



## How the Bristol City Council Private Housing Service complies with the Regulators' Code 2014

Nearly all regulators, including local authorities, must have regard to the Regulators' Code when developing policies and operations procedures that guide our regulation of some legislation.

This document sets out how the Private Housing Service complies with the requirements of the Regulators' code.

### Go to paragraph:

[1](#) [1.1](#) [1.2](#) [1.3](#) [1.4](#) [2](#) [2.1](#) [2.2](#) [2.3](#) [2.4](#) [2.5](#) [2.6](#) [3](#) [3.1](#) [3.2](#) [3.3](#) [3.4](#) [3.5](#) [4](#) [4.1](#) [4.2](#) [5](#) [5.1](#) [5.2](#) [5.3](#) [5.4](#) [5.5](#)  
[5.6](#) [6](#) [6.1](#) [6.2](#) [6.3](#) [6.4](#) [6.5](#)

### Contact information and links

The following contact details and links are all referred to in the document below, and all are related to how the Private Housing Service meets the requirements of the Regulators' Code.

- The Private Housing Service can be contacted on 0117 3525010 or at [private.housing@bristol.gov.uk](mailto:private.housing@bristol.gov.uk)
- The Regulators' Code: [www.gov.uk/government/publications/regulators-code](http://www.gov.uk/government/publications/regulators-code)
- Private Housing Enforcement Policy: [www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies)
- [Private Housing Policy Statement – Private Rented Sector. Please link](#)
- Regulatory Services Enforcement Policy: [www.bristol.gov.uk/page/financial-help-and-benefits/regulatory-services](http://www.bristol.gov.uk/page/financial-help-and-benefits/regulatory-services)
- Housing Health and Safety Rating System (HHSRS) Policy: [www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies)
- Fit and Proper Person Policy – please hyperlink
- Current consultations: [www.bristol.gov.uk/consultationfinder](http://www.bristol.gov.uk/consultationfinder)
- Comments, Complaints and Compliments: [www.bristol.gov.uk/faircomment](http://www.bristol.gov.uk/faircomment)
- Landlord News: [www.bristol.gov.uk/page/housing/landlord-news](http://www.bristol.gov.uk/page/housing/landlord-news)
- Private Housing Service website: [www.bristol.gov.uk/privatehousing](http://www.bristol.gov.uk/privatehousing)
- West of England - Information for landlords, tenants and owners: [www.privatehousinginformation.co.uk](http://www.privatehousinginformation.co.uk)
- Landlord Manual: <http://www.privatehousinginformation.co.uk/site/98.asp>
- Landlord Expo: [www.landlordexpo.co.uk](http://www.landlordexpo.co.uk)
- Empty Properties: [www.nouseemptywest.co.uk](http://www.nouseemptywest.co.uk)
- Information sharing agreements/protocols: [www.bristol.gov.uk/page/council-and-democracy/information-sharing-agreements-protocols](http://www.bristol.gov.uk/page/council-and-democracy/information-sharing-agreements-protocols)

The Code is broken down into numbered sections, so each number below refers to its equivalent in the Code. The relevant paragraph from the code is in italics. Please note this is not an exhaustive list and, as we keep our work under review, may change from time to time.

- 1. *Regulators should carry out their activities in a way that supports those they regulate to comply and grow.***

We have a dedicated Landlord Liaison Service that works with private landlords and agents to provide advice, guidance, information and updates. The Landlord Liaison Service can be contacted on 0117 3525010 or emailed at [private.landlords@bristol.gov.uk](mailto:private.landlords@bristol.gov.uk).

- 1.1. *Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities<sup>1</sup> and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means.*

*Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.*

When introducing new requirements we consider other options and in some cases consult and discuss with landlords and agents at meetings and forums. Current consultations can be found at [www.bristol.gov.uk/consultationfinder](http://www.bristol.gov.uk/consultationfinder) or by contacting us.

- 1.2. *When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities<sup>2</sup>, for example, by considering how they can best:*

- *understand and minimise negative economic impacts of their regulatory activities;*
- *minimising the costs of compliance for those they regulate;*
- *improve confidence in compliance for those they regulate; and*
- *encourage and promote compliance.*

Procedures and policies are written by highly trained, experienced. When we write a new policy or procedure, we will always have regard to the Regulators' Code. Where necessary, we will obtain the views of interested parties, and make changes if appropriate.

- 1.3. *Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.*

To be authorised to take enforcement action, officers must have a formally recognised qualification or have passed an in-house competency assessment process. As well as this, officers are provided with regular training.

On a regular basis all regulatory officers are required to carry out an exercise which aims to ensure consistency in the way officers use the housing health and safety rating system in the Housing Act 2004.

We use the RDNA self-assessment tool (<http://rdna-tool.bis.gov.uk/>) to ensure regulatory officers understand what is required as a regulator and whether they have any developmental needs.

We have regard to the online resources on the Department for Business Innovation & Skills Guidance for Regulators – Information Point website ([www.regulatorsdevelopment.info/grip/](http://www.regulatorsdevelopment.info/grip/)), and have contributed to much of the information provided there. This information is also provided on our internal procedure manuals.

*1.4. Regulators should ensure that their officers understand the statutory principles of good regulation and of this Code, and how the regulator delivers its activities in accordance with them.*

We deliver training to our officers. Our in-house procedure manuals are regularly updated and officers are required to have regard to these when carrying out their activities.

**2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views**

Anyone can contact us using the details above or using the Council's Comments, Complaints and Compliments service at [www.bristol.gov.uk/faircomment](http://www.bristol.gov.uk/faircomment).

*2.1. Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.*

We hold regular landlord and tenant forums, a regular landlord panel, produce newsletters ([www.bristol.gov.uk/page/housing/landlord-news](http://www.bristol.gov.uk/page/housing/landlord-news)), websites ([www.privatehousinginformation.co.uk](http://www.privatehousinginformation.co.uk)) and manuals for landlords, tenants and other interested parties and hold a large expo event ([www.landlordexpo.co.uk](http://www.landlordexpo.co.uk)) every year. We use online surveys to consult with landlords and key stakeholders.

*2.2. In responding to non-compliance that they identify, regulators should clearly explain:*

- *what the non-compliant item or activity is,*
- *the advice being given,*
- *actions required or decisions taken, and*
- *the reasons for these.*

*Regulators should provide an opportunity for:*

- *dialogue in relation to the advice, requirements or decisions,*
- *with a view to ensuring that they are acting in a way that is proportionate and consistent.*

*This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.*

Our Enforcement Policy clearly sets out how and when we will use our enforcement powers and can be found at [www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies).

Officers are expected to take into account this policy. Our procedures and standard letters follow these principles.

*2.3. Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.*

Legal rights of appeal are provided in all cases where we've served a legal notice or where we have granted or refused a licence, and we make this clear in any related correspondence. If there is no legal right of appeal, the Council's Fair Comment system is in place and can be accessed at [www.bristol.gov.uk/faircomment](http://www.bristol.gov.uk/faircomment).

- 2.4. *Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.*

We provide information of right of appeal, including practical information on the processes involved, in plain language to anyone against whom we carry out enforcement action.

- 2.5. *Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.*

Our 'Fair Comment' complaints procedure ([www.bristol.gov.uk/faircomment](http://www.bristol.gov.uk/faircomment)) is referred to in correspondence to anyone who uses our service. If the complainant is not satisfied at the end of this process, they are referred to the relevant ombudsman.

- 2.6. *Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate.*

We monitor customer satisfaction and review the feedback we receive.

Feedback can be made by phone, email to [private.housing@bristol.gov.uk](mailto:private.housing@bristol.gov.uk) or at [www.bristol.gov.uk/faircomment](http://www.bristol.gov.uk/faircomment).

### **3. Regulators should base their regulatory activities on risk**

- 3.1. *Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.*

Our Enforcement Policy sets out the circumstances in which targeted action is carried out. The decisions to target action are based on evidence of risk. The risks may be to; health, safety, community confidence, financial, deprivation, the environment and or a regulatory risk. We also set out in our Private Housing Policy Statement for the Private Rented Sector where we will focus our regulatory activity.

- 3.2. *Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.*

We use a triage process when we receive new requests for service and our enforcement policy ([www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies)) sets out how we will target action. The legislation we use is mainly based on assessing risks. For example; when carrying out inspections and considering what action to take, we use the Housing Health and Safety Rating System (HHSRS), which is fundamentally based on considering risk. Our policy for the HHSRS can also be found at [www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies).

- 3.3. *Regulators designing a risk assessment framework, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.*

Our enforcement policy sets out our framework for action and is currently under review. The proposed new enforcement policy has been put out to consultation. We will consult with relevant stakeholders any frameworks where necessary.

- 3.4. *Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.*

Our enforcement policy ([www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies)) considers previous compliance and our enforcement procedures take into account previous non-compliance and compliance.

- 3.5. *Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly*

We set targets and monitor these and also consider the result of our customer satisfaction surveys. We also meet regularly with stakeholders and will consider suggestions made about the effectiveness of our regulatory activities.

#### **4. Regulators should share information about compliance and risk**

- 4.1. *Regulators should collectively follow the principle of “collect once, use many times” when requesting information from those they regulate.*

Information we collect is entered into our secure database so it can be used many times without needing to request it more than once. Other regulatory services in the Council also use the same database.

- 4.2. *When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.*

We have agreements in place to share information with internal and external partners. This means we can target our resources and not needlessly disrupt the work of the businesses we regulate.

The Council has information sharing agreements and protocols with a large number of other services and regulators. Information on these can be found at [www.bristol.gov.uk/page/council-and-democracy/information-sharing-agreements-protocols](http://www.bristol.gov.uk/page/council-and-democracy/information-sharing-agreements-protocols)

#### **5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply**

We provide landlords and agents a variety of advice and guidance. We also have information on the Bristol City Council website at [www.bristol.gov.uk/privatehousing](http://www.bristol.gov.uk/privatehousing) and on two websites we have put together in partnership with our neighbouring local authorities, [www.privatehousinginformation.co.uk](http://www.privatehousinginformation.co.uk) and [www.nouseemptywest.co.uk](http://www.nouseemptywest.co.uk).

5.1. *Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.*

Our Enforcement Policy ([www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies)) and Landlord Manual ([www.privatehousinginformation.co.uk/site/98.asp](http://www.privatehousinginformation.co.uk/site/98.asp)) distinguish legal requirements from suggested good practice.

Landlords and agents can also contact us for advice and guidance.

5.2. *Regulators should publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.*

Advice and guidance is available from the following:

- By contacting us on 0117 3525010 or at [private.housing@bristol.gov.uk](mailto:private.housing@bristol.gov.uk)
- From the landlord manual. Contact us for a copy or go to <http://www.privatehousinginformation.co.uk/site/98.asp>
- From Landlord News. Contact us to get on the mailing list or go to [www.bristol.gov.uk/page/housing/landlord-news](http://www.bristol.gov.uk/page/housing/landlord-news)
- From our private housing website at [www.privatehousinginformation.co.uk](http://www.privatehousinginformation.co.uk)
- From our empty properties website at [www.nouseemptywest.co.uk](http://www.nouseemptywest.co.uk)
- At the annual landlord expo event, [www.landlordexpo.co.uk](http://www.landlordexpo.co.uk)

5.3. *Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.*

Consultations are carried when we make major changes. Recent examples include the review of our Accreditation Scheme, our new enforcement policy and our introduction of discretionary licensing.

We consult in a number of different ways depending on what is appropriate in the circumstances. Examples of the way we consult are through our contact list of landlords, landlord panel and forums, online questionnaires, landlord newsletters, and in some cases we will advertise in the local press.

5.4. *Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.*

The landlord liaison service provides a forum for discussion by landlords. We also deal with many calls for advice and guidance and have a good relationship with a number of landlord and agent organisations. The Landlord Liaison database is not linked to landlord rented property details, is only used to provide landlords with up-to-date information, this gives landlords confidence that they can subscribe to the service.

Our enforcement policy sets out when we will take formal action ([www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies)). This policy also explains how we ensure there are checks and balances in our enforcement procedure.

5.5. *In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.*

Our regulatory officers already work in a way that is helpful and aims to support compliance. We work hard to ensure our advice is current and contribute to at a national level on regulatory issues in the sector. Officers receive training on the requirements of the Regulators' Code. We also undertake consistency exercises on hazard rating assessments.

5.6. *Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.*

We either have formal or informal protocols in place with the following internal and external partners

- Avon Fire and Rescue
- Registered Providers of Social Housing
- Avon and Somerset Constabulary
- Health and Safety Executive
- Bath and North East Somerset Council
- North Somerset Council
- South Gloucestershire Council
  
- Building Control
- Planning Services
- Trading Standards
- Tenancy Relations
- Pollution Control
- Public Protection
- Antisocial Behaviour

Where we have no formal written protocol we have regular meetings and contact to ensure there is agreement about advice provided.

**6. *Regulators should ensure that their approach to their regulatory activities is transparent***

6.1. *Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.*

We've published our service standards. They can be found at [www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies).

6.2. *Regulators' published service standards should include clear information on:*

a) *how they communicate with those they regulate and how they can be contacted;*

This information can also be found above at the beginning of this document.

b) *their approach to providing information, guidance and advice;*

This information can also be found above in section 5.

- c) *their approach to checks on compliance, including details of the risk assessment framework used to target those checks and protocols for their conduct, clearly setting out what those they regulate should expect;*

We have two approaches to checking compliance, 'Reactive' and 'Proactive'.

Reactive:

- Responding to complaints from; tenants, residents or representatives in relation to concerns.
- Responding to referrals from other agencies or professionals. E.g. Referral from Avon Fire and Rescue about housing conditions.
- Reacting to intelligence received about a particular housing provider or the quality of services provided to a particular client group.

Proactive:

Our Enforcement Policy allows us to target action. We may proactively carry out compliance checks on:

- Types of property: Rented property that isn't licenced, hostels, houses in multiple occupation, those with a low score on their Energy Performance Certificate
- By owner or agent: Where we have concerns about the level of compliance we may carry out unannounced visits. We may be accompanied by other regulators, such as the Police, Trading Standards and or Immigration Service.

Visits may be announced or unannounced and in some circumstances will be out of hours and or under a warrant.

- d) *their enforcement policy, explaining how they respond to non-compliance;*

Our enforcement policy can be found at

[www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies)

- e) *their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and*

The Private Housing Service can set fees and require charges:

- Licensing properties - Parts 2&3, Housing Act 2004 (sections 63, 87)
- Enforcement Action - Part 1, Housing Act 2004 (section 49)
- Work in default for failure to comply with a notice - Part 1 Housing Act 2004 Schedule 3 Part 3 and other various legislation
- Penalty Charge Notices for failure to provide Energy Performance Certificates the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007

Our fees and charges are calculated to ensure that cost to the Council for the officer time spent on a particular function or process is recovered. This includes

costs of officer salaries, pension, national insurance contributions and other costs such as rent for office space. Please note this is not an exhaustive list.

All charges must be calculated in line with the particular statutory provisions and where appropriate the European Union's Services Directive. Currently, this means that for licensed properties the cost of enforcing licensing under the Housing Act is not recovered.

There are rewards for compliance which can reduce a licence fee. These are explained into our licensing fee structure information, which can be found at [www.bristol.gov.uk/hmo](http://www.bristol.gov.uk/hmo).

There are exceptions to this method of calculating fees, for example for penalty charge notices for failure to provide an Energy Performance Certificate. These charges are set at £200, as per regulation 43 of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007.

Where charges are made and not paid on demand interest will be levied. We will also charge for the costs of recovering outstanding debts and may use powers to enforce the sale of property under Law of Property Act 1925 where appropriate.

*f) how to comment or complain about the service provided and routes to appeal.*

Guidance on how to comment or complain and routes to appeal can also be found in section 2 above.

*6.3. Information published to meet the requirements of this Code should be easily accessible, including being available at a single point on the regulator's website that is clearly signposted, and it should be kept up to date.*

This document is intended to demonstrate point by point our compliance with the Regulators' Code. Each section clearly explains how we endeavour to meet the requirements and provides links and contact details where necessary.

*6.4. Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.*

We train our officers on our Enforcement Policy and on the Regulators' Code. Officer's behaviour is also formally assessed annually to ensure they meet expected behaviour.

Decisions to take enforcement action are subject to scrutiny by senior officers to make sure they are in line with the Enforcement Policy and our checks and balances requirements.

*6.5. Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.*

We compare performance and customer satisfaction against different equalities groups, as well as many other factors. We will publish data about complaints and appeals and include information about prosecutions and other enforcement.

This will be published annually on [www.bristol.gov.uk/page/housing/private-housing-policies](http://www.bristol.gov.uk/page/housing/private-housing-policies).

## Details of the Code and how it applies

**The Legislative and Regulatory Reform Act 2006** is the Act that sets out what regulators must follow.

**Section 21 Principles** - any person exercising a regulatory function to which this section applies must carry them out in a way which is:

- (a) transparent, accountable, proportionate and consistent;**
- (b) targeted only at cases in which action is needed.**

**Section 22 Code of practice** - Any person exercising a regulatory function to which this section applies must, *have regard to the code in determining any general policy or principles except setting standards or giving guidance generally in relation to the exercise of other regulatory functions must have regard to the code*

Any regulatory function specified in the Order <sup>1</sup> is a function to which sections 21 and 22 of the Legislative and Regulatory Reform Act 2006 apply.

The requirements do not apply to any regulatory function exercisable by Order in Council, order, rules, regulations, scheme, warrant, byelaw or other subordinate instrument under a public general Act or local Act. BRDO advise that enforcement relating to setting Licensing standards, fees; granting, refusing, revoking licences, and compliance with them is not included, nor is taking action for not having a licence when one is required.

If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.

***Legislation Covered. – NB as a general non-binding principle Private Housing will work towards complying with the Regulators' Code for all our regulatory activity.***

- Public Health Act 1936
- Prevention of Damage by Pests Act 1949
- Anti-social Behaviour Act 2003
- Environmental Protection Act 1990
- Parts 1 to 4 of the Housing Act 2004<sup>2</sup>
  - Part 1 Enforcement of Housing Standards,
  - Part 2 Licensing of Houses in Multiple Occupation (HMO),
  - Part 3 Selective Licensing,
  - Part 4 Management Orders, Empty Dwelling Management Orders, and Overcrowding Notices.N.B. Part 7 excluded – i.e. HMO Management Regulations, Power to require Documents.

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<sup>1</sup> SI 2007 No. 3544 - The Legislative and Regulatory Reform (Regulatory Functions) Order 2007

<sup>2</sup> The Regulatory Enforcement and Sanctions Act 2008 (Amendment of Schedule 3) Order 2013