



Housing Conditions and Supply Team

Private Sector Housing Enforcement Policy

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POLICY

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This document is held by Tamworth Borough Council, and the document owner is Rob Barnes.

Printed documents may be obsolete. An electronic copy will be available on Tamworth Borough Councils Intranet. Please check for current version before using.

Revision History

Revision Date	Version Control	Summary of changes
5 th May 2017	1	This is a revised / reviewed policy in line with the need to review the previous out of date enforcement policy.

Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

Distribution

The document will be available on the Intranet and the website.

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1. Introduction

The Private Sector Housing Enforcement Policy details how the Council will regulate and improve standards in private housing in Tamworth based on relevant legislation and best practice guidance.

The Private Sector Housing Team is part of the Council's Housing Conditions and Supply Team and aims to protect and improve lives by ensuring homes are safe and warm.

The purpose of this policy is:

- To ensure a consistency of approach among Council Officers.
- Provide members of the public with clarity on what to expect from the service.
- Support the Council in legal proceedings or enforcement action which is appealed against.
- To raise standards in housing in Tamworth, working with owners, landlords, letting agents and tenants to achieve this.

This policy will deal with an overview of housing enforcement in:

- All private residential dwellings
- Houses in Multiple occupation
- Empty dwellings
- Mobile Home Parks
- Issues around harassment and illegal eviction

These areas of work also have their own specific policies which can be viewed separately.

2. Our approach

The Private Sector Housing Team will only intervene when there is a risk to the health and safety of occupants, neighbours or visitors to a property. The supply of good quality, affordable, privately rented accommodation is essential to meet local housing need.

We also want to be able to support those owner occupiers living in poor conditions.

The Service will use risk assessments to concentrate resources in the areas that need them most and on the properties in the worst condition.

Following the receipt of a service request or complaint about poor housing conditions, an initial risk assessment will normally be carried out and any follow up advice or action will depend on the outcome of the initial assessment, which may not always involve a visit to the property.

Suitably trained Officers routinely use the Housing Health and Safety Rating System (HHSRS), which is a statutory, evidence-based, risk assessment of those problems in properties which lead to health and safety issues for those who live or visit a property.

We will not offer advice where we feel for example, that we will put ourselves at risk of litigation e.g. a formal report on a property which a landlord is still in the process of purchasing and such advice could be deemed to have halted that sale.

We will not knowingly send Officers into situations where their health and safety may be at risk.

We will when necessary and / or appropriate work with other departments and agencies e.g. our colleagues in the Housing Solutions, Community Safety and Planning Teams. External partners include the Police and Social Services.

3. What you can expect from us

3.1 Advice and guidance

The Service will provide authoritative, accessible advice which will be easily and affordably available. Wherever possible, this will be provided free on the Council's website. General information, advice and guidance to make it easier for landlords, agents, home owners and others to understand their regulatory obligations will be provided in clear, concise and accessible language, using a range of appropriate formats and media. The Service will consult with the Landlords' forum.

3.2 Inspections, other visits and information requirements

No inspection will take place without a reason. Inspections and other visits will take place in response to a reasonable complaint or request for service or where poor conditions have been brought to our attention; in accordance with risk-based programmes; in accordance with statutory inspection requirements (such as for mandatory licensing of houses in multiple occupation [HMOs]); or on receipt of relevant intelligence.

Unless the visit is intended for advice purposes only, the landlord or his or her agent will be contacted and given the opportunity to accompany the investigating Officer at the visit. Following an inspection, positive feedback will be given wherever possible to encourage and reinforce good practices.

When offering compliance advice, the Service will distinguish between statutory requirements and advice or guidance aimed at improvements above minimum standards. Advice will be confirmed in writing, if requested.

The Service will focus its greatest inspection effort on the highest risk properties, those in the worst condition and properties owned by landlords who regularly fail to comply with regulations or frequently have properties with

poor conditions. The Service will endeavour not to ask for unnecessary information or to ask for the same piece of information twice.

Any action necessary will be fairly and transparently taken in line with the Regulators code, the operating guidance of the relevant legislation e.g. HHSRS operating guidance and this Policy.

From April 2014, the Council has been required to have regard to the Regulators' code - issued by the department for Business and Skills. The overriding principles of the Code are that Regulators must carry out their activities in a way that supports those they regulate to comply and grow.

- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
- Effective and well targeted regulation is essential in promoting fairness and protection from harm.

If informal action is inappropriate or ineffective and we need to take formal action the primary legislation we will use is the Housing Act 2004 (with the relevant amendments made by the Housing and Planning Act 2016). We also have other legislation such as The Environmental Protection Act 1990, Protection from Eviction Act 1977, and the Public Health Legislation available to us.

3.3 Landlords

- We will advise you of the legislation and help you understand how you can comply with it. This includes the relevant legislation in both single family dwellings and Houses in Multiple Occupation (HMOs).
- We will advise you as to what action you need to take to comply with the legislation and ask you to respond with your proposal of how you intend to comply.
- If we are satisfied with your proposal we will work with you to comply within agreed timescales.

- If we are not satisfied with your proposal or how the work is progressing we will initiate formal action in a proportionate manner as appropriate to the circumstances.
- In making the decision to prosecute or levy a civil penalty we will have regard to how serious any offence is, any history of non-compliance, the benefit of the formal action, public interest considerations and whether some other action would be better.
- A charge will be made for the service of certain Notices and either registered as a land charge or pursued via the Council's debt recovery procedures.
- Breaches of certain formal Notices will attract penalties directly from Tamworth Council under provisions brought in by the Housing and Planning Act 2016.
- Landlords also need to be aware of the introduction of the Rogue Landlord database and of 'banning' orders which will be introduced in October 2017.
- These new provisions will mean that for certain offences and penalties a landlord may be added to the database - available to central government and all local authorities. Banning orders will mean that there is a possibility that conviction for certain offences or of the imposition of civil penalties may prohibit a person from being a landlord.
- All allegations of illegal eviction or harassment by a landlord will be considered and investigated in accordance with our specific policy.

3.4 Tenants

- Unless it an emergency situation, we will expect you to advise your landlord / letting agent of the issues within your property before contacting us. This should be in writing and allow the landlord / agent 14 days to respond. Please keep a copy of all correspondence as you may need to send us a copy.
- We will advise you as to what action we can take and advise you of the expected timescales.

- We will expect you to co-operate with the landlord to get the works carried out, for example allowing access to contractors, and to advise us of any action taken by the landlord.
- It is **not** our policy to advise withholding of rent in lieu of disrepairs.
- Complaints about Housing Association properties will be referred to the Association to investigate first. If necessary the issue will be escalated up to the management of that Association. Where these avenues have failed we will intervene.

3.5 Owner occupiers

- We will normally expect owners to maintain the properties they live in.
- We will work with you to advise and assist when we are able to and work in conjunction with other agencies and people supporting you if appropriate.
- Enforcement action will be considered if there is an imminent risk to life or a statutory nuisance not being addressed.

3.6 Owners of empty homes

We will work proactively with owners of empty homes to encourage and assist in bringing their empty homes back into use. We offer a discretionary empty homes grant of up to £10,000 and ask that you work with us in return e.g. we lease the property from you to use, currently, as temporary accommodation. If owners fail to take responsibility for their properties, are not willing to engage or negotiations have failed, and where there is little prospect of a property being brought back into use voluntarily, enforcement action (e.g. Improvement Notices, Boarding up, Compulsory Purchase Order, Empty Dwelling Management Order, and Enforced Sale) will be considered.

3.7 Mobile Home Park owners

The Mobile Homes Act 2013 introduced sweeping changes enabling Local Authorities to charge fees for the licencing activities they undertake. In addition we can issue Notices / undertake works in default where there are

problems on a site (as opposed to just being able to prosecute for breaches of the Licence conditions). We will use these new provisions as appropriate.

4. Compliance and Enforcement Actions

The Service will seek to identify the few landlords, agents, property owners or businesses that persistently break regulations and ensure that they face proportionate and meaningful sanctions. By facilitating compliance through a positive and proactive approach, the Team aims to achieve higher compliance rates and reduce the need for reactive enforcement actions. However, those who deliberately or persistently break the law will be targeted.

When considering formal enforcement action the Service will, where appropriate, discuss the circumstances with those suspected of a breach and take these into account when deciding on the best approach. This will not apply where immediate action is required to prevent or respond to a serious breach or to deal with an imminent risk to health or safety, or where to do so is likely to defeat the purpose of the proposed enforcement action.

The Team will ensure that clear reasons for any enforcement action are given and complaints and appeals procedures are explained at the same time.

4.1 Accountability/complaints

The Team will be accountable for the efficiency and effectiveness of its activities, while remaining independent in the decisions that it takes. Employees will provide a courteous, prompt and efficient service and will identify themselves by name. A contact point, telephone number and email address will be provided. Applications for licences etc. will be dealt with efficiently and promptly and services will be effectively coordinated to minimise unnecessary overlaps and time delays.

Information about independent appeal mechanisms, such as to the First-Tier Tribunal, (Property Chamber) and the Council's corporate complaints procedure will be explained where necessary and as appropriate.

The Councils' complaints procedure has three stages and can mostly easily be accessed via the 'Tell Us System' on our website. Anyone not satisfied with the internal response can approach the independent Local Government Ombudsman Service, which is external to the Council. The complaints procedure will be followed for any complaints received about the Service or the application of this enforcement policy.

4.2 Authority to Investigate or Enforce

The Housing Act 2004 and associated secondary legislation sets out the duties and powers that Tamworth Borough Council has in relation to regulating housing standards in its capacity as the Local Housing Authority.

Any Officer exercising powers will be appropriately authorised to do so via Tamworth Borough Council's Scheme of Delegation.

Although the Housing Act 2004 is the act that is utilised most complementary powers are also contained in the Housing Act 1985, as amended, and other legislation, including the Environmental Protection Act 1990 (to deal with properties in such a state of disrepair as to be nuisance to neighbouring properties) the Public Health Acts 1936 and 1961 (Filthy and verminous properties) The Prevention of Damage by Pests act 1949, and the Mobile Home Act 2013.

This is not a comprehensive list.

All these Acts confer powers of entry upon authorised Officers - e.g. section 239 of the Housing Act 2004, and in addition powers to require relevant documentation is provided by e.g. section 235 of the Housing Act 2004.

4.3 Power to charge for enforcement action

Legislation allows for Local Authorities to charge for certain activities / licensing and / or enforcement works.

For example Section 49 of the Housing Act 2004 enables Local Authorities to charge for and recover costs in relation to enforcement works. These costs can be registered as local land charges until recovered. This provision includes when works are undertaken in 'default' by the local authority.

Tamworth Borough Council will normally charge for work undertaken where the legislation allows us to do so.

Where charges have been made and there is an opportunity for the charges to be appealed e.g. to the First Tier Tribunal Service this will be made clear in the correspondence from Tamworth Borough Council.

If we are considering undertaking works in default we will whenever possible give the owner of the property reasonable notice that we intend to undertake the works (If we know the whereabouts of the owner.) If it is an emergency situation it may not be possible to give reasonable notice.

10. Policy Revision

The Policy will be reviewed regularly and will take account of any changes to Legislation, Guidance and Procedure. Minor changes to policy delivery may be required from time to time, and will be undertaken with the agreement of the Corporate Director of Communities, Partnerships and Housing.

11. Complaints

Tamworth Borough Council has an established corporate complaints procedure for dealing with complaints. Information on how to make a complaint is outlined in a complaints leaflet that is available at all Tamworth Borough Council Offices and on the website. (The 'tell us system')

12. Further information

If you would like further information about this policy, please contact
Tamworth Borough Councils Housing Conditions and Supply Team

In writing

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