

Date 02 February 2024

Location PSH - Policies and Procedures –
Enforcement – Enforcement Policy

Regulating Housing Standards Policy

Scope

This policy sets out the guiding principles of the regulatory framework for the private sector housing service and the delivery of its statutory functions. It promotes clear, consistent and effective approaches to the practical application of enforcement to address health inequalities by improving housing conditions, wellbeing, and regulatory outcomes without imposing unnecessary burdens on compliant businesses.

This policy does not apply in isolation and should be considered together with other related documents to form a comprehensive approach to improving homes and health outcomes in Gloucester.

Supporting Strategies and Policies

Housing and Homelessness Strategy 2024

Gloucester City Council – Council Plan 2022-2024

Gloucester City Council Civil Penalties Policy – 2018

Gloucester City Council ABCD Policy - 2020

Gloucester City Council Community Engagement & Regulatory Policy – 2020

Gloucester City Council Community Protection Notices Policy and Procedure.

Responsibility of

Housing Regulation, Resettlement and Projects Manager

Summary

Housing is a key determinant of health and research shows that the condition of people's homes directly affects their health and wellbeing. Every year, injuries, illnesses, and mental health issues arise because of hazards in homes. Sometimes, people don't realise that the condition of their home can negatively impact their health and wellbeing. The poorest quality housing is often found in the private sector, but this is not exclusive and housing issues are found across all tenures and some homeowners may struggle to maintain their homes, leading to hazardous conditions.

Gloucester City Councils Private Sector Housing service (PSH) aims to reduce health inequalities and safeguard our residents, who are affected by poor housing conditions, poor property management and unprofessional landlords. The service aims to achieve this through promoting engagement and education in providing advice, information, assistance, and the signposting of support to our service users. Where this approach fails or there is a statutory function to meet its regulatory objectives, enforcement action will be taken.

This policy serves to inform investigating officers and decision-makers of the framework in which they operate, in addition to providing information to those individuals and businesses which are regulated and those protected by regulations.

The policy replaces the 2009 Enforcement Policy, compliments the Councils existing Enforcement Policies and is drawn up in line with the principles of good enforcement and better regulation. This policy and supporting appendices are specific to the enforcement action taken by the Private Sector Housing service supported by multi agency consultations and decisions (where applicable) and takes precedence.

The framework that empowers the Council to take enforcement action does so by enacting the powers and provisions of housing, environmental, and public health law, primarily the Housing Act 2004 ("the Act"), the Housing and Planning Act 2016 and other legislation (Appendix 2 - Delegated powers of Authorisation). The priorities for applying this tenure neutral regulatory and enforcement framework are:

- Promoting the provision of safe, decent and well managed accommodation in the City to improve health outcomes.
- Provide housing assistance services to support residents with disabilities to remain independent and make shape their own outcomes.
- Seeking behaviour change and pursuing regulatory action against those who flout the law and act unprofessionally in the housing sector.
- Making a fairer rented housing market by eliminating the financial gain or benefit from those who are non-compliant.
- Providing transparent and consistent regulation in the housing market.
- Promoting professionalism and resilience within the housing sector.
- Actively seek to reduce fuel poverty and carbon footprint impact through targeted assistance and intervention.
- Promoting economic growth and a thriving housing sector, whilst making best use of existing stock.
- Promote stronger communities to support people's feeling of safety, well-being and health.
- Empowering residents to make positive decisions about their housing options and shaping their own outcomes.

The Regulators' Code is a statutory code of practice introduced under section 23 of the Legislative and Regulatory Reform Act 2006 and came into force on 6 April 2014. Regulators covered by the code should have an adopted enforcement policy in place that incorporates the requirements of the code. Whilst this code is for guidance to support regulatory functions some legislation does not permit the full application of this code in that some offences are 'Strict liability offences' and as such informal options are not always available. Whenever a regulatory officer is carrying out an investigation they will be guided by the codes of practice of the Police and Criminal Evidence Act 1984 (PACE) and the Criminal Procedure and Investigations Act 1996.

While there is no explicit requirement to have a Housing focused enforcement policy, without one it would be difficult for the Council to effectively demonstrate compliance with the Regulators' Code (or its predecessors) and exposes us to legal challenges and appeals in the delivery of our statutory functions and duties. It also introduces a structure that protects individuals, businesses, and service users.

Gloucester City Council, along with our partnership agencies, will adopt the shared principals of Engagement, Education and Enforcement in a holistic multi-agency framework to ensure that resources are delivered through an effective and efficient model with supporting individuals, residents and businesses in Gloucester City at its core.

General Principles

Gloucester City Council aims to ensure all landlords, businesses and residents are compliant with their regulatory requirements. This includes, but is not exclusive to, the core functions of the licensing of houses in multiple occupation (HMOs), ensuring homes are safe and decent using the housing health and safety rating system (HHSRS), providing housing assistance, preventing homelessness and illegal evictions, reducing overcrowding, improving health outcomes resulting from poor quality homes, tackling damp and mould, hoarding care and support, bringing empty properties back into use and reducing anti-social behaviour associated with rented accommodation. It also includes a focus on improving the professionalism of residential landlords and managing agents.

To avoid unnecessary regulatory burdens, the Council expects landlords, agents, and businesses to comply with the law and proactively manage their properties and tenancies. This is to ensure that the health and welfare of tenants are protected, their properties, and activities at their properties, are not having a negative impact on the amenity of the neighbourhood and compliant businesses can operate fairly and grow economically. The person on whom a formal notice or order is served will be informed of the reason that this action is being taken, the timescale for completion of any works, the works that are legally required, representations that may be made, relevant appeal periods, details of any fees and charges and the consequences of noncompliance.

All enforcement action, whether informal or formal, will be carried out in accordance with the principles of good regulation set out in this Policy. Each case will be considered on its individual merits and in consultation with other agencies (where applicable). In deciding to take formal action and, if so, what type of action to take, Officers will use a risk and most appropriate course of action (MACA) impact-based approach.

Principles of Good Regulation	
Helpfulness, engagement and education Provision of advice and assistance on compliance in a courteous efficient and prompt manner.	
Standards Provide and publish clear standards setting out the level of service and performance provided by Gloucester City Council.	Openness Provision of information and advice in plain language about how we carry out our work, including consultation with stakeholders.
Transparency Access to information regarding regulatory procedures and decisions to be freely available.	Accountability Gloucester City Council will be accountable for the efficiency and effectiveness of its regulatory activities.
Consistency Duties to be carried out in a fair, equitable and consistent manner and with arrangements in place to promote consistency.	Confidentiality Gloucester City Council will ensure information provided in confidence is treated accordingly.
Proportionality When making a decision on appropriate enforcement action, Officers will, where discretion is allowed, consider both the circumstances of the case and history of the parties involved and will ensure that the remedial action required is proportionate to the risks and/or disadvantage created by the non-compliance, that it reflects any advice issued by Central Government or other co-ordinating bodies and takes into consideration relevant advice, Policy and the aims of Gloucester City Council.	Targeting Gloucester City Council accepts that its enforcement resources are limited and, where appropriate, they should be focused on those persons or companies whose activities give rise to the risks which are most serious. Enforcement is informed through intelligence arising from an investigation or complaints, planned projects, special surveys, enforcement initiatives or as a requirement from a Government Department.

Enforcement action and resources will be applied proportionally based on the seriousness of the offence/s and focused toward seeking the highest penalties for the worst offenders. The council will not hesitate to take legal action where we detect serious or systematic breaches of housing, environmental and public health legislation.

The PSH service will operate in a supportive 'light touch' manner for compliant landlords, owners, agents, and tenants. Where less significant breaches of the law are witnessed and/or the risk to health is lower, we will attempt to resolve cases informally through the signposting of support to service users, using lesser civil legal routes such as warnings and financial penalties and engagement and education to make it easier for recipients to understand and meet their regulatory obligations. This will enable economic growth for compliant businesses.

Regulatory activity is guided by three key principles:

Consistency: This means taking a similar approach in similar circumstances to achieve similar outcomes. It does not mean uniformity. Officers will consider many factors such as the level of risk, level of harm to individuals, the culpability of the offender, the history of compliance and the attitude and actions of those involved.

Openness: We will explain our actions clearly through engagement and education, in appropriate language and discuss compliance failures or problems. A clear distinction will be made between legal requirements and advice or guidance.

Proportionality: We will endeavour to balance the punishment of an offender against the direct risks to the persons effected, the effect on the wider community and severity of the breach of the law involved, to deter offenders from repeating the offence and discouraging others from committing similar offences.

In some cases, informal resolution cannot be achieved, or the matter being enforced is serious enough to warrant that the informal stage is not appropriate. Where property defects and evidence of poor management are likely to significantly impact on health, the PSH Team will take action. Certain breaches of legislation will require urgent and immediate regulatory responses, either because the time period for action is limited or because the effect of the activity causes significant harm to the public interest.

The Council has powers to make a requisition for information and documents. These powers will be used to assist with the Councils investigations and does not necessarily lead to the instigation of further enforcement action. Where a request for information or documents is not complied or misleading information is given or fraud is uncovered, this will be considered as aggravating factors in the investigation and further enforcement action may be appropriate.

A range of factors will be considered when considering enforcement action, including but not limited to:

- i) The severity of the offence.
- ii) The level of culpability of the offender.
- iii) The harm caused.
- iv) The costs of compliance and the financial benefit of failing to comply.
- v) The importance of deterring the offender from repeat offending and deterring others from committing similar offences, and;
- vi) The offender's assets and financial means.

Primary authority principles

The Council acknowledges that the primary authority principles as set out in the Regulatory and Sanctions Act 2008 and administered by the Better Regulation Delivery Officer (BRDO) apply to areas of housing standards enforcement. Where there is a primary authority in place the Council will comply with the appropriate primary authority requirements.

Scope and application of the policy

This policy is tenure neutral and is prioritised by the statutory functions of the PSH service. In the first instance service users are expected to take their own action to resolve the problem by contacting their landlord and allowing them adequate time to respond unless there is imminent risk to health where we will intervene immediately. If the landlord fails to take action in 14 days, the PSH service will investigate.

The majority of the PSH services' regulatory activity is generated by service users making a complaint (reactive). When a service request has been received, it will normally be triaged and responded to within 3 working days, no matter what the tenure or occupancy status, by an officer in the team unless the case requires immediate investigation. The case will be allocated a case officer and they will be responsible for keeping the complainant up to date with progress and contacting and engaging with all other interested parties (landlords, residential providers, etc). They will follow all reasonable lines of enquiry and investigation to obtain accurate and reliable information and evidence, to inform decision making and enable them to progress the case to conclusion.

The PSH service will usually serve a statutory Notice or Order where Category 1 and high Category 2 hazards are present and reasonable time will be given to complete the works. The reasons for taking a certain course of enforcement action to remedy Category 1 and 2 hazards will be set out in the statement of reasons included in the notice. The recipient(s) of a notice will be provided with opportunities to make representations regarding the deficiencies and hazards witnessed and the remedial works required to be taken.

Nuisances and other public health matters that are not abated before the Council witnesses the offence, will normally result in the relevant statutory notice being served.

Offences relating to HMO management regulations, failing to licence a HMO and/or breach of the conditions of a HMO licence will lead to enforcement action being taken as they are strict offences. Failure to comply with enforcement notices, will normally lead to further legal action being taken. Where legal action is necessary to address housing offences and crimes, financial penalties, where applicable, will normally be used as the primary enforcement tool (Appendix 1 and 3). The PSH service will use discretion in deciding whether to initiate a prosecution. Other approaches to enforcement can sometimes promote compliance with legislation

more effectively. However, a prosecution will be initiated where the circumstances warrant. (Appendix 4).

Residential Providers (RP) (Housing Associations) complaints. The PSH team will deal with, and enforce, Residential Providers (Housing Associations) complaints in the same way as any normal private sector housing disrepair complaints. Where the complaint is concerning the RP act or conduct outside of our delegated powers we will try to assist wherever possible. However, in these circumstances outside of PSH powers we would advise the complainant to contact the Housing Ombudsman Service (HOS) after using the RPs own internal complaints process. The HOS details are (<https://www.housing-ombudsman.org.uk/>) on 0300 111 3000 or email [to info@housing-ombudsman.org.uk](mailto:info@housing-ombudsman.org.uk) written enquires to Housing Ombudsman Service, Exchange Tower, Harbour Exchange Square, London E14 9GE.

Leaseholder/Freeholder complaints: The PSH Team is generally not able to respond to complaints by leaseholders requesting assistance in taking action against other leaseholders or freeholders for breach of contract or civil disputes (this includes all tenure types). We will only offer assistance in cases where there is a statutory nuisance or there are exceptional circumstances; this may include cases where there is imminent risk to health and a freeholder or leaseholder is impacting on another property or the public.

Leaseholders are advised to contact; The Leasehold Advisory Service - Fleetbank House, 2-6 Salisbury Square, London, EC4Y 8JX. Telephone: 020 7832 2500.
<http://www.lease-advice.org>

Owner Occupiers: The PSH Team is generally not able to respond to all complaints made about properties that are owner occupied unless they are requests for housing assistance (DFG'Ss), request for hoarding care and support in cases where there are safeguarding needs or there is a statutory nuisance or there are exceptional circumstances. We will offer owner occupiers advice, guidance and signposting to support where appropriate.

Not all enforcement interventions are reactive. There is often a need for proactive targeted interventions. This is often project based and multi-agency led. These are some examples of how we may target action – this is not an exhaustive list:

Property type or occupation: Examples such as unlicensed properties, poorly managed rented properties or those with anti-social behaviour linked to them, Properties with a low energy efficiency rating on their Energy Performance Certificate (EPC), Empty properties, Supported housing improvement programme and temporary accommodation, Asylum and resettlement accommodation and Hoarding Care and Support initiatives.

Geographical Areas: Where data and intelligence identifies that there are particular problems in a specific locality (heat mapping and hot spots). Where an area is identified as having adverse health inequalities or socioeconomic indicators.

Individuals: Where a landlord, managing agent, lettings professional, individual or organisation persistently fails to manage accommodation in accordance with legal requirements or repeatedly fails to comply with informal or formal requests to meet minimum legal requirements.

Where data and intelligence identifies that individuals and their activities are having a negative impact on the amenity of a neighbourhood or are having adverse health inequalities or socioeconomic indicators.

Where the individual is on the government database of rogue landlords and agents or has been convicted of a housing or relevant legislative offence, has a rent repayment order against them; or is subject to a banning order or a management order.

Retaliatory & Illegal Evictions, Harassment and Tenancy Relations

The Deregulation Act 2015 provides tenants protection from eviction in retaliation for making a complaint in relation to health and safety issues in their home. The circumstances to afford protection from retaliatory eviction require that a relevant legal notice has been served under the Housing Act 2004. Private Sector Housing will only serve the relevant legal notices in line with this policy and where it is clearly demonstrated that the landlord has failed to address the issues that have been reported to them or where emergency action has to be taken to make a home safe. The Housing Needs and Homeless team alongside PSH will inform people who rent properties from landlords or agents of their legal rights and obligations in relation to their occupation of a property. We may also advise residential occupiers of the legal action which they can take to enforce their legal rights, such as making claims for Rent Repayment Orders and Deposit Protection claims.

We will investigate all allegations of illegal eviction and harassment or failure to provide required information about a tenancy, in accordance with this policy. Where the Council believes it is appropriate it may take enforcement action using powers under the Prevention from Eviction Act 1977, Housing Act 1988 and other relevant housing laws.

Fees and Charging for Enforcement Action

The Housing Act 2004 allows councils to make a reasonable charge to recover administrative and other expenses for taking certain enforcement action. Legislation also allows us to recover costs in the case of works in default or works with agreement for the costs of the works and all associated costs.

The PSH Service will seek to recover all costs and fees when formal action is taken. The full costs of all officers' time, including overheads and any relevant expenses, will be charged. In some cases, we may seek to enforce the sale of a property to recover our costs, charges, fines and other financial debts owed to the council. Where remedial action has been undertaken the Council will incur a 30% charge to

be added to the costs with a minimum of a £300 charge being recovered from the landlord in line with the Council's Fees and Charges Policy. Each case will be based on its merits and if it is reasonable and proportionate to do so.

The notice charges and the costs of works and administrative costs will be raised as a charge against the property whilst repayment opportunities and debt recovery methods are exhausted.

The levels of fines determined for civil and financial penalties are set out in the supporting appendices and statements of principles.

Gloucester City Council also has the power to prosecute a wide range of offences under section 223 of the Local Government Act 1972 and make compensation claims to recover works in default and reasonable costs. Where there is a successful conviction in court and criminal lifestyle or benefit can be demonstrated, Gloucester City Council may make an application to use Proceeds of Crime Act 2002 legislation to recover money.

Work in Default and Works with Agreement

Where the Council has legally required someone to carry out remedial works to make a property safe, but they have failed to do so, the legislation affords powers to the Council to carry out works in default. This will enable the council to take action against property owners who continue to be negligent so we can be satisfied that no resident is left in a dangerous unsafe home. This action will be taken along with other legal action.

In most circumstances a person will be given notification of the Council's intention to carry out works in default unless emergency action is taken (see appendix 1 – Summary of Enforcement Options). Once we have started works it is an offence for a person to obstruct us or any of the contractors that have been employed to carry out the works.

The Council may also carry out works with agreement to comply with the requirements of an enforcement notice when the recipient consents to this and agrees a repayment of the costs and charges.

Consultation and Partners

Gloucester City Council is a member of a number of County Partnerships to ensure that we can support and deliver positive outcomes in a holistic multi-agency framework. We value the partners we work with and will engage and consult with them in relation to regulatory activity and procedures where the subject area is relevant and appropriate to do so. Such partners include, but is not exclusive to:

Gloucestershire Fire and Rescue Services.	Gloucestershire County Council and Social Care Services.
The Police, Safer Neighbourhood Partnerships and Solace.	Severn Wye Warm and Well Service.
NHS Partnerships and Health Boards.	The Department for Work and Pensions.

All information and data shared and obtained will be treated in confidence and in accordance with the Data Protection Act 2018 and the General Data Protection Regulations (GDPR). Gloucester City Council has adopted and is a signatory of the Gloucestershire Information Sharing Partnership Agreement (GISPA) and where appropriate will implement Specific Information Sharing Agreements (SISA) to support and assist with housing projects and initiatives. More details can be found here [What is the GISPA/what is it for? | Gloucestershire County Council](#). There will be circumstances where shared or complimentary enforcement action may be taken with other agencies to help target effective resources and activities and minimize duplication.

Information of allegations outside the remit of this Council may be referred to the appropriate enforcement authority to enable that agency to investigate the allegation. Gloucester City Council may also provide data to or obtain data from other enforcing authorities. When data sharing and referrals between authorities/agencies occurs, this will be done in accordance with all data protection legislation and regulations.

Delegations

Officers have a range of statutory powers delegated to them, under the relevant schemes of delegation, to undertake duties relating to Gloucester City Council. (Appendix 2) Officers will carry an identity badge; delegation documentation can be supplied if requested. In the event of any doubt about an Officer's powers, confirmation can be obtained by contacting the Officer's Line Manager who can provide any evidence describing their powers. It is an offence to obstruct an Authorised Officer who is conducting an investigation in line with their job role and statutory obligations, which could lead to prosecution.

Communications and Publicity

We will work with the Council's communications team and various media organisations and social media platforms to promote and inform people about our enforcement interventions and to deter 'Housing Crimes' and prevent exploitation of our residents. We will publish prosecutions and civil penalty charge notices on the Department of Levelling Up Housing and Communities (DLUHC) statutory database.

Media coverage will normally be sought where the offence/s are serious or have significant aggravating factors such as the risk to health of residents, the exploitation of tenants, anti-social behaviour or an issue that impacts the wider area or housing

sector and to ensure the rented housing market operates in a fair, equal and open way.

We will seek media coverage to assist in securing compliance by others or when it is in the public interest to demonstrate the Council's actions and to help improve awareness and to inform issues in the wider housing sector.

Enforcement case details and publicity will also be sought to support other local authorities and regulatory partners in their enforcement efforts, especially where the perpetrator/s operate across borough boundaries.

Appeals, Representations and Complaints

Gloucester City Council aims to provide an efficient and fair enforcement service. The recipient(s) of a notice will be provided with opportunities to make representations during the engagement process. When enforcement action is taken the correspondence, notices and supporting documentation will provide the recipient with information and guidance on how to appeal the enforcement notice (where applicable).

If a customer wishes to complain about the course of action an officer has taken it is expected that in the first instance, most problems can be resolved with the Officer dealing with the matter or with their Line Manager. If a person or business is not satisfied with the response received, they will be directed to Gloucester City Council's formal complaints procedure. [Complaints, compliments and comments - Gloucester City Council](#)

Please note that a complaint regarding a decision to prosecute cannot be progressed through the formal complaints procedure as this is a matter for the Administrative Court by way of an application for judicial review. If a person is still dissatisfied having exhausted Gloucester City Council's complaints procedure, a complaint can be made to the Local Government Ombudsman Service.

This policy has been assessed in accordance with the requirements of the Equality Act 2010 to ensure that the policy complies with the Public Sector Equality Duty.

In exercising any statutory powers, the Council needs to be aware of the human rights implications. The European Convention on Human Rights and Fundamental Freedoms was incorporated into British law by way of the Human Rights Act 1998. The convention protects certain rights. In the context of housing standards these are the right to private property (article 1 of the first protocol) and the right to respect for private home, life and correspondence (article 8 of the Convention). These rights are not absolute. They can be interfered with if a clear public interest case can be demonstrated, the action is proportionate, and the correct statutory procedure is followed. In each case officers should take into account the rights of the owner, occupier and anyone impacted by enforcement action.

Reviewing the policy

The policy will be reviewed every 4 years or at a time when triggered by the enactment of new guidance or legislative demand.

Local Procedures

TBC

Further Guidance

Regulators' Code (BRDO, BIS, April 2014)

The Code for Crown Prosecutors (CPS, October 2018)

PACE Codes

[Administration / National Policy and Guidance / Information](#)

Human rights publications

Housing Health and Safety Rating System Enforcement Guidance

Appendices:

Appendix 1 – General Summary of Regulatory Options

Appendix 2 – Delegated powers of Authorisation

Appendix 3 - Gloucester City Council Civil Penalty Policy 2024 (a.a)

Appendix 4 – Statement of Principles for Prosecutions and Simple Cautions.

Appendix 5 - Statement of Principles for Fit and Proper Persons.

Appendix 6 - Statement of Principles for Minimum Energy Efficiency Standards.

Appendix 7 - Statement of Principles for Electrical Safety in the Private Rented Sector.

Appendix 8 - Statement of Principles for Smoke and Carbon Monoxide Regulations.