

## **PSHU ENFORCEMENT POLICY**

### **1. Introduction:**

The Private Sector Housing Strategy 2006 – 2010 sets out those steps that the Council intends to take to promote, influence and direct the provision of housing within the private sector housing market.

Hounslow's vision for private sector housing over the next four years is to 'improve the quality of life for our residents by providing safe, warm and affordable housing through the delivery of services, advice and support for the private sector'.

A key factor which will enable the Council to achieve its vision in this area of work lies in its ability to regulate conditions within the private rented sector, which makes up nearly 20% of all private sector homes in the borough. As this figure is higher than the average for London and England as a whole, it is imperative that this policy is consistent with the housing needs of local residents.

The Private Sector Housing Unit's (PSHU) function is to improve the standard of private sector properties through grant assistance, enforcement action education and advice. The Enforcement Team within PSHU has a statutory duty to enforce the provisions of the Housing (and other) Acts. The team also proactively inspects large numbers of properties, including Houses in Multiple Occupation (HMOs) and empty homes on a risk assessment basis.

The enforcement team receive approximately 1000 service requests every year concerning conditions in the private rented sector. These service requests ranged from complaints of overcrowding, dampness, licensing in HMOs and filthy and verminous properties, amongst other things. Officers work closely with other departments, in particular Planning, who have a role in enforcing the planning regulations that impact on the use of a building. Officers will generally visit a property following a complaint to establish what if any works are required to ensure it is brought up to a decent standard. Where the owner of the property chooses not to take action as appropriate to remedy any defects, enforcement action will be taken.

Following a major change in housing legislation in 2006, the impact of the Performance Improvement Plan, has come to review and update the Council's PSH Enforcement Policy.

### **2. Scope of policy**

This policy seeks to regulate the private housing sector. However, to ensure all options available to PSHU to improve conditions in the private sector are referenced and publicised, an element of this policy will focus on the work of the Grant and Care and Repair Teams.

The Private Sector Housing Unit is responsible for ensuring all statutory powers and duties specific to private sector housing condition are implemented. A comprehensive list of Acts of Parliament, together with numerous subordinate Regulations and Orders made under them, relevant to this policy are included in Appendix A.

The purpose of this Policy is to set out clearly the way in which the Council intends to secure effective compliance with legislation while minimising the burden to the Council, individuals, organisations and businesses. This Policy is intended to provide guidance on the principles and processes that will apply when officers decide whether to take enforcement action with respect to any given case. It sets out what owners, landlords, their agents and tenants of private sector properties can expect from officers within the private sector housing unit.

We will in all cases work jointly with other departments of the Council that have regulatory powers. In particular, we will ensure that we work in harmony with the powers available to the Council under Planning and Building Control legislation. We will target our resources to ensure the most serious cases are tackled as a priority. A breakdown of target response times to service requests are provided in Appendix C. These targets are derived from the Service Plan and when devising these targets, emphasis has been placed on assessing and remedying the potential risks to the health and safety of private sector residents.

As staff resources within the Private Sector Housing Unit are limited, we do not respond to requests for service from tenants of Residential Social Landlords or the tenants of Hounslow Homes. The reasoning behind this is that occupiers of Social Housing have an alternate means of resolving any disrepair issues within their property, namely their Landlords complaints procedure which would not be available to tenants from the Private Sector. In addition to this the Government has set a target to ensure that all Social Housing meets the Decent Homes standard by 2010, in meeting this standard all properties should be free of Category 1 hazards and provide be warm, weatherproof and have reasonably modern facilities. In practice this means that unless the complainant can demonstrate to the Council they have exhausted their own landlords complaints procedure we will not investigate their complaint.

Except in emergency situations, tenants of the private rented sector who have yet to inform their landlord of the problem and allowed them an opportunity to resolve it will be directed to do so. Should the complainant then be unsatisfied with response or action undertaken by the landlord we will then investigate the complaint.

Enquiries from owner occupiers will be forwarded to alternative schemes for assistance or encouraged to take their own action using provisions under section 82 Environmental Protection Act 1990.

In writing this policy reference has been made to the following documents:

- Enforcement Concordat
- The Code for Crown Prosecutors
- The Hounslow Plan 2006 - 2010
- Private Sector Housing Strategy 2006 – 2010
- West London Private Sector Strategic Action Plan
- Grants Policy 2007

### **3. Aims and Objectives**

These have been placed in a table below, with more information provided elsewhere in the policy as necessary.

<b>POLICY AIMS</b>	<b>POLICY OBJECTIVES</b>
<ul style="list-style-type: none"> <li>➤ To meet the Council's legal obligations to private sector residents.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Ensure the appropriate delegated authority is in place;</li> <li>➤ Provide a consistent and fair service supported by comprehensive procedures and guidance;</li> <li>➤ Ensure that the Council uses the most effective legislation in each case. This means that one department may take a lead in enforcement, depending on the nature of the offence.</li> </ul>
<ul style="list-style-type: none"> <li>➤ To improve housing conditions in the private sector and protect the health and safety of private sector residents.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Respond to requests for service in accordance with the timescales provided in Appendix C;</li> <li>➤ Service of works notices in all appropriate cases;</li> <li>➤ Allocation of funding in accordance with the Council's Grants Policy</li> </ul>
<ul style="list-style-type: none"> <li>➤ To encourage working in partnership with relevant departments, agencies, businesses and individuals to ensure any action is well co-ordinated.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Monthly cross departmental meetings to co-ordinate enforcement action.</li> <li>➤ Monthly meetings with LFEPA.</li> <li>➤ Six weekly meeting with sub-regional authorities.</li> <li>➤ Devise clear protocol and procedures for sharing of information and inter agency working.</li> </ul>
<ul style="list-style-type: none"> <li>➤ To ensure a fair and consistent approach to regulation.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Officers will follow statutory guidance and internal procedures specific to their enforcement role.</li> <li>➤ Managers will conduct case reviews every two months to monitor officers' cases and actions.</li> <li>➤ Stakeholders will be advised of their right of appeal against enforcement action.</li> <li>➤ This policy will be reviewed following any significant change in legislation and/or working procedures.</li> </ul>

## **4. Principles of Enforcement**

The London Borough of Hounslow has formally signed up to the Government's Enforcement Concordat, which commits the council to using good enforcement practices. The Concordat acknowledges that whilst an enforcing authority's primary role is to protect the public and the environment through compliance with their legal obligations, this function should be carried out in a practical and consistent manner. This policy compliments the principles laid down in the Concordat to ensure the private sector housing officers are fair when exercising their enforcement duties.

### **4.1 Openness:**

We will provide information in plain English and in other languages and formats as required, and publicise the availability of our services. We will be open about our priorities, policies and procedures. We will ensure that officers explain the options available to landlords and tenants, and their reasoning for pursuing any given course of action. Officers will clearly distinguish between legal requirements and good practice, both in terms of their own work, and what is expected of stakeholders.

### **4.2 Proportionality:**

Enforcement action will be proportionate to the seriousness of the offence. Where we have discretion, we will consider whether other measures will lead to effective resolution of the matter. We will apply the enforcement policy in each and every case and make a decision about whether to proceed to formal enforcement action having considered the individual circumstances of the case and any other relevant factors, such as the harm caused or potential for harm to be caused to individuals, the public and the environment as appropriate.

### **4.3 Consistency:**

We will have clear procedures in place to ensure consistency throughout the unit with the approach to enforcement, to ensure similar matters are dealt with the same way, whilst taking into account individual circumstances.

### **4.4 Co-ordinated working**

More often than not a single housing matter can trigger enforcement responsibility for several departments, both inside and outside the council. We will therefore take a comprehensive approach to enforcement wherever possible by:

- Co-coordinating action between Council departments and with other agencies;
- Ensuring that the Council takes the most effective action by deciding which department should lead enforcement action, depending upon the offence committed and the powers available;
- Sharing information;
- Working together on joint prevention strategies;
- Aiming to speak with a single voice.

## **5 Type of enforcement action**

There are several types of action that can be taken in relation to any given case, and in some instances, different action may be necessary at different stages of the regulatory process. Outlined below are the main enforcement options available to officers, and regardless of the circumstances, officers will always record the reasons for their choice of action.

## **Informal**

Informal action may be taken when the act or omission is not sufficiently serious to warrant formal action, or where formal action will not achieve the desired result. Examples of informal action are grants, verbal advice and informal letters. Although a Hazard Awareness Notice served under the Housing Act is considered formal action for all intents and purposes it is informal action as it does not require the landlord to take any action nor are there any penalties from non compliance.

In some instances, informal action will not be an option as the legislation specifically states the Council must take action.

## **Statutory Notices**

Although no longer a statutory requirement in most cases prior to service of a Housing Act notice consultation letter will be sent, giving the recipient an opportunity to correct any problems before a statutory notice is served. Where a consultation letter is issued, although not legally binding, it means case is on a path leading toward the issue of statutory notices and possible legal action. Notices served under other legislation do not incur a charge upon the recipient and consequently any consultation prior to service will tend to be less formal.

Statutory notices will be issued under any of the following circumstances:

- Where the council has a duty to serve notice
- Where statutory requirements have been breached
- Where remedial action needs to be taken quickly
- There is a history of non-compliance

## **5.3 Formal Cautions**

A formal caution is a mid-point between prosecuting and not pressing charges at all. A formal caution will be recorded on the Central Register of Convictions and may be used to influence any future decision on whether or not to institute proceedings if the person should offend again. Formal Cautions may also be referred to in subsequent court proceedings as rebuttal evidence should the defendant assert good character and will be relevant to any penalty made after a finding of guilt in any such future proceedings

We will caution where

- The defendant has admitted the offence,
- There is sufficient evidence to prosecute, but the public interest is not such that the matter should proceed to prosecution
- The offender understands the significance of a caution and gives informed consent to being cautioned.

Persons with previous cautions or offences for related offences are unlikely to respond positively to a caution as are person who trivialize or are contemptuous towards the offence. In these circumstances it would be difficult to justify a caution. Youth and old age are positive factors in favour of cautions as are frailty in physical health, mental illness or mental disability. If the offence is considered to be more trivial a formal caution might also be considered.

## **Prosecutions**

In deciding whether to take a prosecution in relation to any offence deemed to have been committed under any legislation enforced by PSHU, officers must consider the following, in accordance with the Code for Crown Prosecutors:

- The Evidential test: is there sufficient and reliable evidence that an offence has been committed
- Public interest test
- Whether there is a realistic prospect of conviction
- Reasonable excuse

In all instances, an officer's decision to proceed with a prosecution must be supported by their team leader, in light of the above consideration, and taking into account legal advice as appropriate.

## **Works in Default**

Where a notice has specified works that must be undertaken and this requirement is not complied with the Council may itself undertake those works and do whatever is required by the notice. As the Council are under a duty to undertake those works in a cost effective manner it could be perceived that the landlord would have little incentive to attempt to comply with the notice and this would encourage dependency on the Council which would be contrary to the general theme of this Policy. However, as the Council may then recover the costs for undertaking those works from the landlord plus an administration charge (set out in Appendix B) this is not thought likely.

Additionally as time in taking a prosecution from case preparation, to issue of proceedings, to trial is likely to be several months it is likely that the occupiers will have been exposed to poor housing conditions for an unreasonable time. And although the prosecution may be successful it is only punitive and the underlying issues of disrepair may remain unaddressed.

Works in default will therefore be considered as a option in most cases of non-compliance with a notice and it should be noted that the decision to undertake works in default does not exclude the option of also undertaking a prosecution.

## **Recovery of expenses**

The Council are able to recover costs incurred in the service of Notices under the Housing Act 2004, the current charges are detailed in Appendix B.

### **5.6 Power of Entry**

Under the legislation referred to in Appendix A, officers have the power to enter premises in order to perform the Council's statutory functions. Anyone who obstructs an authorised officer from entering a premise in accordance with their powers will commit an offence.

### **5.7 No action**

We will take action in all cases where there has been a breach of legislation, unless there is not enough evidence to proceed. We are not able to take any enforcement action where the

landlord is the Council, or an arms length management organisation such as Hounslow Homes, because we are unable to take action against ourselves.

Whilst the legislation with which we work allows us to take enforcement action against a Registered Social Landlord (RSL), we will normally only do this in exceptional circumstances. For example, where a RSL tenant can demonstrate to the Council they have followed the complaints procedure of their landlord, we will then consider whether to use our powers.

There may be occasions where an investigating officer cannot substantiate the complaint. In such instances, the Council will not take any further action.

## **6. Monitoring and Review of policy**

It is essential when setting a policy to ensure there are mechanisms in place to monitor the extent to which it is applied effectively. To make sure officers comply with this enforcement policy, cases will be monitored by the Enforcement Team Leader and Group Manager who will check files to ensure the necessary considerations have been given to a case, and there is appropriate documentation on the file to support and justify any decisions.

Each year, the Council produces a Local Performance Plan that reports on the Council's performance in achieving Best Value targets and local indicators. These targets include:

- BVPI 166, which is a best value indicator of enforcement practice for environmental health and trading standards, specifically refers to monitoring of written enforcement policy;
- BV64 the number of vacant properties brought back into use.
- The number of complaints received relating to the private rented sector
- Number of properties where a category 1 hazard is identified and reduced / removed; In 2006/7
- Number of licences approved under Part 2 of the Housing Act 2004
- Number of licences refused under Part 2 and 3 of the Housing Act 2004
- Number of licences revoked under Part and 3 of the Housing Act 2004
- Number of management orders served
- Number of prosecutions taken

In addition the Council has set internal service standards as local indicators which will be monitored and published as part of its performance statistics. Please refer to Appendix C for a breakdown of some relevant targets.

We will:-

- publish our standards
- report on our performance against those standards
- review our standards in consultation with others

## **7. Contact us**

In accordance with our Customer Care standards we will be courteous and efficient to customers, and provide advice including useful telephone numbers and names. We will provide well publicised, effective and timely complaints procedures which are easily accessible. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely timescales involved.

## **Compliments and Complaints**

We will:-

- Encourage comments on our service and will use them to improve what we do
- Publish our complaints procedure
- Give clear information about rights of appeal

The Council has a formal procedure in place for dealing with customer complaints. For further information please contact Housing Complaints Officer on 020 8583 4245 or email [Housing.Customerservices@hounslow.gov.uk](mailto:Housing.Customerservices@hounslow.gov.uk)

## **Requests for information**

The Freedom of Information (FOI) Act 2000 came into effect on 1st January 2005. It applies to all information held by public authorities, regardless of when the information was recorded. The Act stipulates;

“Any person making a request for information to a public authority is entitled:

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him/ her.”

The London Borough of Hounslow is committed to openness and transparency. We will do our best to respond positively and efficiently to all requests for information. There are some exemptions which are laid down in the Act but, as a general rule, we will provide information wherever possible.

If you would like to make a request for information, your request must:

- Be in writing
- Include sufficient detail for us to find the information you want
- Have an address for us to reply to you at.

The Council is obliged to respond to all requests for information within 20 working days.

If you wish to discuss any aspect of this policy, please contact the Private Sector Housing Unit: 020 8583 3870 / 3871

## APPENDIX A

### Legislation

The Private Sector Housing Unit is responsible for ensuring the Council performs their statutory functions under the following legislation;

#### **Housing Act 2004**

##### **Housing Health and Safety Rating System (HHSRS)**

Part 1 of the Act refers to the application and enforcement of the HHSRS, which can be applied to all private sector housing in the Borough. The purpose of the HHSRS is to establish whether conditions in a property are such that they pose a hazard to the occupier(s). There are 29 hazards in total that can be assessed as necessary, and depending on the outcome of any assessment, the hazard will be classified as either Category 1 or Category 2. Category 1 hazards are considered to be the most serious.

We will use the following range of enforcement options as appropriate to remove or reduce any hazards identified during an inspection:

- Hazard Awareness Notices. **Please note:** Not complying with a hazard awareness notice is **not** a criminal offence; therefore there is no right of appeal for this Notice.
- Improvement Notices (and to Suspend this Notice)
- Prohibition Orders (and to Suspend this Order)
- Emergency Prohibition Orders. Apply to Category 1 hazards only.
- Emergency Remedial Action. Apply to Category 1 hazards only.
- Demolition Order [section 265(3) and (4) Housing Act 1985]. Apply to Category 1 hazards only.
- Slum Clearance Declaration [section 289 (2ZB) Housing Act 1985]. Apply to Category 1 hazards only.

##### *Appeals Procedure*

An owner or agent who has had an improvement notice, prohibition order or emergency notice served on him by the Council can appeal against the notice, normally within 28 days, although the time period for an appeal to an improvement notice is 21 days. The Residential Property Tribunal hears appeals. The main grounds for appeal are:

- One or more other persons are responsible for carrying out work at the property;
- The enforcement action taken by the Council was not the best course of action

#### **Houses in Multiple Occupation (HMOs)**

Sections 254 to 257 Housing Act 2004 provide several definitions of the term 'House in multiple occupation' (HMO), ranging from shared houses to buildings that have been converted into flats.

##### *HMO Declarations*

Where there may be a dispute or confusion over whether a building is an HMO, if the Council are satisfied that the building is an HMO, it will issue a declaration which puts beyond doubt that such a building is to be regarded as an HMO (Section 255 Housing Act 2004; Part 7).

Recipients of the notice can appeal to the Residential Property Tribunal.

### *Management of HMOs*

The Management of Houses in Multiple Occupation (England) Order 2006 applies to all HMOs except those which are buildings that have been converted entirely into self-contained flats. The Regulations impose duties on managers of HMOs in connection to their obligations to maintain the amenities and utilities within the property in good working order. Failure to comply with any aspect of the Order is an offence, punishable by a maximum fine of £5000 per offence.

### *Licensing of HMOs Part 2 Housing Act 2004;*

The council currently operates two licensing schemes which apply to houses in multiple occupation: A mandatory scheme and a transitional additional scheme. The mandatory scheme applies to all HMOs in the borough that are three or more storeys and are occupied by five or more people living as two or more households. The transitional additional scheme applies to any HMO in the area of Chiswick, Turnham Green and Hounslow that is occupied by five or more people living as three or more households, regardless of storey height.

It is a criminal offence to operate an unlicensed HMO, with a maximum penalty of £20,000.

### *Temporary Exemption Notice*

The Council may serve a temporary exemption notice (section 62 Housing Act 2004) where a person who is required to be licensed notifies the Council that they propose to take steps to ensure the property is no longer required to be licensed. The notice is served on this person and exempts that property from being licensed for a period of three months. In exceptional circumstances the Council may serve a second temporary exemption notice that lasts a further three months. No further notice can be served after the expiry of the second Notice.

The Council can refuse to serve a temporary exemption notice which allows a right of appeal to the RPT. Such circumstances where the Council may refuse to serve a temporary exemption notice is where the owner has failed to supply clear evidence showing that they are taking steps to exempt the HMO from the criteria for licensing.

### *Interim and Final Management Orders Part 4 Housing Act 2004*

The council are under a duty to make a management order in respect of a house if:

- It is an HMO which is required to be licensed under the aforementioned schemes and it not, and there is no reasonable prospect of the houses being licensed; or
- It is necessary to protect the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.

The council have to apply to the Residential Property Tribunal for the Order. If the Order is granted, the council has right to possession of the property, and have the right to do anything a person having an estate or interest in the house would be entitled to do. The Order is a local land charge.

### *Rent Repayment Orders:*

A Rent Repayment Order (RRO) is a financial penalty imposed upon a landlord by the RPT when he has failed to obtain a licence for an HMO. The Order requires the appropriate person (usually the landlord) to pay the applicant (usually the tenant) such an amount paid in respect of rent for a period of up to 12 months whilst the HMO was unlicensed. This also

applies to any housing benefit payments made during the unlicensed period (up to a maximum of 12 months).

#### *HMO Landlord Discretionary Financial Assistance*

The financial assistance is available for fire safety measures and the provision of amenities to improve the HMO to an acceptable standard in accordance with Hounslow's adopted HMO standards. In addition to the conditions for all financial assistance offered by the Private Sector Housing Unit, the following conditions will also apply:

- The HMO must be subject to mandatory licensing
- The landlord must be a "fit and proper person" as defined by the Housing Act 2004;

The financial assistance will be limited to 50% of the cost of the eligible works, to a maximum of £10,000. The financial assistance will be registered on Local Land Charges for a period of 10 years, and will be wholly repayable upon disposal of the property within this period.

### **Empty Properties**

#### *Boarding up of empty dwellings*

See Local Government (Miscellaneous Provisions) Act below

#### *Enforced sale*

Where the council have carried out works on an empty property, the owner of the property will normally be billed for the costs of the works. If the owner cannot or will not pay the council for the work it has done, the Law of Property Act 1925 states that a local authority with a debt on a property can, under certain circumstances, register the debt as a first charge with the Land Registry. The Council can then sell the property at a public auction and deduct its costs and charges from the sale price. This is called the 'enforced sales' procedure. It is a council power; we do not need to get permission from a court.

#### *Empty Dwelling Management Orders Part 4 Housing Act 2004*

If a property has been empty for at least six months, and the owner has not responded to requests from the Council to repair and re-occupy the property, the Council can apply to the RPT for an Empty Dwelling Management Order. This Order allows the Council to take over the property, carry out any repair work that may be necessary, and then rent it out to tenants. The owner of the property will only get any income that remains once the Council has recovered its costs in bringing the property up to a decent standard, and as well as its costs in managing the property.

#### *Empty Property Grants*

Empty Property Discretionary Financial Assistance is available to cover 50% of the cost of works required to bring an empty property up to the Decent Homes Standard, up to a maximum of £15,000. The financial assistance will be registered on Local Land Charges for a period of 10 years. If the property is disposed of within five years of completion of the works, the financial assistance will be wholly repayable. If the property is disposed of within 10 years, then 50% of the financial assistance will be repayable. The house is to be leased back to the Council under a Private Sector Leasing Scheme at the current market rent for a period of 5 years, and the Council will have the sole right to nominate tenants during this period. The following conditions will also apply:

- The property has been empty for at least 6 months at the time of application.
- The property fails the Decent Homes Standard.

## **Requirement for documentation to be produced**

The Council are able to use their powers under section 235 Housing Act 2004 to require documentation from any relevant person, to assist the Council with any investigation or function under Parts 1 to 4 Housing Act 2004.

Failure to comply with a Notice under section 235 Housing Act 2004 is a criminal offence, with a maximum fine of £5000.

## **Building Act 1984**

Private Sector Housing are only responsible for the enforcement of two sections under the Act:

- Section 59 – Drainage of a building. We will only enforce this section of the Act as it applies to above ground drainage. If we find that satisfactory provisions for above ground drainage of a (residential) building has not been made, we have a duty to serve Notice on the owner of the building to ensure satisfactory provisions are made.
- Section 76 – Defective premises. If it appears to the Council that any (residential) premises are prejudicial to health or a nuisance, and the procedure under section 80 Environmental Protection Act 1990 (see below) will cause unreasonable delay in remedying the problem, the Council have the power to take action. This action includes service of a works Notice with a 9 day limit, followed by works in default if the Notice is not complied with.

## **Public Health Acts 1936 and 1961**

Section 83 Public Health Act 1936, amended by section 35 Public Health Act 1961 require the Council to serve a Notice on the owner or occupier of any premises that are:

- In such a filthy or unwholesome condition as to be prejudicial to health; or
- Are verminous.

If the person on whom the Notice is served does not comply with its requirements, the Council have the power to carry out the necessary works ourselves, and recover the costs incurred in doing so.

## **Environmental Protection Act 1990**

Private Sector Housing Officers can use sections 79 and 80 of the Act to tackle premises that are deemed to be a nuisance/prejudicial to health. Prejudicial to health is defined as injurious or likely to cause injury or health. This typically includes properties that are damp or have mould growth; these can have an affect on people's health. A nuisance is taken to be anything that interferes with the use and enjoyment of a neighbouring property or which materially affects the comfort and quality of life of the public at large. An examples of nuisances include defective guttering serving the roof of one property allowing rain to penetrate through and affect the neighbouring property.

Officers can serve a Notice under section 80 of the Act requiring the abatement of the statutory nuisance within certain time limits. Failure to comply with such as Notice is a criminal offence, with a maximum penalty of £5000.

## **Local Government (Miscellaneous Provisions) Acts 1976, 1982**

Section 16 Local Government (Miscellaneous Provisions) Act 1976 gives the Council the power to issue 'Requisition for Information Notices'. When the Council need to obtain information about a property in respect of which we are proposing to take enforcement action, we will serve a requisition for information Notice on the occupier and/or any person who has a legal interest in it, or who directly or indirectly receives rent, or is authorised to manage or to arrange for its letting.

Section 29 of the Local Government (Miscellaneous Provisions) Act 1982 gives the Council power to require the owner to board up a property to prevent unauthorised access, and to carry out the work in default of the owner if they fail to comply or cannot be found.

### **Overcrowding (under review)**

Although the Housing Act 2004 introduced a hazard of 'Crowding and Space' under the Housing Health and Safety Rating System Part X of the Housing Act 1985 was not repealed and is still the standard by which the Housing department assess overcrowding. As it would be inappropriate to have an entirely different system operating for those not in Council Housing it has been decided that Part X of the 1985 Act will be used to assess overcrowding in all single occupancy dwellings.

### **Overcrowding in HMOs**

Overcrowding in HMOs will be tackled using provisions of the Housing Act 2004, our local amenity standards and requirements of the Act will be used to assess the numbers suitable for the HMO as a whole and for each room. For HMO's that do not require a licence will have their numbers controlled by service of notice under sections 139-144 of the Act. For those HMO which hold a licence the number of person allowed to occupy the property will be controlled by the conditions imposed on the licence.

### **Prevention of damage by Pests Act 1949.**

A notice may be served under section 4 specifying that steps should be taken for the destruction of rats or mice on the land. The notice may also specify structural or other works for keeping the land free from rats and mice (such as the clearance of rubbish that might provide bedding or food for vermin). It should be noted that a notice specifying works may be served with or without an infestation for works and the notice may be served on the owner or occupier.

## **APPENDIX B**

### Current Charges for Enforcement Action (under review)

*Housing Notices:* Section 49 of the Housing Act 2004 gives local authorities the power to make a reasonable charge to recover certain expenses incurred by them when taking enforcement action under the Act. The enforcement action referred to includes service of statutory notices to remove hazards in residential accommodation that have been found by means of an assessment under the Housing Health and Safety Rating System (HHSRS). It is proposed that an amount of £300 is charged for the first notice served under the Act in relation any one property. An additional amount of £100 should be charged per subsequent notice served under the Act in relation to the same property. The charges are to cover the council's actual costs in taking enforcement action.

*Works-In-Default:* Should the council need to carry out work on a dwelling in default of the responsible person, then it charges a fee at the rate of 25% of the work executed.

## APPENDIX C

### Response times

#### **Receipt**

When a request for service is received by an officer the request should be prioritized into one of three categories, those considered Urgent, those considered Non Urgent and those service requests which are to be added to our pro-active risk worklist. **Urgent** complaints should be recorded and allocated within **1 hour of receipt**, **Non-urgent** cases should be recorded and allocated within **24 hours** of receipt and those service requests resulting in **pro-active work** are to be recorded within **48 hours** of receipt and will be allocated on a risk assessment basis.

#### **1<sup>st</sup> Contact**

For cases classified as **Urgent** the case officer should attempt to contact the complainant within **24 hours** to establish the extent of the problem and risk posed by it.

For Non-urgent cases the case officer should attempt to contact the complainant within 3 days

In times of high service demand it may not be possible to adhere to these timescales. The complainant will be kept informed as to the potential waiting time when they make the request for service.

#### **Examples of an Urgent complaint include:**

- Electrical supply cut off at time of call
- Water supply cut off at time of call
- WC blocked or foul water leaking at time of call
- Soil/Waste pipe blocked or leaking at time of call
- Heavy water penetration to dwelling at time of call
- No heating (Nov-Apr) with a vulnerable occupant
- Gas complaints
- Housing defect presenting an imminent and serious risk of harm

#### **Examples of Non urgent complaints**

- Intermittent power, gas or water supply
- Toilet not flushing (lack of water supply or broken mechanism)
- Heating or hot water not working at any other time
- Blocked sink, bath or basin
- Unserviced gas appliance
- Filthy and verminous premises

#### **Examples of pro-active work**

- Possible HMO reported etc.