



WYCHAVON DISTRICT COUNCIL
Private Sector Enforcement Policy
Approved 9th September 2015

Section 1

1.1 Introduction

This policy document is to update and replace the existing enforcement policy document. It outlines Wychavon District Council policy on enforcement with the main reference being The Housing Act 2004.

1.2 Aims

In producing this policy document we aim to;

- Set out the legal responsibilities, principles, priorities and policies, that the Private Sector Housing service will follow when enforcing the legislation
- Explain how the Council will take steps to ensure safer and healthier private sector housing.

This overarching enforcement policy sets out the broad principles and processes which the Council will endeavour to follow when delivering our service.

However it is not intended to provide the full detail of individual policies for example 'Houses in Multiple Occupation' or 'Enforced Sales' are separate, specific single topic policies and should be referred to in conjunction with this policy document for full details.

1.3 Objectives

The work of the Private Sector Housing team primarily covers all privately owned residential accommodation (including Housing Association properties) in the District.

The council's objectives in taking enforcement action are to ensure that;

- Symptoms arising from empty homes are tackled to ensure that they are not causing any problems such as being detrimental to the local amenity and the incidence of anti-social behaviour.
- Tenants of private landlords or Registered Providers live in homes free of a Category 1 hazard as assessed under Part 1 of the Housing Act 2004.

- Privately rented houses, including Houses in Multiple Occupation (HMO's), are managed in accordance with any relevant statutory regulations or legal requirements.
- All licensable Houses in Multiple Occupation (HMO) are licenced and the licence conditions are met.
- The Private Sector Housing team meets the Council's statutory duties in the areas of work for which it is responsible

1.4 Principles of Good Enforcement

Any enforcement action taken by officers of Wychavon District Council will be in line with the principles of good enforcement outlined in the;

- Enforcement Concordant
- Regulators Code (Under Regulatory Reform Act 2006)

The aim is to enforce the legislation efficiently and effectively without imposing unnecessary burdens on property owners and occupiers. Enforcement actions should be consistent, proportionate, transparent and open. Resources are to be utilised where they would be most effective in targeting priority risks.

The Council will follow the above good practice except where legislation indicates otherwise.

1.5 Primary Authority

Primary Authority requirements under Regulatory Enforcement and Sanctions Act 2008 apply to Housing, Health & Safety Rating Standard (HHSRS) as set out under Part 1 of the Housing Act 2004 and HMO Licensing as set out under Part 2 of the Housing act 2004.

Primary Authority allows a business to form a partnership with one local authority, even if they have properties in more than one Local Authority area, in order to receive tailored support as prescribed by regulation.. Where a Primary Authority is in place, we are required to comply with the Primary Authority arrangements in relation to the enforcement of legislation within the district.

1.6 Providing Assistance, Information and Education

Wychavon will provide general information, advice and guidance to make it easier for customers and relevant businesses to understand and meet their responsibilities. This includes having leaflets on our website, production of the

Houses in Multiple Occupation Policy, direction to landlord accreditation schemes and officer advice.

Section 2 – Role of the Council in dealing with Private Sector Housing

This section explains the main functions that the Council performs to enforce the relevant regulations and legislation.

2.1 Dealing with Complaints

Council Officers will respond to complaints from tenants and other residents regarding property standards. Properties will be inspected where there is a Statutory Duty to do so, or in cases where the Council considers that an inspection is deemed necessary to facilitate advice, property improvements or bringing an empty home back into use.

Any inspections will be carried out as set out under Part 1 of the Housing Act 2004 using the Housing Health and Safety Rating System (HHSRS). There are two potential categories of hazard. Category 1 hazards represent a serious danger to health and the Council has a duty to take action to remove or reduce the hazard. Category 2 hazards represent a less serious danger and the Council has the power, but not a duty to take action.

A range of enforcement options are available under the Housing Act 2004 to remove or reduce any hazards identified to an acceptable level. The officer will take the most appropriate enforcement action for Category 1 hazards and for Category 2 hazards having considered the full circumstances of the property assessment and its ownership. For Category 2 hazards, formal action may not be deemed appropriate and advice will be given.

2.2 Houses in Multiple Occupation (HMO)

There are a number of properties in the District which are HMO's. Wychavon District Council has a policy to inspect all HMO's, in addition to licensing all those which require a mandatory licence and ensuring that these properties are managed correctly. Further information can be found in the HMO Policy.

2.3 Empty Properties

The Private Sector Housing team systematically identifies long term empty homes and works with owners to bring them back into use. Enforcement will be targeted on those properties where owners are not willing or are reluctant to make steps to bring the property back into use and in circumstances where the empty property is causing a nuisance, anti-social behaviour or has been empty for a long period of time.

Enforcement will be co-ordinated with other teams in the Council to ensure that the most appropriate legislation is used. For further details on Enforced Sales see the specific policy document.

Section 3 Responding to Different Tenures

Different tenures need to be dealt with in different ways. An owner occupier has control of the condition of their home whilst a tenant is dependant on the landlord being willing to carry out repairs. Leaseholders may have other civil actions available to them under their lease.

3.1 Owner Occupiers

The council will always comply with its duties to take action under the legislation which includes where owner consent has not been given.

Where the council has a power to act under the legislation, and a decision is taken to act then officers will make reasonable endeavours to obtain owner consent. However the council may decide to act without consent of the owner in the following circumstances;

- The problem is adversely affecting someone else e.g. there is a danger from the property which would affect the health and safety of the public or visitors to the property (such as Postal Service workers).

- To protect the health and safety of a vulnerable or elderly owner occupier where all alternative means to resolve the issue have been explored.

3.2 Private Tenants and Landlords

Wychavon District Council will generally seek to consult with tenants before taking enforcement action and take into account any representations. This may not always be possible, for example in an emergency. In normal circumstances the landlord will be consulted however this may not be possible in an emergency situation.

3.3 Tenants and Registered Providers

Wychavon District Council will generally seek to consult with tenants before taking enforcement action and take into account any representations. This may not always be possible, for example in an emergency.

Wychavon District Council will work and consult with Registered Providers and where in place will follow joint working protocols e.g. the Wychavon District Council and Rooftop Housing Group joint working protocol.

Section 4 Enforcement Action

The best course of enforcement action will be decided on a case by case basis.

4.1 No Action

In some circumstances it may be appropriate to take no action. For example;

- When we decide that the health and safety risk is sufficiently low enough
- Where there are extenuating circumstances regarding the person against who we would take action
- Where taking action would be disproportionate or inappropriate taking into account the circumstances of the case.

We may refer to another appropriate regulator or advice service.

4.2 Informal Action

In most cases the Officers will endeavour to seek the desired improvements by working initially on an informal basis. This may take the form of;

- Verbal requests
- Letters or emails
- Schedule of works

It will be made clear that formal action could follow if there is a failure to meet the informal requests/requirements in the prescribed timescale.

4.3 Formal Action

Each case will be considered on a case by case basis, but some examples of circumstances where formal action would be appropriate are;

- Informal action has not achieved compliance
- Where there is an actionable risk to health and safety

- Where there is persistent failure to meet requests to carry out required works
- Where standards and management are poor and there is a history of failure to manage a property in line with legal requirements
- Where there is a record of criminal convictions for failure to comply with housing related offences in the last 5 years or where a simple caution has been issued in the last 2 years.
- It is necessary to bring an empty property back into use where informal requests / requirements have failed to be met within the prescribed timescale.

There are a number of options for formal action. These will be decided on a case by case basis with a justification for choosing this course of action. These include:

- Service of a formal Notice (Improvement Notice, Prohibition Notice, Prevention of Unauthorised Entry, Requisition for Information)
- Emergency Notices (Category 1 hazards only where there is an imminent risk of serious harm to the health and safety of any occupiers of the premises – Emergency Remedial Action, Emergency Prohibition Order)
- Demolition Order
- Clearance Areas
- Simple Cautions (used for less serious offences where someone has admitted to an offence as is assisting in remedying the situation. Simple cautions warn people that their behaviour has been unlawful and make them aware of the legal consequences if they commit further offences.)
- Prosecution (Cases are referred to Legal Services to ensure that it is in the public interest to proceed and that there is sufficient, admissible and reliable evidence that an offence has been committed).
- Works in Default
- Revocation or Refusal of a HMO Licence
- Management Order

- Empty Dwelling Management Order
- Enforced Sales

4.3.1 Works in Default

The Council is not obliged to carry out works and reserves the right not to do so where the cost of the works is likely to be very high or there are likely to be difficulties in recovering the costs.

4.4 Charging for Enforcement Action

The Housing Act 2004 allows councils to make a reasonable charge to recover administrative and other expenses for taking certain enforcement action. The full costs of all Officers time, including overheads and any relevant expenses will be charged in line with agreed fee structures agreed by Members. In some circumstances we will force the sale of a property to recover our costs. See the Enforced Sales Policy for further information.

Other legislation also allows recovery of costs of Officers' time and expenses accrued when determining works necessary in the case of works in default.

Section 5 Guidance

There is a wide range of government as well as other sources of guidance which cover our enforcement activities. We will follow this guidance when formulating our policies and procedures, Enforcement officers will follow our policies and procedures and where appropriate take into account new guidance which may become available or replace existing guidance.

Section 6 Complaints

If a customer is unhappy that the Council has taken enforcement action officers suggest that the customer first discusses this with the officer concerned.

If that fails to resolve the matter the customer has the right to appeal to the Residential Property Tribunal, depending on the type of Notice served. Information regarding this is included on the Notice.

In addition the Council has a formal Complaints procedure. Information can be found on our webpage www.wychavon.gov.uk.

Section 7 Monitoring & Review

The content of this Policy will be revised as necessary to ensure it is up to date and fit for purpose.

The Policy shall be reviewed by Officers at least every 3 years and any proposed amendments shall be submitted to the Head of Service in consultation with the Portfolio Holder with responsibility for the Housing Service for their approval.