

NORTH LINCOLNSHIRE COUNCIL

**HIGHWAYS AND NEIGHBOURHOODS
CABINET MEMBER**

HOUSING ENFORCEMENT POLICY 2012

1. OBJECT AND KEY POINTS IN THIS REPORT

1.1 To agree the final version of the Housing Enforcement Policy.

1.2 The key points in this report are as follows:

- The new housing enforcement policy encompasses a number of changes in housing legislation and enforcement approach.
- The draft version agreed by Cabinet Member in October has been consulted on and the responses received taken into account in the new version.

2. BACKGROUND INFORMATION

2.1 A draft version of the Housing Enforcement Policy 2012, which is appended to this report, was approved by the Cabinet Member for Highways and Neighbourhoods in October 2011.

2.2 Following approval, both internal and external consultation took place.

2.3 Internally, comments were received from Legal and Democratic Services and Neighbourhood and Environment.

2.4 Landlords and agents were notified of the consultation via the council's website, housing benefits notification and email. The policy was available on the website as were the questions for the consultation.

2.5 In total only four responses were received, three from landlords and one from an agent.

2.6 Overall, the responses supported the general principles in the policy and the use of formal enforcement action in certain situations, such as the imminent risk to the occupants from hazardous conditions at the property or where a landlord or agent have agreed to carry out works informally but then fail to comply.

3. OPTIONS FOR CONSIDERATION

3.1 To approve the final version of the Enforcement Policy.

4. ANALYSIS OF OPTIONS

4.1 This report is requesting agreement to implement the final version of the Housing Enforcement Policy following consultation.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 There are no additional resource implications arising from this report.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 An Integrated Impact Assessment has been carried out with regards to the draft proposal to revise the Housing Enforcement Policy dated 30 September 2011. This assessment remains valid for this report. It highlights impacts in the following areas:-

6.1.1 Health

The policy impacts positively on health. The impact of poor housing is well documented. This policy will ensure a consistent approach to housing enforcement and where conditions are poor, impacting on health, enforcement action will result.

6.1.2 Distributional

Local landlords, as well as national ones, will be subject to the contents of this policy and the approach used. For those landlords that are professional and competent, this policy will support them but for those who are renting out properties impacting on the health of their occupants, there could be monetary consequences as a result of formal action.

6.1.3 Economical and Social Inclusion

The policy relates to housing enforcement and the most deprived or vulnerable tend to live in the poorest housing. The enforcement policy aims to target these properties, with formal action if necessary and with the aim of improving health through the improved conditions.

6.1.4 Statutory Legal Processes

The policy is a guidance document for the officers currently working in housing standards and enforcing the legislation. There are no additional cost implications for the council related to the adoption of this policy.

6.1.5 Risk

The main risk for the council is either having a housing enforcement policy that is out of date or not having one at all.

6.2 A record of the integrated impact assessment is available.

7. **OUTCOMES OF CONSULTATION**

7.1 Consultation has taken place with both internal and external stakeholders through meetings and use of the Council's website and email systems. The outcome of the consultation has been reported earlier.

8. **RECOMMENDATION**

8.1 To agree the adoption of the new Housing Enforcement Policy 2012 (appendix 1).

DIRECTOR OF NEIGHBOURHOOD & ENVIRONMENTAL SERVICES

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Background Papers used in the preparation of this report

- None.

Private Sector Housing Enforcement Policy 2012

Definitions

The following definitions are to be used throughout this document;

Dwelling

Any reference in this policy to residential premises, dwelling, property or HMO includes any form of accommodation which is used for human habitation, or is intended or available for such use. It includes a house, flat, maisonette, apartments and bedsits.

Included as part of the dwelling are any paths, yards, gardens and outbuildings that are associated or for use with, or give access to that dwelling, whether or not they are for exclusive use of that dwelling or shared with other dwellings.

It also includes any right of way, easement and common or shared parts or services necessary for the occupation and use of the dwelling, for example non adopted footpaths, drives, drains or sewers.

House in Multiple Occupation (HMO)

A HMO is a building or part of a building that is occupied by 2 or more persons as their main residence, who belong to more than one family and share one or more basic amenity, such as a bathroom, toilet or cooking facilities. For further clarification see the Housing Act 2004.

Landlord

A person, company or partnership who is usually the freeholder or leaseholder and rents out all or part of a property.

Manager

As defined by section 263(3) of the Housing Act 2004.

Occupier/resident

The person, or persons actually living in the property as their only or main residence. This could be a tenant or an owner occupier and includes residents such as students and migrant workers.

Owner

The freeholder or leaseholder of a property. This could be a landlord or an owner occupier.

Owner occupier

The freeholder or leaseholder, who resides in all or part of the property as their main residency,

Residential Property Tribunal (RPT)

The RPT has been set up by statute to determine disputes which would otherwise be decided by courts. They are independent decision making bodies which have no links with the parties appearing before them. RPTs make decisions on applications under the Housing Act 2004 and demolition notices under the Housing Act 1985. The RPT's decisions are not legally binding on each other.

Tenant

A person, or persons, who have exclusive possession for a fixed or periodic term in return for paying rent,

1.0 The Council's Objectives

- 1.1 This policy will assist the Council in delivering its vision for housing in North Lincolnshire, which is that 'everyone lives in warm, safe and affordable homes in sustainable communities'. This vision is set out in the North Lincolnshire Strategic Housing Implementation Plan (SHIP), which guides the Council's delivery of the wider vision and priorities for housing in North Lincolnshire

The SHIP sets out the housing priorities for North Lincolnshire for 2010-13 and how they will be achieved. A number of supporting strategies and plans currently

sit beneath this and help to support the delivery of the SHIP, including the Private Sector Housing Strategy. We are now working to prepare an integrated housing strategy which will replace the existing SHIP and all of the related sub-strategies with a single document which is more focused on delivering high quality outcomes for local communities, and provides the flexibility for us to adapt to changing circumstances and external pressures.

- 1.2 The Council will use all available legislation to ensure that the private housing stock within North Lincolnshire is safe, warm, well maintained, in good repair, not overcrowded and is not a statutory nuisance.

2.0 Scope

- 2.1 This policy covers the way in which the Council will deal with homes that are failing to meet acceptable standards, which affect the health and safety of occupiers, visitors, the public and empty properties.
- 2.2 The following issues are of particular importance as they present a significant threat to the health and safety of occupiers, visitors and the public:-
 - a) Cold and damp homes.
 - b) Falls
 - c) Fire safety.
 - d) Gas safety.
 - e) Electrical safety.
 - f) Flames and hot surfaces

This list is not in any particular order of priority nor is it exhaustive

- 2.3 The Council supports responsible landlords who are prepared to commit themselves to managing and maintaining their properties in accordance with acceptable standards. It does this through supporting a range of schemes including North Lincolnshire Council's Landlord Accreditation Scheme.

3.0 Purpose

- 3.1 The purpose of this policy is to set out the way in which the Council will respond to service requests in relation to enforcing housing standards and the actions that it will take to secure housing improvements. It also details the range of proactive and statutory actions to improve housing standards that are available and what factors affect when and how these will be used.
- 3.2 The extent of enforcement will be related to the risk posed by the condition or situation and the likely benefits achieved by compliance.
- 3.3 The Council will take a consistent approach in similar circumstances. Enforcement action will be taken in a consistent manner across tenure and different house types throughout North Lincolnshire taking account of the factors detailed in 5.5.3.
- 3.4 Whilst dealing with statutory obligations across North Lincolnshire, the Council will direct enforcement activity to all housing, but pay particular attention to properties at risk of decline or neglect by owners. We will also direct enforcement activity to landlords and agents who consistently fail to maintain or manage their properties to an acceptable and competent level.
- 3.5 The Council will help all landlords, tenants, owners and agents to understand their rights and obligations.
- 3.6 The Council will initially act informally in most cases. Exceptions to this are where previous involvement with the person responsible has not resulted in work being carried out as agreed or within an agreed timescale, where informal action previously has usually resulted in formal action or when there is an imminent risk to the health or safety of any person affected by the housing conditions.
- 3.7 We will actively work with landlords to promote good practice through the use of a range of different methods such as forums, workshops, seminars and the internet.

4.0 Accreditation for landlords in the private rented sector

4.1 Whilst this policy is fundamentally about enforcement, this is normally a last resort. The council is committed to working in partnership with responsible landlords who engage with the council. We will provide them with the information, advice and the training they need in order to provide safe and well managed accommodation.

4.2 One of the benefits for accredited landlords is that the Housing Standards team will not, on receipt of a service request, immediately carry out a full inspection of the dwelling but refer the request directly to the accredited landlord so that they can respond in the first instance. Only if the tenant is not satisfied with the landlord's response will the council then visit the dwelling. In the first instance the Housing Standards team will always respond informally to accredited landlords unless there is an imminent risk of serious harm to the health and safety of any person affected by the defect or the landlord can not be contacted.

5.0 Inspection

5.1 Right of entry

5.1.1 Under section 239 of the Housing Act 2004, authorised officers have the right to enter any housing accommodation if a complaint has been received and they are invited into the premises by the occupier. Authorised officers also have the right to enter and inspect properties where they wish to carry out an inspection or a revisit to determine housing conditions or whether notices have been complied with. When an inspection is to be carried out which may result in enforcement action, 24 hours notice will be given to the owner (where known) and occupier (if any). This notification requirement is waived where there is imminent risk of serious harm or where the owner and or occupier cannot be found. Information obtained through inspections carried out without giving the appropriate notice may not be used for enforcement action.

- 5.1.2 No notice is required where the authority wish to determine if there are any offences committed in relation to licensing, or compliance with HMO Management Regulations 2006.
- 5.1.3 If, after appropriate notice, access is denied or cannot be gained, an officer will apply to a magistrate for a warrant. If granted this allows entry by force if necessary. Obstructing access is an offence.
- 5.1.4 Accredited landlords are expected to cooperate with officers and provide access arrangements to dwellings on request.
- 5.1.5 Under the Environmental Protection Act 1990 powers of entry are contained in Schedule 3. Paragraph 2 of Schedule 3 gives an authorised officer power to enter any premises at any reasonable time to ascertain whether a statutory nuisance exists or to do works in default in the event that they are not carried out by the owner. If it is a residential property, 24 hours notice must be given to the occupier unless it is an emergency.

If admission is refused, refusal is expected, the property is unoccupied or it is an emergency, a warrant may be obtained from the magistrates' court.

- 5.1.6 Under section 95 of the Building Act 1984 and the Public Health Acts 1936 and 1961 authorised officers have the right to enter residential premises at any reasonable time, provided 24 hours notice has been given to the occupier, for the purpose of performing any of the their functions under these Acts. Warrants may be obtained in the same circumstances as under the Environmental Protection Act1990 (para 5.1.5)

5.2 Purpose of inspections

- 5.2.1 The underlying purpose of inspection is to ensure that the property complies with the Housing Act 2004 and all other legislation including the Decent Homes Standard.

- 5.2.2 Inspections are to determine whether amongst other things, a statutory nuisance exists, whether any hazards exist as defined by the Housing Health and Safety Rating System (HHSRS), whether properties should be subject to licensing or if licensing conditions are being breached and in general to ensure properties comply with other housing legislation. In addition inspections are used to determine whether properties meet the Decent Homes Standard.
- 5.2.3 Inspections will normally involve the whole dwelling and in some cases will involve neighbouring dwellings where these are affected by conditions in the first dwelling or in the case of HMOs where, for example, fire in one dwelling could affect others in the same building.
- 5.2.4 Details of the DHS and the HHSRS are available from the Housing Standards Team, Church Square House, PO Box 42, Scunthorpe, DN15 6XQ or the Council's website at www.northlincs.gov.uk.

5.3 Occurrence of inspections

- 5.3.1 Inspections will be carried out as a result of a complaint/service request or as part of a programme of inspections, which may be either as a result of specific types of premises being inspected such as HMOs or as part of area action. Area action may be either formal, such as a renewal area or clearance area, an area designated for additional or selective licensing or informal action which targets a specific area that the council wishes to improve. On relation to inspections, we will inspect properties belonging to specific landlords who have consistently failed to manage or maintain their properties to an acceptable level.
- 5.3.2 HMOs covered by licensing will be inspected at least once during the first period of licensing. The frequency of subsequent inspections following the first renewal of a licence is under consideration. Any decisions to change the frequency of inspections (increase or decrease) will be based on recent data regarding compliance with licensing conditions and the current survey work being undertaken.

5.3.3. Other HMOs will be inspected at frequencies determined by a risk assessment which is based on the potential risk to occupiers, visitors or the public posed by the premises and the record of management. There will be an ongoing programme of HMO inspections which, in addition to identifying defects and hazards, will also obtain information about the management of HMOs. This will be used to help determine whether any further initiatives are needed to ensure HMOs are being effectively maintained and managed in accordance with management regulations, in appropriate legislation and with respect to HHSRS.

5.4 The inspection

- a) Officers will show identification.
- b) Officers will treat all customers courteously.
- c) Officers will notify the owner/occupier and if appropriate agent of the complaint
- d) The owner, occupier (or agent) will be invited to attend with the officer, unless there is an imminent risk of serious harm to the occupants
- e) Officers will discuss the inspection findings with owners, occupiers and where appropriate third parties and provide advice and guidance.
- f) Officers will produce a written report of the inspection including details of any action necessary to comply with the law and any recommendations. Owners will be provided with a copy of this.
- g) Informal timescales can be agreed where the owner, occupier or agent is willing to co-operate
- h) Officers will agree a reasonable timescale for any necessary works to be carried out. Where conditions are prejudicial to health of the occupiers or where there is an imminent risk of serious harm to any person affected by the housing conditions immediate action may be required.
- i) Officers will keep owners, occupiers and relevant third parties informed of any follow –up action.
- j) Where the timescales are not adhered to, formal action will be taken and any reasonable costs incurred will be charged to the owner or occupier at an hourly rate

- k) Owners, occupiers and where appropriate agent will be given the opportunity to discuss any relevant circumstances before any formal action is taken, unless immediate action is required and they cannot be contacted.
- l) Owners and occupiers will be notified in writing of any rights of appeal against formal action at the time it is taken.

5.5 Powers and Action

5.5.1 Officers can inspect and survey the entire premises, take samples and use equipment to take measurements and photographs where appropriate.

5.5.2 There are a number of actions officers may take and these will depend on the circumstances of the case.

- a) **Take no action** – Where premises are found to be satisfactory. Where appropriate this will be confirmed in writing.
- b) **Take informal action** - Informal action will normally be the first course of action following the inspection unless one or more of the factors referred to in Paragraph (c) apply.
- c) **Take formal enforcement action** – This action will normally be taken where there is an imminent risk of serious harm or the conditions are injurious to health (where statutory nuisance is involved).

6. Informal Action

6.1 This may include

- a) Offering advice
- b) Making recommendations verbally or in a letter
- c) Making written requests for action. These will include a letter, schedule and pro-forma requesting timescales for the start and completion of any works
- d) Discussing options with owners

- e) Removing accreditation status.

This list is not in any particular order of priority nor is it exhaustive.

6.2 The situations where informal action may be appropriate include:-

- a) Where previous informal action has resulted in compliance
- b) Where landlords are accredited
- c) Where the hazard is not serious and non compliance will not pose a significant risk to occupiers, visitors or the public or the offence is of a minor technical nature
- d) Where informal action is likely to be more effective than formal action.

This list is not in any particular order of priority nor is it exhaustive.

6.3 In any written communication, it will be made explicit which actions or works may be required by law and which are recommendations of good practice.

The legislation contravened or applicable to the issue will be referred to in the communication and will make it clear what action is required and the timescales for completing the works. Details of hazard assessments will be sent on request.

Where informal action is not successful formal action may be taken

7. **Formal Actions**

7.1 The factors influencing the decision to take formal action include the following:

- a) Any history of non compliance by the owner
- b) Where conditions are prejudicial to health
- c) Where there is an imminent risk of serious harm
- d) Where a licence condition has been breached
- e) Where informal action has not been successful
- f) The views of other agencies such as the Fire Authority
- g) The occupier's opinion
- h) The existence of multiple hazards.

This list is not exclusive and the council will take into account any other issues that it considers are relevant in determining whether to take formal action

7.2 In the case of hazards determined under the Housing Health and Safety Rating System (HHSRS)

The HHSRS uses judgements made by the inspector, based on an inspection of the whole dwelling to generate a numerical hazard score. The hazard score range is split into ten hazard bands from Band A to Band J, with Band J being the safest and Band A being the most dangerous. Band A – C are Category 1 hazards and Band D – J are category 2 hazards.

The council have a statutory duty to act in the case of Category 1 hazards and a power to act in the case of Category 2 hazards. The following options are available under the Housing Act 2004:-

7.2.1 Serve a Hazard Awareness Notice (HAN) under section 28.

This type of notice may be used for minor low scoring category 2 hazards. It may also be used to notify owner occupiers about more serious hazards.

7.2.2 Serve an Improvement Notice under section 11 or 12.

This action will be the normal action taken in most cases where repair or improvement is the most appropriate course of action and there are category 1 hazards and significant category 2 hazards. Careful consideration will be taken of the occupier's views and an owner's previous history in maintaining properties. Where action in relation to the fire hazard involves a HMO or the common parts of flats, the council will consult with the Fire Authority. In general a band D or E hazard would be considered a significant category 2 hazard.

7.2.3 Serve a Suspended Improvement Notice under section 14

Before suspending an improvement notice, careful consideration will be given to all the circumstances including the occupier's views. Improvement notices will not

normally be suspended unless the occupiers do not want the upheaval of certain works, there are other special circumstances or the property is empty.

7.2.4 Make a Prohibition Order under sections 20 and 21.

This action will be taken to prohibit the occupation of all or part of a building by a certain class of person by reason of age or to prohibit the use of a part of the building by all persons or a class of persons by reason of age. This action will be taken where there is a category 1 hazard and when the cost of remedying the defect is excessive or it is not reasonably practicable without compromising the use of other parts of the building to carry out works. This course of action may be taken where there is serious overcrowding

7.2.5 Make a Suspended Prohibition Order under section 23

Where a person who is not particularly vulnerable to a hazard is in occupation, the order may be suspended until such time as a vulnerable person occupies the property. However in most cases notices will not be suspended as the turn over of rented properties means that in many cases there could be a change in tenancy within 12 months. Where the order is in relation to overcrowding the notice may be suspended until the current occupation changes. (See notes on overcrowding).

7.2.6 Take Emergency Remedial Action under section 40

This action will only be taken where there is an imminent risk of serious harm and a Category 1 hazard. The Council will arrange for the hazard to be reduced at the earliest opportunity. The officer will attempt to contact the owner first before taking such action but if they are unable to act immediately or cannot be contacted, action will be taken.

7.2.7 Make an Emergency Prohibition Order under section 43

Where there is a category 1 hazard and an imminent risk of serious harm although it is not practicable or too costly to carry out urgent work, this action may be taken which will have the effect of preventing the use of part or all of the premises in relation to all or a certain class of persons. This is a serious step and careful consideration will be given to it because it requires immediate vacation of the property by the occupiers.

7.2.8 Making a Demolition Order under section 265(Housing Act 1985 as amended by section 46 Housing Act 2004)

This action will be taken when it is considered to be the most appropriate course of action. This is usually when there are one or more serious category 1 hazards and the property is usually detached, there is a building line separating it from other properties or adjacent properties can be made stable and weatherproof or can readily be made so. Consideration would be given to the location of the property, as to whether it is in a potentially unsustainable area or it is causing severe problems to the amenity of the neighbourhood and repair would be very costly. The property will not be listed or of other historical interest.

7.2.9 Declaring a Clearance Area under section 289 (Housing Act 1985 as amended by section 47 Housing Act 2004)

This action will be considered where similar circumstances to those for determining if a demolition order exist but where it is necessary for the council to acquire the land either for its own purposes or to sell on for either new build or other purposes favoured by the majority of persons affected. Area community views will be relevant to any decision to declare a clearance area. This action will be followed by seeking a compulsory purchase order or voluntary acquisition. The action also requires cabinet approval.

7.3 In determining which of the above courses of action to take the council may consider:-

- a) the current occupiers, if any, and their views as to what should happen
- b) likely regular visitors
- c) the turnover of tenancies
- d) the risk of excluding vulnerable groups of people from the private rented sector
- e) the size, type and location of the property

- f) the sustainability of an area – if it has been identified for potential demolition within an area as part of local regeneration (see para 7.7)
- g) The views of the owner(s)
- h) In the case of demolition or clearance the views of local residents, businesses and councillors will also be considered.
- i) Views of third parties with an interest in the property

This list is not in any particular order of priority nor is it exhaustive.

7.4 Suspended notices will be reviewed at least annually.

7.5 The council will consider requests to vary or revoke an improvement notice or a prohibition order and in doing so will take into account the following factors but not exclusively

- a) the views of the recipients of the notice or order
- b) the views of the Fire Authority, where appropriate
- c) the risk presented by the hazard and the potential effect of any variation
- d) the level of confidence in the recipient to respond and their past history of compliance or otherwise.
- e) the progress made with any other work specified in the notice or order
- f) the costs of any works in relation to the benefit to be derived from them

- g) any additional unforeseen works which become apparent during the course of remedial works
- h) The views of third parties

This list is not in any particular order of priority nor is it exhaustive.

- 7.6 If the council consider that there are special circumstances in relation to a Prohibition Order or an Improvement Notice it may revoke the order or notice.
- 7.7 If a property has been identified for potential demolition as part of local regeneration, the following considerations will be made:

That works required to reduce a hazard may be of a less extensive or temporary nature. The quality of work should not in itself present additional hazards or be likely to cause a failure which could cause harm to health. The visual quality of the work will be less important than the functional nature of the works

Occupiers should not be left with significant hazards, which are likely to result in harm if they stay in the property for the likely remainder of the property's life or to be left in conditions which would amount to a statutory nuisance.

The length of time before the anticipated date of acquisition for demolition will be considered.

8.0 Licensing

In certain circumstances a property may require to be licensed. Those controlling or managing a dwelling which is required to be licensed under either Part 2 or 3 of the Housing Act 2004 needs to apply to the Council for a licence.

- 8.1 We are responsible for issuing, refusing, revoking or varying a licence for an HMO or for any dwelling subject to selective licensing.

- 8.2 Decisions in relation to licensing applications will be based on the information supplied with the application, the known past record of the proposed licence holder and manager and any further information gathered from enquiries made to check the validity of the information submitted with the application.
- 8.3 In most cases licences will be granted with standard conditions together with any works required to ensure the property meets the amenity standards adopted by the council. Where the council have concerns about the ability of a licence holder or manager to discharge their duties under licensing, further enquiries may be made such as Criminal Record Bureau checks. Licences will normally be issued for a 5 year period. Where the council have concerns about the ability of a manager or licence holder to effectively manage the property they may issue a licence for a shorter period and then renew if the property remains well managed. Licences may be revoked if the licence scheme is terminated or the licence holder informs the council that the property is no longer licensable. In some cases licences will be refused if the council consider that the applicant is not able to effectively manage the property or if there is little prospect of the property being brought up to a reasonable standard. In such cases an Interim Management Order will be made.
- 8.4 Applicants have the right of appeal to the residential property tribunal against any refusal to grant a licence
- 8.5 Any decision to revoke a licence will be based on all relevant matters which were taken into account in granting the licence in the first place and any change that have occurred since the licence was granted.
- 8.6 The Housing Standards Team enforce the statutory requirements relating to mandatory HMO licensing.
- 8.7 The local authority or tenant can also apply to the RPT for a Rent Repayment Order (RPO) in respect of an unlicensed HMO or house which is required to be licensed and is not. The occupier can apply for a rent repayment order to cover rent that they have actually paid during the period the premises was not licensed and meant to be and the local authority can make an application to reclaim housing benefit paid out

on an unlicensed premises which was required to be licensed. For further information see section 73 and 74 in Part 2 and sections 95 and 96 of the Housing Act 2004.

9.0 Other actions under the Housing Act 2004

9.1 Management Orders (MO)

- 9.1.1 Part 4 of the Housing Act 2004 contains the mechanism which allows the Council in particular circumstances to apply for a MO. There are a number of types of MO's which fall under the Housing Act 2004. Their use is prescribed in the Act. The result of a MO is that the council will take over the management of the property either directly itself or through an agent such as a registered social landlord or an accredited landlord or agent.
- 9.1.2 There are two forms of management order: an interim MO which last for a maximum of 12 months, and a final MO which can last for up to 5 years.
- 9.1.3 Where a property is subject to licensing but there are no reasonable prospects of it being licensed in the near future or a management order is necessary to protect the health, safety and welfare of persons affected by the condition of the property, the council must make a MO. A threat to evict persons occupying a house to avoid licensing may be regarded as a threat to the welfare of those persons. There are other prescribed circumstances which require the council to make a MO.
- 9.1.4 The council may apply to a RPT for a MO for an HMO not subject to licensing where it is considered necessary to protect the health, safety and welfare of persons affected by the conditions.
- 9.1.5 The council may apply to a RPT for a Special Management Order where an area is affected by anti social behaviour that is partly or wholly the result of actions by the occupiers or visitors to the property. In addition to this, the landlord has also failed to take action that it would be appropriate for him to take to reduce the problem.

9.1.6 In a similar way the council may apply to a RPT for an Empty Dwelling Management Order in respect of a vacant property that has been empty for at least 2 years and the council have tried all other means to ensure compliance.

9.2 Enforcement of overcrowding provisions

9.2.1 In dealing with overcrowding, the council may use the provisions of Part 1 of the Housing Act 2004 in relation to the hazard of crowding and space. In the case of HMOs there is an option to use either the HHSRS provisions or licence conditions when appropriate. In the case of HMOs which are not required to be licensed, Overcrowding Notices as described in sections 139 and 140 of the Housing Act 2004 can be used. Actions will try to avoid the need for residents to be accommodated in bed and breakfast accommodation but where there is serious overcrowding; action will be taken to protect the health and safety of residents.

9.3 The Management of Houses in Multiple Occupation (England) Regulations 2006.

9.3.1 These regulations impose duties on managers in relation to all HMOs. There is no notice procedure to enforce these regulations and it is an offence to contravene these regulations. In most circumstances the council will, following an inspection, send an informal schedule to the manager detailing any contraventions with a timescale for completion. If the contraventions are not dealt with effectively the council may consider prosecution.

10. Environmental Protection Act 1990

Where conditions are prejudicial to health or causing a nuisance, a notice under section 80 may be served. This action will be taken where defects or conditions affect the occupant or where one property is affecting another property or the general public. Where conditions are prejudicial to health of either the occupiers or others affected by the conditions of residential premises, this power may be used in preference to the Housing Act 2004. This is a statutory duty.

11. Other statutory provisions

There are a number of other statutes which give powers to local authorities for a range of different issues and these will be used where appropriate.

12. Prosecution and formal caution

12.1 Prosecution is an enforcement power which be used where appropriate.

12.2 The circumstances where a prosecution may be taken and the factors considered when determining whether to proceed are as follows:

- a) Failure to licence a property when the person required to apply for a licence is aware or should have been aware of the requirements to licence.
- b) Where there is wilful failure to comply with statutory notices or orders,
- c) Where financial benefit is gained by those breaking the law
- d) Where there is a serious disregard for the health and safety of persons affected
- e) Where there are repeated breaches of legal requirements in a particular premises or in a number of premises owned or managed by the same person or organisation.
- f) There has been a serious incident resulting from a legal contravention
- g) Where there is a risk of serious harm to the public resulting from a legal contravention
- h) Where it is in the public interest to test the interpretation of a particular piece of legislation
- i) Where officers have been intentionally obstructed in the lawful course of their duties.
- j) Where officers are assaulted the council will seek prosecution of offenders.
- k) Where false information has been supplied, or where there has been an intention to deceive
- l) Exceptionally where, having considered all the circumstances it is considered reasonable to do so because there are other particular circumstances not covered by any of the above.

This list is not in any particular order of priority nor is it exhaustive.

- 12.3 Any decision taken to prosecute will have regard to the guidance contained in the Code for Crown Prosecutors.
- 12.4 A prosecution will be brought following a recommendation by a senior manager within the Housing Standards Team supported by appropriate legal advice.
- 12.5 Formal cautions may be used in appropriate cases.

13.0 Works in Default

When there is a failure to fully comply with the requirements of a statutory notice that requires works to be carried out, then arrangements will be made to carry out works in default and the costs in carrying out the works will be recovered for the owner.

14.0 What to do if you do not agree with the action taken

- 14.1 If you do not agree with the action being taken you may contact the officer stating why you do not agree and what alternative action you propose. If you still cannot agree with the officer and formal action is taken, you may appeal. In most cases this is to the Residential Property Tribunal; however details of where to appeal in appropriate circumstances and in what time scale are enclosed with all statutory notices.
- 14.2 You may complain to management in accordance with North Lincolnshire Council's complaints procedure.

15.0 Charging for notices

- 15.1 A financial charge will be made for the service of all Housing Act notices and the making of prohibition orders other than hazard awareness notices and the renewal of suspended notices. Charges are based on the full cost to the council of taking the action including inspection, preparation and service of the notices. Any action to

recover costs and expenses will be in accordance with the requirements of the relevant Acts.

15.2 Charges for licensing will also be made and the fee scales are available from the Housing Standards Team, Church Square House, Scunthorpe, DN15 6NL. These charges will reflect the time to process the application, make enquiries and enter details on computer systems. Where the ownership, licence holder or management details change, a new application must be made for which there will be a charge. Charges will be reviewed on or around the 1st April 2012 and annually thereafter.

16.0 Empty Properties

16.1 The Housing Standards Team will deal with statutory nuisances, health and safety and reoccupation of empty properties. The following actions can be used to deal with empty properties.

- Informal action and advice
- Formal action through the service of statutory notices. Action to address statutory nuisance can be taken using the powers in the Environment Protection Act 1990 as well as using the powers in the Housing Act 2004 to address Category 1 and 2 hazards. This includes taking remedial action to address an imminent risk of serious harm. The Town and Country Planning Act 1990 also enables enforcement action where the property is seriously detrimental to the amenity of the area.
- Voluntary acquisition for subsequent resale or demolition
- Demolition orders
- Compulsory Purchase, Enforced sale (there has to be an outstanding monetary charge on the property owed to the council) and Empty Dwelling Management Orders (EDMO).

17.0 Implementation

- 17.1 This policy will be supported by written operational procedures that will be reviewed and updated regularly having regard to local circumstances and any national guidance. These will normally be publicly available.
- 17.2 Enforcement will only be carried out by suitably qualified, competent and experienced officers and all non standard correspondence, notices and orders will be checked by a senior officer before being issued.
- 17.3 Officers of the Housing Standards team will observe the highest standards of professional integrity and probity at all times. We will discharge our duties with honesty and respect for all sections of the community

18.0 Standards and Customer Promises

- 18.1 The Housing Standards team have service standards as follows
- a) Endeavour to respond to service requests within 2 working days.
 - b) To undertake an annual programme of property inspections in accordance with our service plan and statutory duties.
 - c) To undertake our enforcement responsibilities in an open, fair and consistent manner in accordance with our enforcement policy.
 - d) Ensure that our services are accessible to everyone. We will treat you fairly on the basis of need and equality of access to services. We will not discriminate against you on the basis of age, gender, race, religion, culture, disability or sexual orientation.
 - e) Keep customers informed of the progress of their enquiry and to achieve overall satisfaction with services received.

- f) Be helpful, courteous and efficient.
- g) Welcome your views, experiences and ideas as customers and we will build these into planning and providing services.
- h) Take complaints about our service seriously. We will seek to resolve all disputes fairly and promptly. Where this is not possible, we will explain how to make a formal complaint through the Council's Corporate Complaints procedure.
- i) Endeavour to respond to your letters within 10 working days of receipt.
- j) Publish how well we live up to our promises.
- k) Improve our performance continually against key performance indicators.

19.0 Review

- 19.1 This policy will be reviewed annually or when there are any significant changes in national legislation or local or national circumstances that would necessitate a review.
- 19.2 Any changes will be discussed with service users, other Council departments and partner organisations.

20.0 Links to other policies, strategies and Council Documents

This policy also links into:

- a) The Housing Strategy
- b) The Community Strategy
- c) Private Housing Strategy

The policy works in conjunction with:

- d) The Empty Property Policy
- e) The Home Assistance Policy
- f) The Affordable Warmth Assistance Policy

This list is not exhaustive.

21.0 Advice and Information

- 21.1 Although this document is about our enforcement policy, the Housing Standards team is committed to working in partnership with responsible landlords and to providing the best advice and information to enable them to manage their properties in a professional manner and to appropriate housing standards.
- 21.2 There are a number of documents available to assist landlords which can be accessed on the council's website. These include:-
- a) Guide to letting your home
 - b) Letting rooms in your home, a guide to resident landlords
 - c) HHSRS Enforcement Guidance
- 21.3 There are also links to other organisations where further information and help may be obtained.
- 21.4 You can contact the team through the call centre on 01724 297000 for further help and advice, if you wish to become an accredited landlord or need a license for a HMO.

Housing Standards
Church Square House
Scunthorpe
North Lincolnshire

DN15 6NL

Fax 01724 297896

Tel. 01724 297000

housing@northlincs.gov.uk

22.0 Referencies

22.1 Legislation

- a) Housing Acts 1985, 1996, 1988 and 2004
- b) Environmental Protection Act 1990
- c) Local Government(Miscellaneous Provisions) Acts 1976 and 1982
- d) Housing, Grants, Construction and Regeneration Act 1996
- e) Local Government and Housing Act 1989
- f) Building Act 1984
- g) Public Health Acts 1936 and 1961
- h) Town and Country Planning Act 1990
- i) Protection from Eviction Act 1977

22.2 Regulations and Orders

- a) The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) 2006
- b) The Management of HMO (England) Regulations 2006

- c) The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- d) The Housing (Interim Management Orders) (Prescribed Circumstances) (England) Order 2006
- e) The Housing Act 2004 (Commencement No. 5 and Transitional provisions and Savings) (England) Order 2006
- f) The Housing Health and Safety Rating System (England) Regulations 2006
- g) Regulatory Reform (Housing Assistance) (England and Wales) Order 2002

22.3 Circulars and Guidance

- a) Housing Act 2004 Part 1 House Conditions: Enforcement Guidance
- b) HHSRS Operating Guidance
- c) LACORS guidance
 - a. Crowding and Space
 - b. Fire safety

January 2012.