

Wirral Council

Housing Standards Enforcement Policy Statement 2019

What to expect from the Council's Housing Standards Team.

1.0 Introduction

- 1.1 This Policy Statement applies to both occupied and vacant privately owned houses that suffer from problems which need action by the Council to resolve.
- 1.2 The Housing Standards Team seeks to raise standards in the privately owned housing stock, including bringing back into use empty properties and promote good relationships with businesses, local communities and property owners.
- 1.3 We believe that the vast majority of property owners want to co-operate with the Council and comply with any legal obligations. However, where the law is broken, enforcement action may be needed to protect the health and safety and wellbeing of any occupants, members of the public and the local environment.
- 1.4 This Policy Statement summarises the action that the Housing Standards Team can take and it should be read in conjunction with Wirral Council's Enforcement Policy, a copy of which can be found using internet link:

<https://www.wirral.gov.uk/sites/default/files/all/environmental%20problems/Approve%20Enforcement%20Policy%20-%202014%20%28Amended%202016%29.pdf>

2.0 General

- A commitment is given to explaining any breaches of legislation and the reasons for advice given, actions required and any decisions taken.
- There will always be an opportunity to discuss the case at all stages throughout any enforcement process.
- Details will always be provided about who is responsible for managing your case. There will be no conflict of interest with the officer(s) involved
- All communications will be by the most appropriate means and those involved will be treated fairly and with respect
- Information will be held in accordance with legal requirements and will be shared with other enforcement agencies should this be considered necessary
- If considered to be appropriate and to raise awareness of unlawful practices, certain cases may be publicised.
- Action taken will be appropriate to individual cases and those that deliberately fail to comply will be dealt with firmly.
- Where enforcement is being considered, notification will be sent, unless this could impede an investigation or pose a safety risk.
- Those involved in enforcement action will be kept up to date on progress made during the enforcement process
- All investigations will be carried out lawfully.
- Any complaints will be dealt with under the Council's complaints policy

3.0 Enforcement action available

- 3.1 Should informal action, such as advice, guidance and support be deemed inappropriate or has been previously given but has been ineffective at resolving the problem, a range of enforcement powers are available as follows:
- 3.2 Improvement Notice: This requires either an owner, manager or licence holder, as the case maybe, to carry out certain works to remedy conditions. The notice will detail why the house has failed the legal standard(s), what has to be done to comply with the law and the timescales within which the works must be completed. In addition, the notice will provide information about how to appeal if you disagree with the action being taken.
- 3.3 Suspended Improvement Notice: Similar to the previous Improvement Notice however the action required is delayed until circumstances change. These circumstances are detailed in the notice.
- 3.4 Hazard Awareness Notice: This Notice advises either the owner, manager or licence holder, as the case maybe of the hazards that exist at the property, however, it does not require any action to be taken to remove or reduce the hazards.
- 3.5 Prohibition Order: This Order forbids the use of either a whole house or part of a house for human habitation until specific hazards are removed. These hazards are detailed in the Order as is the suggested work that would remove or reduce the hazards to an acceptable standard. The Order will provide information about how to appeal if you disagree with the action being taken.
- 3.6 Suspended Prohibition Order: Similar to the Prohibition Order, however, the action is suspended until circumstances change at some point in the future. For example this could include changes to property occupancy.
- 3.7 Emergency Remedial Action and Emergency Prohibition Order: These are only used when there is considered to be an immediate risk to health and safety and it would not be appropriate to use either Improvement Notice or Prohibition Orders.
- 3.8 Demolition Order: This requires a building to be demolished within a certain time scale, at an owners expense. The notice will provide information about how to appeal if the owner disagrees with the action being taken.
- 3.9 Clearance Area Declaration/Compulsory Purchase Order (CPO): This involves the Council buying houses for the purpose of demolition and is usually used as part of an area based regeneration initiative. Property acquisitions are often achieved by negotiation with individual owners, however, a CPO can be used should it not be possible to reach an agreement. Should it be necessary to serve a CPO, information about how to formally object will be made available.

4.0 Houses in multiple Occupation

- 4.1 Certain types of Houses in Multiple Occupation (HMO) are required to be licensed by the Council. The aim of licensing is to ensure that every licensable HMO is safe for the occupants and visitors and is properly managed. A licence will contain conditions and any breach of a licence condition could lead to a prosecution or the use of a financial penalty.
- 4.2 HMO's are also subject to specific regulations. The regulations cover the management and repair of the HMO. There is no requirement for a notice to be issued with these regulations and therefore if a decision is made to take action, a prosecution or civil penalty can be sought.

5.0 Selective Licensing

- 5.1 Wirral has declared a number of Selective Licensing Areas under the Housing Act 2004. Private landlords having properties in these areas have to have a licence to operate from the Council. As part of the license conditions, landlords need to show that they have undertaken basic safety checks that appropriate management arrangements in place, amongst other conditions.
- 5.2 It is a criminal offence to let a privately rented property in a Selective Licensing Area without a licence and failure to have a license, or a breach of the license conditions, can lead to prosecution and to an unlimited fine. Alternately, the Council can impose a Civil Penalty of up to £30,000.

6.0 Empty Properties

- 6.1 A range of additional legal powers are available to assist the Council in both responding to and deal with problems associated with empty properties. The most commonly used powers include:
- (a) The Building Act 1984**
 - i) Sections 77 and 78 powers to deal with dangerous or dilapidated buildings and insecure properties
 - ii) Section 79 powers to deal with the unsightly appearance of a building
 - (b) The Local Government (Miscellaneous Provisions) Act 1976**
Section 29 power to deal with insecure properties
 - (c) Public Health Act 1961**
Section 17 powers to deal with defective drains
 - (d) Prevention of Damage by Pests Act 1974**
Section 4 power to deal with vermin and harbourage
 - (e) The Town and Country Planning Act 1990**
Section 215 powers to deal with the condition of a building effecting the amenity of the neighbourhood
- 6.2 The above list of powers is not exhaustive.
- 6.3 Empty Property Management Orders can also be used to allow the Council to temporarily take control of a problematic empty property, if deemed necessary

7.0 Works in Default

- 7.1 Should an owner, manager or licence holder as the case maybe, not comply with the terms of an Improvement Notice or a Suspended Improvement Notice, the Council can undertake the works to the property. This is known as works in default. The costs of taking such action will be recovered from the owner and these will be more than if the owner has carried the work out, as the costs will include officer time to organise and oversee the work.
- 7.2 In certain circumstances the Council may consider the enforced sale of a property in order to recover any unpaid costs of undertaking default works. This is normally only considered in the case of long term empty properties with a history of ongoing complaints. An enforced sale policy is available upon request.
- 7.3 As well as the potential for the Council to undertake work in default, failure to comply with enforcement action may lead to one of the following further actions:

8.0 Simple Caution

- 8.1 This can be used where someone has admitted an offence but the Council believes that cautioning them is more appropriate than prosecution. This caution remains on record and would be mentioned in Court should there be any further offence at a later point in time.

9.0 Prosecution

- 9.1 Prosecution will be considered for serious or recurrent breaches of legislation or when enforcement action has failed. Prosecution will only be considered where there is sufficient evidence and it is in the public interest. A successful prosecution will result in a criminal record and a fine may be imposed by the court.

10.0 Fixed Penalty Charges/Civil Penalties (referred to as *civil penalty*)

- 10.1 In certain circumstances, when specific offences are committed, the Council can impose civil penalties as an alternative to prosecution. These charges can be up to £30,000 and can be in addition to undertaking works in default. A specific civil penalties policy is available upon request.

11.0 Rent Repayment Orders

- 11.1 When certain offences have been committed, the Council can apply for a Rent Repayment Order which, if approved, can compel a landlord to repay up to 12 month's rent. A policy on when the Council will use a Rent Repayment Order is available upon request.

12.0 Banning Orders and Rogue Landlord Database

- 12.1 If a banning order offence has been committed, the Council can apply for a banning order that, if granted, bans a landlord from letting a house(s). Breach of a banning order is a criminal offence. This will only be used for the most serious offenders. Upon granting a banning order the Council will register the details on a national

Rogue Landlord Database. The council may also include persons convicted of a banning order offence or who have received two or more financial penalties on the same database. Policies on the use of banning orders and the Rogue Landlord Database are available upon request.

13.0 Interim Management Orders and Final Management Orders

13.1 Under certain circumstances the Council has to, or can, use either an Interim or Final Management Order to take control of a rented property for between 1 and 5 years. During this period either the Council or its agent, effectively act as the landlord, which includes collecting the rent and undertaking essential repairs.

14.0 Who decides what enforcement action is taken?

14.1 A decision to take enforcement action will be based on the professional judgement of the case officer(s) involved, any relevant legal guidelines, codes of practice and priorities of the Council. Such a decision will involve consultation between the case office(s), Managers, Council solicitors/legal advisors and elected members if deemed appropriate.

15.0 When to prosecute or issue a civil penalty.

15.1 The Council will deal with each case on an individual basis and local policy is available to inform a decision on whether to prosecute or issue a civil penalty.

16.0 Charges for enforcement action

16.1 Enforcement action using powers under the Housing Act 2004 can result in the Council recovering its costs associated with taking this action. You will be advised of these costs as part of the enforcement process.

17.0 Comments or Complaints

17.1 If you would like to contact the Council regarding the application of this policy please use the contact details below. If you would like to make a formal complaint you need to make this clear at the point of contact.

Housing Standards Team
Delivery Services
Town Hall
Brighton Street
Wallasey
Merseyside
CH44 8ED

Telephone 0151 691 8132

Email privatesectorhousing@wirral.gov.uk

IF YOU WOULD LIKE THIS INFORMATION IN LARGE PRINT BRAILLE ON AUDIO TAPE OR IN ANOTHER LANGUAGE PLEASE USE TELEPHONE NUMBER 0151 6918114

It should be noted that housing law is complicated and this policy statement is for guidance only and is not intended as legal advice. If members of the public want more detailed or specific advice on legal matters it is recommended that they take their own legal advice.

A full copy of the Council's Enforcement Policy is available on request