



Knowsley Council

Housing Enforcement Policy

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TITLE	<p>Title: Housing Enforcement Policy</p> <p>Publication Date:</p> <p>Document Type: Policy</p> <p>Version Number: One</p> <p>Brief Summary: This a new Policy which relates to the enforcement of legislation which is aimed at protecting the health and safety of all Knowsley residents in social and private sector rented housing and owner occupiers. It sets out what can be expected when officers are engaged in enforcement activity and the various options that are available to deal with non-compliance. It will assist in ensuring a graduated and consistent approach.</p>
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SUPERSEDES	<p>Supersedes: Private Sector Housing Enforcement Policy</p> <p>Description of Amendments: Incorporates properties provided by social landlords and homeowners.</p>

<p>POLICY DEPENDENCIES</p>	<p>Link to other Council documents:</p> <p><u>Knowsley 2030</u> <u>The Knowsley Council Plan 2022-2025</u> <u>Enforcement Policy</u> <u>Housing Strategy</u> <u>Private Sector Housing and Affordable Warmth Strategy</u> <u>Empty Homes Strategy</u></p> <p>Link to Council Primary Objective:</p> <p>Link to Sustainable Communities Strategy Key Driver:</p>
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1.0 INTRODUCTION

- 1.1 The purpose of this policy is to set out Knowsley Council's approach to enforcing legislation aimed at protecting health and safety in all housing while minimising the burden to the Council, individuals, organisations, landlords and businesses.
- 1.2 The policy sets out the principles and processes that will apply when enforcement action is taken in relation to the following: substandard housing, statutory nuisances and related public health issues, substandard management of private or social housing and various legal aspects of the relationship between neighbouring residents or landlords and their tenants.
- 1.3 All enforcement action taken will be in accordance with the principles of the Regulators' Code. This policy should be read in conjunction with the Council's overarching enforcement policy together with its Empty Homes Strategy and Houses in Multiple Occupation (HMO) Policy.

2.0 AIMS

- 2.1 The Council aims to improve the range and quality of housing provision across all tenures and to reduce the number of homes that do not meet minimum quality standards. This will ensure that decent and healthy homes are provided for all. In order to achieve these aims, officers of the Council will:
 - Work in co-operation with owners/agents and tenants to ensure that properties achieve the appropriate standards. To this end, officers will provide clear advice, guidance, training, and assistance.
 - Use appropriate enforcement action to achieve improved standards in properties where the health, safety or welfare of individuals is at risk and may, where legislation permits, make an appropriate charge for doing so.
 - Review policies, procedures and standards on a regular basis taking into account the views of stakeholders, interested parties and to reflect any legislative changes.
 - Carry out duties efficiently and effectively in a manner that is open, clear, and helpful to owners/agents and occupiers and which reflect a commitment to consistent, graduated, balanced and fair enforcement.

3.0 PURPOSE

- 3.1 This policy sets out what can be expected when Council officers are engaged in enforcement activity and ensures that a consistent approach is adopted in each case. The policy applies to housing disrepair complaints and enquiries, statutory nuisance, and neighbourhood renewal assessments. It is consistent with the aims of the Knowsley 2030 Strategy which is to improve the range and quality of housing provision across all tenures and to reduce the number of homes that do not meet minimum standards. This will ensure that decent, safe and healthy homes are provided for all.
- 3.2 The Council recognises that most landlords / agents, businesses and individuals want to comply with the law. Our officers will strive to assist those regulated to meet their legal obligations without unnecessary expense. However, we will take firm action, including prosecution, against those who repeatedly offend, willingly breach the law or act irresponsibly. We want to see good landlords thrive and those that willfully fail to meet their legal obligations to leave the sector. We will, therefore, focus our activity on those that do not comply.
- 3.3 It is intended that this policy will be supplemented by a clear set of service standards as to how enforcement activity will be conducted.

4.0 ENFORCEMENT PRINCIPLES

- 4.1 This policy is consistent with the Regulators' Code ("the Code") and the principles of good regulation. We recognise that our enforcement activities should be carried out in a way which is: necessary, proportionate, accountable, consistent, transparent and targeted.
- 4.2 While it is understood that it is primarily the responsibility of individuals and businesses to ensure compliance with relevant legislation, the Council will help them, where possible, to understand their legal responsibilities. The aim of the Council is to secure compliance with the legislation, which it will do by making the most efficient use of the Council's resources.
- 4.3 By adopting the Code's principles, our officers are committed to:
- Support those that are regulated to comply with their responsibilities and to prosper. We will adopt a "light touch" approach aimed at reducing the number of interventions towards compliant landlords and owners of properties. To this end, officers will provide information

which will direct them to investigate and rectify defects prior to an inspection.

- Ensure that owners who may be eligible for financial assistance from the Council receive the appropriate advice on the necessary procedures. Applications for grants and loans will be dealt with in an efficient manner.
- Ensure that officers will carry out investigations with a balanced and open mind, will be courteous and will identify themselves by name showing an appropriate means of identification. Officers will provide contact details for further dealings with the Council.
- Engage with those that are regulated and enable them to communicate their views to officers. Before formal action is taken officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference. This is unless immediate action is required e.g. where there is an imminent risk to public health and safety or homelessness.
- To provide an explanation where immediate action is required and to confirm this in writing within 7 working days.
- Base enforcement activities on risk. Assessment of risk will be based on current legislation and specific guidance. The Council will target resources towards properties that give rise to the most serious risk or where hazards are least able to be managed or rectified by the owner/landlord/agent.
- Share information on compliance and risk with other enforcement agencies to minimise the burden on landlords/ agents. The Council will adopt a “collect once use many times” approach.
- Ensure that clear information, guidance, and advice is available in an accessible way to help those we regulate to meet their legal responsibilities. Our officers will explain why any remedial work is considered necessary and over what timescale. All communications will be easy to understand and in plain language. Clear reasons will be given why any enforcement action is required and any legal requirements will be clearly distinguished from best practice advice.
- Ensure that in circumstances where there are rights of appeal against formal action, advice on the appeal process will be clearly set out in writing at the time action is taken.

5.0 ENFORCEMENT OPTIONS

- 5.1 Officers will strive to ensure that all enforcement decisions are consistent, balanced, fair, and relate to common standards that ensure that the public and others are adequately protected. In order to achieve and maintain consistency of enforcement, officers will follow all official guidance and codes of practice.
- 5.2 There are a variety of options available to officers in relation to housing enforcement. These are:
- To take no action
 - To take informal action including written guidance, advice and negotiation
 - To take formal action in the form of statutory notices requiring the undertaking of works, access to a premises, the provision of information or restrictions on occupancy
 - To carry out work in default
 - To issue Civil Penalty Notices
 - To apply for Rent Repayment Orders
 - To apply for Empty Dwelling Management Orders
 - To apply for Enforced Sales
 - To apply for Compulsory Purchase Orders
 - To issue Simple Cautions
 - To Prosecute
 - To apply for Banning Orders
- 5.3 In deciding what course of action to take when investigating a complaint or following a pro-active inspection, officers will have regard to various factors including:
- The risk to the residential occupiers or others.
 - The result of consultation with the occupiers affected.
 - The previous history of the resident or owner/ landlord concerned.
 - The level of knowledge about the risk or offence that the responsible person is known to have.
 - The consequences of non-compliance with the legislation.
 - The effectiveness of the various enforcement options available.
 - The availability of other appropriate remedies.
 - The impact and effect of the condition of the property, including its gardens, on the surrounding area.

- 5.4 Any decision taken by an officer in relation to enforcement options will be documented with the reasons as appropriate. In situations where there is a shared enforcement role with other agencies e.g. fire safety issues, then officers will consult partners as necessary before a decision is taken on the appropriate action to take.
- 5.5 **Take no action.** In certain situations, enforcement activity may result in no action being taken. This may be where:
- No breaches of legislation are found or where the health and safety risk is sufficiently low.
 - The taking of legal action is considered disproportionate in the circumstances.
 - The owner or occupant does not want us to take action and in the circumstances this approach is considered appropriate.
- 5.6 **Informal action.** This may include providing advice, verbal warnings or a written warning. A written warning will indicate the legislation contravened and will provide guidance to enable compliance. Informal action is only appropriate where the consequences of non-compliance will not pose a significant risk to the residents or the public at large. Examples include:
- The housing defect or breach of duty is not serious enough to warrant formal action.
 - The complainant or resident elects to take up an alternative remedy.
 - Previous history of the resident or landlord suggests that informal action will achieve compliance within a suitable time frame.
 - Confidence in the owner/landlord is high and they continue to adhere to proper standards.
- 5.7 Officers will make clear that formal action could follow if there is a failure to meet informal requests to carry out works to meet legal requirements or if the informal approach does not lead to legal obligations being met.
- 5.8 **Statutory Notices.** A statutory notice is a legally binding document which clearly sets out actions that must be taken and the timescale for completion of the actions. Failure to comply with a statutory notice will generally result in prosecution and/or the carrying out of works in default. Wherever possible, the officer serving the notice will be prepared to discuss the requirements of the notice with the person(s) responsible for

compliance. All statutory notices will set out the details of the right of appeal against the notice. Statutory notices will only be served when one of the following situations apply:

- The officer has reason to believe that an informal approach will not be successful or where an informal approach has been taken and the landlord/ person responsible has either failed to undertake works within the agreed timeframe or where the works are not to the necessary standard to adequately resolve the matter.
- The issue of a statutory notice is proportionate to the risk to public health and safety.
- There is a history of non-compliance with legislation.
- The consequences of non-compliance could present a risk to residents or the public.
- Effective action is required as soon as possible to remedy conditions that present a serious risk and are deteriorating or likely to deteriorate.
- It is considered that failure to serve a statutory notice could lead to the owner/landlord seeking possession of the property rather than undertaking remedial works.

5.9 **Statutory Notices - Housing Conditions.** The Housing Health and Safety Rating System is a risk assessment tool that is used to assess the potential risks to the health of occupants of and visitors to residential premises. The Council has a duty to deal with Category 1 hazards and discretion over how to deal with Category 2 hazards. The following enforcement action is available to deal with identified hazards. In all cases, the circumstances and views of the tenants/ landlord/ owners will be considered in determining the appropriate action to be taken.

- **Hazard Awareness Notice:** This provides details of the hazard(s) identified and states the desirable remedial action required. Such a Notice will normally be served in relation to Category 2 hazards and will be followed up by further enforcement action if the notice is not complied with. However, should an unacceptable hazard still remain then the use of further formal action will be considered. A Hazard Awareness Notice is preferred in circumstances where the issue of an Improvement Notice or Prohibition Notice would be unreasonable or impractical. Where possible, prior to issuing a Hazard Awareness Notice a letter will be sent to the person(s) responsible setting out

what the issues are and giving them an opportunity to respond within a specified timescale.

- **Improvement Notice:** This is appropriate when Category 1 and/or Category 2 Hazards exist, and no management order is in place. Category 1 and 2 Hazards may be included in the same Notice. An Improvement Notice will include a schedule of defects and the remedial work that is required. Again, where possible such formal action will be preceded by a letter that sets out the issues and gives the person(s) responsible the opportunity to respond, prior to any formal action being taken.
- **Prohibition Order:** This is appropriate when Category 1 Hazards exist and no management order is in place. It will be issued in cases where there are serious risks to the health and safety of the occupants and remedial action is considered unreasonable or impractical. Such an Order is issued under S21 or S22 of the Housing Act 2004 and prohibits the use of the whole or part of a dwelling for some or all purposes or occupation by particular numbers or descriptions of people.
- **Emergency Prohibition Order:** This will be considered where a Category 1 Hazard exists and in the opinion of the officer the hazard presents an imminent risk of serious harm to the health and safety of occupiers or other persons. The Order prohibits use of the premises, or part of the premises, with immediate effect.
- **Emergency Remedial Action:** This would be considered appropriate where a Category 1 Hazard exists in the property and the officer is of the opinion that the hazard presents an imminent risk of serious harm to the health and safety of the occupier or other persons. The Council may enter the premises (obtaining a warrant if required) to undertake whatever emergency remedial action is necessary to remove the imminent risk of serious harm. A notice will be served on the responsible party within 7 days of the emergency action taking place.
- **Demolition Order:** This is suitable where a Category 1 Hazard exists on a residential premises where no management order is in place and where the hazard is considered to involve an imminent risk of serious harm to the health and safety of any occupiers of the premises.

5.10 **Work in default.** If a statutory notice is not complied with and where the legislation allows, then the Council may decide to carry out the works required by the notice and to recover the costs incurred including

administration costs and professional fees. Decisions will be made on a case-by-case basis and may be in addition to prosecution. Prior to undertaking work in default then relevant parties will be notified of the intention to carry out work in default, the hazards concerned, the action that is intended to be undertaken, the legal powers to undertake the action and the relevant timescales. Works in default will normally be carried out in the following circumstances:

- There is an imminent risk to health or safety.
- A situation is prejudicial to health to the extent that failure to take immediate action would be unacceptable. Examples would include lack of hot water or heating or drainage defects.
- The legislation does not permit prosecution for non-compliance with a statutory notice.
- The officer, in consultation with the manager, believes that there are circumstances which merit the action. A written record of such decisions will be kept.

5.11 **Civil Penalty Notices.** The Council will consider issuing civil penalties under the Housing and Planning Act 2016 as an alternative to prosecution for certain offences under the Housing Act 2004. The decision to prosecute or issue a civil penalty will be made on a case-by-case basis having regard to the circumstances of the offence and to relevant Government guidance. In general, civil penalties are likely to be considered as an alternative to prosecution for less serious offences where the intention is to punish the offender without criminalising them. The amount of the penalty will be determined in accordance with the Council's civil penalty matrix which has been approved by way of delegated executive decision. Any penalty will reflect the severity of the offence and will be informed by the owner or landlord's previous record of offending. The offences under the Housing Act 2004 for which civil penalties are applicable are:

- Failure to comply with an Improvement Notice (section 30)
- Failure to licence or be licensed in respect of Houses of Multiple Occupation (HMOs) (section 72)
- Failure to comply with an Overcrowding Notice (section 139)
- Failure to comply with Management Regulations in respect of HMOs (section 234)

- Breach of a Banning Order (section 23)

5.12 **Rent Repayment Orders.** In all instances the Council will consider applying for a Rent Repayment Order where a prosecution has been successful in relation to the certain offences. Such an order requires repayment of rent or Housing Benefit, or the housing costs element of Universal Credit paid in respect of a tenancy by a landlord/ agent. Decisions will be made on a case-by-case basis and in accordance with Government guidance. The relevant offences are:

- Failure to comply with an Improvement Notice (Section 30 Housing Act 2004)
- Failure to comply with a Prohibition Order (Section 32 Housing Act 2004)
- Breach of a Banning Order (Section 21 Housing and Planning Act 2016)
- Using violence to secure entry to a property (Section 6 Criminal Law Act 1977)
- Illegal eviction or harassment of the occupiers of a property (Section 1 Protection from Eviction Act 1977)

5.13 **Empty Dwelling Management Orders.** Such orders enable the Council to take control and manage a residential property that has been empty for up to 6 months and where all attempts to contact the owner or negotiations to bring the property back into use have failed.

5.14 **Enforced Sales.** This is another process that is available to the Council to bring empty property back into use. An enforced sale of a privately owned house will be considered where the present owner is either unwilling or unable to deal with the house and its associated problems and where it is anticipated that a new owner would be more willing and able to invest in the property.

5.15 **Compulsory Purchase Orders.** These Orders provide the Council with a statutory right to buy property in order to facilitate the improvement, development and re-development of land. Application for these orders will be considered where a property has fallen into disrepair and it seems unlikely that the owner intends to refurbish it. In such situations, the owner would be entitled to compensation which would usually include the value of the property and any relocation costs.

5.16 **Simple Caution.** A simple caution will be considered where there is sufficient evidence of a criminal offence but where it is deemed not in the public interest to prosecute. Any decision by the Council to issue a simple caution will be made in accordance with Ministry of Justice guidance. A simple caution will only be offered to persons who admit the offence and agree to accept one. It will form part of the offender's criminal record and may be referred to in future proceedings. Factors that will be considered in determining whether a simple caution should be offered include:

- The nature of the offence and whether the person has committed previous offences.
- The views of the victim about the offence.
- The nature and extent of any harm or loss and its significance in relation to the victim's circumstances.
- The attitude of the offender and whether any form of reparation or compensation has been offered.

5.17 **Prosecution.** The decision to prosecute will be based on the circumstances of each individual case and is likely to be taken in relation to serious or recurrent breaches or where other enforcement actions have failed to secure compliance. Any decision to prosecute will be in accordance with the criteria contained in the *Code for Crown Prosecutors* issued by the Director of Public Prosecutions. Prosecution will only be considered where the Council is satisfied that there is sufficient evidence to provide a realistic prospect of conviction and where it is in the public interest to do so. The following factors will be taken into account when prosecution is considered:

- The seriousness of the alleged offences - Have there been flagrant or persistent breaches of the law such that the health and safety of residents or others is put at risk?
- Has the landlord/ agent or owner willfully failed to comply with a statutory notice or other legal duty?
- The previous compliance history of the landlord/ agent or owner concerned.
- The willingness of witnesses to co-operate.
- The willingness of the landlord/ agent or owner to prevent recurrence of the offence.

- Any explanations offered by the landlord/ agent or owner.
- Whether an officer has been obstructed in their duties.

5.18 **Banning Orders.** The Council is committed to protecting tenants from rogue landlords who flout their legal obligations and rent out accommodation which is sub-standard. Where appropriate and subject to Government guidance, we will consider applying for a Banning Order in situations where the landlord has been convicted of one or more banning order offences as defined in regulations made under the Housing and Planning Act 2016. If granted by the first Tier Tribunal then the Order will exclude the landlord from letting or engaging in letting agency or property management work.

5.19 **Houses in Multiple Occupation.** In addition to the enforcement options detailed in this section, the Council has further powers and duties for enforcement of standards in certain types of Houses in Multiple Occupation (HMOs) under Part 2 of the Housing Act 2004 – Licensing of Houses in Multiple Occupation. Breaches of licensing requirements can be subject to action detailed in paragraphs 5.10 and 5.16 of this policy. Furthermore, standards in those types of HMO that are not subject to licensing are nevertheless subject to The Management of Houses in Multiple Occupation (England) Regulations 2006. Failure on the part of HMO managers to maintain safety standards in such properties may subject them to prosecution.

6. RETALIATORY EVICTION

6.1 We will deal with complaints from tenants about poor housing conditions in accordance with this policy. If it is necessary for the Council to serve an Improvement Notice or a notice of emergency remedial action then this will protect the tenant from eviction for a period of 6 months from the date of the notice.

7. EMPTY HOMES

7.1 The Council is committed to returning empty homes to occupation. Our resources will be focused on those properties which our officers consider create the greatest problems for the community. Officers will seek initial contact with the owner/ representative of the empty property to determine if there is a valid reason for the property being empty. In cases where the owner/ representative fails to engage with the Council or where officers

consider that the owner/ representative is unable to effectively manage the property then a range of enforcement options will be considered.

8. CHARGING FOR ENFORCEMENT ACTION

8.1 In certain situations, the Council has the power under the Housing Act 2004 to charge for the recovery of administration costs and other expenses incurred in relation to the following enforcement action:

- Service of an Improvement Notice
- Service of a Hazard Awareness Notice
- Service of an Emergency Prohibition Order
- Taking Emergency Remedial Action

8.2 Costs and expenses will include officer time spent in gaining access to and visiting a premises to determine the appropriate course of action and administrative costs in producing the relevant statutory notice or action plan. These costs will be separate to costs incurred in carrying out works in default or undertaking remedial action.

9. REVIEW OF THIS POLICY

9.1 We are committed to ensuring that this policy reflects current best practice and Government policy. To this end, the policy will be reviewed every three years. In addition, our managers will ensure that all housing officers are familiar with this policy and implement it in their day-to-day enforcement activity.

10. COMMENTS AND COMPLAINTS

10.1 If any person believes that they have not received fair or consistent treatment as outlined in this Policy, they can access the Council's Complaints Procedure. The matter will be considered, and a decision made as to whether the Enforcement Policy has been breached in this instance and the complainant will be given a reply in writing explaining the decision. This is without prejudice to any formal appeal mechanism.

10.2 If you wish to contact the Council to make a complaint, comment or to ask a question relating to this policy then please use the contact details below:

- Web: [KMBC - Have your say \(mendixcloud.com\)](https://mendixcloud.com)
- Email: haveyoursay@knowsley.gov.uk
- Post: Customer Liaison Team, Knowsley Council, Archway Road, Huyton L36 9UX
- Telephone: 0151 443 4712

11. AVAILABILITY

- 11.1 This policy is available on the Council's website. If you wish to receive this policy in another format then please contact us using the details above.

12. LINKS

Regulators' Code: [Regulators' Code - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

HHSRS: [Housing health and safety rating system \(HHSRS\): guidance for landlords and property-related professionals - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Civil Penalty Notices: [Civil penalties under the Housing and Planning Act 2016 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Rent Repayment Orders: [Rent repayment orders under the Housing and Planning Act 2016 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Simple cautions: [Simple cautions: guidance for police and prosecutors - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Prosecution: [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](http://cps.gov.uk)

Banning Orders: [Banning orders for landlords and property agents under the Housing and Planning Act 2016 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

You can also get this information in other formats. Please phone
Customer Services on 0151 443 3197, or email
customerservices@knowsley.gov.uk