



## **Draft Private Sector Housing Enforcement and Licensing Policy 2021**

**Policy for the Regulation of Housing Standards, the Licensing of Houses in Multiple Occupation, management of empty properties and investigating allegations of harassment and unlawful eviction.**

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## **1 Introduction to private sector housing enforcement and licensing**

Lewisham Council's Private Sector Housing Agency's key objective, is to ensure a safe and healthy home environment for residents and their visitors. This policy document sets out Lewisham Council's Housing Enforcement and Licensing Policy and the way it will achieve this objective.

The Council has a clear commitment to ensure that it meets its obligations to enforce high standards of housing and ensure that limited resources are used in the most effective way possible to guarantee the health and safety of residents. It is recognised addressing housing conditions can have a direct impact on morbidity and mortality outlooks, which in turn helps people improve their economic conditions; the resulting impact on health budgets allows residents to play a more active part in the community. It also helps preserve the existing housing stock, which maximises the supply and increases housing choice for residents.

The private rented sector represents [1 in 4](#) properties within the London Borough of Lewisham; this a proportion that has risen steadily and continues to rise. The Council both values and acknowledges the importance of this sector, as an asset for the people of the Borough, and in tackling the housing crisis, making Lewisham a great place to live, work and study.

This policy is to be read in accordance with the [Council's enforcement policy for regulatory functions](#) and other legal requirements as detailed in paragraph 5.1. At all times, Lewisham Council will ensure enforcement of the Policy is conducted in accordance with the legal duties and obligations under the Human Rights Act 1998, Equality Act 2010, Criminal Procedure and Investigations Act 1996 and Police and Criminal Evidence Act 1984.

## 1.1 Key Aims of the Policy

This policy supports key objectives contained within the Housing Strategy 2020-2026.

The Enforcement Policy aims to protect public health and reduce anti-social behaviour by:

- Setting out the legal requirements, principles and priorities that the Private Sector Housing Team are to follow, enforcing relevant legislation.
- Improving the quality and good management of accommodation within the private rented sector.
- Providing greater safety and security for private renters and help drive out rogue operators.
- Ensuring that all properties, required to be licensed under the mandatory or any local licensing scheme, are licensed.
- Bringing long-term empty homes, back into residential use.
- Providing a transparent, consistent, proportionate and fair framework for all council enforcement decisions.

## 2 What is Enforcement Action?

Enforcement action is any action taken by the Council to bring a business or individual into compliance with the law. As a regulator, in all enforcement action undertaken, the Council has regard to and is governed by the Regulators' Code (BRDO, 2013)<sup>1</sup>. In complying with the Code, the purpose is to ensure a process of regulation that *"protects the vulnerable, the environment, and social (amongst) other objective"*. In following the Code, the Council seeks *"to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate"*

Therefore, the Council has set clear guidelines in resolving complaints received relating to poor housing conditions at any address in the Borough. An officer will investigate the basis of the complaint; this may entail a visit to the address, written/telephone communication or a combination of these with the landlord/owner or person in control the property. The conclusion of the investigation will depend upon the seriousness of the complaint, and the powers to be engaged by the officer to remedy the complaint. This can range from the informal and advisory, to formal action inclusive of serving statutory notices, civil penalties or in the worst case, a prosecution. For more detailed information on the types of enforcement available, [refer to paragraph 2.2.](#)

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<sup>1</sup> *Regulators' Code*, Better Regulation Delivery Office, Department for Business, Innovation and Skills, Apr 2014

## 2.1 Enforcement Objectives

Working with landlords from the private rented sector, the functions of the Private Sector Housing Agency (PSHA) are aimed at improving and maintaining standards in private housing within the Borough; to protect public health and reduce anti-social behaviour by ensuring compliance with relevant legislation for housing standards. All forms of enforcement action available to the private rented sector, that are reasonable and proportionate to the problem or offence committed, will be utilised. Enforcement action will encompass:

- The licensing of houses in multiple occupation (HMO) and any other properties that fall within any future mandatory, additional or selective scheme that applies within the Borough;
- Raising housing standards through the application of the Housing Health and Safety Rating System (HHSRS), Environmental Protection Act 1990 and any other relevant and applicable legislation;
- Raising awareness of the rights and duties as they apply to both tenant and landlord;
- Bringing empty properties back into use;
- The investigation and prosecution of landlords where there is evidence that they may have committed criminal offences and where this duty falls to the local housing authority;

## 2.2 Four Levels of Enforcement

The council will operate a four-level enforcement policy in order to assist the majority of landlords to meet their legal obligations with the minimum of disruption and expense, while deterring poor and criminal business practices through effective action. They are:

### i) **Level 1- Emergency Enforcement**

These are actions taken, where it is considered by the Officer following assessment, there is sufficient information or evidence that demonstrates the existence of a Category 1 hazard in a dwelling that creates an immediate risk of serious harm to residents, visitors or neighbours. This can include Emergency Prohibition Orders and Emergency works in default.

### ii) **Level 2 - Formal Enforcement**

This includes serving statutory notices, applying for Empty Dwelling Management Orders (EDMO), revoking or varying licences, applying for Interim and Final

Management Orders for licensable properties, issuing civil penalties, interviewing under caution where a criminal offence is suspected and referring cases to the Council's legal department so that prosecution can be considered and/or undertaken if appropriate.

### **iii) Level 3 - Informal Enforcement**

This includes providing schedules of work, writing letters and commencing a dialogue with tenants, landlords and agents to achieve the Council's enforcement objectives.

### **iv) Level 4 - Information, advice, support and signposting**

This includes posting information about the rights and duties of tenants and landlords on the Council's website, providing generic and practical advice on compliance, assisting those seeking information, to help those understand their rights and responsibilities and signpost to external or internal partners, where and when appropriate.

## **2.3 Enforcement: General Conditions**

Lewisham Council will use all available powers to meet the enforcement objectives within this Policy. These include: powers of entry; the ability to require the production of documents under the Housing Act 2004; the power to require information about a person's identity or interest in land and the power to produce the required safety certificates confirming the proper and safe supply of gas and electricity in Houses in Multiple Occupation. Officers will have regard to any relevant Government guidance as part of their enforcement activity.

## **2.4 Authorisation of Officers**

Officers undertaking housing enforcement work, will be officers who are competent by virtue of their training, qualification and/or experience and will be authorised to undertake enforcement action. Authorised officers will also have sufficient training and understanding of standard procedures to ensure there is a consistent approach to service delivery. For further details of specific authorisation please see paragraph 5.1

## **2.5 Publicising prosecutions**

Where it has proven necessary to prosecute, the Council will actively publicise sentences following prosecution. Verdicts and sentences in criminal cases are given in open court and are a matter of public record unless directed otherwise by a judge. The Council's decision to publicise the outcomes will be on a case by case basis and

will focus on publicising the sanctions imposed and basic information about convicted offenders. The purpose is to act as a deterrent and is deemed one of a range of strategies appropriate for promoting compliance.

## 2.6 Fines and Recovery of Costs

The upper limit for fines in the magistrates' court has been removed following the enactment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. This means if found guilty of an offence at court, there is no limit imposed on the maximum fine given. In some cases, the Council can apply to the First Tier Property Tribunal to recover rent from a landlord, if a property has been let without a proper licence or the landlord has committed another "trigger" offence. Officers will provide Lewisham Council's legal department with all the relevant information to enable the recovery of costs at Court.

## 2.7 Charging for Enforcement Action

Under [Section 49 Housing Act 2004](#) the Council is entitled to make a reasonable charge to recover certain administrative and other expenses in connection with inspection of the premises, subsequent consideration of action and service of notices.

The charges are based on an assessment of the time undertaken by the officer involved in the case from inspecting the property, preparing the case, to drafting and serving the notice.

The Council will suspend this charge, if works are completed within the time limits set by the notice. This will act as an added incentive for landlords to comply with notices within the time limits and will ensure that costs are recovered from landlords who are recalcitrant, such as failing to respond to or comply with requests or notices to carry out remedial works within a reasonable period, or deliberately mislead officers as to facts.

## 2.8 Partnership Working

The Council's Service Standards as required by the Regulators' Code appear at Appendix A2 [here](#).

The licensing and housing enforcement's primary focus is to carry out its core objectives. It is recognised that visits, surveys, investigations and complaints may lead to the disclosure of offences, compliance issues and concerns that fall within the remit of internal and external partner organisations. These partner organisations are not limited to:

- Crime Enforcement and Regulation (CER)

- Planning Enforcement
- Adult Social Care
- Children's Services
- Building Control
- London Fire Brigade
- Metropolitan Police

All officers are aware of the potential interests of partnership organisation in carrying out their enquiries; where appropriate referrals must be made, and information shared. Lewisham Council recognises the need to forge positive partnership working in fulfilling its core functions (i.e. the need to inform the Fire Brigade of concerns during HMO licensing). There is the recognition that through genuine cooperation and partnership working, information sharing is regarded as an essential tool in tackling anti-social behaviour and the promotion of safer neighbourhoods.

Lewisham Council is equally committed to engaging with all stakeholders-landlords, agents, tenants etc to forge positive partnerships. The Council is committed to establishing a landlord panel to facilitate members of the partnership to share views and contribute to the development of policies and service standards, and to continuing tenant engagement.

## **2.9 Equalities Assessment**

The [Equality Act 2010](#) (The Act) legally protects people from discrimination in the workplace and in wider society. It replaced the previous anti-discrimination laws with a single act, making the law easier to understand and strengthen protection in certain situations.

The Act also imposes a public sector equality duty. This means that in public bodies, of which this Council is designated, they must consider all individuals in carrying out their day-to-day work when shaping policy, in delivering services and in relation to their own employees. It also requires public bodies to:

1. Have due regard to the need to eliminate discrimination
2. Advance equality of opportunity
3. Foster good relations between different people when carrying out their activities

The Council recognises diversity is one of its strengths and is committed to creating a more inclusive community. Therefore, having due regard to the Act, is confirmation of the Council's commitment to eliminating all forms of discrimination against any group

within the community and to actively promote an equality of opportunity and positive community partnership.

In 2019, the Council undertook an Equalities Impact Assessment during the Borough Wide Selective Licensing and Additional HMO Licensing consultation. This was to assess the likely impact of the private sector housing licensing and enforcement policy on all groups protected under the Act. The assessment demonstrated, the Council's commitment to undertake regular intervals the effects of the policy and where necessary to take the appropriate action to prevent even direct or indirect discrimination as a result of the policy.

In acknowledgment of the duty, the work undertaken to monitor landlords of private sector accommodation, and the "[fit and proper person test](#)" for licensing in particular, will help prevent unlawful practice in the form of discrimination against residents who share a protected characteristic. Hence, practical approaches to fulfilling this duty will utilise all options available. For example, there is a recognition that where residents and landlords, for whom English is not their first language, any language and literacy barriers will be mitigated by the provision of translation and interpretation services as a way of engaging all stakeholders.

## **2.10 Human Rights Act 1998**

The [Human Rights Act 1998](#) incorporates the [European Convention on Human Rights 1953](#) (ECHR) thereby, rendering it unlawful for any local authority to act in a way that is incompatible with a Convention right.

In adhering to the principles of the ECHR, the Council will have regard to the relevant provisions, in particular the following:

1. Article 6, that in the determination of Civil Rights and obligations, every person is entitled to refer and public hearing within a reasonable period before an independent and impartial tribunal established by law.
2. Article 8, every person has the right to respect for their home and private life.

## **2.11 Review of this policy**

This policy will be reviewed every 3 years **or** where new relevant legislation comes into force before the end of the stated review period, whichever is the earliest date.

## **3. Who the Council will help**

The Council will aim to help the majority of tenants living in private rented accommodation (with some exceptions-see paras 3.5 and 3.6 for examples), landlords and managing agents who own and manage private rented accommodation and owners of empty property.

### 3.1 What is expected of tenants?

Before considering taking any action in respect of a rented property, the tenant(s) will normally be required to contact their landlord about the problem first. The landlord should be given an opportunity to correct the problem; it would not be fair or proportionate to commence enforcement action against a landlord who had not had the chance to do this first. Copies of correspondence, all communication (including notes of telephone conversations) between the landlord and tenant should be kept and provided for Officers on request. It is recommended that a diary be used as the suitable and convenient format for maintaining this information.

However, in certain situations tenants will not be required to write to their landlord before we can take action. For example:

- Where the matter appears to present an imminent risk to the health and safety of the occupants
- Where there is a history or genuine and well-grounded fear of harassment/threatened eviction/poor management practice
- Where the tenant could not for some other reason be expected to contact their landlord/managing agent
- Where the property is appears to fall within any licensing scheme, and the sole purpose of any enforcement activity is to bring the property into licensing.

Following an enquiry, the tenant will be asked to keep officers informed of any contact they have had with their landlord (or the landlord's agent or builder, etc.) which may affect the action the Council is taking or considering taking.

### 3.2 Accredited Landlords

We will encourage private landlords and managing agents to attend training sessions in order that they may become accredited under the [London Landlord Accreditation Scheme](#) or equivalent. The Council have an expectation that all landlords are to have a good and thorough understanding of the requirements for housing standards and their duties in managing the property in the private rented sector. In becoming accredited, landlords will be recognised as responsible landlords who employ good management techniques and practices, have adopted a high level of professionalism, trained and competent in their knowledge of property management, adhering to the Council's guide to expected housing standards. While attending training sessions and being accredited is not compulsory, the Council will reflect the professional approach undertaken by landlords to their business by offering a discount in the licensing fee. Accredited landlords will be held to a higher standard than those without accreditation.

### 3.3 Empty Property Owners

The Council has a dedicated Empty Homes Officer, whose aim is to work in cooperation with owners of empty property in the private rented sector, to provide solutions to assist with bringing their properties back into use. However, in circumstances where, despite attempts to engage, properties remain empty and cause

a nuisance or anti-social behaviour, or where empty property could be used to address a housing need, the team will look to use all appropriate enforcement action available.

The action taken may involve using [Empty Dwelling Management Orders](#), [Environmental Protection Act 1990 Abatement Notices](#), or entail serving [s215 Town and Country Planning Act](#) notices which deal with land causing a blight on the local amenity. However, where all efforts to engage an owner of an empty property has not proved successful, the Council will not hesitate to use one of the most draconian powers, that of a [Compulsory Purchase Order](#); such action will be taken as a last resort to ensure an unused and neglected property is brought back into residential use.

### **3.4 Tenants living within Social Housing**

We acknowledge that the majority of Registered Social Landlords' ("RSLs") tenants will have a standard procedure to follow if their landlord does not carry out repairs, but we will accept complaints regarding housing conditions from persons living in the social rented sector. The tenant will be asked to provide details of any complaint that they have made, along with contact details from their housing officer and their consent to their housing provider sharing information with the Council. The officer will exercise their discretion when deciding how to progress the case. The officer will consider all relevant information, including:

- Any information from the tenant (including any photographs or video recordings of the alleged disrepair, evidence of the complaint and the housing provider's response)
- Any information provided by the RSL and its staff.
- Any information that suggest that the tenant is or may be vulnerable.
- Any information about the housing provider's previous response to complaints.

The Council has a duty to act if there are category 1 hazards in any property. If there are no category 1 hazards and the officer decides to take no action, the reasons for this must be recorded on Assure. The complainant must be informed of this decision and the basis upon which it was taken.

### **3.5 Leaseholders and owner occupiers**

We will not normally become involved in disputes between leaseholders and freeholders or between neighbouring owner-occupiers. Resolving disputes of these type, require a detailed knowledge and expertise of leases or deeds; the service is not sufficiently equipped to handle such claims so that any enforcement action pursued, concludes successfully, in the rare cases where this occurs. We will signpost the complainant to other organisations which offer advice, including that involve the merits of taking of civil action. Leaseholders who have concerns regarding fire safety and cladding will be referred to the UK Cladding Action Group.

The leasehold advisory service's details are [here](#). The UK Cladding Action Group's details are [here](#)

### 3.6 Situations where a service to tenants is not provided

Where any of the following situations occur, the PHSA will consider whether it is appropriate to provide a service or may cease assistance, if service is being provided:

- a) Where the tenant(s) are, of their own free will, shortly to move out of the property (although, where the property is to remain in the private rented sector, then intervention may be appropriate and/or necessary);
- b) Where the tenant(s) unreasonably refuse access to the landlord or their agent (inclusive of the landlord's builders), to arrange and/or carry out works
- c) Where a tenant does not want their present accommodation to be brought up to standard (although the Council will always take action where there is a Category 1 hazard present in a dwelling).

Where such situations as those identified under b) and c) occur, the facts will be assessed and a decision on what if any action will be taken on a case by case basis.

## 4 Mandatory and Additional HMO Licencing

The following separate licensing schemes currently affect the Private Rented Sector in Lewisham. They are:

- 1) **The Mandatory HMO Scheme:** This applies throughout England and Wales. The properties that fall under this scheme are defined [here](#)
- 2) **The Additional HMO Scheme:** This Scheme applies only in Lewisham. Currently the Lewisham Additional Scheme applies to properties above commercial premises that are occupied by three or more people living in two or more households. Lewisham will be introducing a further additional scheme that will cover all HMO properties as defined by [s254\(1\)\(a\)-\(d\) Housing Act 2004](#) that do not fall within the Mandatory scheme.

### 4.1 Houses in Multiple Occupation (HMO)

An HMO is [defined by the Housing Act 2004<sup>2</sup>](#) as a building occupied by more than one household where there is a degree of sharing of facilities. A household is either a single person or members of the same family who live together. The definition includes houses containing bedsits, hostels, shared houses and some flats. The Housing Act 2004 defines a household [here](#). The Act has clarified past confusion and means that shared houses, such as the type traditionally occupied by students, will always be defined as HMOs.

HMOs form a considerable part of the private rented sector, and often provide homes for people with limited housing options. HMOs are frequently occupied by persons with

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<sup>2</sup> Housing Act 2004 ss254 - 260

limited income such as single people who have been homeless, students and an increasing number of professionals sharing houses and flats.

A relatively high proportion of HMO residents are vulnerable persons. Historically, the accommodation was not built for multiple occupation. This has caused an increased risk to the safety and health of occupants in many HMO properties, often through overcrowding, lack of proper fire equipment and a lack of compliance with regulations.

With the introduction of licensing of HMOs, the Council is firmly committed to supporting good private sector landlords who endeavour to provide decent well-maintained homes to high standards by compliance with necessary regulations and legislation.

## 4.2 The aim of HMO Licensing

The aim of HMO licensing is to ensure this type of property is safe, well managed and meets minimum legal standards set. The Council has a [statutory duty to licence](#) all mandatory or additional licensable properties.

To achieve this aim the Council will:

- Incentivise landlords with fee discounts for early application, accreditation and such other criteria as the Council may designate;
- Provide grants to bring properties up to a licensable standard where the criteria is met and funding is available;
- Use all available data to identify relevant properties;
- Deter non-compliance by the use of civil penalties against landlords who fail to disclose their HMO properties and/or who fail to engage with the licensing schemes;
- Assess whether a licensable HMO is being managed well by clear and demonstrable evidence of periodic inspection of licensed properties, to monitor compliance with licensing conditions and management regulations;
- Work with landlords and tenants to achieve better standards.

## 4.3 Mandatory HMO Licensing

Mandatory licensing applies to HMOs which contain five or more persons. [The government has designated these properties as being subject to mandatory licensing.](#)<sup>3</sup> This legislation may change, and landlords are advised to maintain up to date knowledge of local and national licensing schemes.

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<sup>3</sup> "Houses in Multiple Occupation and residential property licensing reform: Guidance for Local Housing Authorities" Ministry of Housing, Communities and Local Government, 2018 Ref: ISBN 978-1-4098-5397-8

#### 4.4 Additional HMO Licencing

The additional licencing scheme operating in the London borough of Lewisham applies to all HMOs which are:

- Above commercial premises
- Occupied by 3 or more persons living in 2 or more households

A further additional scheme has been authorised and will be implemented. This takes in all HMOs which are

- not subject to the mandatory licencing conditions; or
- are not [specifically excluded](#)

#### 4.5 Licensing Principles

Applications for licences will only be considered to be complete where:

- They are made using the Council's online application form;
- All necessary documents and information have been provided;
- The applicant has completed and signed the declaration;
- The forms are signed by the person(s) making the application; and
- The requisite administrative fee has been paid.

HMO licences will be granted where:

- The house is suitable for occupation as a HMO;
- The management arrangements are satisfactory;
- The licensee and/or manager are fit and proper persons;
- The applicant is the most appropriate person to hold the licence;
- The property meets the current [Standards for licensable houses in multiple occupation](#); and
- The licence holder has paid the enforcement fee

An officer will visit an HMO before a licence is granted to assess compliance with the licencing requirements and the number of people, the HMO should be licensed for.

The council is also required to assess whether the applicant, any manager and any person associated with them or formerly associated with them are deemed “fit and proper” persons to own or manage an HMO.

#### **4.7 Fit and Proper Person**

A person will be considered fit and proper if the council is satisfied that [they meet this set of criteria](#)

#### **4.8 Duration of Licences**

Licences will normally be valid for five years.

#### **4.9 Licensing Conditions**

Licences will specify the maximum number of occupiers or households permitted to reside in the property. The occupancy number will depend on the number and the specification of rooms available, and the kitchen and bathroom facilities. [The following mandatory conditions](#) will be applied to **all** licences:

A licence may also include such conditions as the Council consider appropriate for regulating the management, use or occupation of the house concerned.

#### **4.10 Licensing Fees**

All applicants will be charged an administration fee that falls due on the application being submitted. No application will be accepted until the fee has been paid. The administration fee is non-refundable; this is irrespective of the outcome of a licence application. The fee charged is to cover the cost of processing the application.

Any person who is granted a licence is required to pay an enforcement fee. The enforcement fee becomes payable once the licence holder has been informed that the council has decided to grant a licence. If the enforcement fee is not paid, this may lead to the Council declining to issue the licence.

#### **4.11 Temporary Exemption Notices (TEN)**

This is where notice is given in writing, of an intention by a person, to take steps to secure that the property is no longer required to be licensed. In this type of scenario, the Council will take into account, all the circumstances of the case when reaching a decision. These include:

- Whether the property was identified by the Council or where the landlord or manager of the property volunteered this information;
- The length of time it has been an unlicensed HMO;
- The circumstances in which the person making the application, came to be in a position of management or control of the HMO and the duration in which they occupied that position; and

- Any other relevant factors

A landlord seeking to rely on a [section 21](#) to evict tenants as a way of avoiding the licensing of a property, is unlikely be found to be a good reason to grant a TEN, in the absence of any other compelling factor.

A TEN can only be granted for a period of 3 months on a first application. This can be extended for an additional 3 months maximum, once the 3 months has expired.

## **4.12 Breach of licence conditions/Breach of HMO Management Regulations**

It is a criminal offence to operate an HMO or other licensable property without having a valid licence. Additionally, an offence is committed by a licence holder if they knowingly permit the HMO to be occupied by a number of occupants exceeding that specified on the licence or otherwise fail to comply with licence conditions. The fines for these offences are unlimited. The Council may choose to respond to any such breach or failure to license by issuing a Civil Penalty Notice. Where this course of action is taken and Civil Penalty Notices are issued, there is a maximum fine limit of £30,000.

[The HMO Management Regulations<sup>4</sup>](#) are additional to any licence conditions and apply to all HMO properties whether licensed or not. Managers or controllers of HMOs where breaches are identified can be prosecuted or can be issued with a Civil Penalty Notice.

The Council considers that the holding an HMO licence is a serious responsibility and any failing to licence and/or maintain compliance with regulations, will be regarded as a significant failing. Therefore, where is it deemed necessary to undertake any enforcement action in cases of licence or management regulation breaches, it is considered appropriate that the starting point will be at level 2.

## **4.13 Renewal of Licences**

The Council will continue to actively promote licensing to improve housing standards and encourage applications in all cases where owners/agents believe that a licence is required.

It is the licence holder's responsibility to maintain licensing standards and to ensure that all licensable properties have the appropriate licence at all times. This includes renewing an existing licence before it expires.

It is the Council's position that landlords who fail to apply to renew their licence before the existing licence ends, will have to make a fresh application. This is on the basis that once a licence has expired, there is no licence to renew. The Council will only

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<sup>4</sup> The Management of Houses in Multiple Occupation (England) Regulations 2006, no 372

permit renewals once the existing licence has expired, in exceptional circumstances only.

The Council will consider enforcement action, including the service of a Civil Penalty Notice where the time between the existing licence expiring and any renewal or relicensing application is over 28 days, and there is no reasonable excuse for the property being unlicensed.

#### **4.14 Rent Repayment Orders-unlicensed properties**

Where a landlord has failed to license an HMO or selective licensing property, and the tenant was in receipt of Housing Benefit or Universal Credit for that period, the Council must consider applying to the First Tier Tribunal (Property Chamber) (FTT) for a [Rent Repayment Order](#)<sup>5</sup>. The FTT has the power to request up to 12 months' rent is repaid to the Council, where such a finding is made.

Tenants can also apply to the FTT for repayment of any rent they have paid. The Council will support the tenant in any application, including providing evidence, only doing so where it does not conflict with any duty owed to a third party and in compliance with duties set by General Data Protection Regulations (GDPR) or other responsibility placed on the Council.

#### **4.15 Variation of Licence Details**

An HMO licence may be varied either by agreement with the licence holder or by the PSHA. This may arise where there has been a material change in circumstances since the licence was granted such as:

- Change of licence holder's address;
- Property altered or extended and permitted number of occupants increased;  
or
- Variation due to policy or legislation changes.

A variation to licence will be granted if:

- the property is suitable for the proposed changes;
- the management arrangements are still satisfactory;

The consent of all relevant persons must be provided to the Council in writing before they become effective. A "relevant" person is defined at section 30 [here](#).

The Council will follow the [procedure set out in Housing Act 2004 schedule 5](#) where written consent has not been provided by all relevant persons.

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<sup>5</sup> Housing and Planning Act 2016, ss40-47

Changing the licence holder's name cannot be achieved by variation. [The Housing Act 2004](#) requires the licence to be revoked and a new licence issued to the proposed new licence holder. Where this is the sole reason for revoking the licence, and is not an action undertaken by the Council because the current licence holder has ceased to be a fit and proper person, the Council will not charge the new licence holder an enforcement fee.

## **5. The Level of Enforcement Action**

### **5.1 Authority to Investigate or Enforce**

The majority of enforcement powers involve the service of informal and statutory notices under the Housing Act 2004. Officers who undertake enforcement action, including criminal investigations, will use powers to investigate or serve notices under provisions of the following:

- Housing Act 1985 (as amended)
- Environmental Protection Act 1990
- Housing Act 2004
- Building Act 1984
- Public Health Acts 1936 and 1961
- Proceeds of Crime Act 2002 (POCA)
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Police and Criminal Evidence Act 1984 (PACE)
- Criminal Procedure and Investigations Act 1996 (CPIA)
- Housing and Planning Act 2016
- Deregulation Act 2015
- Protection from Eviction Act 1977
- Criminal Law Act 1977
- Local Government (Miscellaneous Provisions) Act 1976
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- The Management of Houses in Multiple Occupation (England) Regulations 2006

Authorised Officers will draft and sign statutory notices and conduct interviews under caution. Officers will be fully trained and deemed competent to conduct their investigations in accordance with procedure as regulated by the relevant codes under the PACE and Criminal Evidence Act 1984, Criminal Procedure and Investigations Act 1996 and Regulation of Investigatory Powers Act 2000.

All notices will clearly state the requirements to be carried out to remedy the hazard, and the date for compliance.

## 5.2 Taking no action

In certain circumstances it may be appropriate to take no action. For example:

- When we decide that the health and safety threat is deemed sufficiently low, so not as to pose a risk;
- Where there are extenuating circumstances regarding the person against whom action would be taken;
- Taking level 3 or above action would be disproportionate or inappropriate, taking into account all the circumstances of the case.
- Where the tenant does not wish to take action, and the Council is not under a duty and do not consider it appropriate to take action in the circumstances.

Where the Council has no statutory powers to take level 2 or above enforcement action, but the tenant can take action in their own right, the tenant will be advised of this and signposted to an appropriate adviser and/or their legal options available.

## 5.3 Disrepair, hazards, smoke and CO alarms

Unless there are compelling reasons to take more intrusive enforcement action, the Council will work with stakeholders to assist in complying with the law. The presumption is that the starting point for enforcement of this nature, is level 3 or 4.

Compelling reasons include:

1. Where there is an imminent risk of serious harm to the health and safety of residents or visitors;
2. The landlord has made threats to evict the tenants if they complain or has a history of similar behaviour, and a collaborative approach will deprive the tenants of statutory [protection from retaliatory eviction](#);
3. There is evidence that the landlord may have committed an offence contrary to [s1\(2\), 1\(3\) or 1\(3A\) Protection from Eviction Act 1977](#);
4. The landlord or managing agent has a history of non-compliance;

5. Intervention at a level below level 2 is likely put the tenants safety at risk;

## 5.4 The Housing Health and Safety Rating System (HHSRS)

The Council will use the [Housing Health and Safety Rating System](#) to assess the risk certain hazards pose to occupiers.

The council will always comply with [its statutory duty to take action](#) where there are category 1 hazards in a property.

For **Category 2** hazards the council will not generally take action except under the following circumstances:

- Where Category 2 hazards are found in the same premises as Category 1 hazards.
- Where the occupiers appear to be vulnerable, and their vulnerability puts them at greater risk of harm
- Where a Category 2 hazard or hazards are found in a property subject to ongoing neglect, so as to prevent the occurrence of a Category 1 hazard.

## 5.5 Licensable properties-fail to licence and non-compliance with conditions/regulations

This section deals with the offences created by [section 72](#) and [section 234](#) Housing Act 2004

We rely upon any licence holder's own declaration that they are a fit and proper person, and that they are competent to manage or control a licensable property. Licence holders and managers are expected to keep themselves up-to-date with all developments in the law, changes and additions to licensing schemes and guidance on how to carry out their duties.

There is no legal requirement to request a landlord complies with HMO Management Regulations or licensing conditions before moving onto level 2 enforcement. Licensing schemes are well established and publicised. It is the responsibility of the licence holder to familiarise themselves with all information available and to ensure they are aware of their duties as a person to manage or control an HMO. However, we will write and give a reasonable time for the licence holder to regularise matters before doing so unless:

- The licence holder, manager or property owner has been previously warned about non-compliance in that or any other managed property;
- The licence holder, manager or property owner, has other licensed properties and one of the issues is failing to licence;
- The licence holder, manager or property owner has obtained an accredited landlord discount when applying for a licence;
- There is evidence that the licence holder was aware of the requirement to licence, breach of conditions and/or breach of management regulations prior to the council's involvement and took no action to remedy the situation.

## 5.6 Licensable properties-category 1 and category 2 hazards

A licensed HMO property [cannot contain category 1 hazards](#). The presence of category 1 hazards in an HMO, is an indicator of serious failings in management. We will start with formal enforcement activity at level 2 in these circumstances unless there are compelling reasons against this.

Category 2 hazards may require level 2 enforcement action, if they are part of a picture of declining housing standards and poor management. It is more likely that it will be appropriate to serve notice if:

- There are category 1 hazards in the property
- The hazard or hazards score in bands D-E
- There is more than one category 2 hazard
- There are breaches of licence conditions and/or management regulations present in the property

This is not an exhaustive list and every case must be assessed on its individual merits and facts.

## 6. Escalating Enforcement Action

**Level 4 enforcement activity is providing information, advice, support and signposting** Where level 4 enforcement activity has failed to resolve any issue, level 1-3 enforcement action may be taken. Enforcement actions include:

- Informal action (level 3)
- Formal action (level 2)
- Emergency action (level 1)

## 6.1 Informal Action (level 3)

In the majority of cases, our initial action will be to contact those involved, to inform them the council has received a complaint and request that they deal with the matter. We will also fully explain what is expected to be done; why any action is required to comply with the law and the potential for more formal action to be taken, should they not respond to the request. Informal action may take a variety of forms, for example:

- verbal requests
- letters or e-mails
- informal notices
- schedules of work

The tenant will be asked to contact the case officer again, if the landlord does not respond and consider whether it is appropriate to commence formal action.

## 6.2 Informal Notice(s) of Intention to Take Enforcement Action

In the majority of cases, before taking any enforcement action under one of the principal housing acts, a written notice will be served on the owner(s) and all relevant persons connected to the property, informing the owner that enforcement action is being considered and providing the reasons for this. These will be 'informal' notices and will allow the landlord the opportunity to respond prior to statutory enforcement action being taken.

## 6.3 Situations where an informal notice is not required

Where it appears necessary to take immediate enforcement action the 'informal' notice will not be issued. This will be the procedure where:

- There is an imminent risk of serious harm to residents and visitors- this is a level 1 enforcement issue;
- The landlord is absent or has a poor management record; or
- Where the landlord or managing agent has a history of failing to respond to informal action;
- Where the landlord or any person associated with the management of the property has made threats to evict or has a history of making threats of this nature, and failing to take formal action would deprive the tenant of statutory protection under [s33 Deregulation Act 2015](#);
- Where the appropriate enforcement action does not have a provision for informal intervention.

- Where there is evidence that the owner, agent or licence holder were aware of the hazard or defect prior to the council's involvement and took no action to remedy it.

This is not an exhaustive list and every case must be assessed on its individual merits and facts.

Where an Officer has decided to proceed to commence enforcement action at level 2, then the reasons for this will be communicated to the person or persons against whom this action has been taken and a date for the owner to respond by.

#### **6.4 Representations made in response to informal notices**

The purpose of an informal notice is to deal with an issue in a property promptly. Officers must be sure that intervention is necessary before pursuing this course of action.

Fairness demands that the person receiving the informal notice, should have the opportunity to make representations; this should not be the basis to further delay or failing to address the issues. The fact that there is an automatic 28 day period of grace, should formal notice under Housing Act 2004 require being served, is a significant and relevant consideration.

Persons receiving an 'informal' notice will be given 7 days in which to make representations. Having considered any and all representations, a decision will then be made as to whether to proceed to informal level 3 enforcement action; discontinue informal action or escalate any enforcement action to level 2. This decision will take the following factors into account:

- landlord's previous history;
- proposed timetable for works
- the seriousness of any hazard
- the nature of the representations
- any other relevant consideration

The landlord will be notified of the response to their representations in writing within a reasonable period.

#### **6.5 Formal Action (level 2)**

There are a number of options available for formal action. The decision as to which is the most appropriate, will depend on a number of factors including the circumstances of the case, the relevant legislation, the risk to health and safety and tests relevant to each option.

## 6.6 Types of level 2 formal action

The options include:

- Service of formal notice or order
- Issue a penalty charge notice under the Smoke and CO Alarm regulations
- Issue a Civil Penalty Notice under Housing Act 2004 and Housing and Planning Act 2016
- Issue a Civil Penalty under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- Simple cautions
- Prosecution
- Work in default of the person served with notice
- Revocation or refusal of a licence
- Interim and Final management orders
- Empty Dwelling Management Orders (EDMO)
- Compulsory Purchase Orders (CPO)
- Demolition
- Clearance
- Registration of criminal landlords (convicted or issued with Civil Penalty Notices)
- Banning Orders
- Rent Repayment Orders

## 6.7 Service of Statutory Notices and orders

Notices and orders will be served in accordance with the requirements of the relevant legislation and will be served on the persons required by the relevant legislation. These notices are relied upon where landlord failed or is failing to comply with housing or environmental health legislation. The notices will specify the necessary works to be undertaken at the specified property, and also the timescale by which the work is to be completed (the deadline for completion will be dependent on the nature of the works to be carried out).

The Notice must be compliant with the relevant legislation and all legal notices issued by the Council, will provide any rights of appeal to be utilised by the person/s against whom the notice is addressed. Failure to comply with a statutory notice or order is an offence and will result in a prosecution or issuing of civil penalty notice.

## 6.8 Emergency Action (level 1)

In emergency situations where it is not possible to contact the relevant person and gain their co-operation, enforcement action may be taken immediately without notice, for example:

- Where there is an imminent risk of serious harm to the health or safety of occupiers or others [emergency prohibition orders](#) and [emergency remedial action](#)
- Where there is an immediate need to secure a building against unauthorised entry or to prevent it becoming a danger to public health (subject to the provisions of The Local Government (Miscellaneous Provisions) Act 1982.

## 6.9 Civil Penalty Charges

The Council's Private Sector Housing Agency has the power to serve Penalty Charge Notices in certain circumstances. These are:

- Failure to comply with a notice requiring the provision of a smoke or carbon monoxide detector (£5,000 maximum)
- [Failing to comply with an Improvement Notice](#), [failing to licence an HMO or breaching licence conditions](#), [fail to licence a selective licence property or breach of licence conditions](#), [breach of HMO Management Regulations](#) (£30,000 maximum)
- Breaching a duty under [regulation 3](#) of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (£30,000 maximum)

The Council will take any decisions regarding issuing civil penalty notices in accordance with its [Civil Penalty Notice Policy](#) and calculator, and Smoke and [CO Alarm Statement of Principle and Procedure](#).

## 6.10 Simple Caution

Simple Cautions are intended as an alternative to a prosecution in court; this means that where there is evidence an offence has been committed, under normal circumstances, the matter would proceed to court for a prosecution. However, without prosecuting or issuing a Civil Penalty Notice, a simple caution is given. While they do not have the status of a police caution, and cannot automatically be referred to in court proceedings, they are to be considered an effective diversionary strategy. Cautions should only be given when:

- The offender makes a clear and unequivocal admission of guilt. Putting forward a defence even while admitting carrying out an act that would have to be proved to establish guilt is not an acceptable admission.
- The offender signs a document accepting guilt and accepting a caution
- It is not in the public interest for the case to be prosecuted
- There are no grounds to seek ancillary orders such as Banning or Rent Repayment Orders that would be assisted by a conviction.

In the absence of an offender admitting guilt and or consenting to a simple caution, Officers should consider whether it is appropriate to proceed with a prosecution or issue a Civil Penalty Notice based on all the information they have before them.

## 6.11 Prosecution

Recommending a case for prosecution is a serious step. Where a serious infraction is suspected, Officers will carry out an investigation into any suspected offences, in order to collect evidence, to establish if a statutory defence is available and reasons why the case may or may not be in the public interest to pursue further action. Investigating Officers will carry out their investigations in compliance with the Criminal Procedure and Investigations Act 1996, Police and Criminal Evidence Act 1984, Regulation of Investigatory Powers Act 2000 and any internal guidance that may be issued.

An assessment is carried out before making a recommendation to refer a case to the Council's Legal Service. This assessment should be carried out by a Senior Officer or Manager, who should refer to the principles as set out in the [Crown Prosecution Service](#) Code for Crown Prosecutors.

The final decision on whether a case will be prosecuted and the appropriate charge, lies with the Council's Legal Service, who must follow the Code for Crown Prosecutors (The Code).

## 6.12 Work in Default

Where the Council has legally required someone undergo works at the property but they have failed to do so, powers are available to the Council, to carry out works by default.<sup>6</sup> The powers are provided in the legislation being used in relation to specific case. In most circumstances a person will be given notice of the council's intention to carry out works in their default.

Works in default are carried out where a landlord has failed to comply with an order or notice. If the council has deemed it necessary to carry out works in default, the presumption is that the landlord will also be prosecuted or issued with a Civil Penalty Notice for his non-compliance.

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<sup>6</sup> Section 31, Housing Act 2004

Once the works have started, it is an offence for that person to obstruct the Council or any of the contractors that have been employed to carry out the works<sup>7</sup>.

The complete cost of the works and all costs will be recovered in accordance with the relevant statutory provisions.

### **6.13 Management Orders**

The Council will consider taking a property into management, if all relevant persons agree in writing.

The criteria for applying for an Interim Management Order or Management order in the absence of such consent are set out [here](#) and [here](#).

The Council will follow the procedures set out at [Schedule 6 Housing Act 2004](#) in making any decision or application to the Tribunal.

### **6.14 Revocation of licences**

The Council will revoke a licence, if all relevant persons consent to this in writing.

The criteria and procedure for revoking or varying licenses in the absence of consent are set out [here](#) and [here](#).

The Council will follow the [procedures and guidance set out at Housing act 2004 schedule 5](#) in making any decision or application to the Tribunal

### **6.15 Banning Orders**

A Banning Order prohibits a landlord or property manager from:

- Letting a house in England
- Engaging in English letting agency work
- Engaging in English property management work

A person who has been made subject to a Banning Order cannot hold an HMO or Selective Licence. The Council has a duty to apply to revoke any such licence.

A Banning Order has a minimum set period of 12 months. There is not upper time limit.

Banning Orders can be made by the First Tier Property Tribunal. The Council will consider applying for a Banning Order where a landlord or property manager has been convicted of a qualifying offence. These are set out [here](#).

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<sup>7</sup> Ibid section 30

The Council will consider all relevant information when deciding whether to apply for a Banning Order. This includes:

- The seriousness of the qualifying offence
- Any previous convictions for that or similar offences
- Whether the landlord or agent is, or was, on the rogue landlord database
- The effect of the order on the landlord, agent or anyone else who may be affected by the order (for example, a tenant).

Applying for a Banning Order is a serious step, with potentially wide ranging consequences for the potentially banned individual or company and tenants and residents in their properties. The decision to make an application for a Banning Order has to be agreed by the Private Sector Housing Agency Manager, who may delegate this function to any manager within the service.

## 6.16 Empty Dwelling Management Orders (EDMO)

Where the Council has exhausted all avenues to bring a property back into use, we can take over the management of the property using an Empty Dwelling Management Order (EDMO). This is done by making an application to the First Tier Tribunal for permission to make an order under [s134 Housing Act 2004](#).

An interim EDMO allows the council 12 months to bring about the repair and occupation of the property. This may be done by, among other things, offering support and advice to a property owner. If no progress is made within 12 months, the Council can invoke a final EDMO which lasts up to 7 years, taking control of the property and stepping into the shoes of the owner. The Council becomes responsible for insuring, repairing, tenanting and managing the property.

The council will make a final EDMO in accordance with [s136 Housing Act 2004](#), and will do so only if it is satisfied that:

- The property is likely to become or remain unoccupied unless a final order is made.
- All steps that are appropriate to take to secure occupation under the interim EDMO have been taken.

In deciding whether either of these tests has been met, the council will consider all relevant evidence including:

- The property owner's level of cooperation and engagement with the council during the interim EDMO
- The length of time the property had been unoccupied
- The level of disrepair in the property at the point of making the decision and at the point at which the interim EDMO was granted

- The level of nuisance the empty dwelling created for neighbours and the wider community
- Any views expressed by neighbours and the wider community

The Council will take such of the rental income generated from the property as is necessary to pay for the costs of managing, insuring and repairing the property; and carrying out routine duties and functions of being the landlord.

The property owner will be issued with a detailed schedule of works to repair and manage the dwelling and a breakdown of the costs thereof. Any surplus rental income after the Council's costs have been deducted will be returned to the owner on expiry of the EDMO.

The Council will be under a duty to assess the level of disrepair taking into consideration, the estimated cost and consider if an EDMO is the best course of action or whether a more appropriate course of action is available, such as use of the [Law of Property Act 1925](#). The latter will enable the Council to recover debts incurred and gain title to the premises, with a view to selling the property at an auction.

## 6.17 Compulsory Purchase Orders (CPO)

An essential element of the [Council's Empty Properties Strategy](#) is the making of Compulsory Purchase Orders (CPO). This option will only be used as a last resort and in exceptional circumstances, for example:

- Where the property has been derelict for some time and is having a detrimental impact on the local environment or neighbouring properties;
- Where the property appears to be abandoned and the owner cannot be traced;
- Where all other avenues for bringing the property back to into residential use, have been exhausted;
- Where the property is suitable for immediate residential use, but is not likely to be occupied for residential purposes unless bought by the Council.

The making of a CPO has to be referred to and agreed by the Mayor and Cabinet of Lewisham Council.

## 6.18 Demolition and Clearance Areas

Where one or more category 1 hazards are found within a property or a number of properties, and Officers are satisfied that the properties are dangerous or harmful to the health and safety of the occupants, or where other buildings in the area, are dangerous or harmful to the health of the inhabitants; the council can take action for:

- A property to be demolished; or
- To declare an area, a clearance area.

The Council will in the course of either action, take into account:

- The availability for re-housing occupants
- The demand for and sustainability of the accommodation if the hazard was remedied
- The prospective use of the cleared site
- The local environment and the impact of a cleared site, on the appearance and character of the neighbourhood.

Where the Council considers these forms of action to be the only viable option, a demolition order will be authorised by the Director of Customer Services. A declaration of a Clearance Area will be referred to the Mayor and Cabinet for decision.

### **6.19 Requiring the production of information, documents or other materials**

The Council's authorised officers have the power to require:

- Documents to be provided to enable them to carry out their powers and duties under the Housing Act 2004.
- Electrical and gas safety certificates to be provided in relation to Houses in Multiple Occupation.
- Any person with an interest in a property to provide details about its ownership or occupation.

The Council will use these powers where required in pursuit of the aims of this policy.

### **6.20 Powers of Entry**

Council officers have the right to enter any property with the occupiers' permission, and should always seek this when doing so, for the purpose of any visit or survey.

To comply with the Council's general duty to investigate housing standards where necessary it will use statutory powers of entry to investigate complaints further. These powers allow Officers to enter any premises:

- Without giving any notice, if they suspect an offence under [s72](#), [s95](#) or [s234](#) Housing Act 2004 has been committed; or
- Where suspected, that hazards are present which pose an imminent risk of serious harm to the health and safety of any of the occupiers, and requires the use of emergency remedial action or emergency prohibition

- Formally after giving 24 hours' notice.
- To execute a warrant that has been issued by a Court

## 6.21 Investigation of “Rogue” Operators

Following a thorough investigation of a “rogue” landlord, all relevant evidence and intelligence will be considered within good practice guidelines. This investigation will be carried out in accordance with the Council’s Investigations Guidelines

Where following an investigation, a complaint is substantiated, a decision will be taken to either caution, prosecute or take no further action against an offender.

The Council will use all available avenues to remove convicted offenders from the private rented sector. This could include, using banning order powers available under the Housing and Planning Act 2016, and or where confiscation is appropriate, proceedings will also be instigated under the Proceeds of Crime Act 2002.

Following conviction or receipt of a Civil Penalty Notice that is not appealed or has been upheld by the FTT, landlords will be placed on the applicable national or local database.

## 6.22 Rent Repayment Orders

For the application of Rent Repayment Orders for offences involving HMOs, please see above in paragraph [4.14](#).

The Council may apply for a Rent Repayment Order where the tenant or tenant has been in receipt of Housing Benefit or Universal Credit and the landlord has been convicted of a trigger offence.

“Trigger” offences are:

- Failure to comply with a Prohibition Order
- Failure to comply with an Improvement Notice
- Using Violence to Secure Entry
- Unlawful Eviction
- Harassment of Tenants
- Breach of a Banning Order
- Failure to license licensable HMO

The Council will advise tenants of the right to make an application to the FTT when a trigger offence is suspected. The tenants must be advised that there is a time limit to make this application - within 6 months from the time when the offence was committed, or the matter of complaint arose.

The Council will support the tenant in any application, including providing evidence where doing so, does not conflict with any duty owed to a third party or GDPR responsibility.

## **7. Appeals and Complaints Procedure**

Appeals about the conduct of our officers and managers should be made using the [Council's Corporate Complaints procedure](#)

The right to appeal any statutory notice is set out within the body of the notice itself. A failure to provide this information will usually make the notice invalid.

This Policy and other policies referred to, will be relevant documents to consider when reviewing complaints in relation to our enforcement action. It is important to stress that they are not to be regarded as the definitive list of guidance available and there may be more relevant or up to date guidance that should be considered in relation to any complaint.

We will inform all persons who are the subject of formal enforcement activity of their right of appeal; this will vary dependent on the particular legislation being used. The Council's complaints process is available for complaints relating to the application of this Policy where there is not an appeal procedure otherwise available. If an appeal is sought against a formal notice or order, reference to the statutory appeal rights is available.

## **8. Approval of this policy and review**

The Director of Housing Services approved this policy refresh on the 1<sup>st</sup> June 2021 under the powers delegated in the Council's constitution.

## **9. Enquiries**

Any enquires about this policy can be made to the:

Private Sector Housing Team  
Customer Services Department Lewisham Council  
3<sup>rd</sup> Floor Laurence House, London. SE6 4RU

Email: [pshe@lewisham.gov.uk](mailto:pshe@lewisham.gov.uk)  
Telephone: 0208 314 6420 or 0208 314 6622

## Appendix One - Fees and charges Schedule

### Charges for Notices

The landlord/person in control of a property where a notice or order is to be served will be charged a standard rate of **£400** (based on the cost of preparing the average statutory notice) for the first notice served in relation any one property. A further amount of **£85** will be charged for every additional notice served at the same time under the Housing Act 2004 in relation to the same property.

When a suspended notice is due for a review, we will make a further charge of **£85** per notice. We must review suspended notices every 12 months and make a decision on whether:

- To retain; or
- Lift the suspension; or
- Revoke the Notice.

We will advise a landlord/person in control of the charges when we serve preliminary notices and they can avoid fees if they agree to undertake the work. In cases of imminent risk, we will make an attempt to involve the landlord before service of notice, but if a landlord cannot react quickly enough, or cannot be contacted, we will serve notice and the charges will apply.

<b>Table of charges for service of Statutory Notices effective from September 2020</b>	
<b>Notice</b>	<b>Charge</b>
Service of <b>first</b> Statutory Notice under the Housing Act 2004 <ul style="list-style-type: none"><li>• Improvement/Suspended Improvement Notice (S11/12)</li><li>• Prohibition/Suspended Prohibition Order (S20/21)</li><li>• Emergency Remedial Action (S40)</li><li>• Emergency Prohibition Order (S41)</li></ul>	£400
Service of <b>second</b> and subsequent Statutory Notice under the Housing Act 2004 <ul style="list-style-type: none"><li>• Improvement/Suspended Improvement Notice (S11/12)</li><li>• Prohibition/Suspended Prohibition Order (S20/21)</li><li>• Emergency Remedial Action (S40)</li><li>• Emergency Prohibition Order (S41)</li></ul>	£85 for each Notice

Review of <b>suspended</b> Statutory Notices under the Housing Act 2004	£85 for each Notice reviewed
<ul style="list-style-type: none"> <li>• Suspended Improvement Notices (S11/12)</li> <li>• Suspended Prohibition Orders (S20/21)</li> </ul>	

## Works in Default

If we need to carry out work on a house or flat because the landlord/person in control has not made suitable progress, then we charge professional and administrative fees as well as the cost of the work.

## License Charges - Mandatory and Additional Schemes

Discounted fees are available for charities and for landlords who are accredited through the London Landlord Accreditation Scheme (LLAS) or are members of a recognised landlord association.

A lettable unit/household consists of family members or a cohabiting couple. A group of four friends counts as four separate lettable units/households.

<b>Licensing fees and charges for HMOs for both the mandatory and additional licensing schemes effective from 1 April 2017</b>		
	<b>Fee per lettable unit/household</b>	
<b>Fees for mandatory scheme</b>	<b>Administration fee</b>	<b>Enforcement fee</b>
Accredited landlords	£200	£200
Unaccredited landlords	£250	£250
Charities	£125	£125
<b>Additional Scheme</b>	<b>Administration fee</b>	<b>Enforcement fee</b>
Accredited landlords	£200	£200
Unaccredited landlords	£250	£250
Charities	£125	£125

<b>Other Charges</b>	
Visit by us to inspect and or draw floor plans that meet HMO licensing standards	£220
Immigration inspection by EHO	£150
Issuing VAT reduction certificates for empty properties	£150
Assisted Applications for HMO licenses	£50

## Charges for other private sector housing enforcement work

### Immigration inspections for visa purposes

A property assessment can be undertaken for the UK border Agency and/or a foreign embassy of a foreign national proposing to live in the United Kingdom. This is done to ensure the property is safe, in a good state of repair and doesn't pose a [health and safety risk](#). It will also assess whether the property would become overcrowded if any more people were to move in. If the property meets the required standards then we will issue a confirmation letter which can be used as part of a visa application.

Immigration inspections for visa purposes have to be carried out by a qualified environmental health officer. It is not mandatory that these inspections are carried out through a local authority. However, Lewisham Council will carry out these inspections. An immigration inspection provided by Lewisham costs £150. This fee will be reviewed in line with the review of the Policy.

The Local Authority's Empty Homes Officer can issue certificates that confirm that a property has been empty for 2 or more years. These have the effect of reducing the VAT obligation on a person developing this property's purchase of building materials to 5%. This can be of considerable value to a developer. Issuing a VAT exemption or reduction certificate will cost £150.

Landlords are expected to complete the application for an HMO licence themselves, using Lewisham's on line application form. The council will help those applicants who are unable to complete the form to comply, but will charge a fee of £50 for this service. This fee may be waived at the Licensing and Housing Enforcement Manager's discretion.

### Non-payment of fees and charges

When a charge is made for the service of notices or work in default, the Council will send an invoice to the responsible person. The Council reserve the right to/may place a charge of statutory interest as permitted under the Late Payment of Commercial Debts (Interest) Act 1998 for any payment that remains outstanding after the invoice falls due. The Council can also take possession of the property where the debt remains unpaid and sell it in order to recover their costs. The debt also becomes a local land charge on the property and will be revealed when any land registry searches are carried out.

