

House Condition Enforcement Policy 2012

1 Introduction

1.1 Adequate housing, or the lack of it, affects many areas of peoples' lives. Health, education, employment opportunities and relationships are all influenced by the place we have to call home; but housing in this area is expensive and is also often in short supply. These factors mean that housing plays an important role in our individual affairs, but also that it has to be considered as an issue in both local and national affairs as well.

1.2 One of the Council's roles is to act as Housing Authority for its district and it has duties and responsibilities for housing conditions placed on it by the Government. These are set down in Acts of Parliament, Regulations and other Statutory Instruments. In some cases relevant national standards are set by Government and in others the Council is required to set its own local standards, taking into account guidance that is issued to it. The Council also has certain other powers it can choose whether or not to use.

Enforcement Duties

1.3 The Council has a number of enforcement duties (which include the following). It must take action to address:

- Category-1 hazards in residential premises (whether tenanted or owner-occupied) (see Housing Health and Safety Rating Scheme Policy).
- Property and circumstances that give rise to any statutory nuisance.
- Licensing of certain categories of Houses in Multiple Occupation (HMOs).

Enforcement Responsibilities

1.4 The Council is also given a range of discretionary (optional) powers and can, for example, can take action to deal with:

- Category-2 hazards in residential premises.
- Overcrowding.
- Unsatisfactory standards of management in all Houses in Multiple Occupation (whether licensed or not).
- Boarding up of abandoned premises
- Damage or possible damage by rodents
- Restoration of gas & electricity supplies

1.5 This Policy (which is a sub-policy of the *Housing (Private Sector) Policy*) sets out the Council's intent and its approach to housing enforcement issues. It is applicable to all of the Council's housing enforcement activities. (The separate *Housing Health & Safety Rating Scheme Policy* (HHSRS Policy) explains how certain enforcement decisions are made in connection with hazard-resolution for the purposes of the Part 1 of the Housing Act 2004, but the *House Condition Enforcement Policy* is still relevant.) This policy has been drafted to take account of guidance provided by the Government and, following consultation with other Oxfordshire authorities.

2 Statement of intent

2.1 The Council wants all homes in the district to be properly managed and maintained so that they are safe, healthy and can continue to be suitable homes into the future. We are determined to eliminate poor housing conditions. Where

necessary we will use the enforcement powers available to us to ensure that appropriate minimum standards are achieved without undue delay. However, we believe that enforcement alone is unlikely to achieve satisfactory or improving standards and so will assist home-owners to improve and maintain their property in accordance with the Council's *Grant and Assistance Policy*.

3 Procedures

3.1 Inspections and Visits

3.1.1 Council Officers will, wherever possible, seek to arrange visits and inspections at times to suit those concerned, but urgent matters may necessitate inspections without prior notice.

3.1.2 The Council will normally arrange inspections and re-inspections with owners, landlords and/or their agents but, in the case of complaints, will typically visit the complainant in the first instance to assess the facts of the case.

3.1.3 Any findings and conclusions will be confirmed in writing at the earliest opportunity in a clear and straightforward manner. The Council will accommodate at least one meeting with the landlord, home owner or their agent if requested, to discuss matters before taking further action, unless urgent action is judged necessary.

3.1.4 In the event that an inspection or visit cannot be agreed, the Council will seek a warrant of entry to the property where the law provides for this. In determining whether it is appropriate to seek a warrant of entry the Council will take into account all the circumstances of the case including the urgency or otherwise of the inspection and any previous experience of dealings with the particular owner or landlord.

3.2 Remedial Action

3.2.1 If the Council requires remedial action to be carried out following a visit, that will be put in writing and we will explain why it is necessary and when it must be done. If the Council considers it is necessary to serve a formal notice it will do that in accordance with its *HHSRS Policy* (where that applies) or the following sections of this policy.

3.2.2 In any notice, legal requirements will be clearly distinguished from any advice.

3.2.3 An informal approach will be applied where this is appropriate, but will typically only be possible in those cases where any shortcomings are judged by the Council to be of a relatively minor nature, where the relevant landlord, agent or owner has established a good track-record or has demonstrated a willingness and the ability to put matters right promptly.

3.2.4 In the event that an informal approach fails to bring about an appropriate response, for example if no response is received within a reasonable period of time taking into account the nature of the works required, works fail to start when agreed, fail to make proper progress or are completed to an inadequate standard, formal action will be taken.

3.2.5 Formal action will commence without prior notice:

- when the Council encounters serious shortcomings, or

- in cases where we are unable to establish ready contact with the relevant owner or agent, or
 - in cases where the landlord or owner has previously shown a disregard for their responsibilities or has committed persistent breaches of housing law.
- 3.2.6 We shall take account of factors such as those listed below when determining what deadlines to set for the commencement and completion of works or deadlines for compliance. Relevant factors may include:
- the nature of the works
 - any ill effects that are likely to result if the work is delayed
 - the duration of the problem and the point at which it has been reported to us
 - any prior knowledge on the landlord or agent's part
 - the nature of any attempts to remedy the problem.
- 3.2.7 The Council will take into account financial and other practical constraints that may affect landlords' and agents' ability to act, whilst recognising that these do not limit obligations or legal duties to achieve appropriate standards.
- 3.2.8 The Council will consider properly made written requests for the extension of deadlines where unforeseen problems have delayed works, but not simply to accommodate lack of sufficiently early action.
- 3.3 **Ensuring compliance: Prosecution and Work in Default**
- 3.3.1 The Council will monitor every notice it issues to ensure it is complied with. Where this requires that Officers carry out additional inspections to ensure compliance, inspections will be made in accordance with section 3.1 above.
- 3.3.2 Where a notice has been issued that requires work be carried out and has not been complied with in accordance with the timetable in the notice or as agreed in writing with the Council, the Council will undertake work-in-default and/or prosecution where it judges it appropriate to do so. In all such cases the Council will seek to recover all the eligible costs of undertaking such work in accordance with its *Recovery of Costs Policy*.
- 3.3.3 Prosecution will, in general, be reserved for those cases in which individuals have:
- blatantly disregarded the law, or
 - put others at serious risk, or
 - those instances in which there is either no alternative remedy (such as work-in-default), or
 - where the Council determines that it is not in a position to undertake work-in-default; or
 - where there is a history of similar offences.
- 3.3.4 In determining whether or not to prosecute, the Council will have regard to the Code for Crown Prosecutors.
- 3.3.5 In the event a prosecution is commenced the Council will seek the costs of the Prosecution from the defendant in the event of a guilty plea or a finding of guilt following a trial. Any exception from this must be agreed by the Chief Officer
- 3.3.6 We will confirm any decision to undertake work-in-default or prosecution in writing.

***Note:** Landlords are expected either to provide any agent acting for them with sufficient authority to act on their behalf in the event that they, the agent, is contacted by the Council; or to ensure that they maintain appropriate communication with their agent in order that appropriate decisions and responses can be provided to the Council. The failure of an agent to respond to communication from the Council, or any failure to act, will be treated as a failure by the landlord.*

4 The Principles of good enforcement

Cherwell District Council has adopted the Central & Local Government Concordat on Good Enforcement; by doing so we commit ourselves to the following policies and procedures:

- **Standards:** We will draw up clear standards setting out the level of service and performance that can be expected from us, and will publish both the standards and our annual performance against them.
 - **Openness:** We will provide information and advice in plain language about the rules that we apply and will make this information available as widely as possible. We will be open about how we set about our work and will discuss general issues or particular problems with anyone experiencing difficulties.
 - **Helpfulness:** We believe that prevention is better than cure and we will provide appropriate advice wherever possible. In particular we encourage landlords, prospective landlords, agents and tenants to contact us if they need advice or assistance.
 - **Consistency:** We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases we will ensure that arrangements are in place to promote consistency and the achievement of appropriate standards.
 - **Proportionality:** As far as the law allows, we will take into account the circumstances of the case and the attitude of those involved when considering what action to take.
 - **Complaints about service:** We will provide an easily accessible, well-publicised, effective and timely complaints procedure.
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