

HOUSING STANDARDS ENFORCEMENT POLICY REVIEW

Report Author: Kevin Philcox
Housing Standards Senior Manager
01603 430578
kevin.philcox@southnorfolkandbroadland.co.uk

Portfolio: Communities and Housing

Wards Affected: All

Purpose of the Report:

The report details the Councils approach to enforcement regarding the various legislative procedures the team is required to work through. This report reviews the Policy and provides recommended amendments to add to the policies functionality.

Recommendations:

Cabinet agrees to:

1. Incorporate the revised Statement of Principles for the enforcement process of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as detailed in Appendix 2.
2. Incorporate a formalised Notice Charge procedure for the service of applicable enforcement procedures as detailed in Appendix 3.
3. To introduce a discount for early payment of Civil Penalties as detailed in section 4.4.
4. Authorise the use of the Civil Penalty Procedure detailed in Appendix 2 of the Policy for use with future legislation where the circumstances relate to potential harm and culpability and the maximum fine is set at £30,000.
5. To replace the enforcement procedure for Category 2 hazards relating to Damp and Mould Growth as detailed in Appendix 4.

1. Summary

- 1.1 Cabinet approved on 3 November 2021, a revised Housing Standards Enforcement Policy. A copy is provided in Appendix 1
- 1.2 This comprehensive policy detailed the Housing Standards team approach to enforcement for the various legislative tools available to the team, including a decision process for the determination of Civil Penalties where applicable.
- 1.3 This report provides a review of the Policy and makes recommendations to amend the policy, to increase the accountability of the actions the Housing Standards team takes and to promote efficiency in the process.

2. Background

- 2.1 The Housing Standards team is routinely involved in enforcement activities in the private rental sector with a strong approach to enforcement using the various legislative procedures available to the team through various Acts, Regulations and Orders. This report details the action of the team since the Policy was approved.
- 2.2 The report recognises weaknesses exposed since the adoption of the policy. The report recommends certain amendments and updates to the policy to improve the functionality of the enforcement process for the Housing Standards team

3. Current positions/findings

- 3.1 Currently the Housing Standards team operates a reactive service for complaints from Tenants regarding issues of disrepair such as a leaking roof. Approximately 80 complaints per year are received. All are investigated.
- 3.2 In line with policy procedure the approach of the team involves identification, inspection and discussions with tenants and owners to ensure appropriate standards and use of enforcement where required.
- 3.3 To ensure compliance where co-operation does not achieve required outcomes, enforcement is initiated. Since the policy was approved, 75 Notices have been issued. These largely relate to Notices of Entry and Requisition of Information; however, Improvement and Prohibition Orders have also been used.
- 3.4 The issue of damp has been raised as a national priority. As such the Housing Standard team is working as part of the Help Hub in a joined-up approach to tackle the issue.
- 3.5 During this period the team has also initiated a proactive approach through external funding, of the Minimum Energy Efficiency Regulations requirements, proactively identifying rental properties with an Energy Performance Certificate of F or G with following advice and enforcement where required to ensure compliance.

- 3.6 The team has also initiated a proactive response with regards to HMO's (Houses in Multiple Occupancy). This involves the use of intelligence gathering and area visits to identify possible properties. The team works with partners including Norfolk Constabulary and Norfolk Fire and Rescue Service, where necessary regarding HMO's.
- 3.7 The team is also active, regarding mobile home, caravan site and camping site licensing and enforcement. In addition, the Team initiates procedures regarding illegal encampments where required.
- 3.8 The Council has the power to make such reasonable charge as considered appropriate as a means of recovering certain administrative and other expenses incurred by the Council. These decisions are made on a case-by-case basis by officers in consultation with the Housing Standards Senior Manager.
- 3.9 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 require a 'Statement of Principles' to be published on the Councils Website. Government Guidance details that the Statement includes the Councils enforcement approach to the Regulations including a specific Civil Penalty decision process. This procedure has recently been reviewed and revised.
- 3.10 There are various Acts and Regulations that provide an option for a civil penalty procedure with various maximum fine levels specific to the legislation. It is also expected that there will be additional legislation that have an option for Local Authorities with a civil penalty option for non-compliance.

4. Proposed action

- 4.1 To continue to initiate enforcement procedures as detailed in the current policy.
- 4.2 A revised Statement of Principles for enforcement procedures is produced (appendix 2) for the Council enforcement approach to the Smoke and Carbon Monoxide Alarm (England) Regulations 2015. This revised procedure includes a new banding process to increase the accountability of any fine should the Council be challenged, and the fine level appealed. The new Statement of Principles, if approved will be published on the Councils Website.
- 4.3 To formalise through an amendment to the policy the procedure for charging for Notices as detailed in Appendix 3.
- 4.4 To introduce an incentive to recipients of Civil Penalties to pay the fine and prevent a costly appeal procedure. The reduction will be a third of the penalty if the landlord admits guilt for the offence, initiates work, and completes the payment for the Civil Penalty in full within 28 days of the date of the Notice of Intent (an invoice will be sent for payment on request). This discount will only be available for the first offence. Any subsequent offence will not be subject to any reduction. The discount will only be applied to the landlord when the Council serves the Notice of Intent.

- 4.5 It is proposed, where Civil Penalties are an enforcement option, unless specific reference in the legislation is to the contrary (and the relevance of offence is culpability and harm with a maximum fine of £30,000), the Civil Penalty approach detailed in the policy is used as the base for setting fine levels.
- 4.6 The current policy limits enforcement actions for category two hazards (less serious or less urgent). It is therefore proposed to adjust the policy wording for category two hazards where damp is involved to ensure we can take enforcement action as appropriate.

5. Other options

- 5.1 Further amendments as suggested by Cabinet

6. Issues and risks

- 6.1 **Resource Implications** – The Housing Team has sufficient resources to deliver the revised policy.
- 6.2 **Legal Implications** – There are no direct legal implications arising from this report
- 6.3 **Equality Implications** – There are no direct equality issues arising from this report and it has not been necessary to prepare an Equalities and Communities Impact Assessment. The Housing Standards Enforcement Policy articulates the importance of ensuring that housing standards are adhered to improve the quality of life of those living in sub-standard homes.
- 6.4 **Environmental Impact** – One of the primary roles of the Housing Standards Enforcement Policy is to address any adverse environmental impacts that might arise from poor housing conditions.
- 6.5 **Crime and Disorder** – The Housing Standards Enforcement Policy provides a clear statement of action that can be taken by the Council, should there be a breach of the relevant housing legislation. This will, on occasion, lead to enforcement action that will address illegal activity.
- 6.6 **Risks** – Not adopting an up-to-date Housing Standards Enforcement Policy could have both legal and reputational risks for the Council.

7. Conclusion

- 7.1 This report provides a review of the current Housing Standards Enforcement Policy which is considered fit for purpose. However, because of the experiences of the Housing Standards Team, certain amendments are recommended to ensure we have an up-to-date policy that enforces where necessary and supports our vulnerable residents.

8. Recommendations

Cabinet agrees to:

- 8.1 Incorporate the revised Statement of Principles for the enforcement process of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as detailed in Appendix 2.
- 8.2 Incorporate a formalised Notice Charge procedure for the service of applicable enforcement procedures as detailed in Appendix 3.
- 8.3 To introduce a discount for early payment of Civil Penalties as detailed in section 4.4.
- 8.4 Authorise the use of the Civil Penalty Procedure detailed in Appendix 2 of the Policy for use with future legislation where the circumstances relate to potential harm and culpability and the maximum fine is set at £30,000.
- 8.5 To replace the enforcement procedure for Category 2 hazards relating to Damp and Mould Growth as detailed in Appendix 4.

Background papers

Appendix 1 Housing Standards Current Enforcement Policy

Appendix 2 Statement of principles for determining the amount of a penalty charge - Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

Appendix 3 Decision Process for Charging for Service of Notice or Order

Appendix 4 Amendment to Category 2 Hazards

Appendix 1

Broadland District Council

Housing Standards Enforcement Policy

CONTENTS

SECTION 1 INTRODUCTION

- 1.1 General Principles

SECTION 2 TYPES OF ACTION

- 2.1 Informal Action

- 2.2 Formal Action

- 2.2.1 Relevant Legislation

- 2.2.2 Appropriate Circumstances

- 2.2.3 Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

- 2.2.4 Improvement, Prohibition, Emergency Prohibition and Hazard Awareness Notices

- 2.2.5 Emergency Remedial Action

- 2.2.6 Empty Dwelling Management Order and Compulsory Purchase Order

- 2.2.7 Demolition Order

- 2.2.8 Ruinous and Dilapidated Buildings and Neglected Sites Notice, Protection of Buildings Notice, Drainage Notice

- 2.2.9 Houses in Multiple Occupancy and Holiday Caravan Sites Licences

- 2.2.10 Residential Caravan Sites Licences

- 2.2.11 Direction Order

- 2.2.12 Works in Default

- 2.2.13 Simple Caution

- 2.2.14 Prosecution

- 2.2.15 Fine Procedures

- 2.2.16 Rent Repayment Orders

- 2.2.17 Banning Orders

APPENDICES

Appendix 1 Civil Penalty Decision Process

Appendix 2 Government Penalty Process

Appendix 3 Banning Order Policy

SECTION 1. INTRODUCTION

1.1 General Principles

Enforcement action will be based upon an assessment of risk to residents' health and safety, public health and/or the environment.

All enforcement action will be based upon an objective assessment following consideration of all the facts of the matter, and will not be based on anecdotal evidence, hearsay, or other subjective assessment.

It will not be normal practice for formal enforcement action to be used as a punitive measure for minor technical contravention.

All enforcement action shall have regard to relevant legislation, codes of practice and guidance periodically issued by the Government, the Chartered Institution of Environmental Health, Local Government Regulations and other relevant bodies. This also includes the Human Rights Act 1998 and the test of proportionality. Regard will also be had for departmental procedures and work instructions.

All authorised officers, when making enforcement decisions will abide by the requirements of the Housing Standards Enforcement Policy. Any departure from this policy must be exceptional, be capable of justification and be fully considered by the Assistant Director (Individuals and Families), before the decision is taken, unless there would be a significant risk to public health and/or safety by delaying the decision.

SECTION 2. TYPES OF ACTION

2.1 Informal Action

2.1.1 Informal action to secure compliance with legislation includes:

- Offering verbal advice
- Verbal requests for action

- Informal written advice (visit reports and letters)

2.1.2 The circumstances where it is appropriate to use informal action are:

- Where the act or omission is trivial or not of a serious enough nature to warrant formal action.
- As an initial notification to the alleged offender of a minor problem.
- Where from the individual/organisations/businesses past history, it can be reasonably expected that informal action will achieve compliance.
- Where confidence in the individual/businesses management is high.
- Where the consequences of non-compliance will not pose a significant risk to residents' health and safety or the environment.

2.1.3 There may be circumstances when some of the above are not met. However, it may be more effective than a formal approach e.g., this may apply to charitable or voluntary organisations. If an authorised enforcement officer considers this is appropriate, they will discuss the matter with their line manager to ratify their action. For non-hazardous and minor contraventions, a revisit may be an inappropriate use of resources.

All enforcement documentation issued or sent, will:

- Contain all the information necessary to understand what needs to be done, why, when and by whom.
- Clearly distinguish between legal requirements and best practice advice or recommendations.
- Indicate the legislation that applies.

An authorised enforcement officer; will at all times, even if only giving verbal advice, differentiate between legal requirements and matters which are recommended as good practice.

2.2 Formal Action

2.2.1 Relevant Legislation

Formal action to secure compliance with legislation may include:

- Improvement Notice (Housing Act 2004)
- Suspended Improvement Notice (Housing Act 2004)
- Prohibition Order (Housing Act 2004)
- Suspended Prohibition Order (Housing Act 2004)
- Hazard Awareness Notice (Housing Act 2004)

- Emergency Remedial Action (Housing Act 2004)
- Emergency Prohibition Notice (Housing Act 2004)
- Empty Dwelling Management Order (Housing Act 2004)
- Compulsory Purchase Order (Housing Act 2004 and/or Town & Country Planning Act 1990)
- Demolition Order (Housing Act 1985)
- Ruinous and dilapidated buildings and neglected sites Notice (Building Act 1984)
- Protection of Buildings Notice (Local Government (Miscellaneous Provisions) Act 1982)
- Drainage Notice (Building Act 1984/Public Health Act 1961)
- House in Multiple Occupation (HMO) Mandatory Licence (Housing Act 2004)
- The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018
- The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018
- Caravan Sites Licence (Caravan Sites and Control of Development Act 1960)
- Direction Order (Criminal Justice & Public Order Act 1994)
- Civil Fine Procedures - The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014; The Smoke and Carbon Monoxide Regulations (2015); The Housing Act 2004 as amended by The Housing and Planning Act 2016; Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 Notices
- Works in Default
- Prosecution (summary or indictment)
- Rent Repayment Orders
- Banning Orders

2.2.2 Appropriate Circumstances

The circumstances where it is appropriate to use formal action include:

- There are significant contraventions of legislation.
- There is a lack of confidence in the individual/business to respond to an informal approach.
- There is a history of non-compliance with informal action.
- The consequence of non-compliance could be potentially serious to residents and/or public health.
- There is a requirement to issue a notice to protect the resident from any retaliatory eviction.
- Although prosecution is intended, immediate or swift action is necessarily required to remedy a serious threat to public health.

2.2.3 Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

This recently enacted legislation enables a range of Notices to be used. The relevant Notices are:

- Remedial Notice (Regulation 4 (1))
- Remedial Action Notice (Regulation 6 (2))
- Urgent Remedial Action Notice (Regulation 10 (3))

The Council may consider it necessary to deal with non-compliance with the processes, (as detailed in the above regulations), using summary proceedings in a Magistrates Court or via the Civil Fine procedure as detailed in Appendix A.

2.2.4 Improvement (IN), Prohibition (PN), Emergency Prohibition (EPN) and Hazard Awareness Notices (HAN) (including Suspended, Improvement and Prohibition Notices)

The circumstances where authorised officers will consider the service of Improvement, Prohibition and Hazard Awareness notices under the Housing Act 2004 includes one or more of the following:

- An assessment of a property under the Housing Health and Safety Rating System (HHSRS) reveals the presence of one or more Category 1 Hazards, (hazards rated A, B or C). The Council has a duty to take action.
- An assessment of a property under the HHSRS reveals the presence of one or more Category 2 Hazards, (hazards rated D, E, F, G, H, I or J). The Council has a discretionary power to take action.
- There is little confidence in the individual/business resolving the matter through an informal approach.

- The service of a notice is the only realistic option to secure compliance.
- There is a history of non-compliance with informal action.
- Standards are generally poor with little management awareness of statutory requirements.
- There is a realistic chance of securing conviction for non-compliance
- The consequences of non-compliance could be a risk to residents' health and safety.
- Previous action has failed to resolve the issue in question.

In general, improvement and prohibition notices will not be used for minor technical contraventions, but will be used where there is a risk to resident's health and safety. Hazard awareness notices may be used where the risks are either minor or where it is deemed impracticable for works to reduce or eliminate more serious risks.

Authorised enforcement officers will only serve an improvement notice where they are satisfied that service of a notice is the most appropriate course of action and will discuss the content of the notice with a colleague, usually their line manager, **before** service takes place.

Notices will only be issued and signed by those officers authorised to do so. Authorised enforcement officers will only consider service of an improvement notice in respect of one or more HHSRS Category 2 Hazards where the following applies.

HHSRS Band D Hazard

There will be a general presumption that where one or more Band D hazards exist, officers will consider action under the Housing Act 2004. Where the hazards identified relate to "Damp and Mould" and "Fire", action will be determined as if the assessment for a "vulnerable occupant" is the "actual occupant". Where "Excess Cold" is identified as a Band D hazard, insulation works to the property will be considered a priority when enforcement action is taken.

Multiple HHSRS Hazards Bands D – I

Where a number of hazards at Band D or below appear, when aggregated together, to create a more serious situation, or where the property appears to be in an un-maintained and/or dilapidated condition, the Housing Standards Senior Manager or the Assistant Director, Individuals and Families may authorise action under the Housing Act 2004.

Officers will discuss the content of the notice with a colleague, usually their line manager, **before** service takes place.

Authorised enforcement officers will place realistic time limits on improvement and prohibition notices which, where possible, will be agreed with the recipient as being attainable. Wherever possible, the authorised officer should also discuss the contents of the notice with the recipient and will consider any alternatives that may be put forward by the recipient at that time.

Generally, in cases where there has been a failure to comply with an improvement or prohibition notice, the Council will consider summary proceedings or a Civil Fine Procedure and works in default where they are also required.

2.2.5 Emergency Remedial Action

The circumstances where authorised officers will consider the undertaking of emergency remedial action includes one or more of the following:

- An assessment of a property under the HHSRS reveals the presence of one or more Category 1 Hazard, (hazards rated A, B or C). The Council has a duty to take action.
- The hazard(s) involve an imminent risk of serious harm to the health or safety of any of the occupants in those or any other residential premises.
- There is little confidence in the individual/business resolving the matter through an informal approach.
- Taking emergency remedial action is the only realistic option to remove the imminent risk.
- There is a history of non-compliance with informal action.
- Standards are generally poor with little management awareness of statutory requirements.
- The consequences of in-action could be a risk of serious harm to residents' health and safety.
- Previous action has failed to resolve the issue in question.

Emergency remedial action will not be used for minor technical contraventions but will be used where there is an imminent risk of serious harm to residents' safety. Emergency remedial action will only be approved by those officers authorised to do so.

Authorised enforcement officers will only approve emergency remedial action where they are satisfied that such action is the most appropriate course of action. They will discuss the details of the case, the required works and content of the notice with their line manager, **before** the action takes place.

Wherever possible, the authorised officer should also discuss the matter with the property owner(s) and will consider any alternatives that may be put forward by the recipient at that time.

Emergency remedial action will be followed in the statutory time (7 days), by a Housing Act 2004 Section 41 Emergency Remedial Action Notice.

2.2.6 Empty Dwelling Management Order (EDMO) and Compulsory Purchase Order (CPO)

Actions in relation to empty homes will be carried out in accordance with the current approved Council policy.

The circumstances where authorised officers may consider the initiation of an EDMO or CPO includes the following:

- These Orders will only be considered in respect of long-term empty property where all other actions have failed to result in the dwelling coming back into use within a reasonable timeframe.
- Additionally, a CPO may be considered without previous engagement, where a suitable long term empty property is brought to the Councils attention in an area of housing need, and where the owner has made it clear they have no intention to have the property occupied and has no good reason for that intention.
- A CPO will not be initiated without prior authorisation from the Assistant Director, Individuals and Families in consultation with the relevant Portfolio Holder.
- The owner(s) have been fully appraised of their statutory compensation rights.

Only enforcement officers authorised to issue EDMOs shall do so and they must follow and have due regard to the statutory guidance under the Housing Act 2004 and relevant case history decisions from the Residential Property Tribunal.

2.2.7 Demolition Order

The serving of a Demolition Order may be considered to deal with a property (normally a detached property), where a full socio-economic assessment indicates that there is no other reasonably acceptable alternative.

The Council will not serve a Demolition Order unless satisfied the following conditions are fulfilled:

- There must be sufficient evidence to instigate prosecution proceedings.
- There must be adequate arrangements in place to ensure that the Demolition Order does not result in homelessness of any occupants.

- The owner(s) have been fully appraised of their statutory compensation rights.

2.2.8 Ruinous and Dilapidated Buildings and Neglected Sites Notice, (Building Act 1984),

Protection of Buildings (Local Government Miscellaneous Provisions Act 1982),

Drainage Notice (Building Act 1984 and Public Health Act 1961).

These notices will be considered in the following circumstances:

- An assessment of the property indicates defects likely to lead to risks to public health or safety.
- There is little confidence in the individual/business resolving the matter through an informal approach.
- The service of a notice is the only realistic option to secure compliance.
- There is a history of non-compliance with informal action.
- Standards are generally poor with little management awareness of statutory requirements.
- There is a realistic chance of securing a conviction for non-compliance.
- The consequences of non-compliance could be a risk to residents' health and safety.
- Previous action has failed to resolve the issue in question.

2.2.9 Houses in Multiple Occupancy (HMO) and Holiday Caravan Sites Licences.

These licences will be issued on application by a relevant fit and proper person and payment of the appropriate fee.

Conditions will be attached to Holiday Caravan Site Licences in accordance with statutory guidance and Model Standards where applicable. Conditions for relevant HMO's that require a licence, will include statutory conditions and additional conditions based on, but not exclusive to, the Councils adopted 'Landlord's guide to amenities and facilities for licensed HMO's'.

A person commits an offence for breaches of Licence conditions of Holiday Caravan Sites. Section 72 of the Housing Act 2004 details offences relating to the HMO licensing procedure. Such offences will be dealt with according to the general policy on Prosecutions and Civil Penalties (See Appendix 1).

2.2.10 Residential Caravan Sites Licences (Breach of conditions)

The circumstances where authorised officers will consider the service of a Compliance Notice under the Caravan Control of Development Act 1960 includes one or more of the following:

- There is little confidence in the individual/business resolving the matter through an informal approach.
- The service of a notice is the only realistic option to secure compliance.
- There is a history of non-compliance with informal action.
- Standards are generally poor with little management awareness of statutory requirements.
- There is a realistic chance of securing a conviction for non-compliance.
- The consequences of non-compliance could be a risk to residents' health and safety.
- Previous action has failed to resolve the issue in question.

2.2.11 Direction Order

Service of a Direction Order is only relevant to unauthorised encampments and will only be considered after a meeting under the auspices of the Norfolk Protocol for the Consideration of Unauthorised Encampments has been convened.

A protocol meeting will consider all aspects of the encampment including the health, safety, welfare, human rights etc. of the campers, balancing the human rights of the campers, with those of any affected nearby settled residents. The campers will be invited to send a representative to the Protocol meeting.

In cases of urgency, a Direction Order may be considered without prior reference to a Protocol meeting but in these cases the matter must be discussed with the Assistant Director, Individuals and Families and their agreement obtained. Where practicable the County Traveller Liaison Officer will be notified of such urgent action.

2.2.12 Works in default

The Council will consider it appropriate to instigate works in default where one or more of the following criteria are met:

- The relevant person has failed to comply with a statutory notice requiring the execution of works.
- It is considered unlikely that the relevant person has any intention to carry out the required works.

- It is considered that the relevant person does not have the capability or capacity to organise and execute the required works.
- One or more of the property's occupants; are considered to be vulnerable.
- Where the relevant person demonstrates a flagrant disregard for the health and safety of his tenants, and/or a flagrant disregard for the requirements of the legislation, consideration will be given, where statute empowers, to undertake works in default and a simultaneous prosecution.

2.2.13 Simple Caution

The issuing of a caution may be considered appropriate under the following circumstances:

- To deal quickly and simply with less serious incidents.
- To divert the accused from an unnecessary appearance in the criminal courts on matters that can be more quickly and equally efficiently dealt with by way of a simple caution.
- To reduce the chance of a repeated offence.

The Council will not issue a caution unless the following conditions are fulfilled:

- There must be sufficient evidence to instigate prosecution proceedings.
- The offender must admit the offence.
- The offender must show remorse and have undertaken to prevent recurrence of the offence.
- The offender must accept the caution once they have understood its importance and significance and have given a written consent to being cautioned.
- Commencing a prosecution proceeding is not in the public interest, taking into account the public interest principles described in The Code of Practice for Crown Prosecutors.

If a person declines the offer of a caution, prosecution proceedings will normally be the next course of action. In some circumstances, the Council may consider a written warning will suffice instead of a caution, e.g., in the case of an offence which is minor in nature.

2.2.14 Prosecution

The Council will consider it appropriate to instigate prosecution proceedings where one or more of the following criteria are met:

- There is general disregard for the law, particularly where the economic advantages of breaking the law and/or the loss/ adverse impact or potential loss/adverse impact on others resulting from the

offence are substantial.

- There appears to have been a disregard for residents' health and safety.
- There is a history of non-compliance with the law, an approved Code of Practice or the relevant guidance, and the person in charge and/or company is not intending to rectify or deal with this non-compliance.
- The person in charge and/or company is not capable of dealing adequately with the issues and is not prepared to pay for professional advice or take on board recommendations.
- As a result of a legal contravention, there has been a serious incident or case of ill health.
- The offence involves failure to comply with a notice.

When considering whether to prosecute for a breach of legislation following an incident, the seriousness of the contravention not the severity of the incident, is the prime issue for consideration. The extent of personal or company responsibility for the incident is also relevant.

Due regard must also be taken of guidance contained in The Code of Practice for Crown Prosecutors issued by the Crown Prosecution Service and relevant statutory codes of practice and the test of proportionality under the Human Rights Act. Factors to be considered may include:

- The seriousness of the alleged offence.
- The risk of harm to public health.
- Identifiable victims.
- Failure to comply with a statutory notice served for a breach of legislation.
- Disregard of public health for financial reward.
- The previous history of the party concerned.
- Offences following a history of similar offences.
- Failure to respond positively to past warnings.
- The likelihood of the alleged offender(s) being able to establish a due diligence defence.
- The ability of any important witness to give evidence and their willingness to co-operate.
- The willingness of the alleged offender to prevent recurrence of the alleged offence.
- The probable public benefit of a prosecution and the importance of the case e.g., whether it might establish a legal precedent.

- The more serious the offence, the less likelihood that the public interest will allow anything other than a prosecution.
- Whether other action, such as issuing a simple caution in accordance with current government guidance.
- Any explanation offered by the alleged offender, (person or company representative).

Once a decision to instigate prosecution proceedings has been taken, the matter should be referred, without undue delay, to the Council's legal advisors.

2.2.15 Fine Procedures

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

Where the Council is satisfied on the balance of probabilities that a person has failed to comply with the requirement to belong to a Redress Scheme the Council may, by notice, require the person to pay the authority a penalty of £5,000.

The Council will initiate a fine procedure detailed in the Order where satisfied that a person has failed the requirement without any warning procedure.

The Smoke and Carbon Monoxide Regulations (2015)

Where the Council is made aware that a rental property does not have a Smoke Alarm fitted on every floor and a Carbon Monoxide Alarm fitted to any habited room which contains a solid fuel burning combustion appliance, or that such an alarm was not appropriately checked at the start of a tenancy, the Council will consider issuing a penalty notice.

The level of fine imposed will be determined by procedures detailed in the Council's "Statement of Principles" which can be found on the Council website.

Financial Penalties as an Alternative to Prosecution

The Housing and Planning Act 2016 amends the Housing Act 2004 by introducing a new Section 249A, to enable local housing authorities to impose a financial penalty up to £30,000 as an alternative to prosecution for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (section 30).
- Offences in relation to licensing of Houses in Multiple Occupation (Section 72).
- Offences in relation to licensing of houses under Part 3 of the Act (Section 95).
- Offences of contravention of an overcrowding notice (Section 139).
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (Section 234).

- Breach of a Banning Order (Section 21 of the Housing and Planning Act 2016).

The criminal burden of proof, i.e., beyond all reasonable doubt will be satisfied before a Civil Penalty is issued as an alternative to prosecution. The Council will satisfy itself that a realistic prospect of conviction will be achieved prior to the introduction of this Civil Penalty.

The Council will assess whether there is sufficient reliable evidence to prosecute with regard to The Code of Practice for Crown Prosecutors. The Council will consider any potential defences available and in certain circumstances may decide to conduct an interview under caution in accordance with PACE codes of practice to assist in determining whether the issue of a Civil Penalty is appropriate or not.

The decision to impose fixed penalty notices under the Housing Act 2004 as amended, is delegated to the Assistant Director (Individuals and Families). Determination of appropriate penalty levels will follow the procedure as approved by the Council.

2.2.16 Rent Repayment Orders

Under Section 40(2) The Housing and Planning Act 2016 a Rent Repayment Order (RRO) requires the landlord, under a tenancy of housing in England, to repay an amount of rent paid by a tenant, or a local housing authority, an amount in respect of a relevant award of Universal Credit paid (to any person) in respect of rent under the tenancy.

RROs have now been expanded to cover the following Housing Act 2004 offences:

- Section 30(1) failure to comply with an improvement notice.
- Section 32(1) failure to comply with a prohibition order etc.
- Section 72(1) control or management of an unlicensed HMO.
- Section 95(1) control or management of an unlicensed house.

And

- Section 21 of the Housing and Planning Act 2016 for breach of a Banning Order.

If the Council becomes aware that a person has been convicted of such an offence, the Assistant Director Individuals and Families will consider the commencement of proceedings at the First Tier Tribunal for a RRO. This will however only apply in cases where the Council has paid rent, in the form of Universal Credit/Housing Benefit on behalf of the tenant.

2.2.17 Banning Orders

The Housing and Planning Act 2016 makes provision for the imposition of banning orders. The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017 details Banning Order offences. Among other relevant offences detailed in the regulations, Housing Act 2004 offences for which a banning order may be used include

- Section 30(1) failure to comply with an improvement notice
- Section 32(1) failure to comply with a prohibition order etc
- Section 72(1) control or management of an unlicensed HMO
- Section 95(1) control or management of an unlicensed house
- Section 139(7) Contravention of an overcrowding notice
- Section 234(3) Failure to comply with management regulations in respect of Houses in Multiple Occupation
- Section 238(1) False or misleading information

The Assistant Director (Individuals and Families), will consider application to the First-tier Tribunal for a banning order against a person who has been convicted of a banning order offence.

A copy of the Councils Banning Order Policy is attached at Appendix 3.

Appendix 2 Civil Penalty Decision Process

This Civil Penalty Decision Process encompasses procedures for the Housing and Planning Act 2016 and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

Where the Local Housing Authority considers that a Housing Act offence has been committed it must decide whether to prosecute or to issue a civil penalty as an alternative to prosecution.

The following factors, whilst not exhaustive, are examples of where it would be appropriate to consider for prosecution:-

- The seriousness of the offence, for example breach of a Prohibition Order would be an offence only suitable for prosecution.
- The antecedents of an individual, for example a landlord indicates that he / she has been prosecuted for Housing Act / similar offences.

The following factors, whilst not exhaustive, are examples of where it would be appropriate to consider the issuing of a Civil Penalty:-

- No evidence of previous non-compliance with appropriate legislation
- No previous convictions recorded
- Not in the public interest to prosecute
- Offence was committed, as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence)

- Prosecution is likely to have a serious adverse effect upon an individual's e.g., a landlord physical or mental health, always bearing in mind the seriousness of the offence.

Determining the level of Civil Penalty

In order to ensure that the civil penalty is set at an appropriate level the following factors will be considered

- The seriousness of the offence, determined by harm caused and culpability of the offender
- The history of compliance of the offender
- The punishment of the offender for the offence
- The deterrent from repeating the offence
- The deterrent from others committing similar offences
- Removing any financial benefit obtained from committing the offence

Harm

In determining the level of harm, the Local Housing Authority will have regard to

- The individual i.e., physical injury, damage to health, psychological distress
- To the community i.e., economic loss, harm to public health
- Other types of harm i.e., public concern/feeling over the impact of poor housing condition on the local neighbourhood

The nature of the harm will depend on the personal characteristics and circumstances of the victim e.g., tenant. Where no actual harm has resulted from the offence the Local Housing Authority will consider the relative danger that persons have been exposed to, as a result of the offender's conduct, the likelihood of harm occurring and the gravity of harm that could have resulted

Factors that indicate a higher degree of harm include:

- Multiple victims
- Especially serious or psychological effect on the victim
- Victim is particularly vulnerable

Examples of Harm Categories that will be considered

High	Housing defect giving rise to the offence poses a serious and substantial risk of harm to the occupants and/or visitors for example danger of electrocution, carbon monoxide poisoning or serious fire safety risk
Medium	Housing defect giving rise to the offence poses a serious risk of harm to the occupants and/or visitors for example falls between levels, excess cold, asbestos exposure

Low	Housing defect giving rise to the offence poses a risk of harm to the occupants and/or visitors for example localised damp and mould, entry by intruders
------------	--

Culpability

In determining culpability, the Local Housing Authority will have regard to 4 levels of culpability.

Where the offender:

- Has the **intention** to cause harm, the highest culpability where an offence is planned
- Is **reckless** as to whether harm is caused i.e., the offender appreciates at least some harm would be caused but proceeds giving no thought to the consequences even though the extent of the risk would be obvious to most people
- Has **knowledge** of the specific risks entailed by his actions even though he does not intend to cause the harm that results
- Is guilty of negligence

Examples of Culpability that may be considered

Very High (Deliberate Act)	Intentional breach by landlord or property agent or flagrant disregard for the law i.e., failure to comply with a correctly served improvement notice
High (Reckless Act)	Actual foresight of, or wilful blindness to risk of offending but risks nevertheless taken by the landlord or property agent for example failure to comply with HMO Management regulations
Medium (Negligent Act)	Failure of the landlord or property agent to take reasonable care to put in place and enforce proper systems for avoiding commission of the offence for example, part compliance with a schedule of works but failure to fully complete all schedule items within notice timescale
Low (Low or no culpability)	Offence committed with little or no fault on the part of the landlord or property agent for example obstruction by tenant to allow contractor access, damage caused by tenants

Determining the Civil Penalty Amount

In assessing the seriousness there is a need to consider both culpability and harm. The table below sets out the interrelation between harm and culpability as a determinant of the Civil Penalty banding.

Harm	Culpability			
	Very high	High	Medium	Low
High	Band 5	Band 4	Band 3	Band 2
Medium	Band 3	Band 3	Band 2	Band 1
Low	Band 1	Band 1	Band 1	Band 1

Banding Levels

Band 1	£0 - £999
Band 2	£1000–£4999
Band 3	£5000–£9999
Band 4	£10,000–£19999
Band 5	£20000–£30000

The starting point in each band will be the midpoint i.e. for Band 3 the mid-point will be £7,500

- Band 1 relates to offences where there is a low risk of harm. Financial penalties at this level are designed to encourage compliance with lower-level requirements for example failing to maintain yards and gardens or failure to display an information notice in a house in multiple occupation. They will also act as an initial deterrent where management standards are beginning to slip to prevent more significant contraventions.
- Bands 2 and 3 relate to more serious problems however a lower level of harm or culpability will reduce the need for higher fine levels.
- Band 4 and 5 fines relate to where there is a higher risk of harm and greater culpability. These offences carry significantly higher financial penalties.

Aggravating/Mitigating Factors

The penalty may be increased or decreased from the centre starting point within the band to the maximum or minimum level in the band. Issues affecting this decision are detailed in the table below.

Issues relating to Aggravating/Mitigating Factors

Full co-operation following identification of offence	Reduce from starting
Minimal further input required by the council to achieve compliance	No adjustment
Significant involvement by the council required to achieve compliance	Increment increase

A significant lack of co-operation and/or obstruction leading to significant further enforcement activity (e.g., works in default)	Further incremental increase
--	------------------------------

Ability to Pay

1. Statutory guidance states that local housing authorities should use their existing powers to, as far as reasonably possible, make an assessment of a landlord's assets and any income (not just rental income) they receive when determining an appropriate penalty.
2. The existing powers available to the council include:
 - Section 235 Housing Act 2004 (power to require documents to be produced)
 - Housing benefit and council tax information (permitted by Section 237 of the Housing Act 2004)
 - Service of a requisition for information under section 16 of the Local Government (miscellaneous provisions) Act 1976 (power to obtain particulars of persons interested in land)
3. An offender will be assumed to be able to pay a penalty up to the maximum amount unless they can demonstrate otherwise. When a person receives a notice of intent to impose a financial penalty, they have the right to make written representations about the proposal. We will specifically ask for those representations to include any evidence of the person's inability to pay the stated penalty.
4. If no representation is received, then the starting assumption will be that the person is able to pay. This assumption will be tested against information held by the council such as council tax and housing benefit records, or publicly available information such as company records or land registry entries.
5. Evidence put forward in a representation will be assessed for accuracy against council-held and public information.
6. Where appropriate, further information may be required through service of notice using the powers listed above.
7. Any evidence about ability to pay will be considered before a final decision is made about the level of the penalty.

Representations and Appeals

8. A person who receives a notice of the council's intention to impose a financial penalty may make written representations to the council. These should be addressed to the Housing Standards Team or emailed to psh.housing@broadland.gov.uk
9. Written representations will be considered by the Housing Standards Senior Manager.
10. A person who receives a final notice requiring a penalty to be paid may appeal to the First-tier Tribunal against
 - 10.1. The decision to impose the penalty, or
 - 10.2. The amount of the penalty
11. Details about how to make an appeal will be included with any final notice.

Recovery

12. A penalty must be paid within 28 days beginning with the day after that on which the notice was given
13. Where a penalty is not paid within 28 days, the councils will seek to recover it through a county court order.

Appendix 2 Government Penalty Process

Matrix for civil penalties

- This matrix has been developed to help local authorities use their powers under the Housing and Planning Act 2016 to impose a civil penalty as an alternative to prosecution for certain housing offences.
- This matrix is not binding, and local authorities may choose to take a different approach
- In this matrix the following banding has been applied:

Band 1	£0 - £4,999	ASP £2,500
Band 2	£5,000 - £9,999	ASP £7,500
Band 3	£10,000 - £14,999	ASP £12,500
Band 4	£15,000 - £19,999	ASP £17,500
Band 5	£20,000 - £24,999	ASP £22,500
Band 6	£25,000 - £30,000	ASP £27,500

(ASP = Assumed Starting Point)

Level of Culpability	Assessment
Low	
Medium	
High	
Level of Harm (potential or actual)	
Low	
Medium	
High	
Culpability and Harm (combined)	
Civil Penalty Band 1	Amount
Aggravating factors 2	Revised penalty
Mitigating factors 3	Revised penalty
Income/asset check 4	Revised penalty
Final assessment	Final amount

Low culpability/high harm = Band 4	Medium culpability/high harm = Band 5	High culpability/high harm = Band 6
Low culpability/medium harm = Band 3	Medium culpability/medium harm = Band 4	High culpability/medium harm = Band 5
Low culpability/low harm = Band 1	Medium culpability/low harm = Band 2	High culpability/low harm = Band 3

1 Penalty to be increased by £1k for each aggravating factor up to a maximum of £5k

2 Penalty to be decreased by 31k for each mitigating factor up to a maximum of £5k

3 Offender assumed able to pay a penalty up to a maximum unless they can demonstrate otherwise.

Appendix 3 Banning Order Policy

Purpose

The purpose of this policy is to set out how Broadland and South Norfolk Councils will:

- decide when to apply for a Banning Order, and
- how we will determine the length of time we will request the ban apply for

This policy applies only to Housing Standards offences and is designed to ensure transparency, consistency, and fairness in how and when banning order are sought and accords with the published MHCLG guidance.

Legislation

The Housing and Planning Act 2016 enables the Councils to pay for the FTT to impose a banning order on an individual following conviction for a banning order offence.

Considerable Offences

The offences for which a banning order may be applied for are listed in the statutory regulations issued in 2017 and apply to convictions for these offences issued either on or after 6th April 2018.

Spent convictions cannot be considered and if an absolute or conditional discharge for a relevant housing offence has been given, then that offence cannot be regarded as a considerable banning order offence.

Principles of Banning Orders

The MHCLG guidance sets out an expectation that banning orders should be aimed at the most serious offenders.

Length of Banning Order

It is not possible for the Councils to determine the length of a banning order; however we will make a recommendation to the FTT with accompanying reasons.

A banning order is for a minimum of a 12-month period but there is no statutory maximum limit.

Determining When to Apply for a Banning Order

The Councils will consider applying for a banning order for the most serious and pernicious offenders. In doing so, the following factors will be considered:

- The seriousness of the offence
- Any previous convictions or listing on the National Rogue Landlord Database
- The harm caused to the tenant by the offence
- Whether the recommended punishment is proportionate to the offence
- Will it provide sufficient deterrent and prevent repeat offending
- Will it deter others from committing similar offences

Where it is deemed appropriate and proportionate to do so, the Councils will make full use of the powers to apply for banning orders.

The decision whether to pursue a banning order will be made on a case-by-case basis and will be based on legal advice. The decision will be made by either the Housing Standards Senior Manager or the Assistant Director Individuals and Families following a recommendation made to them by the case officer.

Procedure for Applying for a Banning Order

The procedure for applying for a banning order is set out in Section 15 of the Housing and Planning Act 2016 and can be summarised as:

- The Councils are required to issue a 'notice of intent' to the individual within 6 months of them being convicted of the relevant offence
- The person the notice relates to will have 28 days in which to make written representation to the Councils. The representation may be via any written format.
- Following the 28-day period, having given due consideration to any representation received, should the Councils still propose to pursue a banning order an application will then be made to the FTT

Requests for Information

Section 19 of the Housing and Planning Act gives provision to the Local Authority to be able to require that a landlord provide information for the purpose of enabling the Councils to decide whether to apply for a banning order. This can include requiring the landlord to provide details on ALL properties they own.

In relation to requests for further information made by the Councils under this section:

- It is an offence to ignore or fail to provide the information requested, unless the landlord can provide reasonable excuse
- It is an offence to provide false or misleading information
- Failure to provide information or providing false or misleading information is punishable on summary conviction to a fine.

Consequences of a Banning Order

Where a banning order is made, the individual will be determined not to be a 'fit and proper' to hold a licence under Part 2 or 3 of the Housing Act 2004 and any licences in force under those parts will be revoked.

Where a banning order is made, the individual prohibited from:

- Letting housing in England
- Engaging in letting agency work within England
- Engaging in property management within England; or
- Doing two or more of those things (to ensure that any order is effective and to prohibit engagement in other related activities)

It is a criminal offence to breach a banning order and is punishable on summary conviction to imprisonment, a fine, or both.

Entry on the Rogue Landlord Database

Where a successful banning has been made, the Councils must make an entry on the National Rogue Landlord Database. The entry is maintained for the period of the banning order.

Publicity Following a Banning Order

Where a successful banning order is made, the Councils will consider whether to publish the details including the name of the individual who has been banned. The Councils may take legal advice prior to publication and will be cognisant of the relevant Ministry of Justice guidance as to whether to publish sentencing outcomes.

Information on banned landlords will be made available to tenants on written request.

Appendix 2

Statement of principles for determining the amount of a penalty charge - Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

1. Introduction

The purpose of this statement of principles is for determining the amount of a penalty charge

- I. This statement sets out the principles that Broadland District Council will apply in exercising their right to require a landlord to pay a penalty charge under the provisions of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

The framework of procedure

- II. Any enforcement action taken will be in accordance with the principles set out in the Councils Enforcement Policy.

The legal framework

- III. Regulation 8 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 provides that where a local housing authority is satisfied, on the balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of the duty under regulation 6(1), the authority may require the landlord to pay a penalty charge of such amount as the authority may determine.

The scope of this document

- IV. Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 requires a local housing authority to prepare and publish a statement of principles to follow in determining the amount of such a penalty charge.

2. Applicable principles

Purpose of imposing a penalty charge

- I. The primary purpose of a Local Housing Authority's exercise of its regulatory powers is to protect the interests of the public, although they may have a punitive effect. The primary aims of financial penalties will be to:
 - recover the Local Housing Authority's costs
 - change the behaviour of the landlord
 - eliminate any financial gain or benefit from non-compliance with regulation
 - be proportionate to the nature of the breach of legislation and the risk posed
 - aim to deter future non-compliance

Criteria for the setting the level imposition of a penalty charge

The Regulations set a maximum penalty charge of £5000. A minimum penalty charge will be set at a level to ensure the return of Broadlands accrued expenses including officer-time. The fine may include an additional element based on the following circumstances which are considered to be proportionate to the breach (the list is not exhaustive):

- The extent to which the circumstances from which the contravention or failure arose were within the control of the landlord
- The presence or absence of internal controls or procedures which were intended to prevent the breach
- The steps that the landlord has taken since being served a remedial notice under Regulation 5
- Whether there has been a repeated breach or failure
- Whether there have been breaches of other housing legislation
- The extent of any attempt to conceal the breach or failure
- The impact on tenants
- The absence of management controls or procedures intended to prevent the breach
- The duration of the breach
- Co-operation with investigation undertaken by the Local Housing Authority

Determining the Civil Penalty Amount

In assessing the seriousness, the Assistant Director of Individuals and Families will analyse the above issues. Where up to 3 of the above are considered relevant the fine level will be in the Low Range, where 4-6 of the above are considered relevant the fine level will be in the Medium Range and above 6 in the High Range. The table below sets out the Fine Levels in the Bandings with the final decision on the Level to be made by the Assistant Director of Individuals and Families.

Low	Council Expenses Plus £100 - £500
Medium	Council Expenses Plus £500-£1500
High	Council Expenses Plus 1500-Max

The Assistant Director of Individuals and Families will then set a fine level based on the above factors with a minimum level being a return of all costs to the Council required, as a result of the enforcement procedure.

3 Appeals

The landlord can request in writing, in a period that must not be less than 28 days beginning with the day on which the penalty notice was served, that the Council review the penalty charge notice.

The Council will then consider any representation and decide whether to confirm, vary or withdraw the penalty charge notice. A landlord who is served with a notice confirming or varying a penalty charge notice may appeal to the First-tier Tribunal against the local housing authority's decision.

Appendix 3

Decision Process for Charging for Service of Notice or Orders

Section 49 of the Housing Act 2004 provides the Council with the power to make such reasonable charge as considered appropriate as a means of recovering certain administrative and other expenses incurred by the Council for :-

- Serving an improvement notice
- Making a prohibition order
- Serving a hazard awareness notice
- Taking emergency remedial action
- Making an emergency prohibition order
- Making a demolition order
- Declaring the area in which the premises are situated to be a clearance area

Administrative expenses that may be charged for include:

- Determining the appropriate course of action (including inspecting the premises)
- Identifying actions to be specified in a notice
- Serving the notice
- Reviewing suspended improvement notices and prohibition orders

The charge is calculated on the basis of the actual time spent on the case multiplied by the hourly rate for the officer carrying out the work.

The Housing Standards Team currently uses the charge as a method to promote compliance and if co-operation is not achieved and enforcement is necessary to ensure necessary works are initiated, the case officer will apply the charge in consultation with the Housing Standards Senior Manager to the landlord on which the enforcement relates.

The Housing Standards team will always try to address Tenant complaints regarding Hazards in their dwellings informally. Where, a formal inspection is required and on completion a serious category 1 hazard is identified requiring the immediate service of an Improvement Notice, Prohibition Order or the taking of emergency action the Council will seek to recover costs.

In other cases where the existence of a hazard would warrant the service of a relevant notice or order, the person on whom it would be served will be sent a report/letter within 14 days clearly indicating:

- the hazard;
- the proposed remedy;

That person will then be given 14 days to indicate in writing what actions will be taken to remedy the hazard (a 'proposal'). If a proposal is received it will be assessed using the following criteria:

- Proposed time scale
- Likelihood that the actions will effectively remedy the hazard
- The effect that the proposal would have on any resident

If the proposal is acceptable an Improvement Notice or Prohibition Order which accommodates the proposals will be served and no charge will be made. If the proposal is not acceptable, then enforcement will be initiated, and a full charge will be made. If, however, the notice or order is subsequently not complied with then a full charge will be made. If no proposal is received within 14 days, then the relevant notice or order will be served, and a full charge made.

The sum charged will be a local land charge on the premises and, if not paid within one month, will be recovered in accordance with the powers available under the Law of Property Act 1925 which include:

- The power to appoint a receiver
- Action in the County Court
- Use of a debt recovery agency
- Enforced sale of the premises in question
- Appointing a receiver

Appendix 4

HHSRS Band D (Band E for Damp and Mould) Hazard

There will be a general presumption that where one or more Band D hazards (and Band E for the Damp and Mould hazard) exist, officers will consider action under the Housing Act 2004. Where the hazards identified relate to “Damp and Mould” and “Fire”, action will be determined as if the assessment for a “vulnerable occupant” is the “actual occupant”. Where “Excess Cold” is identified as a Band D hazard, insulation works to the property will be considered a priority when enforcement action is taken.

Multiple HHSRS Hazards Bands E – I

Where a number of hazards at Band E or below appear, when aggregated together, to create a more serious situation, or where the property appears to be in an un-maintained and/or dilapidated condition, the Housing Standards Senior Manager or the Assistant Director, Individuals and Families may authorise action under the Housing Act 2004.