initiative. Through a combination of property inspections, liaising with owner occupiers and working with partners, this proactive approach will aim to improve housing and the standard of housing management.

Inspections of property owned or managed by landlords or agents who have a poor history of compliance with legal requirements for housing conditions and /or management practices. This may include identifying those with a previous history of enforcement action, lack of engagement with the authority or where there is intelligence about breaches in legal requirements from partner agencies. The aim of this proactive intervention is to target resources for improvements to housing conditions and tenancy management, as well as creating more sustainable tenancies, particularly for vulnerable tenants.

Inspections to identify properties that may require a license under Part 2 of the Housing Act 2004, breaches of HMO Management Regulations and or breaches of HMO licence conditions.

Inspections to identify empty homes, to establish the condition of the empty home and the risk it poses to neighbouring properties and the general locality.

## **13 Retaliatory Evictions**

Retaliatory eviction is where a tenant makes a legitimate complaint to their landlord about the condition of their property and, in response, instead of or as well as making the repair, their landlord serves them with an eviction notice. On 1st October 2015 a number of provisions in the Deregulation Act 2015 came into force. These provisions are designed to protect tenants against unfair eviction.

In order to rely on the protection against retaliatory eviction that the Deregulation Act 2015 provides, a tenant must approach the landlord in writing in the first instance, if they know the landlord's postal address or email address. If, after 14 days from the tenant making a complaint, the landlord does not reply, that reply is inadequate, or

they respond by issuing a Section 21 eviction notice, the tenant can approach the Private Sector Housing Team.

Where a tenant makes a genuine complaint about the condition of their property that has not been addressed by their landlord, their complaint has been verified by a local authority inspection, and the local authority has served either an improvement notice or a notice of emergency remedial action, a landlord cannot evict that tenant for 6 months using the 'no fault' eviction procedure (a section 21 eviction). The landlord is also required to ensure that the repairs are completed.

The Private Sector Housing Team will work with landlords to understand their obligations and the implications of this legislation and will work alongside the Housing Solutions Team to provide support, advice and guidance to the tenant in these circumstances.

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

The Council expect landlords and agents to behave in a professional and respectful way towards their tenants.

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

The Private Sector Housing Team is responsible for enforcing various offences to do with the behaviour of landlords towards tenants.

The principle piece of legislation used to enforce offences to do with the harassment and illegal eviction of tenants is the Protection from Eviction Act 1977. We take these offences very seriously as we have a strong commitment to:

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

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

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

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

## 15 Housing Act 2004

The Housing Act 2004 is the principal Act in relation to enforcement of housing standards within Private Sector Housing..

### Part 1

If a Category 1 Hazard is identified the Council must take one of the following courses of action in relation to the hazard:

- Serve an improvement notice under section 11;
- Make a prohibition order under section 20;
- Serve a hazard awareness notice under section 28;
- Take emergency remedial action under section 40;
- Make an emergency prohibition order under section 43;
- Make a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);
- Declare the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.

The Council has a power to deal with Category 2 hazards and can take one of the following courses of action:

- serve an improvement notice under section 12,
- make a prohibition order under section 21
- serve a hazard awareness notice under section 29
- Make a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);
- Declare the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.

The most appropriate course of action will be decided on a case-by-case basis.

### Courses of Action Available

**Hazard Awareness Notice** (*Sections 28 & 29 of the Housing Act 2004*): this is used where a hazard has been identified but it is not necessarily serious enough to take formal action, or where works of improvement, or prohibition of the use of the whole or part of the premises, are not practicable or reasonable

**Improvement Notice** (*Sections 11 & 12 of the Housing Act 2004*): this is used where reasonable remedial works can be carried out.

**Prohibition Order** (*Sections 20 & 21 of the Housing Act 2004*): this order may prohibit the use of part or all of premises for some or all purposes of occupation or by a particular number or description of people. An order may be appropriate where conditions present a risk but remedial action is unreasonable or impractical. It may also be used to limit the number of persons occupying the dwelling, or prohibit the use of the dwelling by specific groups.

**Suspended Notice/Order** (*Sections 14 & 23 of the Housing Act 2004*): Notices/Orders may be suspended where enforcement action can safely be postponed

until a specified event or time (such as a change in occupancy or programmed maintenance).

**Emergency Remedial Action** (*Section 40 of the Housing Act 2004*): when the Council is satisfied that a Category 1 hazard exists on any residential premises and is further satisfied that the hazard involves imminent risk of serious harm to the health and safety of any occupiers or visitors.

**Emergency Prohibition Orders** (*Section 43 of the Housing Act 2004*): If the Council are satisfied that a category 1 hazard exists on any residential premises, that involves an imminent risk of serious harm to the health or safety of any of the occupiers and imposes, with immediate effect, such prohibition or prohibitions on the use of any premises as are specified in the order.

**Demolition Orders** (*Section 46 of the Housing Act 2004 and Part 9 of the Housing Act 1985*): A demolition order may be an appropriate course of action where a category 1 hazard exists on residential premises, where no management order is in place under Part 4 of the Act and the property in question is not a listed building.

**Clearance Areas** (*Section 47 of the Housing Act 2004, and Part 9 of the Housing Act 1985*): This may be declared when the Council is satisfied that each of the residential buildings in the area contains a 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 as a result of their bad arrangement or the narrowness or bad arrangement of the street and that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area.

### **Emergency situations**

In emergency situations, where it is not possible to contact the relevant person and gain their cooperation, enforcement action may be taken immediately where there is a category one hazard and there is an imminent risk of serious harm to the health and safety of occupiers or others. Emergency action includes Emergency Remedial Action and Emergency Prohibition Orders under the Housing Act 2004.

### **Power of Entry**

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

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

Notice under S239 is not required where entry is to ascertain whether an offence has been committed under Section 72 (offences in relation to licensing of HMOs under Part 2 of the Housing Act 2004), Section 95 (offences in relation to licensing of houses under Part 3 of the Housing Act 2004) or 234(3) (offences in relation to HMO Management Regulations).

If admission is refused, premises are unoccupied or prior warning of entry is likely to defeat the purpose of the entry, then a warrant may be granted by a Justice of the

Peace on written application (Section 240). A warrant under this section includes power to enter by force, if necessary.

### **Power to require Information**

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

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

The Council also has powers under Section 237 of the Housing Act 2004 to obtain and use the information from Housing Benefit and Council Tax departments to enable the authority to carry out its functions in relation the Housing Act as defined above.

### **Revocation and Variation of Notices / Orders**

The Council must revoke an Improvement Notice or Prohibition Order once complied with.

If part of the work required within the Notice or Order is carried out, then the Notice or Order may be varied if considered appropriate.

## **Houses in Multiple Occupation**

The definition of an HMO is contained in sections 254-259 of the Housing Act 2004. A building, or part of a building, is an HMO if it satisfies HMO definition:

- The standard test;
- The self-contained flat test;
- The converted building test; or
- If an HMO declaration is in force under section 255 of the 2004 Act; or
- It is a converted block of flats to which section 257 applies.

## **Mandatory HMO Licensing**

The Housing Act 2004 introduced a mandatory licensing system for certain types of Houses in Multiple Occupation (HMO). The aim of licensing is to ensure that every licensable HMO is safe for the occupants and visitors and is properly managed. The responsibility for applying for a licence rests with the person having control of or the person managing the property.

## **HMO Licensing Reform**

In April 2018, Parliament approved secondary legislation which reformed the mandatory HMO licensing regime.

The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 ('the Prescribed Description Order 2018') has the effect of extending the scope of section 55(2)(a) of the Housing Act 2004.

The Prescribed Description Order 2018 also deals with the pass porting of licences granted under additional and selective licensing schemes into the mandatory licensing regime.

## **Fit and Proper Person**

In granting a licence the Council must be satisfied that the proposed licence holder, manager and any person involved in the management of the property are fit and proper persons. A person's fit and proper status may be reviewed at any time if circumstances change. A finding that the person does not satisfy this standard may result in refusal of an application or revocation of existing licence(s).

### **Duration of HMO Licence**

Licences will normally be granted for the full five year period. We may reduce the length of the licence from five years to an appropriate lesser period:

- to remove any advantage over those licence holders who applied at the appropriate time; or
- where the property has not been satisfactorily managed; or
- where we are concerned the proposed management arrangements may not be satisfactory and want to see evidence that they are before allowing a longer licence period to be granted.

### **HMO Licence Mandatory conditions**

Section 67(1) of the 2004 Act provides that a local housing authority may impose conditions relating to the management, use and occupation of a licensed HMO. Under section 67(3) it is mandatory for the local housing authority to include certain conditions in HMO licences. The mandatory conditions are specified in Schedule 4 of the 2004 Act and relate to the provision of smoke and carbon monoxide alarms; gas safety, safety of electrical appliances and furniture and to supply to the occupiers of the house a written statement of the terms on which they occupy it. Schedule 4 conditions apply to all licensed HMOs (under both mandatory and additional schemes).

### **HMO Licence Conditions Introduced October 2018**

A second statutory instrument, the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 ('the Mandatory Conditions Regulations 2018') amends Schedule 4 of the Act, introducing new conditions that must be included in licences that have been granted under Part 2 of the Act after October 2018. These are:

- Mandatory national minimum sleeping room sizes; and
- Waste disposal provision requirements.

### **Licensing Offences**

The Housing Act 2004 sets out a number of licensing related offences all of which carry an unlimited fine, including:

- Operating an unlicensed HMO or allowing an HMO to be occupied by more persons than a licence allows
- Breach of a licence condition
- Supplying incorrect information in a licence application

### **Unlicensed HMO's**

Where an unlicensed HMO is identified, the landlord will be invited to apply for a licence. The Council will also assess the reasons why an application has not been received. The Council will then consider taking formal proceedings with a view to prosecution or Civil Penalty.

A landlord who operates an unlicensed HMO can be subject to a Rent Repayment Order (RRO) by a First-tier Tribunal (Property Chamber) under sections 96 and 97 of the Housing Act 2004.

Where a landlord of an unlicensed HMO approaches the Council for licensing and the landlord fully cooperates with the Council, including addressing any management,

safety or amenity issue within an agreed timescale, the Council will take a view on a case by case basis as to whether further enforcement action is appropriate.

Landlords who fail to renew an HMO licence or fail to provide the required information or the appropriate fee within 28 days will also be investigated and consideration will be given to whether further legal action is appropriate for failing to licence a licensable property.

### **Breach of Licence Conditions**

Breach of licence conditions will be considered on a case by case basis. However, breach of licence conditions can potentially have serious health and safety impacts on the occupiers of the HMO, Chesterfield Borough Council will treat such breaches very seriously. If convicted for such an offence the licence holder is liable to an unlimited fine. Alternatively the local housing authority may impose a financial penalty of up to £30,000 as an alternative to prosecution.

### **Breach of Minimum Room Size Condition**

The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 ('the Mandatory Conditions Regulations 2018') means that a licence holder commits an offence if, without reasonable excuse, the licence holder breaches the licence by:

- Knowingly permitting the HMO to be occupied by more persons or households than is authorised by the licence;
- Failing to comply with a condition of the licence such as restrictions against occupation as sleeping accommodation.

### **Temporary Exemption Notices**

Where a landlord is, or shortly will be taking steps to make a licensable HMO non-licensable, a Temporary Exemption application must be submitted to the Council. The Council will consider all applications made and may serve a Temporary Exemption Notice (TEN).

A TEN can only be granted for a maximum period of three months. In exceptional circumstances a second TEN can be served for a further three-month period. A TEN may be served where the owner of the HMO states in writing that steps are being taken to make the HMO non- licensable within 3 months.

## **Management Regulations**

The Management of Houses in Multiple Occupation (England) Regulations 2006 (SI 2006/372) and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 (SI 1903), are the means through which poor day to day management is tackled. The regulations impose certain duties on managers and occupiers of HMOs. Broadly these duties include a requirement that:

### **The manager:**

The 'manager' in these Regulations includes the landlord or a person responsible for the management of the HMO.

- provides his or her contact details to the occupiers;
- keeps means of escape from fire free from obstruction and in repair and maintains firefighting equipment and alarms;
- takes reasonable measures to ensure that the occupiers of the HMO are not injured on account of its design and structural condition;
- ensures there is adequate drainage from the HMO and an adequate water supply and such supply is not unreasonably interrupted;
- supplies annual gas safety certificates (if gas is supplied) to the council when requested and carries out safety checks on electrical installations every five years and ensures the supply of gas (if any) and electricity is not unreasonably interrupted;
- keeps in repair (including decorative repair) and good order the common parts (including any fixtures and fittings within it);
- maintains any shared garden and keeps in repair any structures belonging to the HMO;
- keeps in repair the occupiers' living accommodation within the HMO, including fixtures and fittings; and
- provides suitable facilities for the disposal of rubbish.

### **The occupiers:**

- do nothing to hinder or prevent the manager from carrying out his or her duties under the regulations;
- take reasonable care not to damage anything for which the manager has a duty to repair, maintain, keep in good order or supply under the regulations;
- dispose of rubbish in accordance with the arrangements made by the manager; and
- comply with all reasonable instructions from the manager relating to fire safety.

## **Breaches of Management Regulations**

Badly managed HMOs put residents at risk, encourage anti-social behavior and can have a negative impact on an entire neighbourhood. font change

Failure to comply with the Regulations without reasonable excuse can result in the owner or manager of the HMO being prosecuted. If convicted of breaching management regulations, they may be fined for each separate offence which may result in substantial financial penalties. font change

Alternatively the local housing authority may impose a financial penalty of up to £30,000 as an alternative to prosecution.

## **Management Orders**

Part 4 of the Housing Act 2004 enables local housing authorities to take over the management of privately rented property through a management order in certain circumstances such as where a privately rented property is unlicensed and/or no suitable licence holder can be found.

Section 26 and Schedule 3 of the Housing and Planning Act 2016 provides that a local housing authority can also make a management order in circumstances where a banning order has been made and where a privately rented property is being let in breach of a banning order.

A management order enables a local housing authority to take over the management of a privately rented property in place of the landlord. The aim is to ensure that the health and safety of occupiers of the property and persons living or owning property nearby are protected, and to ensure that a property is still available to rent, particularly in areas of high demand.

## **Interim Management Orders (IMO)**

A Local Authority is under a statutory duty to make an IMO under s.102 Housing Act 2004 where:

- The property is a House in Multiple Occupation (HMO) or other licensable property and the relevant person has failed to obtain a licence and the Local Housing Authority considers that there is no reasonable prospect of it being licensed in the near future;
- It is necessary for the purposes of protecting the health, safety or welfare of persons occupying the property as defined by s.104 of the 2004 Act

An IMO can be in place for up to a period of 12 months after which it ceases to have effect unless it is revoked at some time before the end of the period. The general effect of an IMO allows the Local Authority to:

- Have the right to possession of the property
- Have the right to do, in relation to the property, anything which a person having an estate or interest in the property would be entitled to do such as repairs and collection of rent etc.
- To spend monies received through the collection of rent for carrying out its responsibilities of management and administration;
- To create new tenancies (with the consent of the landlord).

## **Final Management Orders (FMO)**

Upon the expiry of an Interim Management Order a Local Authority has the power to make a Final Management Order under s.113 Housing Act 2004 by application to the First tier Tribunal. Once an FMO is made it takes effect for a period of up to 5 years. This means that the landlord does not have control of the property for duration of that period.

The Local Authority should manage the property in accordance with its management scheme which is a requirement under the legislation. The management scheme is divided into two parts:

- Part 1 of the scheme is to contain a plan giving details of how the Local Authority proposes to manage the property. It should also include: details of any

required works, an estimate of the capital and other expenditure, the amount of rent and other payment the Local Authority will seek to obtain, the amount of compensation payable to any third party and provisions of payment for compensation or other payments to the landlord or others.

- Part 2 of the scheme is to describe in general terms how the Local Authority is to address the matters which caused them to make the FMO. Should the Local Authority fail to follow their own management scheme then an application can be made to the RPT seeking an order for them to do so.

Through the duration of the FMO the LA must periodically review the operation of the order and the management scheme and consider whether keeping the order in force is the best alternative available to it. The general effects of an FMO are similar to those of an IMO.

### **Special Interim Management Orders**

Where the Council Local Authority is satisfied that a significant and persistent problem of anti-social behaviour in an area is attributable, in full or in part, to the anti-social behaviour of an occupier of an HMO or other dwelling and that the landlord is failing to take action to combat the problem, it can make a Special Interim Management Order.

A Special Interim Management Order – which operates in the same way as an Interim Management Order - may also be applied where it is necessary for protecting the health and safety or welfare of persons occupying, visiting or otherwise engaging in lawful activities in the vicinity of the house.

## **16.0 Review of Enforcement Action**

If there is a change in the occupation of a premises (leading to either an increase or decrease in the apparent risk to occupiers) the current state of any outstanding enforcement action will be reviewed by the investigating officer, in consultation with his or her line manager, to ensure that it is still appropriate and proportionate to the risk posed from the identified hazard(s).

## **17.0 Failure to Comply with Notices**

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

- Prosecution
- a Simple Caution
- Injunctive Actions
- Carrying out the works in default
- a Civil Penalty
- a Rent Repayment Order
- a Banning Order
- making an entry in the Database of Rogue Landlords and Property Agents

### **Prosecution**

Failure to comply with an Improvement Notice or a Prohibition Order is an offence punishable by an unlimited fine. Following conviction, it is an offence to carry on using the premises in breach of the Prohibition Order, attracting a daily fine.

### **Simple Caution**

Officers may use Simple Cautions where someone has committed a less serious offence. Simple Cautions warn people that their behaviour has been unacceptable and makes them aware of the legal consequences should they commit further offences. Simple cautions can only be issued where:

- There is evidence an offender is guilty
- The offender is eighteen years of age or over
- The offender admits they have committed the crime
- The offender agrees to be given a caution – if the offender does not agree to receive a caution then they are likely to be prosecuted instead

Simple cautions are normally not appropriate where the offence is deemed too serious, where there is history of offending within the last 2 years or where the same type of offence has been committed before. In these circumstances prosecution is more appropriate.

If the defendant agrees to receive a Simple Caution, the Council will seek to recover the costs of the investigation as part of the Simple Caution process. If they do not agree to receive a Simple Caution, they will be prosecuted.

### **Works in default of a statutory notice**

Section 31 and Schedule 3 of the Housing Act 2004 gives local authorities power to

take action to resolve housing defects where a notice has not been complied with or without the owner's agreement. Where the owner's agreement is given the works are carried out at the owner's cost and the Council will expect payment in advance before starting work. The Council can recover the costs of action taken without agreement from the relevant person.

The Council will consider undertaking Works in Default of a statutory notice, either with or without agreement, subject to the following conditions:

- The person responsible for undertaking the works has not complied with the enforcement notice to which the works relate; and
- Works in default powers are provided by the specific legislation being used in relation to the case; and
- Whether the Council can register a charge against the premises for the costs incurred in undertaking the works.
- The effects of not carrying out the work on the health and safety of the occupant of the property concerned
- The wishes of the tenant where the Notice has been served in respect of a rented property
- The reason for the work not being carried out in the first place
- Any other factors that are specific to individual properties
- The Council will normally seek to recover all of the costs associated with undertaking work in default.

In most instances, a person will be given notice of the Council's intention to carry out works in default. As soon as the Council has commenced the works, it is an offence for any person to obstruct the Council or any of the contractors or agents that have been employed to carry out the works.

The Council is not obliged to carry out works in default of a notice and reserves the right not to do so. Where the cost of the works is likely to be high or there may be difficulties in recovering the costs the Council may choose to remove serious hazards only.

In the majority of cases the Council will seek to recover the full costs incurred in undertaking works in accordance with the relevant statutory provisions. This will include the cost of carrying out the work in default and the cost of administering the work in default (at the appropriate officer's hourly rate).

### **Civil Penalties**

The Housing & Planning Act 2016 introduced a range of measures including the power for Councils to issue Civil Penalties of up to £30,000 as an alternative to prosecution for certain specified offences.

This power came into force on 6 April 2017 and was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016.

### **Rent Repayment Orders (RRO)**

The Housing Act 2004 introduced Rent Repayment Orders to cover situations where the landlord of a licensable HMO failed to obtain a licence. Rent Repayment Orders

have been extended through the Housing and Planning Act 2016 to cover a wider range of offences, as detailed below:

- Failure to comply with an Improvement Notice under Section 30 of the Housing Act 2004
- Failure to comply with a Prohibition Order under Section 32 of the Housing Act 2004
- Breach of a banning order made under Section 21 of the Housing and Planning Act 2016
- Using violence to secure entry to a property under Section 6 of the Criminal Law Act 1977
- Illegal eviction or harassment of the occupiers of a property under Section 1 of the Protection from Eviction Act 1977

An RRO is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent. A rent repayment order can be applied for when the landlord has committed an offence, whether or not a landlord has been convicted of one of the offences listed above. A criminal standard of proof is required. This means that the First-tier Tribunal must be satisfied beyond reasonable doubt that the landlord has committed the offence or the landlord has been convicted in the courts of the offence for which the rent repayment order application is being made.

The maximum amount of rent that can be recovered is capped at 12 months.

Rent repayment orders can be granted to either the tenant or the local housing authority. If the tenant paid their rent themselves, then the rent must be repaid to the tenant. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority. If the rent was paid partially by the tenant with the remainder paid through Housing Benefit/Universal Credit, then the rent should be repaid on an equivalent basis

A local housing authority can impose a civil penalty and apply for a rent repayment order for certain offences. Both sanctions are available for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing of Houses of Multiple Occupation (section 72(1));
- Offences in relation to licensing of houses under Part 3 of the Act (section 95(1)).

The Council will consider whether to make an application for a Rent Repayment Order on a case by case basis in order to recover monies paid through Housing Benefit or through the housing element of Universal Credit. The Council will offer advice and guidance to assist tenants to apply for a Rent Repayment Order in cases where the tenant paid the rent themselves.

### **Banning Orders**

Banning Orders are aimed at rogue landlords who flout their legal obligations and rent out accommodation which is substandard. Banning orders are aimed at the most serious offenders.

A banning order may be made by the First-tier Tribunal following an application made by a local housing authority.

A banning order must be for a minimum period of 12 months. There is no statutory maximum period for a banning order

A banning order bans a landlord from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

A landlord subject to a banning order is also unable to hold a licence for a House in Multiple Occupation (HMO) and their property may also be subject to a management order.

There may be circumstances where, following a banning order, the management of the property is taken over by the local housing authority. In such circumstances the tenant would pay their rent to the local housing authority.

Breaching a banning order is a criminal offence and a person found guilty of a breach of a banning order is liable on summary conviction to imprisonment for a period not exceeding 51 weeks or to a fine or to both.

### **What is a banning order offence?**

A banning order offence is an offence of a description specified in The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017. **(A list of banning order offences is at Appendix B).**

### **Database of rogue landlords and property agents**

The Housing and Planning Act 2016 introduced the database as a new tool for local housing authorities in England to keep track of rogue landlords and property agents. Database users will be able to view all entries on the database, including those made by other local housing authorities. The database can be searched to help keep track of known rogue, landlords especially those operating across council boundaries and will help authorities target their enforcement activities.

- **Mandatory duty to make an entry**

A local authority must make an entry when it has obtained a Banning Order against a landlord or agent.

- **Discretionary power to make an entry**

An authority can make an entry when a landlord or agent is not subject to a banning order but has at a time when s/he was a landlord or agent committed

- at least one Banning Order offence for which s/he has been convicted, or
- two or more banning order offences within a 12 month period for which s/he has received a Civil Penalty.

In deciding whether to use this power, local authorities must have regard to Government guidance on the database. The guidance stresses that the more

comprehensive the database is the more useful it will be. However, the guidance suggests that an authority should consider:

- the severity of the offence
- any mitigating factors, such as a landlord or agent's personal issues
- culpability of the landlord or agent and previous offences
- deterrence of the landlord or agent and others

Before an authority can make an entry under its discretionary powers it must give the landlord or agent at least 21 days' notice stating it has decided to place her/him on the database. The notice must be given within 6 months of the conviction or receipt of the second civil penalty.

## **18.0 Fees and Charges**

### **Power to Charge for Enforcement Action**

The Local Authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in:

- serving an improvement notice under section 11 or 12;
- making a prohibition order under section 20 or 21;
- serving a hazard awareness notice under section 28 or 29;
- taking emergency remedial action under section 40;
- making an emergency prohibition order under section 43; or
- making a demolition order under section 265 of the Housing Act 1985 (c. 68).

### **Land charge**

When the charge demand becomes operative, the sum recoverable will be a local land charge, until such time as the debt is repaid in full.

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

### **Work In Default**

Costs incurred in carrying out Work in Default or Emergency Remedial Action will be charged separately to the demand.

The costs incurred will include the full costs incurred by the Council in undertaking work in default plus the officer costs incurred in arranging and coordinating the work.

### **Non Statutory Inspection Charges**

The Private Sector Housing Team will charge for inspections that are non-statutory. These include inspections relating to fitness of dwellings for the purposes of immigration requests.

**(Please refer to the Private Sector Housing Fees and Charges Policy.)**

## **19.0 Recovery of Expenses**

Where charges for enforcement action are levied, they will be registered as a local land charge against the owner's property. This means that when the property is sold

the debt has to be repaid including any interest accrued on the initial charge. The Council will vigorously pursue all debts owed to it as a result of enforcement charges or charges for carrying out works in default (as well as any other charges). This includes smaller debts where the cost of recovery is greater than the debt owed.

To recover debts the Council will use some of the following means;

- The enforced sale procedure under the Law and Property Act 1925. This allows the Council to force the owner to sell their property in order to recover its costs
- Invoice for the applicable amount and County Court action if the invoice is not settled in full.
- A charge put on the property. The charge remains in place until the debt is cleared.

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

This Order makes it a legal requirement for all lettings agents and property managers in England to join a Government-approved redress scheme by 1 October 2014.

This now means that tenants, prospective tenants, landlords dealing with letting agents in the private rented sector, as well as leaseholders and freeholders dealing with property managers in the residential sector can complain to an independent person about the service received. The intention of the scheme is to make it easier for tenants and landlords to complain about bad service and prevent disputes escalating.

The requirement will be enforced by local housing authorities. The Council can impose a fine of up to £5,000 where it is satisfied, on the balance of probability, that someone is engaged in letting or property management work and is required to be a member of a redress scheme, but has not joined.

The expectation is that a £5,000 fine will be considered the norm and that a lower fine will only be charged if the local authority is satisfied that there are extenuating circumstances. The Council will decide what those circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a fine.

The Council can impose further penalties if a letting agent or property manager continues to fail to join a redress scheme despite having previously had a penalty imposed.

There is no limit to the number of penalties that may be imposed on an individual lettings agent or property manager, so further penalties can be applied if they continue to be in breach of the legislation.

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

Under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, premises occupied under a tenancy must have:

- A smoke alarm equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation
- A carbon monoxide alarm is equipped in any room of which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
- Checks are made by or on behalf of the landlord to ensure that each alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

Under the Regulations, local authorities are required to issue a remedial notice where they have reasonable grounds to believe a landlord has not complied with one or more of the requirements of the regulations. The landlord must comply with the notice within 28 days.

If they do not, the local authority must carry out the remedial action (where the occupier consents) to ensure the requirements of the regulations are met and can issue a civil penalty of up to £5,000. Landlords can request a review of the Council's decision to serve a penalty notice.

The Council's Statement of Principles sets out the principles that the Council will apply in exercising its powers to require a relevant landlord to pay a financial penalty.

## **22.0 The Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015**

The Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015 establish a minimum level of energy efficiency for privately rented property in England and Wales. This means that, from April 2018, landlords of privately rented domestic and non-domestic property in England or Wales must ensure that their properties reach at least an Energy Performance Certificate (EPC) rating of E before granting a new tenancy to new or existing tenants. These requirements will then apply to all private rented properties in England and Wales – even where there has been no change in tenancy arrangements – from 1 April 2020 for domestic properties, and from 1 April 2023 for non-domestic properties.

If a landlord believes that an EPC F or G rated property they let qualifies for an exemption from the minimum energy efficiency standard, that exemption must be registered on the PRS Exemptions Register – a self-certification database.

## **23.0 Empty Homes**

Empty homes can be a blight on our community as well as a wasted housing resource. Our approach will be to work alongside owners of empty homes with a solution-based approach to support and encourage voluntary action.

However, we are also committed to using appropriate enforcement action where owners fail to take responsibility for their properties, reasonable negotiations fail or there is little prospect of the property being bought back into use voluntarily. Please refer to Chesterfield Borough Council's Empty Homes Policy for further detail.

Enforcement options may include the following:

### **Empty Dwelling Management Orders (EDMO)**

Where a property has been left empty for over two years and is attracting anti-social behaviour, the Council may seek an EDMO, the provisions for which are contained in the Housing Act 2004.

An EDMO allows the Council to take over full management of the property for up to seven years, reclaiming any management and refurbishment costs from the rental income.

### **Compulsory Purchase Orders**

CPOs can be made under section 17 of the Housing Act 1985 or section 226 of the Town & Country Planning Act 1990. They allow local authorities to purchase properties in specific circumstances without the owner's consent.

### **Enforced sale procedure**

The Law of Property Act 1925 allows the recovery of debt secured by a registered charge by forcing the sale of a property. In situations where the Council has incurred costs in relation to the property, the Council will register a charge against the property and should the owner still not pay this debt, the Council can commence legal proceedings to sell the property to recover the costs. An enforced sale under a different procedure can also be used to recover Council Tax arrears.

### **Statutory nuisance provisions**

If a property is unsafe, causing or is likely to cause a nuisance to the locality, the Council can take action to ensure that the condition of the property is improved. A full list of these enforcement powers is available in the Chesterfield Borough Council Empty Homes Strategy.

## **24.0 Caravan Sites**

Caravan and camping sites provide accommodation both for residential, holiday and touring purposes. It is a requirement that all sites are registered with the Council and that owners apply for a caravan site licence.

Licences are issued with conditions attached in accordance with their planning permissions and Model Caravan Standards.

The requirement to apply for a caravan site licence refers to all sites including park home sites. However, it does not apply to Council managed traveller sites, nor to unauthorised sites without the appropriate planning permissions as these cases would require investigation from other enforcement bodies.

Caravan sites will be inspected on a cyclical basis or as a result of a complaint made to the service. This is to ensure that there is compliance with the conditions listed on the site licence and also, where appropriate, with other legislative requirements.

Where there is non-compliance with licence conditions or legal requirements, these deficiencies will be notified to the licence holder, owner or manager. Formal action will be taken where there is insufficient progress, limited co-operation or, in the first instance, where serious issues are identified.

The Council has the power to charge annual fees for residential caravan sites and mobile home parks under the Mobiles Homes Act 2013. All charges are set out in the Chesterfield Borough Councils Residential Caravan Site Fee Policy Council Fee Structure.

## **25.0 Monitoring and Review**

The Service will keep its regulatory activities and interventions under review.

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

## **26. Complaints about our service**

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

## **27.0 Application of the Policy**

All Officers must have regard to this policy when making enforcement decisions.

If you have any comments or queries on this policy, please contact:  
Chesterfield Borough Council Private Sector Housing Manager  
By Email: [privatesectorhousing@chesterfield.gov.uk](mailto:privatesectorhousing@chesterfield.gov.uk)  
By telephone: 01246 345748