

PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

Introduction

Local Housing Authorities are the primary enforcement agency for ensuring the protection of the health, safety and welfare rights for occupiers and visitors in private sector housing within England and Wales.

For Leeds City Council (“the Council”), this responsibility is with the Private Sector Housing Service that is part of the Environment and Housing directorate.

Authorised officers (“officers”) within the Private Sector Housing Service have both duties and discretionary powers to take enforcement action, using a range of legislation to address issues arising at privately owned accommodation and caravan sites.

Aims of the Policy

This Enforcement Policy aims to:

- Demonstrate the transparency of enforcement with respect to private sector housing and caravan sites in Leeds, by setting out legal requirements, policies and principles that officers will follow when enforcing legislation;
- Improve housing conditions and raise the standard of property management within the private rented sector;
- Provide safer, healthier, affordable and warmer homes in the private sector to enable all people within Leeds to benefit from healthy housing and environments; and
- Contribute to the growth target of 70,000 new homes in Leeds between 2012 and 2028, by bringing empty homes into use.

<p>This policy has been endorsed and authorised by the Director, Resources and Housing, under the Sub Delegation Scheme in November 2017.</p>

What is Enforcement Action?

Enforcement in its simplest sense is the process of ensuring a law or rule is met or complied with. For the purpose of this policy, it means an action carried out by the authority against a background of statutory powers. Enforcement is not limited to formal action, such as a prosecution or service of a legal notice; it includes inspections, investigations, interventions and the provision of advice and assistance, with the aim of ensuring service users comply with regulatory requirements.

Enforcement Objectives

The main objectives of this enforcement policy are to ensure that:

- Privately rented accommodation, including houses in multiple occupation (“HMO”), and accommodation provided by registered providers of social housing, are free from actionable hazards¹ that affect the health and safety of the tenant, licensee or any visitor;
- Private rented accommodation and tenancies are managed in accordance with relevant statutory requirements;
- Privately rented accommodation meets minimum energy efficiency ratings;
- All licensable properties are licensed, with licence conditions being met;
- Empty properties are tackled with the aim of addressing security, visual amenity and statutory nuisance issues and also returning them back into occupation.
- Owners or occupiers of privately owned accommodation or land do not cause statutory nuisance, or an unacceptable risk to public health and safety, or to the environment or neighbourhood;
- Lettings and property management businesses are registered with a government-approved redress scheme and comply with relevant legislation and codes of practice;
- Caravan and camp sites are managed in compliance with site licence conditions and relevant statutory requirements.

¹ An actionable hazard is one that has been assessed to be a Category 1 or 2 hazards using the Housing, Health and Safety Rating System (“HHSRS”) under the Housing Act 2004 and the Housing Health and Safety Rating System (England) Regulations 2005. The authority has a duty to act where Category 1 hazards are identified. The authority has a discretionary power in respect of Category 2 hazards and will take enforcement action in cases where there is a significant risk to the health and safety of the occupiers.

Regulators' Code

The Legislative and Regulatory Reform Act 2006 ("the 2006 Act") requires the authority to have regard to the Regulators' Code produced by the Better Regulation Delivery Office in April 2014 when developing its policies and procedures to guide regulatory activity.

This Enforcement Policy has regard to the Regulators' Code in that it:

- Follows the principles of good regulation set out in the 2006 Act, in that regulatory activities are carried out in a way that are transparent, accountable, consistent, proportionate to risk and targeted at cases where action is required;
- Supports businesses to comply and grow;
- Provides simple ways to communicate and share information amongst regulators to reduce duplication; and
- Provides clear information and guidance.

Equality Statement

The Council is committed to treating all customers fairly and all enforcement decisions will be fair, independent and objective.

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

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; Leeds Housing Options; Locality and Anti-Social Behaviour Teams, as well as other enforcing authorities who have the power to take enforcement action. These authorities may include:

- West Yorkshire Fire and Rescue Service;
- West Yorkshire Police;
- UK Visas and Immigration;
- Health and Safety Executive;
- Trading Standards, and
- 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 Data Protection Act 1998 (“DPA”) when handling all manual and computerised personal data. Any requests for access to information to the Council can be done in accordance with the Freedom of Information Act 2000 and the DPA.

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.

Tenure Groups

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.

- **Private Landlords and Tenants**

Tenants within rented accommodation do not have the same level of control of their homes, in the same way that owner occupiers benefit from. They are reliant on landlords or their agent to adequately maintain their homes in accordance with legal requirements. The Council will take enforcement action where required, against landlords or agents who are putting the health and safety of their tenants at risk, or in circumstances where conditions are causing serious issues to neighbouring property.

- **Owner Occupiers**

Owner occupiers are usually in a position to make informed decisions about maintenance or safety issues in their homes. Formal enforcement action therefore against this tenure group would be limited. Officers would always aim to provide owner occupiers with appropriate advice and recommendations as to how they can mitigate any hazards identified. In cases, however, where there is a severe risk to the health and safety of occupiers, or where there are conditions that have the potential to cause serious issues to neighbouring property, the Council may take formal action against owner occupiers.

- **Registered Social Landlords (“RSL”)**

These are usually housing associations, being a private, non-profit making organisation that provides low cost “social housing” for people in need. Their

performance is scrutinised by the Homes and Communities Agency and the Housing Ombudsman. RSL's 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. This service will not normally take action against an RSL, unless the problem in question has been properly reported to the RSL, who has then failed to take the appropriate action. The Council will consider enforcement action against an RSL where there are significant risks to the health and safety of tenants and/or the wider public.

- **Housing Leeds**

Council owned and managed property is run through Housing Leeds, who has invested extensively in their stock in recent years to meet Decency Standards. Housing Leeds has written arrangements for reporting problems, clear response times and systems for registering any complaints about service failure. This service works with colleagues from Housing Leeds and, at their request, can provide advice on housing standards required in their stock.

Accreditation Schemes

The Council promotes opportunities for landlords who agree to meet the required standards for property conditions and management. This is recognised through membership of its long established Leeds Landlord Accreditation Scheme as well as memberships of other accreditation schemes, such as those run by the Residential Landlord Association (RLA); the National Landlord Association (NLA) and Unipol Student Homes.

Accreditation schemes aim to address issues and raise standards in the private rented sector, whilst supporting and providing tangible benefits to landlords.

The Council has now introduced a self-regulation scheme, the 'Leeds Rental Standard', that is run by an external body comprising Unipol Student Homes, landlord associations, the RLA and NLA and also Leeds City Council. Additional organisations may become involved in the scheme as it develops. Landlords will be encouraged to become members of the Leeds Rental Standard.

In the spirit of self-regulation, any complaints or referrals made about conditions in properties owned by member of the scheme will be referred to the scheme body for the matters to be addressed in accordance with the scheme rules.

Any landlord or agent who does not comply with the scheme rules in relation to housing standards and management practices will be referred to the Private Sector Housing Service, where the complaint or issue will be fully investigated and appropriate action taken. This may include formal enforcement action.

Reactive Inspections

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

These will typically be in circumstances where initial communications between this service and the landlord, agent or owner have not successfully resolved the issues for the customer.

There will be circumstances where an inspection may be undertaken in the first instance, for example where:

- There appears to be significant risks to the health and safety of occupiers and/or visitors;
- The tenant/s or prospective occupier is vulnerable;
- The issues are complex or involve neighbouring properties;
- There is a poor history of compliance with legal requirements for housing conditions and/or management practices;
- The property is empty;
- A financial application is involved, and
- The property is put forward for use to house homeless persons or refugees.

Where an inspection is undertaken, officers will assess compliance with all enforceable legal requirements, including a risk assessment under the Housing Health and Safety Rating System (“HHSRS”) and also licence conditions. 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 agencies.

This service will be unable to act on anonymous complaints, although relevant information will be recorded in case of any future complaints.

Proactive Inspections

Inspections will be carried out by the Private Sector Housing Service on a pro-active basis as follows:

- Private rented accommodation that is subject to HMO and Discretionary Licensing, under Parts 2 and 3 of the Housing Act 2004 respectively, for assessing compliance with:
 - Licence conditions, licensing evasion;
 - Legislation relating to housing conditions, including for example HHSRS, drainage and refuse;
 - Legislation relating to property management, and
 - The Councils' adopted standards.

For landlords and agents with large property portfolios, or those that are members of a recognised accreditation scheme, only a proportion of properties within their ownership or under their control will initially be inspected. Further inspections will be carried out should areas of non-compliance be found.

- Inspections of caravan sites licensed by the Council, in order to assess compliance with licence conditions.
- Inspections of all homes within a targeted geographical area, including properties owned by RSL's and the Council, 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 aims to improve housing and the standard of housing management. This initiative aims to bring empty homes back into use as well as making social, financial and environmental improvements to areas whilst creating stronger and more stable communities.
- 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 in areas to identify licensable properties, empty homes, poor housing conditions and environmental matters that are detrimental to a neighbourhood or locality.
- Inspections undertaken according to property type; mode of occupation; low energy efficiency rating as stated in an Energy Performance Certificate; overcrowded conditions and also properties occupied by low income tenants

in receipt of certain benefits, including Universal Credit or Local Housing Allowance.

- Investigations to establish whether or not a letting agent or property manager has joined one of the Government-approved Property Redress Schemes.

ENFORCEMENT

Delegated Authority

Officers carrying out enforcement functions have been authorised by the Council in accordance with the Director of Resources and Housing Sub Delegation Scheme. Each officer within the Private Sector Housing Service will carry an identification card.

Enforcement Actions

The Private Sector Housing Service offers an opportunity to work informally with landlords, agents, owners and service users, by providing a range of information and guidance. In cases where there has been a complaint about a private rented property or empty home, and where it is the first contact about property standards, the service will normally notify responsible parties and/or will provide an inspection report outlining breaches in legal requirements.

The purpose of this is to enable responsible landlords, agents and owners to comply with regulatory requirements and agree to undertake the works required by the authority in a **short timescale**.

The underlying aim of these communications is to establish good management practices from the outset that ensure compliance with regulatory requirements for property standards and that this approach continues through each subsequent tenancy.

All powers available to the Private Sector Housing Service will be used in order to meet the enforcement objectives set out in this policy. Enforcement action can be separated into **3 stages**, as outlined below. Decisions will be made by competent and authorised officers, in accordance with guidance, as to the most appropriate course of action to be taken.

Different types of enforcement action may be undertaken in relation to any given case depending on legislation used. In some instances, multiple actions may be taken as the case progresses through the different stages of the regulatory process.

Where there is non-compliance with legal requirements, after an informal approach has been made, formal action will be taken as detailed in stages 2 and 3 below.

However, where there are serious breaches in legal requirements, the authority will take a formal approach in the first instance and will move immediately to stages 2 and 3.

To safeguard the health and safety interests for occupiers, visitors and members of the public, formal action will also be considered in the first instance, where:

- The property is located in a targeted priority area, or is a specific house type;
- The landlord or owner has previous history of non-compliance with legal requirements;
- The landlord, agent or owner has previously been made aware of their legal responsibilities through letters and reports for other properties.

In a small number of cases, there may be circumstances where a decision is made to *not* take formal action. These may include, for example:

- Where there are low risks to the health and safety of occupiers, visitors or members of the public;
- Where there are special circumstances regarding the person against whom action would be taken;
- Where legal action would be disproportionate or inappropriate, taking into account the circumstances of the case;
- Where the tenant does not want action to be taken and a decision is taken that it is not appropriate to take any further action at that time, given the circumstances present.

Stage 1 – Informal Enforcement Action

Providing Assistance, Information, Education and Informal Action

Information and leaflets	A wide range of information and links are available on our website www.leeds.gov.uk
Telephone calls, emails and letters	To advise of works or actions to be taken, following a request from a tenant or as a result of an inspection by this service. These will cover deficiencies in regulatory requirements.
Inspection report	A report showing deficiencies or areas of non-compliance with specific legislation. The report may also include recommended works of good practice.
Landlord conference/ landlord forums	The Service hosts an annual Landlord Conference in Leeds. Local landlord forums are held in specific areas of the city.
E-Newsletters and Twitter	Regular updates are provided in newsletters, which are emailed to addresses registered with our service. Information is also available on social media.
Loans and grants	Loans and grants for specific circumstances are administered by this service.
Referrals to other services/agencies or regulators	For specialist areas within their remit.
Leeds Landlord Accreditation Scheme/the Leeds Rental Standard	The scheme is available for landlords who wish to join and receive information and support in private housing issues. Details are available on our website www.leeds.gov.uk
Landlord and agent associations	Information and support can be obtained from industry-led organisations such as the RLA, NLA, ARLA and NALS. Please refer to the organisation's website for details.

Stage 2 – Formal Enforcement Action Issued by the Local Authority

Formal notices will be served or formal action will be taken in situations where:

- The council has a **duty** to serve a notice or take a specified action;
- Statutory requirements have been breached;
- Remedial action needs to be taken quickly;
- An owner, landlord or agent has a history of non-compliance;
- A property has actionable hazards (see page 2) that create risks to an occupier's health and safety (or that of a visitor), or,
- There is a long term empty property.

In cases where an officer decides it is more appropriate to take formal enforcement action without first giving an opportunity to resolve the issue informally, the officer will explain to the person concerned the reasons for this decision.

Where notices and orders are served, the authority will provide copies to other interested parties, such as the occupier; mortgagee; freeholder; leaseholder or agent in accordance with the specific legislative requirements.

Certain notices, orders and charges are required to be registered as a local land charge and whilst the matter is outstanding, these will be disclosed to any prospective purchaser making a local land search.

There are a number of different types of formal notices, licences, warnings and charges that can be issued by the authority:

Formal notice, order or licence	Served to require works or actions to be undertaken in accordance with specified legislative requirements.
Notices to recover costs and expenses incurred by the authority in taking enforcement action	Served in connection with Housing Act 2004 notices for the recovery of costs and expenses.
Power of Entry notices	Served when access is required into residential premises at a specified date and time.
Notices requiring information or documents	Served to require prescribed documents or information to be supplied.

Emergency Prohibition Order	Served under the Housing Act 2004 to immediately prohibit use of premises (or part of) where a serious health and safety issue exists.
Emergency remedial action	Serious, emergency works undertaken immediately by the local authority in default. Costs incurred by the Council in taking this action will be recovered.
Revocation or variation of an improvement notice, prohibition order or emergency prohibition order	Notices served to vary or revoke the terms of a previously served enforcement notice or order.
Revocation, variation or refusal to licence premises	Notices served to vary the terms or revoke a previous licence issued, or to refuse to licence a property.
Works in default	Works undertaken in default by the authority to ensure compliance with a legal requirement. Costs incurred by the Council in taking this action will be recovered.
Civil or monetary penalty	A notice issued by the local authority to impose a financial penalty. It is to be paid to the authority in situations where there are breaches of legal requirements or where offences have been committed.
Simple caution	Issued by the local authority where offences have been committed.
Compulsory Purchase Order and enforced sale	<p>An Order served by the authority for a long term empty home where it is causing blight and statutory nuisance in an area. It is used only where there is proven demand for this house type.</p> <p>A sale of a property can be imposed to recover unpaid debts incurred by the authority for undertaking essential repair works in default.</p>
Management orders and empty dwelling management orders	Orders served by the authority where no responsible person can be identified to manage a privately rented or empty home.

Stage 3 - Formal Enforcement Action Progressed by Courts or Tribunals

Failure to comply with legal requirements, such as a formal notice may result in a stage 3 action. Before considering a stage 3 action, the investigating officer will consider the appropriate actions available for the legislation concerned.

Prosecution in criminal Courts (Magistrates and Crown Court)	Legal proceedings instigated where there is a flagrant breach of law; non-compliance with a legal notice or legal requirements; a history of non-compliance and for serious offences where there is a community benefit.
Warrant to enter premises	Warrants issued by the Magistrates Court for officers to enter premises by force, if required.
Rent Repayment Order	An Order issued by the First Tier Tribunal for the repayment of rents received where there has been an offence or breach of legislative requirements.
Proceeds of Crime Actions	An Order issued by the courts for confiscation and civil recovery of proceeds from criminal acts.
Injunctions	Issued by the courts to prevent certain actions, activities or threats being carried out by a specific person.
Criminal Behaviour Orders	Issued by the courts to take specific actions in cases where harassment, alarm or distress is proved.

Licensing

Mandatory requirements for licensing apply only to houses (or flats) that are in multiple occupation (“HMO”).

Under current legislation, a landlord or agent must apply to the authority for a licence for each residential property having:

- Three or more storeys, and
- Five or more occupiers living in two or more households, and
- Two or more households sharing amenities (either a kitchen, living room or bathroom/toilet facilities).

This Enforcement Policy will also apply to any properties which become HMO properties as result of any future legislative changes.

The licence fee is detailed in the Leeds City Council Fee Structure.

Councils have discretionary powers to introduce licensing for other residential accommodation through *Additional* or *Selective* Licensing schemes.

Additional Licensing can be used for a HMO that is not subject to mandatory licensing.

Selective Licensing can be used for areas with private rented property, where there are issues such as poor housing conditions, low demand for homes in the area, significant levels of deprivation, high levels of crime, high levels of migration or high levels of anti-social behaviour.

Before a discretionary licensing area is declared, the Council must carry out a public consultation process and present a business case that supports the introduction of the licensing scheme.

Operating a Licensable Property Without a Licence

Where the Council becomes aware of a licensable property operating without a licence, there will be a presumption to take formal action, such as instigating legal proceedings for a prosecution. Each case will be considered on its own merits.

In these circumstances, the council will issue a reduced term licence and will remove the entitlement to any fee discount.

Where landlords have been prosecuted for operating an unlicensed property, the Council will give consideration to the use of Rent Repayment Orders. These can be used by the authority to claim back any Local Housing Allowance paid whilst the property was unlicensed up to a maximum of 12 months.

Also, tenants can be provided with information and advice on how they can apply to The First Tier Tribunal Service to claim back the rent they have already paid, for the duration that the property was unlicensed up a maximum of 12 months.

Duration of Licences

Licences will normally be granted for a full five year period for mandatory licensing schemes. However, for landlords who are late in making a licence application or who are found to be operating a property without a licence, these will be issued with a reduced-term licence.

For discretionary licensing schemes, a licence is issued after an application is received and it runs until the end of the scheme. This will be for a maximum of 5 years but will often be less depending on the remaining term left for the scheme to operate.

Refusal of Licences

The Council may refuse to issue a licence to the applicant or proposed manager of a residential premises. An example of this can be where the applicant or manager is deemed to not be a fit and proper person. Also, a licence will be refused in circumstances where the accommodation is not capable of being operated as a licensable HMO or other licensable property.

Variation and Revocation of Licences

The Council may vary a licence, either by agreement with the licence holder or on its own decision, where it considers that there has been a change of circumstances since the licence was granted.

A licence will be revoked following a change in ownership; death of the licence holder or by agreement with the licence holder if the property is no longer licensable.

The Council may revoke a licence if the licence holder or manager is no longer deemed to be a fit and proper person.

Breach of Licence Conditions

Conditions listed on a licence cover the provision of amenities and property management standards, and include specific timescales for compliance. They also include the number of persons or households that are permitted to occupy a property. Formal action will be taken where there are serious contraventions of licence requirements.

Management Orders

The Council will consider serving a Management Order in respect of residential premises where there is no reasonable prospect of an owner or landlord being identified as being responsible for controlling or managing the property. This action is available for both licensable and non-licensable residential premises.

A Management Order can be used in very serious circumstances, where it is necessary to protect the health, safety or welfare of occupiers, visitors or persons living in the vicinity, or where there is anti-social behaviour that is affecting the neighbourhood.

Overcrowding in Single and Multiple Occupancy Dwellings

The Private Sector Housing Service will investigate complaints about overcrowded conditions from:

- Private rented sector tenants complaining about their own property;
- Other parties where they are concerned about children or vulnerable adults;
- Other parties where there are significant conditions that are legitimately impacting on a neighbour's health, safety or welfare.

In certain circumstances, advice may be given to the occupiers that their health and safety is at risk from the overcrowded conditions, but no enforcement action will be taken against the landlord.

Where enforcement action is taken that requires tenants to move out of a property, this service will liaise with the Council's Leeds Housing Options Service, who will be able to give advice and, in some circumstances, assistance on alternative accommodation available.

Harassment, Illegal Eviction and Retaliatory Eviction

Where this service becomes aware of allegations or offences about illegal eviction or harassment that threatens the tenant's rights in their tenancy, a referral will be made to the Tenancy Relations Team at Leeds Housing Options.

The landlord or agent will be investigated by the Tenancy Relations Team and where appropriate, enforcement action, including potential prosecution, will be taken in conjunction with officers from the Private Sector Housing Service.

Examples of circumstances that would merit investigation include:

- Entering the property without the appropriate notice;
- Disconnection of utility supplies;
- Changing locks to the premises;
- Attempting to terminate a tenancy without serving the appropriate legal notice;
- Attempting to terminate a tenancy as a result of a retaliatory eviction. These are where a complaint of poor property conditions made to a landlord is substantiated by the authority and an Improvement Notice served or Emergency Remedial Action taken;
- Illegal eviction from the property not involving court bailiffs and a possession order from the courts, or,
- Any other breach of the Protection from Eviction Act 1977.

Empty Homes

It is a key priority for the Council to reduce the number of empty homes in Leeds, particularly those that are long term empty. Empty homes present a wasted resource, particularly with the shortfall in housing supply, as well as creating barriers for sustainable communities where deteriorating property conditions can attract anti-social behaviour.

This service will encourage owners of private sector empty homes to bring their properties back into occupation through letters, advice and financial assistance. This includes referrals to:

- Third sector partners to assist in bringing the property back into use, such as:
 - The Empty Homes Doctor
 - Leeds Action to Create Homes (LATCH)
 - Canopy and
 - GIPSIL;
- Leeds Private Sector Lettings Scheme - a Council run scheme which can identify tenants looking for private rented property.

Where informal action is not successful, the service will consider using a range of enforcement measures shown in Stages 2 and 3 of the Enforcement Action which can include :-

- The service of a statutory notice;
- Arranging for works to be carried out in default of the owner;
- Serving Empty Dwelling Management Orders (Part 4 of the Housing Act 2004);
- Enforced sale (Law of Property Act 1925) and

- Compulsory Purchase Order action (Part 2 of the Housing Act 1985).

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 Gypsy and 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 cyclic basis or as a result of a complaint made to the service. This is to ensure that there is compliance with 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, where applicable, are set out in the Leeds City Council Fee Structure.

Property Redress Scheme

All letting agents or property management businesses are legally required to be a member of one of the three registered property redress schemes.

Where a letting agent or property manager is identified as not being registered with one of the schemes, then a monetary penalty will be imposed by the Council. The charges are set out in the Leeds City Council Fee Structure.

Notices will be served on an organisation prior to a monetary penalty being issued. There are rights of appeal to the First Tier Tribunal.

There is no limit to the number of fines that can be levied on a single letting agent or property manager if they continue not to be a member of a scheme.

Charging for Enforcement Action

The Council will make a reasonable charge to recover administrative and other expenses incurred when taking the enforcement action under the Housing Act 2004. This will include when the following notices are served or actions taken:

- Serving an Improvement Notice under Sections 11 and/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;
- Undertaking an annual review of a Suspended Improvement Notice or a Suspended Prohibition Order, and
- Making a Demolition Order under Section 265 of the Housing Act 1985.

Any charges made for taking enforcement action will be detailed in a 'Demand for Payment' notice which will accompany the enforcement notice(s). The Charge will be recovered through the Council's Finance Service.

This charge is registerable as a local land charge on the Land Charges Register

The charges are detailed in Leeds City Council Fee Structure.

Fines, Recovery of Costs and Proceeds of Crime

In prosecution cases where the defendant is found guilty by either the Magistrates or Crown Courts, unlimited fines can now be imposed. In addition, the Council will seek to recover the costs incurred in taking a prosecution case, which include administrative costs incurred for preparing the prosecution file; attendance at court and Legal Services costs for preparing and presenting the case.

In cases where a property has been let illegally, or where there has been a breach of legal requirements, the Council will consider applying to the First Tier Tribunal Service to recover rent from a landlord through a Rent Repayment Order. It will also give advice to tenants on how they may recover rents through applying to the Tribunal Service in these circumstances.

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.

Work in Default

The Council will undertake work in default where there has been non-compliance with a statutory notice. Any action taken would be in accordance with legislative requirements and may be taken either with or without the consent of the responsible person.

The Council will recover the actual capital costs for the work and an administrative charge to recover costs incurred in arranging for a contractor; supervising the work and all associated administrative procedures.

The Council will register all costs incurred in undertaking default works as a local land charge against the premises.

The administrative charges are detailed in the Leeds City Council Fee Structure.

Normally, the responsible person will be given notice of the Councils' intention to carry out works in their default. Although, in emergency situations, the statutes provide that no prior notice is required before undertaking works in default.

The Council will consider taking enforcement action in cases where officers or contractors are obstructed in undertaking their duties or carrying out works. The same obstruction offences still apply once emergency procedures have commenced.

Works in default may be undertaken in addition to instigating legal proceedings.

Civil Penalty Charges

Civil Penalty charges will be imposed where there is a breach in legal requirements according to specific legislative requirements.

When deciding to apply a Civil Penalty, the Council must be satisfied that there is sufficient, admissible and reliable evidence, based on the evidential and public interest tests, that an offence has been committed by an identifiable individual(s) or company and that there would be a realistic prospect of conviction if the matter were to be prosecuted in court.

Where the above criteria is met, the Council will initially consider the use of Civil Penalties as an alternative to prosecution. However, any decision will be determined on the merits of each individual case and will be fully authorised by a senior manager. Any Civil Penalty applied will be in full compliance with the Civil Penalty Policy and applied according to the Leeds City Council Fee Structure.

Where a fixed penalty is not paid within the prescribed period, legal proceedings will be instituted for non-payment.

Prosecutions

Cases will only be recommended for a prosecution once this service has:

- Confirmed the appropriateness of the cases for legal proceedings and that there is sufficient, admissible and reliable evidence that an offence has been committed by an identifiable individual(s) or a company and that there is a realistic prospect of conviction, based on the evidential and public interest test;
- Confirmed compliance with the Regulator's Code,
- Determined that Prosecution is the preferred course of action rather than a Civil Penalty based on the merits of the individual case, and
- Considered specific legislative requirements, enforcement procedures and this Enforcement Policy.

Regard will be made to the evidence and statutory defences available and the public interest tests as to whether the case should be pursued further, as set out in the Code for Crown Prosecutors. Cases are usually heard in the Magistrates Courts.

A checks and balance assessment is carried out before a case is referred to the Council's Legal Services, with the final decision being taken by the service following advice from Legal Services.

Simple Caution

Simple Cautions may be considered as an alternative to taking a prosecution.

Any decisions to give a simple caution will be made in accordance with guidance issued by the Ministry of Justice - Simple Cautions for Adult Offenders (2015).

Publicising Outcomes

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.

The authority will 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). The reasons are 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.

Formal Appeals

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.

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.

All formal appeals made will be responded to in accordance with statutory time limits and with advice from the Council's Legal Services.

Compliments and Complaints Policy

The Council recognises the need to provide an excellent public service which is responsive to the views of both residents and businesses. We are therefore committed to continually improve the Private Sector Housing Service in Leeds and want customers and service users to provide feedback, which may be used to improve our services further.

As required by the Regulators Code, the authority has a Compliments and Complaints Procedure which allows all service users to give a compliment, give feedback or make a formal complaint. This can be accessed through the Leeds City Council website www.leeds.gov.uk or by telephoning the contact centre on tel. 0113 222 4405

Through the Compliments and Complaints Procedure, it is the aim that complaints are resolved speedily, effectively and fairly. The tone of our contact is open, responsive and avoids unnecessary formality. Our written correspondence uses plain English and where appropriate, will be backed up with action to resolve such complaints.

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

Further Contact

If you require any further information, you can contact this service at:

Service Manager
Private Sector Housing
Leeds City Council
Knowsthorpe Gate
Cross Green
Leeds LS9 0NP

Telephone: 0113 378 4699
Email : prs.housing@leeds.gov.uk
Website: www.leeds.gov.uk

Appendix 1: List of Consultees

This policy was made available for consultation with the following bodies.

Internal:

Executive Members for Housing
Housing Leeds
Leeds Housing Options – Homelessness, Tenancy Relations and Gypsy Liaison
Legal Services
Private Rented Sector Housing Forum

External

National Landlord Association
Residential Landlord Association
Unipol Student Homes

Appendix 2: Typical Legislation used by this Enforcement Policy

Anti-social **Behaviour, Crime** and Policing Act 2014
Building Act 1984
Caravan Sites Act 1968
Caravan Sites and Control of Development Act 1960
Deregulation Act 2015
Energy Act 2013
Enterprise and Regulatory Reform Act 2013

Environmental Protection Act 1990
Health and Safety at Work Act 1974
Highways Act 1980
Home Energy Conservation Act 1995
Housing Act 1985, 1996 and 2004
Housing and Planning Act 2016
Housing Grants, Construction and Regeneration Act 1996
Local Government and Housing Act 1989
Local Government (Miscellaneous Provisions) Act 1976 and 1982
Local Government Act 2003
Mobile Homes Act 2013
Noise Act 1996
Prevention of Damages by Pest Act 1949
Protection from Eviction Act 1977
Public Health Acts 1936 and 1961
Regulatory Reform (Housing Assistance) Order 2002
Sustainable Energy Act 2003
Town and Country Planning Act 1990

Including Regulations and Orders made under the Act.