

# **Runnymede Borough Council**

## **Environmental Services**

### **Private Sector Housing Enforcement Policy**

**June 2023**

## **1. Background**

A clear Enforcement Policy which is monitored regularly reviewed and updated is required to ensure that all those who work and live in the Borough of Runnymede have a clear understanding of the Private Sector Housing section's enforcement standards.

## **2. Introduction**

The aim of this policy is to set out how the Private Sector Housing Team deal with hazards found in private sector dwellings and the licensing of Housing in Multiple Occupation (HMO). Whilst this policy is specific to private sector housing issues the document should be read in conjunction to the overarching Environmental Services Enforcement Policy.

The Private Sector Housing Team is part of the Environmental Services of Runnymede Borough Council. The aim of the teams work is to ensure the standard of private sector housing is safe and suitable for the occupants and that premises subject to Housing in Multiple Occupation (HMO) licensing are compliant.

The aim of this enforcement policy is to ensure that people who own and rent property within the borough of Runnymede are aware of what they can expect from officers of the Private Sector Housing Section. The policy is designed to ensure fair, consistent, and transparent delivery of enforcement activity from the Private Sector Housing Team.

The Private Sector Housing Section raises housing standards by responding both reactively and proactively.

In the case of reactive enforcement work, the section responds to:

- Complaints from private sector tenants who contact the Council complaining about deficiencies found in the properties they live in;
- Complaints about private sector properties that are causing problems for neighbouring occupiers;
- Requests for service from private sector landlords;
- Requests for service from owner occupiers.

Proactively the private sector housing team:

- Identifies and inspects houses in multiple occupations (HMO's) by carrying out surveys of the district and prioritising inspections by focusing on high risk HMO's.
- Operates a mandatory HMO Licensing Scheme for HMO's.
- Enforces private sector housing related legislation e.g. The Housing Act 2004, The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, The Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015 and the Redress Scheme for Lettings Agents Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.

## **3. Principles of Good Enforcement**

The Private Sector Housing Section is committed to implement policies and procedures that subscribe to principles of good enforcement. In forming this policy due consideration has been paid to the Department for Business Innovation & Skills Better Regulation Delivery Office (BRDO), Regulators' Code April 2014 and centrally issued guidance.

## **4. Approach to enforcement action**

There are two types of enforcement work the Private Sector Housing Team engage in: Formal and Informal.

#### **4.1 Informal Action**

Informal Action will be considered where one or more of the following circumstances apply;

- there is no legislative requirement to serve formal notice or an order and
- the circumstances are not serious enough to warrant formal action;
- past history suggests informal action will achieve compliance;
- there is confidence in the management or the individual;
- the consequences of non-compliance will not pose a significant risk to occupiers or others.

Informal action usually involves officers undertaking one or more of the following actions:

- No action where complaints or allegations of breaches in housing legislation are unsubstantiated or formal action is inappropriate in the circumstances;
- Verbal advice;
- Verbal request for action;
- Written request for action;
- Written warning of formal action if faults are not corrected.

Circumstances in which informal action is likely to be appropriate include situations where:

- The landlord is willing to undertake the required remedial action;
- The act or omission is not serious enough to warrant formal action;
- The individual or company's past history suggests informal action will achieve compliance;
- The Officers confidence in the management of the property or premises is high;
- Standards are generally good suggesting a high level of awareness of statutory responsibilities; and
- The consequences of non-compliance with standards are acceptable e.g. minor matters, or the time period allowed to seek compliance does not present a significant risk to public health.

A re-visit may be carried out where informal action has been agreed to confirm that identified faults have been corrected.

#### **4.2 Formal Action**

The use of formal enforcement action will at all times be consistent with the principles set out in the Regulators Compliance Code. Formal action usually consists of one or more of the following:

- Service of appropriate statutory notices/orders;
- Undertaking emergency remedial works;
- Undertaking works in default of a statutory notice;
- Issuing formal (simple) cautions;
- Civil penalties;
- Prosecution;

In coming to a decision Officers will in every case have regard to:

- The seriousness of the hazard;
- Whether the Council has a duty or a discretionary power to take action;
- The individual's or company's past history in terms of compliance;
- The Officers confidence in the management of the property or premises;
- The consequences of non-compliance in terms of risk to people, property or the environment;
- The likely effectiveness of the various enforcement options; and
- The risk to public health or the health and safety of the occupant(s).

### Statutory notices/orders

Appropriate statutory notices/orders that may be served include;

- Hazard awareness notices
- Improvement notices
- Prohibition orders
- Emergency prohibition orders
- Demolition orders

### Power to Take Action without Agreement

Where the Council considers that reasonable progress is not being made for completion of an action specified in an improvement notice, the Council may consider serving a notice before entering the premises for the purpose of taking remedial action in relation to the hazard.

The Council will take action to recover expenses in all cases where action is required in default of a statutory notice.

### Simple Caution where an offence is admitted

The use of a simple caution offers an alternative to prosecution and will be considered during any decision to prosecute. Before issuing a caution, the following conditions must be satisfied:

- There must be evidence of guilt sufficient to give a realistic prospect of conviction if the case were to be taken to prosecution
- The offender must understand the significance of the simple caution and consent to it
- The offender must admit the alleged offence by signing a simple caution form.

A simple caution is a serious matter, which will influence any future decision should the company or individual offend again. Where the offer of a simple caution is refused, a prosecution will generally be pursued.

### Civil Penalties

Under s249A of the Housing Act 2004 the Council may decide to impose a financial penalty as alternative to prosecution for the following offences under the Housing Act 2004 (as amended):

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing of HMOs (section 72);
- Offences of contravention of an overcrowding notice (section 139);
- Failure to comply with management regulations in respect of HMOs (section 234)
- Breaching a Banning Order (Housing and Planning Act, section 23)

The amount of a financial penalty is determined by the Council but it must not be more than £30,000 for each offence.

### Other Penalties

- Failure to comply with the requirements of a Remedial Notice (Smoke and Carbon Monoxide Alarm Regulations 2015)
- Failure to comply with the Electrical Safety Standards Regulations 2020

## Prosecution

Consideration to prosecute for breach of any offence will be based on the Code for Crown Prosecution Guidance and in particular regard will be given to the following:

- There is sufficient and reliable evidence that an offence has been committed;
- Recklessness, obstruction or assault involved;
- There is a realistic prospect of conviction;
- There are public interest factors.
- Consideration of personal circumstances of the offender;
- The likelihood of a significant sentence;
- The need to deter.

### **4.3. Additional enforcement powers**

In addition to the formal powers detailed the Council may also instigate a number of other enforcement powers including;

- Declaration of clearance area. A clearance area is an area that is to be cleared of all buildings. The Council may declare an area to be a clearance area if the majority of the buildings in the area are classed as unfit or by virtue of their bad arrangement, are dangerous. The Council is required to consult on the declaration of a clearance area and publish its intentions. Owners and in certain cases occupiers of properties are compensated accordingly.
- Compulsory purchase orders (CPO) used for regeneration and urban renewal, and may be utilised by the section as a last resort to facilitate bringing an empty dwelling into use, or as an enforcement tool for dealing with seriously deficient premises. CPO will only be considered by the Council when all other appropriate modes to resolve the problem have been exhausted
- Enforced sale of a property. The legislation allows the local housing authority to recover charges under section 49 (charges for certain enforcement actions) of the same Act by the enforced sale or lease of a property

## **5. Power of Access**

Section 239 of the 2004 Act gives the Council power of entry to properties in pursuance of the duties under parts 1 to 4 and part 7 of the Act when certain conditions are met. Officers of the Council will have written authorisation when exercising power of access which sets out the purpose for which entry is authorised and will give at least 24 hours to the owner or occupier of the premises that they intend to enter.

Section 240 enables a Justice of Peace to issue a warrant for admission to premises. This includes power of entry by force if necessary. This power will only be exercised when entry under section 239 has been refused; or the property is empty and immediate access is necessary; or prior warning is likely to negate the purpose of access.

## **6 Policy Review**

This enforcement policy will be reviewed at least every five years.

## **7. Complaints and Appeals**

We subscribe to the Council's Corporate Complaints and Appeals Procedure. In addition, the majority of legislation enforced by officers of the Private Sector Housing Service has an in built appeals procedure prescribed within.

If you do not agree with any action taken by an officer you should contact the Private Sector Housing Manager whose details are given below.

If you feel we have given an unsatisfactory service contrary to these criteria, you can complain direct to:

**Private Sector Housing Manager  
Runnymede Borough Council  
Runnymede Civic Centre  
Station Road  
Addlestone  
Surrey KT15 2AH  
Tel. No. 01932 425888**

This Enforcement Policy supersedes and replaces all earlier enforcement policies relating to Runnymede Borough Council Private Sector Housing Section

**For all information contained within this document contact:**

Runnymede Borough Council  
The Civic Centre  
Station Road  
Addlestone  
Surrey KT15 2AH

Tel 01932 838383

email: [privatesectorhousing@runnymede.gov.uk](mailto:privatesectorhousing@runnymede.gov.uk)

[www.runnymede.gov.uk](http://www.runnymede.gov.uk)