



Private Sector Housing Enforcement Policy

Last reviewed: September 2024
Version: 2.0
Date of Publication: January 2023

Contents

1	Introduction.....	3
2	Aims.....	3
3	Links to the Council’s Corporate Aims.....	4
4	Equality and Diversity.....	4
5	The Principles of Enforcement	4
6	Investigation.....	5
7	Housing Association Complaints	6
8	Leaseholder and Freeholder Complaints	6
9	Multiagency Working	7
10	Exceptions to Policy.....	7
11	Authorisation.....	8
12	Powers of Entry	8
13	Obstruction of Officers.....	9
14	Enforcement.....	9
15	Enforcement Options	12
16	Determining the Most Appropriate Course of Action.....	17
17	Charging for Enforcement Action.....	18
18	Appeals.....	18
19	Complaints, Feedback or Compliments.....	18
20	Publicity.....	19
21	Governance	19
22	Links to Relevant Documents	19
23	Appendices	20
23.1	Appendix 1.....	20

1 Introduction

1.1 This policy relates to the duties and powers vested in Dacorum Borough Council ('the council'), and more specifically, the Private Sector Housing Team, to deal with substandard accommodation and management of private sector housing. It hopes to ensure the law is applied fairly and consistently to ensure offenders are tackled proportionately in regard to the offence(s), whilst reducing impact for the compliant.

1.2 This policy is drawn up in line with the principles of good enforcement outlined in the Enforcement Concordat and with specific regard to the Regulator's Code 2014, under the Legislative and Regulatory Reform Act 2006 and the Hampton Review.

1.3 Proper authorisation of officers will be ensured and applicable investigations will be carried out in accordance with the Human Rights Act 1998, Regulation of Investigatory Powers Act 2000, Police and Criminal Evidence Act 1984 and Criminal Procedure and Investigations Act 1996.

1.4 This policy covers all types of property within the private sector, however there are further policies to cover Houses in Multiple Occupation (HMOs):

- [Private Sector Housing Houses in Multiple Occupation Policy](#)

1.5 This policy will also work in conjunction with the [Private Sector Housing Civil Penalty Policy](#).

2 Aims

2.1 Dacorum Borough Council is committed to ensuring that all of its residents living within the private sector are provided with homes that are safe, warm and free from serious hazards.

2.2 It has long been established that there is a link between the standard of housing and health with poor quality housing effecting both the physical and mental health and wellbeing of occupiers.

2.3 Dacorum Borough Council do expect landlords to proactively ensure that they are fully compliant with the range of relevant legislation and properly manage all of their portfolio.

2.4 We recognise that the majority of landlords are, or want to be compliant and provide a good standard of accommodation to their tenants. We will continue to work with landlords providing advice, newsletters and landlord forums.

The overall aim of enforcement is to protect health and improve housing standards:

- Changing the behaviour and seeking legal punishment of those who flout the law

- Eliminating financial gain or benefit from non-compliance
- Providing transparent and consistent regulation within a private market
- Promoting professionalism, legislative compliance and resilience within the private rented sector
- Preventing harm and ensuring that duty holders take action to deal immediately with serious risk to the health or safety of tenants and others

3 Links to the Council's Corporate Aims

3.1 The policy supports the council's corporate priorities which are set out in ['Delivering for Dacorum - Corporate Plan 2020 - 2025'](#)

4 Equality and Diversity

4.1 The council is committed to promoting equality of opportunity in housing services and has procedures in place to ensure that all applicants, tenants and landlords are treated fairly and without unlawful discrimination.

4.2 A priority for the Private Sector Housing Team is to improve standards in private rented accommodation that is occupied by the most disadvantaged persons living in this sector.

5 The Principles of Enforcement

5.1 Dacorum Borough Council believes in firm but fair enforcement of housing law. This should be informed by the principles of proportionality in applying the law and securing compliance; consistency of approach; targeting of enforcement action; transparency about how the regulator operates and what those regulated may expect; and accountability for the regulator's actions. These principles should apply both to enforcement in particular cases and to the management of enforcement activities as a whole with regard to the following:

5.2 Proportionality - Proportionality means taking regard to the risk. Those whom the law protects and those on whom it places duties, expect the action taken by enforcing authorities to be proportionate to any risks to members of the public's health and safety and to the seriousness of any breach.

5.3 Consistency - Consistency does not equate to uniformity. It means taking a similar approach in similar circumstances to achieve similar outcomes. Officers will need to take account of many variables including the scale of impact and the history

of incidents and/or breaches. Decisions on enforcement action are a matter of professional judgement and officers need to exercise discretion.

5.4 Transparency - Transparency is vital in maintaining public confidence in the council's ability to regulate. It requires clear communication to ensure a full understanding of what is expected of duty holders and what they should expect from the council. It requires clear information provisions of why enforcement has or will be taken.

5.5 Transparency also involves Dacorum Borough Council clearly setting out what rights of complaint are open to duty holders, residents and tenants as well as written explanation of any rights of appeal against formal enforcement action at the time the action is taken.

5.6 Targeting - Targeting means ensuring the regulatory effort is primarily aimed towards those whose activities give rise to serious risks, where the hazard and risks are least well controlled or against repeated or deliberate offences.

5.7 Any enforcement action will be directed against duty holders responsible for a breach. This may be landlord in relation to disrepair and identified premise hazards; letting and managing agents; owners of properties; third parties connected to the properties; or the tenants themselves. Where several duty holders have responsibilities, the council may take action against more than one when it is appropriate to do so in accordance with this policy.

6 Investigation

6.1 The council will suitably investigate all complaints and requests received utilising relevant powers to gather information and gain access to properties where necessary. Investigations will be undertaken by officers who will determine whether further action is required.

6.2 In the first instance for most cases, tenant(s) will be expected to have taken their own action to resolve the problem. This will usually need to be in the form of a written complaint to their landlord (letter or electronic communication such as email or text message), allowing them sufficient time to respond. Where tenant(s) approach the council with a complaint, we will ask to see a copy of any such correspondence prior to considering investigation.

6.3 For less serious or minor matters direct action by the council may not be considered. In cases such as this we will endeavour to provide advice and direction to further help wherever possible.

Investigations are undertaken to determine the following:

- Cause

- Whether any action has been taken or needs to be taken to prevent a recurrence and to secure compliance with the law
- What response is appropriate to a breach of the law

The council will assist tenants in providing general information, advice and guidance to ensure awareness and understanding of tenants' rights.

6.4 In certain circumstances the council will also provide advice, mediation and in some cases consider possible enforcement against harassment and illegal eviction. Advice will be given to tenants in relation to promoting prevention of harassment and illegal eviction as well as signposting to civil remedies such as Rent Repayment Orders and Injunctions – this service will be provided by the Homelessness Prevention Team. The Private Sector Housing Team will only deal with the most serious cases on a case by case basis.

6.5 We will endeavour to provide general information, advice and guidance to make it easier for landlords to understand and meet their regulatory obligations. We will also attempt to signpost those landlords who have more complex questions or require legal advice.

7 Housing Association Complaints

7.1 Housing Association tenants will be expected to use their formal repair reporting procedure. Should this not result in satisfactory outcomes or the remedy of disrepair then tenants will be advised to follow the Housing Associations form complaint procedure. The tenant will also be advised that they can then escalate the issues to the Housing Ombudsman:

Housing Ombudsman Service. PO Box 152, Liverpool, L33 7WQ

Telephone 0300 111 3000

<https://www.housing-ombudsman.org.uk/residents/>

7.2 The council will investigate complaints in relation to Housing Associations where satisfied that there is sufficient public health risk and in these cases the principles of this enforcement policy will apply.

8 Leaseholder and Freeholder Complaints

8.1 Dacorum Borough Council is generally not able to respond to complaints by long leaseholders requesting assistance in taking action against other long leaseholders or freeholders. The council will only offer assistance in cases where there are

exceptional circumstances; this may include cases where there is imminent risk to health.

8.2 In all other situations the leaseholder will be redirected to;

The Leasehold Advisory Service

<http://www.lease-advice.org>

Telephone: 020 7832 2500

9 Multiagency Working

9.1 Officers may work with other services with the authority, such as the planning department, benefits and council tax, homelessness and anti-social behaviour teams, as well as other enforcement agencies whom have powers to take enforcement action. These agencies may include:

- Hertfordshire Fire and Rescue Service
- Hertfordshire Constabulary
- UK Visas and Immigration
- Gangmasters and Labour Abuse Authority
- Hertfordshire Building Control
- Hertfordshire Trading Standards

9.2 In circumstances where a joint approach is required, officers will ensure that investigations and enforcement action are undertaken by the most appropriate enforcement authority/agency.

10 Exceptions to Policy

10.1 While we are committed to working with tenants and landlords, the following situations may impact our involvement and ability to use enforcement powers:

- Where the local authority is satisfied that the landlord is taking all reasonable and appropriate action to address repairs in a timely manner
- where the tenant(s) unreasonably refuse access to the landlord, managing agent or landlord's builder, to arrange or carry out works
- where the tenant(s) have, in the opinion of the council, clearly caused the damage to the property they are complaining about, and there are no other items of disrepair
- where the tenant(s) have requested a service and then failed to keep an appointment and not responded to a follow up letter or appointment card

- where the complaint is found to be trivial or has no reasonable justification on visiting the property
- where the tenant(s) have been aggressive, threatening, verbally or physically abusive towards officers
- where the tenant(s) unreasonably refuses to provide the council with relevant documentation

11 Authorisation

11.1 Officers that investigate and carry out enforcement functions have been authorised under the relevant legislation to do so and in accordance with Dacorum Borough Council's Constitution. Each officer carries an identification card.

11.2 Appointment and authorisation of officers enforcing the Housing Health and Safety Risk Rating Scheme (HHSRS) shall be subject to attendance and successful completion of an associated course. An authorisation document prepared by the Council clearly lays out the powers of officers' dependant on qualification, competence and experience.

11.3 It is expected that any officer serving a formal notice under the Housing Act 2004 shall be duly trained, and passed a suitable HHSRS course.

12 Powers of Entry

12.1 In accordance with Section 239 of the Housing Act 2004, at least 24 hours' notice will normally be given to owners and occupiers, where appropriate and known, unless the occupier has already requested at which point an appointment will be made.

12.2 A duly authorised officer, under Section 239 of the Housing Act 2004, may:

- a) Take other persons with him:
- b) Take equipment or materials with him:
- c) Take measurements or photographs or make recordings;
- d) Leave recording equipment on the premises for later collection;
- e) Take samples of any articles or substances found on the premises.

12.3 If admission is refused, then a warrant may be granted by a Justice of the Peace on written application. A warrant under this section includes power to enter by force, if necessary.

12.4 No notice is required where entry is to ascertain whether an offence has been committed under certain sections of the Housing Act 2004 relating to HMOs.

13 Obstruction of Officers

13.1 Section 241 of the Housing Act 2004 makes it a clear offence to obstruct authorised officers in carrying out their roles. This includes offering the officer reasonable assistance in the conduct of their duties and investigations / inspections.

14 Enforcement

14.1 **The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020** came into force on 1st June 2020. These Regulations apply to all new specified tenancies granted on or after 1st July 2020 and apply to all existing tenancies from 1st April 2021.

14.2 These Regulations require landlords to:

- Ensure that the electrical safety standards are met during any period of a tenancy
- Have the fixed electrical installations in their properties inspected and tested by a person who is qualified and competent, at least every five years, or more frequently if the most recent report requires this
- Ensure the first inspection is completed and testing is carried out before the tenancy commences in relation to a new specified tenancy or by the 1st April 2021 in relation to an existing specified tenancy
- Provide a copy of the report to their tenants (and potential tenants on request), and to the local authority if requested. A copy must also be retained and provide to the next person carrying out a test and inspection
- If the report requires investigative or remedial works, landlords will have to carry this out within a specified time period.

14.3 Failure to comply with these Regulations can result in the imposing of a Civil Penalty of up to £30,000.

14.4 **The Smoke and Carbon Monoxide Alarm (England) Regulations 2015** came into force on the 1st October 2015. The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 came into force on 1st October 2022. From that date, all relevant landlords must:

- Ensure at least one smoke alarm is equipped on each storey of their homes where there is a room used as living accommodation. This has been a legal requirement in the private rented sector since 2015.
- Ensure a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers).
- Ensure smoke alarms and carbon monoxide alarms are repaired or replaced once informed and found that they are faulty.

14.5 The Regulations impose the duties on relevant landlords and gives power to council to ensure responsibilities are met. The council will consider remedial notice if non-compliance is evidence:

A remedial notice must:

- specify the premises to which the notice relates
- specify the duty or duties that the local housing authority considers the landlord is failing or has failed to comply with
- specify the remedial action the local housing authority considers should be taken
- require the landlord to take that action within 28 days beginning with the day on which the notice is served
- explain that the landlord is entitled to make written representations against the notice within 28 days beginning with the day on which the notice is served
- specify the person to whom, and the address (including if appropriate any email address) at which, any representations may be sent
- explain the effect of regulations 6, 7 and 8, including the maximum penalty charge which a local housing authority may impose

The remedial notice will confirm the provisions for a review, and the appeal procedures.

14.6 Failure to comply with a remedial notice imposes a further duty on the council to arrange remedial action and a power to impose a Civil Penalty of up to £5,000.

14.7 The Energy Efficiency (Private Rented Property (England and Wales) Regulations 2015 - The Minimum Energy Efficiency Standards (MEES) came into force in April 2018. The Regulations set out the minimum level of energy efficiency for private rented property in England and Wales. In relation to the domestic private rented sector the minimum is an EPC rating of E.

14.8 From 1st April 2018 rented properties in the scope of the MEES Regulations needed to meet the minimum rating before they can be let on a new tenancy, unless

a valid exemption has been registered. The MEES Regulations applied to all domestic properties within scope from 1st April 2020.

14.9 Failure to comply with the Regulations is an offence which can result in the imposing of a Civil Penalty.

14.10 The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 - The Order requires that a person who engages in letting agency work or property management must be a member of a redress scheme for dealing with complaints in regards to that work.

<https://www.gov.uk/redress-scheme-estate-agencies>

14.11 Where the council is satisfied that a person has failed to belong to a redress scheme as set out in the Order the council can impose a 'monetary penalty'.

14.12 The standard penalty charge for breach of duty under article 3 or 5 of the Order is £5000.

14.13 The Tenant Fees Act 2019 - The Act details fees that Landlords or their Agents can charge to their tenants. Those not detailed in the Act are prohibited fees. When these fees are charged the matter can be referred to Trading Standards who are the enforcing body. Action can be taken against Landlords or their Agents who are found to be in breach of legislation under the Housing and Planning Act 2016 for a first offence resulting in a Civil Penalty of up to £5,000. If further breaches are committed within 5 years of this penalty or a conviction for a previous breach is found, this matter will be considered a criminal offence. The local authorities will then have the discretion to either prosecute or impose a further financial penalty of up to £30,000.

14.14 The Protection from Eviction Act 1977 - The Protection from Eviction Act 1977 Section 1 makes it an offence for any person to unlawfully deprive a residential occupier of the premises (or any part of it) that they occupy.

14.15 In certain circumstances the council will also provide advice, mediation and in some cases consider possible enforcement against harassment and illegal eviction. Advice will be given to tenants in relation to promoting prevention as well as signposting to civil remedies such as Rent Repayment Orders and Injunctions – this service will be provided by the Homelessness Prevention Team. The Private Sector Housing Team will only deal with the worst cases on a case by case basis.

14.16 The council can prosecute for breaches of the Protection from Eviction Act 1977 and such prosecutions can amount to a criminal offence.

14.17 Housing Act 2004 Part 1 – Housing Health and Safety Rating System - Under the Housing Act 2004, the Housing Health and Safety Rating System (HHSRS) prescribes the means by which the council can assess housing conditions based on risk (both likelihood and impact to health).

14.18 The HHSRS assesses 29 hazards and categorising them from Band A (highest risk) to J (lowest risk). Band A, B and C are considered as Category 1 hazards which are serious risk. The other bands – D and below – are lower risk and classified as Category 2 hazards. The council has a duty to take action to rectify all Category 1 hazards but will also exercise its powers to reduce Category 2 hazards through appropriate action when an investigating officer considers this to be proportionate.

14.19 The HHSRS is applicable to any property of any tenure including owner occupied, standard rented or House in Multiple Occupation.

14.20 Housing Act 2004 Part 2 – Licensing of Houses in Multiple Occupation

14.21 Under current legislation there is a mandatory licensing of houses in multiple occupation (HMOs) where there are shared amenities and 5 or more persons forming 2 or more households.

14.22 Dacorum Borough Council currently do not operate any Additional Licensing Schemes.

14.23 Due to the complexities of HMOs, a separate policy covering licensing is made outside of this policy but the principles of enforcement covered with this enforcement policy shall apply.

15 Enforcement Options

15.1 **No Action** - Where an officer has investigated a complaint and no breach of legislation or concerns are identified, no action will be taken.

In exceptional circumstances, contraventions may not warrant any action. A decision of no action may also be taken when a premise is being vacated and not re-let.

15.2 **Informal Action** - Informal action is verbal advice, requests, warnings or letters and inspection reports that can be used when:

- concerns identified are not considered a serious risk;
- there is not a significant risk to the safety or health of the occupant or others as a result of the property;
- informal action will be more effective and/or quicker than formal action; or
- there is confidence in the Manager/owner or there is evidence they have previously responded well to advice and guidance from the team.

In the case of informal action, where the level of risk is not high and the landlord or managing agent is willing to work with the team, we will allow a reasonable timeframe for recommended works to be carried out. If works are not carried out in this time then formal enforcement options will be considered.

15.3 Hazard Awareness Notice - section 28 and 29 of the Housing Act 2004 allows for service of a Hazard Awareness Notice.

A Hazard Awareness Notice under this section is to advise the person on whom it is served of the existence of a hazard in respect of the premises it is served in relation to.

These notices tend to be utilised where formal enforcement is not considered necessary or viable and to raise awareness, such as low Category 2 hazards or in relation to an owner-occupied premise. There is right of appeal since there is no enforcement element.

A Hazard Awareness Notice would not be appropriate for Category 1 hazards unless the officer can determine that remedial action is neither viable nor practicable.

15.4 Improvement Notice – section 11 and 12 of the Housing Act 2004 allows for service of an Improvement Notice for both Category 1 and Category 2 hazards. It is anticipated that Improvement Notices will be appropriate and a practical and proportion remedy for most hazards.

An improvement Notice will require works that will either remove the hazard entirely or reduce so far as practicable.

15.5 Suspended Improvement Notice – The council will consider the suspension of an Improvement Notice where it is reasonable to do so. For example:

- The need of planning permission or other consent being required before any works can be started
- Personal circumstances of occupants that require deferral of works

When considering whether it is appropriate to suspend an Improvement Notice, the council will consider:

- The level of risk presented by the hazard(s)
- The response of the duty holder
- Any other relevant circumstances

Suspended Improvement Notices will be reviewed on an ongoing basis, at least every six months.

15.6 Prohibition Order – under sections 20 and 21 of the Housing Act 2004 allows for the making of a Prohibition Order in relation to Category 1 and 2 hazards.

A Prohibition Order can prohibit specific uses including preventing occupation by a particular descriptions of persons.

15.7 Suspended Prohibition Order – provide the Council with power to suspend a Prohibition Order once served.

The council will consider this course of action where it is reasonable in the circumstances to do so. Suspended Prohibition Orders will be reviewed at least every six months.

15.8 Emergency Remedial Action and Prohibition Orders – under section 40 and 43 of the Housing Act 2004. The council must be satisfied that:

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

If these conditions are met, the council will take appropriate emergency action. Situations in which this may be appropriate include risk of electrocution, fire, gassing, explosion or collapse.

15.9 Demolition Orders – power to make an Order to demolish a building as a response to a Category 1 hazard. In determining whether to issue a Demolition Order, the Council will take account of Government guidance and will consider all the circumstances of the case.

15.10 Clearance Areas – the council can declare a Clearance Area if satisfied that each of the premises in the area are affected by one or more Category 1 hazards. In determining whether to declare a Clearance Area, the Council will act only in accordance with Section 289 of the Housing Act 1985 (as amended) and having had regard to relevant Government guidance on Clearance Areas and all the circumstances of the case.

15.11 Works in Default - If an offender refuses or fails to carry out repairs following a notice, we will consider works in default.

In most circumstances, a person will be given notice of our intention to carry out works in default. Where we are required to do this, the notice recipient will be charged for the repairs, as well as administration and any other costs as incurred by the council.

It is an offence for any person to obstruct the council or any of the contractors or agents that have been engaged to carry out the works in default.

Houses in Multiple Occupation (HMO)

15.12 Overcrowding Notice - overcrowding notices apply to all non-licensable HMOs which do not have an IMO or FMO in force. A person who fails to comply with an overcrowding notice commits an offence and be prosecuted or issued with a civil penalty. An Overcrowding Notice may prohibit new residents or limit the number of people sleeping in a property or room.

15.13 Licence Term Reduction - generally HMO Licences are granted for 5 years. However, the licence period can be reduced by up to 4 years in certain

circumstances. The following is a list of factors to be consider when determining a period for which a HMO licence is granted for:

- Failure to comply with conditions on previous HMO licence
- Failure to comply with planning requirements
- Council tax payments not up to date
- Failure to comply with management regulations
- Failure to apply voluntarily for a licence
- Significant hazards within the dwelling on a licensing inspection
- History of justified complaints in relation to the property

15.14 Licence conditions - generally standard HMO conditions will be added to the licence. However, if there is any cause for concern in relation to poor landlord behaviour or standards the licensing officer may determine that further conditions are required. Determination will be made on a case by case basis.

15.15 Refusal or Revocation of Licence - a licence may be refused or revoked by the council if any of the following/combination of are evidenced:

- Licence application is not made in accordance with the councils application requirements
- Part 1 and/or Part 2 licence fee's not paid in full
- Proposed manager/licence holder is not 'fit and proper'
- Proposed manager/licence holder is not the most appropriate person to hold a licence
- Proposed manager/licence holder is not the person having control of the property
- Proposed management arrangements are not satisfactory
- Property is not suitable of occupation in regards to the number of persons or households
- Manager/licence holder has committed a serious breach or repeated breaches of a condition of the licence

15.16 Interim & Final Management Orders - An Interim Management Order (IMO) transfers the management of a residential property to the Council for a period of up to twelve months and in exceptional circumstances the council can also apply for a Final Management Order (FMO) which can last for up to five years.

The council will take over the management of private property through a management order in certain circumstances (where a privately owned property is unlicensed/no suitable licence holder can be found). This can also apply to empty dwellings that meet the time for Empty dwelling management orders. Section 26 and Schedule 3 of the Housing and Planning Act 2016 allows the council to also make a management order in circumstances where a banning order has been made and where a privately owned property is being let in breach of a banning order.

15.17 Civil Penalties - Civil Penalties under the Housing and Planning Act 2016 can be applied as an alternative to prosecution for a number of offences. Due to the complexities of Civil Penalties these are detailed in a separate policy - [Dacorum Borough Council Private Sector Housing Civil Penalty Policy](#).

15.18 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 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.

15.19 Prosecution - cases will only be recommended for a prosecution if the following is considered:

- Appropriateness of the case for legal proceedings
- Sufficient, admissible and reliable evidence that an offence has been committed by an identifiable person or company and that there is a realistic prospect of conviction based on the evidential and public interest tests
- Compliance with the Regulators Code
- Consideration of case merits result in prosecution being the preferred course of action rather than a Civil Penalty
- Consideration of legislative requirements, enforcement procedure and policies

If prosecution is deemed appropriate, then the case will be fully prepared and referred to the Legal Team for consideration. All prosecutions will be brought without unavoidable delay; generally, there is a requirement to lay information with the Courts within six months of the identified date that the offence was committed.

15.20 Proceeds of Crime Act 2002 - where there is substantial financial gain for a landlord or owner through non-compliance with legislative requirements in the private rented sector, the council will consider taking action to confiscate or recover monies gained through illegal activities under the Proceeds of Crime Act 2002.

15.21 Rent Repayment Order (RRO) - In addition to the powers provided by the Housing Act 2004 to apply Rent Repayment Orders (RROs) in regard to offences related to HMOs as outlined at section 73 and 74 of Housing Act 2004, the Housing and Planning Act 2016 extended the power to apply RROs in respect of the following offences committed after 6th April 2017;

- 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

The maximum amount of rent that can be recovered is capped at 12 months. A criminal standard of proof is required. The Council must apply to the First Tier Property Tribunal for an RRO. The Council will consider application for RROs in all cases where a successful prosecution has been achieved.

15.22 Banning Order - a banning order is an order by the first-tier Tribunal that bans a Landlord from:

- Letting houses in England; and
- Engaging in letting agency or property management work in England.

The council will use banning orders in cases where we believe an individual poses high risk as a practicing Landlord (based on evidence that has occurred after April 2018). A banning order will be issued for a minimum of 12 months, but there is currently no maximum amount of time a banning order can be in place for. When applying for a banning order we will consider the level of harm or risk created by the Landlord's actions and use this to make a recommendation to the first-tier tribunal for the length of time a banning order should be in place.

15.23 Database of Rogue Landlords and Lettings Agents - under the Housing and Planning Act 2016 the council will apply to have landlord's details entered on the database where there is a statutory duty to do so. In other cases this will be where the law allows discretion when it is in the public interest to do so.

16 Determining the Most Appropriate Course of Action

16.1 All enforcement action taken will be both proportionate and reasonable. When deciding the type of action required, the council will consider:

The seriousness of the deficiencies identified in the property;

- The past history of compliance;
- The confidence in management and the degree of wilfulness involved;
- The consequences of non-compliance;
- The existence of statutory duties or discretionary powers; and

- The likely effectiveness of the various enforcement options.

16.2 When deciding the appropriate action, we will consider the views of the tenants, landlords and owners, as well as any relevant partners e.g. the Fire Service.

17 Charging for Enforcement Action

17.1 The council will make a reasonable charge to recover administrative and other expenses incurred when taking enforcement action under the Housing Act 2004 or other relevant legislation.

17.2 The charges are detailed in Dacorum Borough Council Private Sector Housing Fee Structure.

18 Appeals

17.1 Where a statutory notice/order is served, or a licensing decision is made, the method of appealing the decision will be included within the documentation provided. This will include the full postal address and contact information for the relevant appeal body and the relevant time period to submit an appeal.

17.2 To reduce the potential for unnecessary appeals, clear reasons will be given, wherever possible, to a person against whom enforcement action is being taken. On request, these reasons will be confirmed in writing at the earliest opportunity and will include information about any relevant complaint or appeals procedure.

17.3 In the case of written and verbal warnings issued by an officer, there is no set appeal process as no formal legal action has been initiated. Details of the appropriate line manager will be given on request, as well as details of the Corporate Complaints process.

19 Complaints, Feedback or Compliments

19.1 The council recognises the need to provide an excellent public service which is responsive to the views of both residents and businesses. We will continue to commit to improving the private sector housing service within Dacorum Borough Council and welcome all feedback which may be utilised to further improve the service.

19.2 Any complaint about the conduct of an officer will be immediately notified to the Team Leader, who will make a judgement on what action will be taken. An officer will not automatically be withdrawn from any case by virtue of a customer complaint. The Team Leader will consider the complaint and assess if the officer has acted outside their remit and/or has acted unprofessionally towards the business concerned. All complainants will be advised of their recourse to the Councils Corporate Complaint system, details of which can be found here.

19.3 If a complainant is not satisfied at the end of the complaints process, the matter can be raised with the relevant ombudsman service.

19.4 The withdrawal of any legal action taken by an officer will not be considered based solely on complaint regarding the officer, as recourse is available through the appeal process, unless evidence is available to demonstrate the legal action does not meet the requirements set out in this Policy.

20 Publicity

20.1 Verdicts and sentences in criminal cases are given out in open court and are a matter of public record. Evidence suggests that the public wants to know about the outcomes of local court cases. This information is also a legitimate way of engaging communities and making criminal justice services more transparent and accountable.

20.2 We may publicise the outcomes of criminal cases and basic personal information about the convicted offender, in accordance with guidance issued by the Criminal Justice System (Publicising Sentencing Outcome, CJS, 2011).

- We will publicise action taken with the aim to:
- Reassure the public;
- Increase trust and confidence in the criminal justice system;
- Improve the effectiveness of the criminal justice system, and
- Discourage offending and/or re-offending.

20.3 We may also publicise other outcomes that are not within the public domain without any personal data disclosed.

21 Governance

21.1 This policy is subject to change and will be reviewed periodically and in line with changes in legislation, government statutory guidance and council policy.

22 Links to Relevant Documents

- [Regulators' Code 2014](#)
- [The Code for Crown Prosecutors](#)
- [The Human Rights Act 1998](#)
- [The Equality Act 2010](#)
- [The Regulation of Investigatory Powers Act 2000](#)
- [The Police and Criminal Evidence Act 1984 – Codes of Practice](#)
- [The Criminal Procedures and Investigations Act 1996](#)
- [The Enforcement Concordat](#)

- [The Legislative and Regulatory Reform Act 2006](#)
- [Housing Act 2004](#)
- [Tenant Fees Act 2019](#)
- [The Electrical Safety Standards in the Private Rented Sector \(England\) Regulations 2020](#)
- [Housing and Planning Act 2016](#)
- [The Energy Efficiency \(Private Rented Property\)\(England and Wales\) Regulations 2015](#)
- [The Protection from Eviction Act 1977](#)
- [The Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#)
- [The Enterprise and Regulatory Reform Act 2013](#)
- [Proceeds of Crime Act 2002](#)
- [Housing health and safety rating system \(HHSRS\) enforcement guidance: housing conditions](#)
- [Delivering for Dacorum Corporate Plan 2020 - 2025](#)
- [Regulators Statement](#)
- [Private Sector Housing HMO Policy](#)
- [Prevention of Homelessness and Rough Sleeping Strategy](#)
- [Private Sector Housing Strategy](#)
- [Private Sector Housing Civil Penalty Policy](#)

23 Appendices

23.1 Appendix 1

Document Owner: Private Sector Housing

Service: Safe Communities

Approval Body: Cabinet

Author: Rebecca Clarke

Directorate: Housing Operations & Safe Communities

Date of Publication: January 2023

Team: Private Sector Housing

Version number: 2.0

Date of Review: September 2025