

Bristol City Council

Private Housing Enforcement Policy

2016 (revised 2017)

1 Foreword

Private Housing sets out to maintain and improve the housing conditions in privately owned property in Bristol as well as dealing with housing matters arising from privately owned land.

Private Housing's normal approach is to give informal advice, assistance and information. Where this approach fails or it is necessary to meet its enforcement objectives, the service will take the necessary enforcement action.

Private Housing's functions are aimed at improving and maintaining basic standards in Private Housing in Bristol. Enforcement is particularly relevant to the private rented sector in Bristol, where we aim to ensure compliance with regulatory requirements. These currently include the licensing of houses in multiple occupation (HMOs) and other rented accommodation in certain areas of the city, bringing empty properties back into use, enforcement of the housing health and safety rating system, overcrowding, public health matters, some local environmental quality issues and anti-social behaviour associated with privately rented accommodation. More recently it includes a focus on improving the professionalism of residential lettings and managing agents.

Any new legislation which comes into force relating to standards and management in privately owned housing which is undertaken by the Private Housing Service will also fall within the general principles of this policy.

The services provided meet the objectives contained in Bristol City Council's Housing Strategy and the Private Housing Service policy statements.

This policy promotes efficient and effective approaches to regulatory inspection and enforcement to improve regulatory outcomes without imposing unnecessary burdens on businesses. This policy is in accordance with Bristol City Council's Enforcement Policy for Regulatory Services and takes into account Bristol City Council's approach to better enforcement as a result of the Government's Better Regulation agenda.

The Private Housing Service works closely with partners across the West of England Local Authorities and Registered Providers of Social Housing (RPs). The protocols we have agreed with partners are referred to in this policy.

This policy sets out the service's transparent approach to enforcement so that people understand how they will be dealt with by Private Housing and its officers.

2017 revision - The Housing and Planning Act 2016 (the 2016 Act) brings in new powers to tackle poor management by landlords and agents of properties in the Private Rented Sector. This revision adds in the new powers available and sets out how the Council will use them.

2017 November revision – updated to include Tenancy Relations Service.

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3 Background

3.1 Aims of Policy

The aims of the policy are to:

- set out the legal requirements, policies, principles and priorities that the Private Housing Service will follow when enforcing legislation;
- help provide safer and healthier private housing;
- increase public confidence in the quality and management of accommodation leading to a vibrant private rented sector in Bristol;
- raise the profile and demonstrate the transparency of enforcement in the private rented sector.
- improve the energy efficiency of private rented sector accommodation.

3.2 What is Enforcement Action?

Enforcement means an action carried out in exercise of or against the background of statutory enforcement powers. This is not limited to formal enforcement action such as prosecution, service of legal notices, application for a rent repayment order or the issue of civil penalty notices. It includes inspections or investigations related to property or land and any relevant person where the purpose is checking compliance with legislation or to give advice to help comply with the law.

3.3 Enforcement Objectives

The Private Housing Service primarily covers all privately owned residential accommodation and privately owned land in the city. In normal circumstances enforcement action will be carried out with the objectives to ensure that:

- symptoms arising from empty homes are tackled to ensure the amenity of the area is not affected, the property is safe and secure and not causing a statutory nuisance;
- tenants of a private landlord or a Registered Provider of Social Housing (RP) live in homes free of actionable hazards¹ which affect their health and safety;
- privately rented houses, including Houses in Multiple Occupation (HMOs), are managed in accordance with any relevant statutory regulations or other legal requirements.
- reasonable and practicable steps are taken to prevent or reduce any anti-social behaviour by the occupiers or visitors to privately rented properties.
- all licensable rented properties are licensed and licence conditions are met;
- owners or occupiers who are vulnerable and unable to support independent living, live in accommodation which is free of significant risks to their health and safety;
- owners or occupiers of privately owned land or property do not cause a statutory nuisance to other land or property owners, or do not present an unacceptable risk to public health, safety or the environment.

¹ An actionable hazard is one which has been rated in Band A-D in the Housing Health and Safety Hazard Rating System under the Housing Act 2004. Ref. Bristol City Council Policy for the Housing Health and Safety Hazard Rating System – Housing Act 2004

- persons are held responsible for their actions which are detrimental to local environmental quality or to the health safety and welfare of other residents.
- where required privately rented accommodation meets minimum energy efficiency ratings and that Energy Performance certificates are provided.
- letting professionals meet the legal requirements that apply to their business such as; to register with a Government Redress scheme; to advertise fees appropriately; and to comply with any other legislation that regulates services they provide.
- private rented sector tenants or residential occupiers are not subjected to unlawful eviction or harassment under the Protection from Eviction Act 1977 (or other relevant housing law). This includes taking appropriate action as a deterrent against other similar illegal behaviour.
- Private rented sector tenants are provided with required information about their tenancy under Housing Act 1988.
- the Private Housing Service meets the Council's statutory duties which it is responsible for or to carry out the powers it has adopted.

3.4 Regulatory Services Enforcement Policy

The [Regulatory Services Enforcement Policy](#) sets out general principles of good enforcement practice that should be followed by any of Bristol City Council's regulatory services and their officers. It follows the "Principles of good regulation" set out in the Legislative and Regulatory Reform Act 2006 (2006 Act):

- regulatory activities should be carried out in a way which are transparent, accountable, proportionate and consistent;
- regulatory activities should be targeted only at cases in which action is needed.

The Regulatory Services policy anticipated that managers of regulatory services across the Council would review and, where necessary update, their current enforcement policies and procedures and service standards in order to ensure that they are consistent with the overarching policy and this policy meets that objective.

3.5 Regulators' Codes

The 2006 Act requires that we have regard to the current Regulators' code when developing policies and procedures that guide our regulatory activity. This policy has regard to the [Regulator's code](#) which came into force in April 2014. We have set out how we meet these duties in detail on our website. [How Private Housing meet the Regulator's Code requirements.](#)

3.6 Primary Authority

Primary Authority requirements under Regulatory Enforcement and Sanctions Act 2008 applies to some of the legislation Bristol City Council enforces see [Appendix 3](#).

Where there is a Primary Authority in place in relation to the legislation we are enforcing we will comply with the Primary Authority requirements.

The [Better Regulation Delivery Office](#) (BRDO) publish a [list of Primary Authorities](#) and the businesses they support. For further information on how Primary Authority arrangements work, please see the [.gov website](#).

3.7 Providing Assistance Information and Education

We start from the position of working with our service users to help them comply with their regulatory requirements. This is a more efficient way of meeting our objectives, rather than having to take enforcement action. We will provide clear, accessible advice and guidance and provide contact details where further information is required. Information is provided in a range of formats such as newsletters and fact sheets. Such information can be found on the following three websites and is also available in hard copy and other formats and languages on request:

www.bristol.gov.uk/privatehousing

www.privatehousinginformation.co.uk

www.nouseemptywest.co.uk

In addition, we provide advice and assistance through:

- The [Rental Standard](#) which - encourages compliant landlords and agents;
- Landlord Liaison Service which:
 - works with landlords and agents from the Private Rented Sector in Bristol.
 - produces a quarterly Landlords newsletters
 - organises the West of England Private Sector Landlords' and Agents Panel - engaging with landlords and agents on service direction and standards
 - attends landlord and agent association's meetings
 - organises the annual Landlord Expo - bringing together property professionals, local authorities and service users.
 - holds Landlord forums – open meetings for Landlords and Agents to address current issues effecting privately rented properties.
 - Provides a comprehensive Landlord training manual and distance based learning;
 - Where funding is available to provide financial assistance for landlords to meet basic requirements.

3.8 Targeting Enforcement Action

To ensure that we meet our policy and enforcement objectives effectively **we will** have regard to the principle that our formal enforcement activity should be targeted only at cases in which action is needed.

These are some examples of how we may target action – this is not an exhaustive list:

3.8.1 Property type or occupation

- empty properties - door to door surveys, Council Tax information or by our empty property priority system;
- landlords whose tenants receive Local Housing Allowance/Universal credit. These tenants tend to be more vulnerable and the standards in these properties are more likely to be of a lower quality in terms of risks to health and safety to the occupiers;
- unlicensed properties;

- poorly managed privately rented properties or those with anti-social behaviour linked to them.
- construction type - where there is a problem with a particular method of construction, for example precast reinforced concrete (PRC) properties;
- household types.
- properties with a low energy efficiency rating on their Energy Performance Certificate (EPC).

3.8.2 Areas

- where there are particular problems in a specific locality. This can be on a street by street basis or an area of Bristol;
- where an area of Bristol is identified as having adverse health or socio-economic indicators;
- to provide a co-ordinated approach alongside other initiatives; for example, Healthy Home Zones; and the regulatory activity is relevant to tackling them.

3.8.3 Individuals

Where a landlord, lettings professional, agent, individual or organisation('s):

- persistently fails to manage privately rented accommodation in accordance with legal requirements;
- repeatedly fails to comply with informal or formal requests to meet minimum legal requirements or commits offences under Private Housing related legislation;
- persistently fails to submit a valid licence application or meet licensing standards;
- places tenants in overcrowded accommodation;
- activities result in the need for us to work proactively to meet our enforcement objectives;
- fails to register with a government approved Redress scheme;

In addition under the Housing and Planning Act 2016 where the individual is:

- on the government database of rogue landlords and agents;
- has a rent repayment order against them; or
- is subject to a banning order or a management order.

To ensure that there are checks and balances in our enforcement approach any targeted action will need to be agreed with a manager before it is undertaken.

4 Licensing of Private Rented Sector properties

4.1 Mandatory HMO licensing

A Mandatory licence is currently required for HMOs with three or more storeys with five or more occupiers living in two or more households sharing some facilities.

The government intends to widen the scope of licensing so it is important for landlords and agents to keep up to date with their legal responsibilities, it is anticipated that mandatory licensing will be expanded to HMOs with five or more occupiers, regardless of the number of storeys in that property.

4.2 Discretionary licensing

Councils have the discretion to bring into force licensing of other residential accommodation, as defined by parts 2 and 3 of the Housing Act 2004. These powers allow local authorities to require landlords of some privately rented properties to apply for a licence. There are two types of discretionary licensing. Additional licensing may be appropriate where a large number of HMOs in an area are not being managed effectively and causing particular problems for the people who live in these HMOs or members of the public. Selective licensing may be appropriate where that the area contains a high proportion of properties in the private rented sector and there are issues in relation to; housing condition, migration, deprivation, or crime.

The Council has declared some areas of the city as discretionary licensing areas, landlords and agents need to check to see if their property(s) are in the relevant areas.

4.3 Operating an unlicensed property

Systematic surveys using available relevant information held by the Council will be carried out to identify unlicensed properties. If a landlord has approached the Council for a licence an informal approach will be adopted so long as a valid application with the appropriate fee is subsequently duly made within 28 days. We will consider any representations regarding exceptional circumstances that may have resulted in the application not being made. In other circumstances the Council will carry out an investigation and if appropriate consider taking formal action.

Landlords who fail to reapply for a licence in properties that require a renewal of their licence or fail to provide the required information or the appropriate fee within 28 days may also be investigated for failing to licence a licensable property.

Fines for failure to license a property are unlimited. Where landlords have been convicted of the offence of operating an unlicensed property the Council may use Rent Repayment Orders to claim back any Housing Benefit or equivalent paid whilst the property was unlicensed. We may also provide tenants with information and advice on how and when they can apply to The First Tier Tribunal Service to claim back the rent they paid whilst the property was unlicensed.

Under the 2016 Act the council can also serve a civil penalty notice of up to a maximum of £30,000 for failure to license a property.

4.4 Duration of Licences

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

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

4.5 Fit and Proper Person Policy

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

4.6 Breach of licence requirements

Licences issued for rented properties include requirements on the number of persons or households that are permitted to occupy a property as well as licence conditions. Licence conditions may require works with regard to the physical condition of the property or in relation to the management of the property.

Knowingly permitting the over occupation of a licenced property or failing to meet licence condition(s) without reasonable excuse are a criminal offence(s).

The 2016 Act introduced civil penalty notices of up to £30,000 which the Council can serve on individuals as an alternative to prosecution.

5 Management Orders

These powers will be used as a last resort where other attempts have failed and where there is no reasonable prospect of a licence being granted.

Management Orders may also be used where it is necessary to protect the health, safety or welfare of occupiers, visitors or persons living in the vicinity or anti-social behaviour is affecting other occupiers, visitors or persons in the vicinity of the premises.

Under the 2016 Act, where an agent or landlord is banned from operating in the private rented sector management orders may also be used.

The Council has arrangements in place to manage properties where a Management Order is made. These include external organisations.

6 Regulation of residential lettings and management professionals

In addition to having legal responsibilities in relation to the management of properties which are privately rented, business's letting and managing residential property are required to comply with a number of other legal requirements, some of which are regulated by the Council's Private Housing Service.

7 Empty Properties

The Private Housing Service systematically identifies long term empty properties and will work with the owner to bring back into use. The empty property policy statement sets out the detail of our priorities in this area:

- action will be tailored to match housing need, nuisance issues and length of time the property has been empty;
- we recognise that some areas of the city suffer from higher levels of empty properties and housing need.

As the overall aim is to provide more accommodation of the type required in Bristol we will take action on empty properties within a procedure that could ultimately lead to the use of Compulsory Purchase Orders to bring a property into use.

Where necessary, we will take enforcement action to deal with the symptoms that arise when a property is left empty.

8 Overcrowding

We will investigate complaints from private rented sector tenants about overcrowded living conditions, from other parties where they are concerned about children or vulnerable adults living in overcrowded conditions or where overcrowded conditions are legitimately impacting on a neighbours' health, safety or welfare.

We will liaise with the Council's Housing Solutions Service where we are taking enforcement action that is likely to lead to a family moving out of their accommodation.

When deciding on the most appropriate course of action each case will be judged on its own merits.

We may advise persons living in overcrowded living conditions that their health is at risk but that the most appropriate action is not to require them to move out.

We may serve overcrowding notices in relation to HMOs if having regard to the rooms available, it considers that an excessive number of persons is being, or is likely to be, accommodated in the property.

Under the 2016 Act the council can serve a civil penalty notice of up to £30,000 on a person failing to comply with an overcrowding notice.

9 Anti-social behaviour

There are new powers to tackle anti-social behaviour, please see our website for further information.

Where we have legal powers to deal with anti-social behaviour of private rented sector tenants or visitors to a rented property, we will initially liaise with partners such as academic institutions, landlords and their associations to seek an informal

resolution. Where this fails we will consider taking legal action against the person responsible if this is possible. This can include taking action under any licence conditions.

Where complaints of anti-social behaviour are more appropriately dealt with by other Council services, such as the Pollution Control, Anti-social Behaviour or Streetscene Enforcement teams, or the Police, these complaints will be referred to them.

Where the relevant criteria are met we will consider making a discretionary Management Order.

10 Retaliatory Eviction

The Deregulation Act 2015 provides tenants protection from eviction in retaliation for making a complaint in relation to health and safety issues in their home. The protection only applies in certain circumstances please see [link](#) for further guidance.

The circumstances require that a relevant formal legal notice has been served under the Housing Act 2004. Following consultation with tenant, landlord and agent groups Private Housing will only serve the relevant formal legal notices in line with this policy.

11 Tenancy Relations

Tenancy Relations is a discretionary service provided by the Council to inform people who rent properties from private landlords or agents of their legal rights and obligations in relation to their occupation of a property.

The tenancy relations service may advise residential occupiers of the legal action which they can take to enforce their legal rights.

We will investigate allegations of illegal eviction and harassment or failure to provide required information about a tenancy, in accordance with this policy. Where the Council believes it is appropriate it may take enforcement action using powers under the Prevention from Eviction Act 1977, Housing Act 1988 and other relevant housing laws.

12 Enforcement Action

Where assistance, information and education has failed to ensure compliance with a statutory requirement or failed to ensure compliance with requirements made through use of our discretionary powers enforcement action may be taken. Enforcement actions include no action, informal action and formal action.

12.1 No action

In certain 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 whom we would take action on;
- taking legal action would be disproportionate or inappropriate taking into account the circumstances of the case.
- Where the tenant does not want us to take action and we consider it is appropriate not to take action in the circumstances.

We may however make recommendations which are above the legal minimum requirements, advise if there are legal avenues open to persons to resolve the issues themselves or refer to another appropriate regulator or advice service.

12.2 Informal Action

In most cases, officers will endeavour to seek the desired improvements or protection of the public's health and safety in relation to private housing by working initially on an informal basis with those involved. Informal action may take a variety of forms, for example:

- verbal requests;
- letters or e-mails;
- schedules of work.

The advice will make clear what is expected to be done to meet a legal requirement and what is a recommendation which does not legally require action.

It will be made clear that formal action could follow if there is a failure to meet informal requests to carry out works to meet legal requirements.

However, where the circumstances of the case justify it, officers will be expected to take a formal approach in the first instance. Formal action will also be taken where compliance with a statutory requirement has not been achieved by informal action.

12.3 Formal Action

Circumstances where it may be appropriate to take formal legal action include where:

- there is an actionable hazard which puts at risk a person's health and safety due to :
 - risk of a fall leading to serious injury
 - no heating and or lack of insulation in cold weather;
 - the Energy Performance Certificate is rated "F" or "G"
 - no hot water to wash and prepare food safely;
 - exposure to damaged asbestos insulation board which means occupiers are likely to inhale or ingest asbestos fibres;
 - exposed live electrical wiring which people are likely to make contact with;
 - raw sewage surcharging into a neighbour's property;
- there are a multiple hazards creating a more serious situation or there is an overall lack of repair or maintenance of a property resulting in it being run down.
- there is a hazard which presents risk serious of injury to someone occupying or visiting the property.
- a person refuses to or is likely not to carry out the works informally;
- there is history of failure to meet requests to carry out legally required works;

- there is history of a failure to manage a property in line with legal requirements;
- there is a record of criminal convictions for failure to comply with housing related offences (including offences that are likely to affect housing management);
- it is necessary to safeguard and protect health and safety in the future;
- it is necessary to bring an empty property back into use when informal requests to do so have failed.
- A letting or managing agent has failed to meet legal requirements for instance but not exclusively in relation to requirements to be members of an appropriate redress scheme.
- Failure to have a current Energy Performance Certificate.
- there is evidence of a retaliatory eviction.
- there is evidence of illegal eviction or harassment under the 2016 Act;
 - an individual is subject to a Banning Order
 - on the database of rogue landlord and agents

The above is not intended to be an exhaustive list. Each case will be considered on its individual merits.

When an officer decides it is more appropriate to take formal action first without giving an opportunity to resolve the issue informally, we would expect that the officer explains to the person concerned why formal action is being taken.

There are a number of options for formal action. The decision as to which is the most appropriate will depend on the circumstances of the case, the relevant legislation, the risk to health and safety and tests relevant to each option. The options include:

- service of formal notice or order;
- emergency action;
- a penalty charge notice;
- simple cautions;
- civil penalty notice;
- prosecution;
- work in default of the person served with notice;
- revocation or refusal of a licence.
- management order
- banning order
- rent repayment order
- warrant to enter
- requiring the production of information, documents or other materials.

12.3.1 Service of formal notices or orders

Notices and orders will be served in accordance with the requirements of the relevant legislation. The person on whom the notice or order is served will be informed of the reason that this action is being taken, the timescale for completion of any works, the works that are legally required, representations that may be made, relevant appeal periods, details of any charges (see below) and the consequences of non-compliance. Contact details will be provided so that the detail and requirements of the notice can be explained.

12.3.2 Emergency Action

In emergency situations where it is not possible to contact the relevant person and gain their co-operation, enforcement action may be taken immediately without notice, for example:

- where there is an imminent risk of serious harm to the health or safety of occupiers or others (Emergency Remedial Action under the Housing Act 2004);
- where there is an immediate need to secure a building against unauthorised entry or to prevent it becoming a danger to public health (subject to the provisions of The Local Government (Miscellaneous Provisions) Act 1982.

12.3.3 Civil Penalty Charges

Certain legislation enables the Council to serve a Penalty Charge Notice or Monetary Penalty Notice. Failure to pay a civil penalty may result in the Council bringing prosecution proceedings or in the recovery of the charge as a debt through courts action. Private Housing is responsible for enforcing the following requirements which can be subject to a civil penalty:

- Failure to comply with a notice requiring the provision of a smoke or carbon monoxide detector (£5000 maximum).
- Failure to have a valid Energy Performance Certificate (EPC) for a rented property. (£200 maximum).
- From 1st April 2018, failure to comply with [new energy efficiency requirements](#) for rented properties. (£5000 maximum).
- Failure to display details of the Government approved redress scheme that businesses are a member of. (£5000 maximum).
- Failure to display [fees that apply to landlords agents and tenants](#). (£5000 maximum).
- Failure to be a member of a Government approved [residential lettings or management redress scheme](#) when required to do so. [Government guidance](#) states that the expectation is that for this contravention, a £5,000 penalty should be considered the norm and that a lower penalty should only be charged if the Council is satisfied that there are extenuating circumstances. It will be up to the Council to decide what such circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a penalty.

The Council may issue more specific guidance in relation to these contraventions which will be made available on our website. Each case will be considered on its own merits and the relevant statutory appeal rights are provided with any notice served. See also civil penalties in the section below.

12.3.4 Simple Caution

Simple Cautions may be appropriate where someone has admitted to an offence, or where it is their first offence of this type or they have assisted officers in remedying the situation that led to the offence. For example applying for a licence as soon as they are able or quickly complying with the requirements of a notice. Simple Cautions

warn people that their behaviour has been unlawful and makes them aware of the legal consequences should they commit further offences.

12.3.5 Prosecution

Recommending a case for prosecution is a serious step. Officers will carry out an investigation into any suspected offences to collect evidence, to establish if a statutory defence is available and reasons why the case may or may not be in the public interest to pursue further. A checks and balance assessment is carried out before making a recommendation to refer a case to the Council's Legal Service. Legal Services will consider whether the case has been investigated sufficiently to ensure we have met our legal requirements including; the evidential and public interest tests set out in the [Code for Crown Prosecutors](#). The decision to start prosecution proceedings in court is taken by the Service Director for Legal Services.

Regard shall also be had to equalities issues, compliance with the relevant Regulatory Code and Enforcement Policies. Where confiscation is appropriate, proceedings will be instigated under the Proceeds of Crime Act 2002.

12.3.6 Civil Penalty Notices in the 2016 Act

The 2016 Act gives the council the power to issue Civil Penalty notices of up to £30,000 as an alternative to prosecution, where there is evidence beyond reasonable doubt of certain offences i.e. failure to:

- comply with an improvement notice;
- license a property which requires a licence;
- comply with licence conditions or occupancy requirements
- comply with an overcrowding notice;
- comply with HMO management regulations requirements.

The decision when to prosecute, agree a simple caution or when to issue a civil penalty will be made on a case-by-case basis in line with this policy and the other guidance referred to.

Civil Penalties can be used where a breach is serious and the council may determine that a significant financial penalty (or penalties if there have been several breaches), rather than prosecution, is the most appropriate and effective sanction in a particular case.

The government have issued [statutory guidance](#) to councils on the use of Civil Penalty notices under the 2016 Act. The council has also published its own policy ([link to policy when published](#)) on how it will decide on the level of financial penalty which is in accordance with the government guidance.

12.3.7 Fines Recovery of Costs and Proceeds of Crime

The upper limit for fines in the magistrates court has been removed, this means if found guilty of an offence the court there is no maximum fine.

In some cases the Council can apply to court to recover rent from a landlord if a property has been let illegally.

Officers will provide Legal Services with all the relevant information to enable the recovery of costs to be sought at Court. Any costs application made is likely to include the time officers have spent investigating a case and the legal costs involved.

12.3.8 Publicising prosecutions

Verdicts and sentences in criminal cases are given in open court and are a matter of public record. The Council will publicise sentences following prosecution on a case by case basis. Publicising guidance has a presumption in favour of publicising outcomes of criminal cases and basic personal information about convicted offenders.

12.3.9 Work in Default

Where the Council has legally required someone to do works but they have failed to do so, powers are available to carry out works in their default. The powers are provided in the legislation being used in relation to specific case.

In most circumstances a person will be given notice of the Council's intention to carry out works in their default. Once we have started works it is an offence for that person to obstruct us or any of the contractors that have been employed to carry out the works.

The complete cost of the works and all costs will be recovered in accordance with the relevant statutory provisions.

It should be noted that carrying out works in default does not prevent prosecution which may also be appropriate.

12.3.10 Revocation of licences

Revoking a property licence under the Housing Act 2004 may be taken under the following circumstances:

- breach(es) of licence condition(s);
- where the licence holder and/or manager are no longer considered to be Fit and Proper person(s).
- by agreement.
- where there is a banning order on the licence holder.

12.3.11 Rent Repayment Orders

Rent Repayment Orders (RRO) can be made by a First Tier Tribunal where they are satisfied beyond reasonable doubt that a landlord has committed certain offences (whether the landlord has been convicted of that offence or not). The landlord can be required to repay up to 12 months rent, either to a tenant for rent paid or a council for housing benefit or universal credit paid in relation to the rent of a property. The relevant offences are:

- Violence for securing entry
- Illegal eviction or harassment of occupiers
- Failure to comply with an improvement notice or prohibition order

- Failure to license a property which requires a licence
- For breach of a banning order

Councils must consider applying for an RRO if they become aware of someone being convicted of one of the offences which can lead to an RRO. The council can also help tenants apply for an RRO. Applications for an RRO can be made in addition to other formal action taken in relation to the same conduct.

When deciding whether or not to apply for an RRO the Council's policy is to:

- Treat each case on its own merits
- Ensure that applying for an RRO would meet the enforcement objectives in this policy
- Consider the impact of the breach on the occupier or others affected by the offence committed.
- Consider the likelihood of the application being successful.
- The level of resources it will take to make a successful application
- Whether it is more appropriate for the tenant to apply for the order themselves.

The council is also obliged to have regard to the statutory guidance issued to local authorities on applying for an RRO entitled [Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for Local Authorities](#).

12.3.12 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. Other legislation also allows us to recover costs covering officers' time and expenses accrued when determining works necessary in the case of works in default.

The Private Housing Service is likely to seek to recover all costs and fees when formal action is taken when we think it is reasonable to expect the owner or person required to carry out works, to pay them in the circumstances. The full costs of all officers' time, including overheads and any relevant expenses, will be charged. In some cases we may force the sale of a property to recover our cost. We will only do so if we have the power to and it is reasonable and proportionate to do so in the circumstances of that case.

12.4 Enforcement - general

Any officer carrying out enforcement work will be authorised to do so by the Council. Each authorised officer in the Private Housing Service should carry both an identity card and, when necessary, a warrant card. The warrant card also shows a photograph of the officer, their name and job title, and lists the legislation under which the officer is authorised.

We will use all available powers to meet the enforcement objectives within this policy. These include powers of entry, the ability to require the production of documents under the Housing Act 2004, the power to require information about a person's identity, or interest in land and the power to require certificates regarding gas and

electrical safety in Houses in Multiple Occupation. We will have regard to any relevant Government guidance as part of our enforcement activity.

When carrying out enforcement we will have regard to other legal requirements that might apply to our actions; for example, the Data Protection Act 1998, Regulation of Investigatory Powers Act 2000 and the codes of practice under the Police and Criminal Evidence Act 1984.

13 Protocols

Several protocols have been established to help clarify how the Private Housing Service will work with other partner organisations or services in relation to private Housing. These protocols may be added to and or amended.

13.1 Fire Safety Enforcement Protocol with Avon Fire and Rescue Service

The Fire Safety protocol sets out how both the Council and Avon Fire and Rescue Service will take enforcement action in relation to fire safety in properties where there is an overlap between each organisation's duties and powers.

13.2 West of England Enforcement Protocol with Bristol Partnership Registered Providers of Social Housing (Housing Associations)

The WoE local authorities and the Registered Providers of Social Housing (RPs) who are in the Bristol Partnership have signed up to this protocol. The protocol sets out how each partner will work with each other in relation to complaints about housing standards in RP properties and if necessary how the Council will take enforcement action in relation to a complaint about an RP.

13.3 Noise Protocol

The Housing Health and Safety Rating System under the Housing Act 2004 covers hazards from noise and in some circumstances where properties have untypically poor noise insulation can be required to improve sound insulation in a property.

The Pollution Control Teams and Private Housing have agreed a Noise protocol between the two services for dealing with complaints about noise.

14 Consultation and Partners

We work with a wide range of partners and stakeholders such as private sector landlords and agents, residents, businesses, other Council teams, agencies such as Fire and Rescue Services and the Police and neighbouring local authorities.

We value the partners we work with and will engage with them in relation to enforcement activity and procedures where the subject area is relevant and appropriate to them.

This policy has been widely consulted. A list of people or organisations consulted in relation to this policy is provided in Appendix 1.

15 Equalities Impact Assessment

Appendix 2 refers to the Equalities Impact Assessment for this policy.

16 Appeals and Complaints Procedure

This policy and the guidance and other policies referred to in it will be relevant documents to consider when reviewing complaints in relation to our enforcement activity. It is important to stress that they are not the definitive list of guidance available and there may be more relevant or up to date guidance that should be considered in relation to any complaint.

We will inform all persons who are the subject of formal enforcement activity of their right of appeal; this will vary dependent on the particular legislation being used.

The Council's [complaints process](#) is available for complaints relating to the application of this policy where there is not an appeal procedure otherwise available. If you want to appeal against a formal notice or order you should use the statutory appeal rights open to you.

17 Approval of this policy

The Strategic Director of Neighbourhoods approved the revisions to this policy on to be inserted after consultation February 2017 under the powers delegated to her in the Council's constitution.

18 Enquiries

Any enquires about this policy can be made by:

Email: private.housing@bristol.gov.uk

Telephone: 0117 35 25010

Fax: 0117 377 2533

Letter: Private Housing and Accessible Homes Service, Bristol City Council (100TS)
PO Box 3176 Bristol BS3 9FS

19 Appendix 1 List of consultees to 2017 revision

Acorn
Association of Local Landlords (Wessex) Ltd
Association of Residential Letting Agents
Bristol Association of Lettings and Managing Agents
Bristol Student Union Lettings
Bristol Mediation Services
Considerate/ National Accreditation Scheme
Chartered Institute of Environmental Health
Citizens Advice Bureaux
National Landlord Association
National Approved Letting Scheme
Residential Landlord Association
Royal Institutions of Chartered Surveyors
SARI
Shelter
South West Landlord Association
West Country Landlords Association
Local Government Association
Unseen

Local Authorities :

Bath and North East Somerset
North Somerset
Leeds
Oxford
Wolverhampton
South Gloucestershire

20 Appendix 2 Equalities Impact Assessment

An Equalities Impact Assessment was not required as it was agreed that the proposal does not have the potential to impact on people with protected characteristics in the following ways:

- access to or participation in a service,
- levels of representation in our workforce, or
- reducing quality of life (i.e. health, education, standard of living)

21 Appendix 3 Legislation subject to Primary Authority requirements.

This is a list of the legislation Private Housing may enforce which the Primary Authority requirement under the Regulatory Enforcement and Sanctions Act 2008 can be applied. This list was up to date as of 1st October 2013.

Anti-social Behaviour Act 2003 (c. 38)
Caravan Sites and Control of Development Act 1960 (c. 2)

Clean Neighbourhoods and Environment Act 2005 (c. 16), Parts 2, 6 and 7
Criminal Justice and Police Act 2001 (c. 16), Part 1
Criminal Justice and Public Order Act 1994 (c. 33), Parts 5, 7 and 12
Defective Premises Act 1972 (c. 35)
Environmental Protection Act 1990 (c. 43)
Health Act 2006 (c. 28), Part 1
Housing Act 1985 (c. 68), Parts 8, 9 and 10
Housing Act 1996 (c. 52), Part 8
Housing Act 2004 (c. 34), Parts 1 to 4
Litter Act 1983 (c. 35)
Local Government Act 1972 (c. 70), Parts 9 and 11
Local Government Act 1985 (c. 51), Part 2
Local Government Act 1988 (c. 9), Part 4
Local Government Act 2000 (c. 22), Part 1
Local Government (Miscellaneous Provisions) Act 1976 (c. 57)
Local Government (Miscellaneous Provisions) Act 1982 (c. 30)
Noise and Statutory Nuisance Act 1993 (c. 40)
Prevention of Damage by Pests Act 1949 (c. 55)
Public Health Act 1936 (c. 49)
Public Health Act 1961 (c. 64)
Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541)