

Chesterfield Borough Council

Private Sector Housing Enforcement Policy

2026

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1.0 – Introduction

Chesterfield Borough Council is committed to improving standards in private sector housing within the borough. It is therefore important for the Council to have an enforcement policy to ensure consistency of approach among Council Officers and for members of the public to know what to expect from the service. An enforcement policy also provides clarity if the Council takes enforcement action or legal proceedings.

This policy provides the framework within which the Private Sector Housing Team will operate in relation to Private Sector Housing and details the Council's approach to regulating Private Sector Housing in Chesterfield, to ensure that:

- Tenants of private landlords or a Registered Provider of social housing live in homes that are free of hazards which affect their health and safety.
- Privately rented houses, including Houses in Multiple Occupation (HMOs) are managed and licenced in accordance with any relevant statutory regulations or other legal requirements.
- Letting and Estate Agency professionals meet the legal requirements that apply to their business.
- Privately owned property does not present a statutory nuisance and does not directly or indirectly present an unacceptable risk to public health, safety or the environment.

2.0 – Scope

This policy sets out the Council's principles for enforcing and executing its duties as a Housing Authority under the relevant statute.

S3 Housing Act 2004 imposes a duty on Councils to keep housing conditions in their district under review with a view to identifying any action that may need to be taken by them under the Housing Act 2004.

S107 Renters' Rights Act 2025 imposes a duty on the Council to enforce the Landlord Legislation. The Landlord Legislation is comprised of the following:

- Chapters 3 and 6 of Part 1 of the Renters' Rights Act 2025 (discrimination and rental bidding),
- Part 2 of the Renters' Rights Act 2025 (Residential Landlord Redress Scheme),
- Sections 1 and 1A of the Protection from Eviction Act 1977, and

- Chapter 1 of Part 1 of the Housing Act 1988 (assured tenancies).

S110 Renters' Rights Act 2025 imposes a duty on the Council to report to the Secretary of State on the exercise of its functions under the Landlord Legislation.

In this policy, the term '**landlord**' should be read as including letting agents, managing agents, licensors, property owners, directors of corporate landlords and any other person involved in the letting or management of privately rented accommodation.

In this policy, the terms 'House of Multiple Occupation', or 'HMO,' is defined by the Housing Act 2004.

Where required, enforcement actions are taken in line with the Regulators Code and the principles of good regulation by The Legislative and Regulatory Reform (Regulatory Functions) Order 2007. Of particular note, the following pieces of legislation:

- Parts 8, 9 and 10 of the Housing Act 1985 (area improvement, slum clearances, overcrowding)
- Part 8 of the Housing Act 1996 (Miscellaneous and general provisions)
- Parts 2 to 5 of the Housing Act 2004 (HMO's and other licencing, management orders)

Are subject to [The Legislative and Regulatory Reform \(Regulatory Functions\) Order 2006](#). This in the main requires a supportive, informal approach first, with legal action normally only following if such an approach hasn't been effective. Chesterfield Borough Council will have regard to the principles of good regulation laid out in the order when exercising its enforcement duties regarding the above legislation including:

Proportionate

Our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.

Accountable

Our activities will be open to public scrutiny, with clear and accessible policies, together with a fair and efficient complaints procedure.

Consistent

We will carry out our duties in a fair, equitable and consistent manner. Our advice to those we regulate will be robust and reliable and we will take into account published guidance and good practice. We will also aim to share good practice with other Local Authorities.

Transparent

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return. We will ensure that through our interventions and inspections, where regulatory noncompliance is found, our officers make clear the form of action and next steps they propose to take. They will also make it clear what are legal requirements and what are recommendations.

Targeted

We will focus our resources on higher risk situations. We will take enforcement action against those duty holders who are responsible for the risk and who are best placed to control it.

The Regulators' code does not apply to the following pieces of legislation and primarily an enforcement first approach will be taken.

- The Renters' Rights Act 2025 itself
- The 'landlord legislation' listed in S107(5) of that Act
- Part 1 of the Housing Act 2004 – (Housing conditions and HHSRS)

This policy document sets out what owners, landlords, their agents or any other person involved in the letting or management of privately rented accommodation, and tenants of private rented sector properties, can expect from officers when dealing with non-compliance.

All enforcement actions taken will be in accordance with relevant statutory Codes of Practice, Council procedures and protocols, and official guidance from central and local government bodies. If there is any reference within this policy which does not reflect the statutory or regulatory regime, then that should be taken to be an unintentional mistake in the drafting of this policy and the Council's intention in all action taken is to fully comply with the statutory and regulatory regime'

As a public body under the Human Rights Act 1998, the Council will apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

3.0 – Approach to Enforcement

The Council wants to support responsible landlords to raise housing standards. However, the Council expects landlords to have a good understanding of the housing standards and management issues that should be met in privately rented accommodation.

The Council remind landlords that it is the responsibility of the landlord to know what is required of them in the area of business that the landlord operates. It is not for the Council to bring legal and/or regulatory requirements to attention of individual landlords. Landlords are reminded that the general principle is that ignorance of the law or regulatory requirement is no defence and landlords should seek their own legal advice if required.

S5 Housing Act 2004 places a duty on Councils to take formal enforcement action where a Category 1 hazard exists.

S6A Housing Act 2004 permits the Council, when first taking appropriate enforcement action under Section 5 Housing Act 2004 in relation to a Category 1 hazard or a failure to meet a Type 1 requirement on qualifying residential premises, to impose a Civil Financial Penalty on the responsible person where, in the Council's opinion, it would have been reasonably practicable for that person to secure the removal of the hazard or the meeting of the requirement. This power applies to qualifying residential premises other than the common parts of a building containing one or more flats.

S7 Housing Act 2004 gives Councils a discretionary duty to take action where a Category 2 hazard exists. The Council will usually take action where a significant Category 2 hazard exists.

The Council may commence enforcement with formal action instead of informal action in the first instance. In deciding whether to do so, the circumstances of

the case will be taken into account. Relevant factors may include, but are not limited to:

- Where there is a risk to the safety or health of any person
- Where any person who has been or could have been affected by non-compliance is vulnerable
- Where any non-compliance has or could have resulted in significant costs to a third party, including the Council.
- Where there is a blatant or deliberate contravention of the law or where there has been an unreasonable failure to prevent such contravention.
- Where there is history of non-compliance.
- Where there has been a failure to acknowledge any contravention and/or a failure to remedy the contravention within a reasonable period.

The Council will usually take formal action in the first instance if there has been:

- Non-compliance with previous formal or informal action
- Offences in relation to the licensing of HMOs
- Unlawful eviction or harassment

Under section 107 Renters Rights Act, the Council will take formal enforcement action in the first instance for breaches of the Landlord Legislation.

Details of different types of informal and formal enforcement action, along with how enforcement decisions are made, are outlined in section 5.0.

4.0 – Investigatory powers

In addition to the Council's informal and formal powers of enforcement, there are investigatory powers relating to the collection of information and relating to the entry of premises.

Council officers will often investigate and identify the need to take enforcement action through proactive inspections of dwellings through licensing provisions; in response to a complaint or request for assistance; and referrals from other public bodies. All investigations will be carried out in accordance with the relevant statutory requirements. The Council will ensure that appropriate

governance is in place to ensure that action is taken in accordance with appropriate policies and the following legislation:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Criminal Justice and Police Act 2001
- Regulatory Enforcement and Sanctions Act 2008
- Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

The authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

The powers relating to the collection of information and relating to the entry of premises are detailed below. This is not an exhaustive list.

For an overview of our investigatory and enforcement powers under the Housing Act 2004, see Appendix B.

4.1 Power to Investigate

S114 Renters' Rights Act 2025 gives the Council power to issue a notice to a relevant person to require the person to provide specified information to the Council.

This notice may be given to any person with an estate or interest in the land; the licensor; their agents; or a marketer of a property. It may be given in regard to any offence under the following Legislation:

- Sections 1 and 1A of the Protection from Eviction Act 1977;
- Chapter 1 of Part 1 of the Housing Act 1988;
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013;
- Sections 21 to 23 of the Housing and Planning Act 2016;
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

Failure to comply with a s114 notice is an offence under s131 Renters' Rights Act 2025, as is being obstructive and intentionally or recklessly making false or misleading statements in response to a s.114 notice.

S115 Renters' Rights Act 2025 permits the Council when it reasonably suspects a breach of the Rented Accommodation Legislation to issue a notice to any person requiring them to provide the information specified. This may only be done to investigate whether a breach has occurred under the Rented Accommodation Legislation, or to determine the amount of a penalty. For the purposes of this section, the Rented Accommodation Legislation means:

- Sections 1 and 1A of the Protection from Eviction Act 1977;
- Chapter 1 of Part 1 of the Housing Act 1988;
- Parts 1 to 4 and 7 of the Housing Act 2004 ;
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013;
- Sections 21 to 23 of the Housing and Planning Act 2016;
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

Where an individual has not complied with a s115 notice, s116 of the Renters' Rights Act 2025 enables the Council to make an application to the Court to enforce the provisions of the notice and seek reimbursement for the costs of the application.

S131 Renters' Rights Act provides that, in addition to the offence of non-compliance with a s114 notice, it is an offence for an individual to obstruct a Council officer seeking to exercise their powers without reasonable excuse. It is also an offence to fail to give an officer any additional assistance or information which they reasonably require without reasonable excuse.

S235 Housing Act 2004 allows the Council to issue a notice to relevant individuals, including occupiers, directing them to provide specified documents under their control for the purpose of investigating whether an offence has been committed under Parts 1 to 4 of the Housing Act 2004 or exercising the Council's functions under Parts 1 to 4 of the Housing Act 2004.

S16 Local Government (Miscellaneous Provisions) Act 1976 also permits the Council to issue a notice to an occupier, manager, or individual with an interest

in the land to compel them to provide the Council with information on the nature of their interest and the names and addresses of current occupiers.

4.2 Entry to Premises

S118 Renters' Rights Act 2025 permits Council officers to enter business premises, which is not used wholly or mainly as residential accommodation, of relevant people (including landlords, letting agents, and marketers) if it is necessary for the production or seizure of documents under s122-s123 Renters' Rights Act 2025. This power may be exercised without a warrant and without notice.

S121 Renters' Rights Act 2025 allows a Council officer named in a warrant to enter premises, which is not used wholly or mainly as residential accommodation, if there are documents on the premises which the officer could require under s122 or seize under s123. In addition, for this power to be exercised, one of the following conditions must be met:

- That access to the premises has been or is likely to be refused, and the Council has provided notice of their intention to apply for a warrant to the occupier;
- Those documents on the premises would likely be concealed or interfered with if notice of entry were to be given;
- That no occupier is present, and waiting for their return might defeat the purpose of the entry.

Following entry according to s118 or s121 of the Renters' Rights Act 2025, s122 allows an officer at any reasonable time to require a relevant person on the premises to produce any documents relating to the business and to take copies of them. This may only be exercised to ascertain whether there has been a breach of the Rented Accommodation Legislation where an officer reasonably suspects there has been a breach or an offence; or to ascertain whether the documents may be required in evidence for proceedings regarding a breach or offence.

Following a s118 or s121 Renters' Rights Act 2025 entry, s123 authorises Council officers to seize and detain documents that the officer reasonably suspects may

be required as evidence in proceedings relating to a breach of, or an offence under, the Rented Accommodation Legislation. When doing so, the officer will provide evidence of the officer's identity and authority if reasonably practicable. The officer will take reasonable steps to inform the person from whom documents have been seized that they have been seized and will provide that person with a written record of what has been taken.

S126 Renters' Rights Act 2025 permits the Council to enter residential premises used for a tenancy at a reasonable time if the officer considers it necessary as part of an investigation into potential offences specified in subsection 1(b). Where required, the Council will give at least 24 hours' notice of this to the occupier and individuals with an interest in the property as per subsection 1(c), detailing in writing why the entry is necessary and the suspected offences. Where there are occupiers found on the premises, the officer will provide evidence of the officer's identity and authority to at least one of the occupiers if reasonably practicable.

In addition, s239 Housing Act 2004 permits Council officers to enter, if necessary and at a reasonable time, a property in order to carry out a survey or examination. This may be done if any one of the following is met:

- to determine if any Part 1-4 enforcement functions should be exercised;
- the premises are part of an Improvement Notice or Prohibition Order;
- a management order is in force under Chapter 1 or 2 of Part 4 on the premises.

In certain circumstance the Council may obtain a warrant to enter, by force if necessary, under s240 Housing Act 2004.

5.0 – Enforcement Options and Decision-Making

When considering enforcement options, the Council broadly defines its actions as either informal or formal action.

5.1 Informal action

Circumstances when informal action may be deemed appropriate include, but is not limited to:

- The act or omission is not serious enough to warrant formal action.
- The individual or company's past history of compliance is good.
- Confidence in the management's/owner's ability to correct a defect is high.
- Standards are generally good suggesting a high level of awareness of statutory responsibilities.

Informal action taken by the Council may be written or verbal advice.

Additionally, a visit may be made at the outset by Council Officers in cases where the initial complaint or contact indicates that an immediate investigation by a Council officer is warranted.

In cases where officers visit an address, whether this is a result of a landlord's failure to adequately resolve a highlighted issue or as part of an audit or other investigation, written or verbal advice may be deemed sufficient should the inspection highlight only very minor deficiencies.

Where written advice is deemed appropriate by the Council and is provided, timescales will normally be included to undertake any specified work or actions. While the Council will use its discretion on whether to carry out informal action for a Category 2 hazard, it does not need to provide written or verbal advice before commencing formal action.

5.2 Formal action

When considering whether formal action is appropriate the Private Sector Housing Team will consider the following:

- The number of hazards and their significance ie whether they are Category one or Category two hazards.
- Whether the Council is under a duty or has a power to take formal action in respect of the hazard(s) identified.
- The level of risk posed to the current occupiers, including whether there is an imminent risk of serious harm.

- The views and intentions of the occupier(s) (or occupiers representative(s)) and landlord
- The risk of social exclusion of a vulnerable group or individual.
- The compliance record of the landlord.
- Whether the chosen option is practical, reasonable and proportionate in reducing the hazard(s) to an acceptable level.
- The building is listed or located within a conservation area.
- The potential for alternative use of the premises or site.
- The physical impact on adjoining buildings.
- The longer term viability of the premises and area.
- The impact on the local community and on the appearance of the local area.
- Availability of alternative housing for current occupants.
- Likely demand for accommodation if the hazards were remedied.

The above list is not exhaustive.

If formal action is considered appropriate (for identified Housing Law contraventions) the following enforcement options are available to the Council.

5.2a Statutory notices

S11 and s12 Housing Act 2004 permit the Council to issue a statutory Improvement Notice in respect of any Category 1 hazards and any Category 2 hazards on the property. This requires the person to whom it is served to undertake the remedial action specified on the Notice within a given timeframe. The mandated work and the timeframe will be determined by the Council depending on the nature and scale of the work.

S20 and S21 Housing Act 2004 permit the council to issue a Prohibition Order this order may prohibit the use of part or all of premises for some or all purposes of occupation or by a particular number or description of people. An order may be appropriate where conditions present a risk but remedial action is unreasonable or impractical. It may also be used to limit the number of persons occupying the dwelling, or prohibit the use of the dwelling by specific groups.

S6A Housing Act 2004 allows the Council to impose a civil penalty where a Category 1 hazard exists. This power may be exercised separately or in addition to the issuance of an Improvement Notice. The Council will usually exercise their

power to impose a civil penalty in the first instance where a Category 1 hazard exists.

S30 Housing Act 2004 provides that failure to comply with a statutory Improvement Notice is a criminal offence, which will normally be followed by prosecution or the issuing of a civil penalty. The Council would view the offence of failing to comply with the requirements of an Improvement Notice as a significant issue, as it may expose tenants of a dwelling to one or more significant hazards.

Other formal notices served by the Council may not relate to the landlord undertaking remedial works but may cover a range of other matters including, but not limited to

- Exercising a right of entry under s.239 of the Housing Act 2004
- Request to provide information
- The need to abate or avoid overcrowding.
- Management orders. (eg HMO management order)
- Hazard Awareness Notice under the Housing Act 2004.

5.2b Work in default

The enforcement options for non-compliance with formal Notices or breach of licence conditions include the carrying out of works specified in the Notice and taking steps to recover any costs incurred, including costs incurred in administering the work in default, plus interest. This power may be exercised in addition to other enforcement proceedings taken for non-compliance. The Council has no duty to undertake works in default and it will be at its discretion. The costs and any interest may be held as a charge against the property until paid.

5.2c Section 6A Housing Act 2004 civil financial penalties

Where the Council is required to take appropriate enforcement action under Section 5 Housing Act 2004 in relation to a Category 1 hazard, or a failure to meet a Type 1 requirement, on qualifying residential premises, it may also impose a Civil Financial Penalty under Section 6A Housing Act 2004 when first taking that action. The Council will impose a penalty where it is satisfied, on the balance of probabilities, that the statutory conditions are met and that it would

have been reasonably practicable for the responsible person to secure the removal of the hazard or the meeting of the requirement. When considering whether removal of the hazard would have been reasonably practicable the Council may consider:

- How long the responsible person has known about the existence of the hazard;
- Whether practical steps could have been taken to remedy the hazard without disproportionate expense or disruption;
- What steps the responsible person has taken to remove the hazard or reduce its impact, including any efforts made to secure the services of specialist tradespeople;
- Whether permission from other parties is needed to remove the hazard and the steps the responsible person has taken to secure that permission;
- Whether tenants have provided access to the property in order for remedial works to be carried out;
- Whether any failure by tenants or occupiers to provide access was beyond the responsible person's control, or whether the responsible person could reasonably have taken further steps to secure access, such as: explaining in writing the existence and seriousness of the Category 1 hazard, the required remedial works, the need for access, the tenants' or occupiers' legal obligations, and the potential consequences of continued refusal; offering a reasonable range of dates and times for access; and serving appropriate formal notices where reasonable and lawful.

5.2d Emergency or suspended enforcement action

Where there is a Category 1 hazard present, s43 Housing Act 2004 permits the Council to issue an Emergency Prohibition Order. This immediately prohibits the use of all or part of a dwelling if there is an imminent risk of serious harm to the health or safety of the occupants or others.

S40 Housing Act 2004 allows the Council to undertake Emergency Remedial Action on the Category 1 hazard without prior notice. The Council may then seek reimbursement of costs incurred on the work and the administration of the scheme.

The Council also has the power to suspend action taken under Part 1 Housing Act 2004 in situations where it has the power or duty to take enforcement action

through the service of an Improvement Notice or Prohibition Order. This will be at the Council's discretion and will normally be considered for the purpose of minimizing inconvenience to the current occupiers.

5.2e Prosecution

The Council will consider using its power to prosecute in the most serious cases, even when a Civil Financial Penalty is an available alternative.

The decision to prosecute will be determined by the evidential strength of the Council's case and the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors.

In many circumstances, where an offence is committed by a body corporate, legislation enables local authorities to pursue persons involved with the body corporate in addition to, or instead of, the body corporate. These include company officers and, where applicable, company members.

The Council will determine, on a case-by-case basis, whether to take enforcement action against any person or persons that they consider fall within the scope of this category in addition to prosecuting the body corporate.

As part of the prosecution process, a Simple Caution may be offered for less serious offences. Simple Cautions warn people that their behaviour has been unacceptable and makes them aware of the legal consequences should they commit further offences.

5.2f Civil Financial Penalties for specified breaches and offences

This section relates exclusively to Civil Financial Penalties issued by the Council for breaches and offences of specific housing law, outlined below.

The Council has the power to impose a Civil Financial Penalty for the following:

- Unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1977
- Failure to comply with an Improvement Notice [s30 Housing Act 2004]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) [s72 Housing Act 2004]

- Offences in relation to the Selective Licensing of 'houses' [s95 Housing Act 2004]
- Failure to comply with an Overcrowding Notice [s139 Housing Act 2004]
- Failure to comply with a management regulation in respect of an HMO [s234 Housing Act 2004]
- Failure to secure the removal of a category 1 hazard and failure to meet Type 1 requirements on qualifying residential premises, where it would have been reasonably practicable to do so [s6A Housing Act 2004]
- Offences in relation to Regulation 3 of the Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020
- Failure to comply with a banning order [s21 Housing and Planning Act 2016]
- Failure to give a written statement of terms under section 16D of the Housing Act 1988
- Failure to give an existing tenant information about changes made by the Renters' Rights Act under paragraph 7(2) of schedule 6 to the Renters' Rights Act 2025
- Attempting to let a property for a fixed term under section 16E of the Housing Act 1988
- Attempting to end a tenancy orally or by service of a notice to quit under section 16E of the Housing Act 1988
- Serving an eviction notice that attempts to end a tenancy outside the prescribed section 8 process under section 16E of the Housing Act 1988
- Relying on a ground where the person does not reasonably believe that the landlord is/will be able to obtain possession under section 16E of the Housing Act 1988
- Relying on a ground knowing the landlord would not be able to obtain possession or being reckless as to whether they would under section 16J of the Housing Act 1988
- Failing to provide a tenant with prior notice that a ground which requires it may be used under section 16E of the Housing Act 1988
- Reletting or remarketing a property before expiry of the 12 month no-let period after using the moving and selling grounds under sections 16E and 16J of the Housing Act 1988

- Discriminating against prospective tenants during the letting process on the grounds that those tenants are in receipt of benefits or have children under sections 33 and 34 of the Renters' Rights Act 2025
- Marketing a letting without stating the proposed rent under section 56 of the Renters' Rights Act 2025
- Inviting or encouraging any person to offer to pay an amount of rent under the proposed letting that exceeds the stated rent under section 56 of the Renters' Rights Act 2025
- Accepting an offer from any person to pay an amount of rent under the proposed letting that exceeds the stated rent under section 56 of the Renters' Rights Act 2025

Civil Financial Penalties in respect of the above offences operate according to Chesterfield Borough Council's private sector housing independent standalone civil penalty policy.

5.2g Rent Repayment Orders

Part 2 of the Housing and Planning Act 2016 permits the Council to seek a Rent Repayment Order at the First Tier Tribunal Property Chamber to require the landlord of the property where the offence(s) has been committed to refund rent to the tenants or the Council. Section 48 of the Housing and Planning Act 2016 places a duty on the Council to consider applying for Rent Repayment Orders.

Where a landlord has been convicted or received a Civil Financial Penalty in respect of the offence, the Tribunal must award the maximum applicable amount, except in exceptional circumstances.

This power will be considered in response to all qualifying offences. Where the Council identifies a qualifying offence and is satisfied that there is sufficient evidence to make a successful application, it will pursue a Rent Repayment Order unless there are exceptional case-specific reasons not to do so.

The qualifying offences are:

- Unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1977

- Failure to comply with an Improvement Notice [Section 30 Housing Act 2004]
- Offences in relation to unlicensed HMOs [Section 72(1) Housing Act 2004]
- Offences in relation to unlicensed houses [Section 95(1) Housing Act 2004]
- Failure to comply with an Improvement Notice [Section 30(1) Housing Act 2004]
- Failure to comply with a Prohibition Order [Section 32(1) Housing Act 2004]
- Breach of a Banning Order [Section 21 Housing and Planning Act 2016]
- Using Violence to secure entry [Section 6(1) Criminal Law Act 1977]
- Knowingly or recklessly misusing a possession ground [Section 16J(1) Housing Act 1988]
- Letting or marketing of a property within twelve months of using the 'moving in' or 'selling' ground of eviction [Section 16J(2) Housing Act 1988]
- Continuous breach of certain tenancy reform requirements [Section 16J(3) Housing Act 1988]

An application for an RRO may be in addition to other formal action, such as prosecution proceedings or the imposition of a Civil Penalty. Where the Council has issued a Civil Financial Penalty or pursued prosecution, it will usually apply for a Rent Repayment Order where public funds have been paid to a landlord who has committed a qualifying offence.

Section 49 of the Housing and Planning Act 2016 enables the Council to assist tenants in applying for Rent Repayment Orders. Where appropriate, the Council will usually support tenants by referring or signposting them to a relevant advice or representation service, such as the Derbyshire Law Centre, and by providing relevant evidence which may assist tenants in preparing, pursuing or participating in Rent Repayment Order proceedings.

5.2h Banning Orders

Part 2, Chapter 2 of the Housing and Planning Act 2016 permits a Council to apply for a Banning Order against a person who has been convicted of one or more of the relevant offences. This would prevent the landlord from:

- Letting housing in England;

- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

The Council may consider a Banning Order for the more serious offenders. It will take into account the seriousness of the offence(s), whether the landlord has committed other offences (or received any Civil Penalty in relation to a Banning Order offence) and any history of failing to comply with their obligations or legal responsibilities. It will also take into account other relevant factors, including but not limited to:

- The harm, or potential harm, caused to the tenant;
- The need to punish the offender;
- The need to deter the offender from repeating the offence;
- The need to deter others from committing similar offences.

6.0 – Inspections

Officers will normally carry out reactive inspections following a complaint from a tenant or owner occupier or a referral from a partner agency concerning unsatisfactory housing or overcrowded conditions.

Where an inspection is undertaken, officers will assess compliance with all enforceable legal requirements, principally with regard to the Housing Act 2004, including a risk assessment under the Housing Health and Safety Rating System (“HHSRS”) and HMO licence conditions, where applicable. This may involve referrals to other agencies or local authority service areas. It is the Council’s aim to action requests for service within appropriate timescales.

Requests for service can be received from:

- Tenants/occupiers;
- The general public;
- Property letting and managing agents;
- Referrals from other Council services, and
- Referrals from agencies.

The Private Sector Housing Team will treat any complaint or referral as confidential and will not disclose details of who made the complaint or referral without permission. If a complaint or referral is made and no details are

provided to the Council about the identity of who has made the referral or complaint, then the Council may not be able to act on such referral or complaint.

The private sector housing team will also be involved with inspections of letting and management agents with a particular focus on non-compliance with part 1 of the Renters rights Act 2025 and also investigate agents who are not registered under an appropriate redress scheme. Breaches of legislation will result in a civil penalty.

6.1 Proactive Inspections

The Council may decide that it is appropriate to carry out inspections in properties where no complaints have been made. In such circumstances we will adopt an intelligence led approach to our compliance interventions and enforcement actions. This will normally be in relation to:

- Inspections of all homes within a targeted geographical area, including properties owned by Registered Providers, in which all owners will be notified in advance of the start of the initiative. Through a combination of property inspections, liaising with owner occupiers and working with partners, this proactive approach aims to improve housing and the standard of housing management. This initiative aims to bring social, financial and environmental improvements to areas whilst creating stronger and more stable communities.
- Inspections of property owned or managed by landlords or agents who have a poor history of compliance with legal requirements for housing conditions and /or management practices. This may include identifying those with a previous history of enforcement action, lack of engagement with the authority or where there is intelligence about breaches in legal requirements from partner agencies/ members of the public. The aim of this proactive intervention is to target resources for improvements to housing conditions and tenancy management, particularly for vulnerable tenants.
- Inspections in areas, to identify properties that may require a license under Part 2 of the Housing Act 2004, breaches of HMO Management Regulations and or breaches of HMO licence conditions.
- Inspections to identify empty homes, to establish the condition of the empty home and the risk it poses to neighbouring properties and the general locality.

7.0 – Shared Enforcement and Primary Authority

Officers may work with other services within the authority, such as the Planning Department and Building Control; Welfare Rights; Benefits and Council Tax, Housing Options, Anti-Social Behaviour Teams, as well as other enforcing authorities who have the power to take enforcement action. These authorities may include:

- Derbyshire Fire and Rescue Service;
- Derbyshire Police;
- UK Visas and Immigration;
- Health and Safety Executive;
- Trading Standards, and
- Other Local Authorities.
- Derbyshire Law Centre

In circumstances where shared enforcement or joint working is required, officers will ensure that:

- Investigations are undertaken by the most appropriate enforcing Authority;
- Enforcement action is undertaken in accordance with agreed protocols and will involve the relevant authority or service in the investigations, information gathering and sharing to ensure it is carried out effectively.

Officers will have regard to the General Data Protection Act 2018 (GDPA) when handling all manual and computerised personal data. Any requests for access to information to the Council will be done in accordance with the Freedom of Information Act 2000 and the GDPA.

8.0 – Authority to Investigate or Enforce

The legislation enforced by Chesterfield Borough Council sets out the duties and powers that the authority has in relation to the investigation and enforcement of the legal powers available to it. The Renters Rights Act 2025 and the Housing Act 2004, with associated regulations, are the principal pieces of legislation available the team to regulate private-sector housing standards and the rental sector. However, other legislation can be used to assist in enforcement by the Private Sector Housing Team, such as the Housing Act 1985 (as amended), Environmental Protection Act 1990, the Town and Country Planning Act 1990, the Building Act 1984, the Mobile Home Act 2013 and the Housing and Planning

Act 2016. Please note that this is not an exhaustive list of the powers available to the Private Sector Housing Team, which is found in sec. 8.2.

8.1 – Authorisation of Officers

Decisions on enforcement action are a matter of professional judgement and officers will need to exercise discretion. Only Officers who are competent by training, qualification and/or experience will be authorised to undertake enforcement action. Authorisation of officers will be made under delegated powers to a level that is considered appropriate to the competence of the individual officer.

The Council's constitution sets out the delegated powers given to officers. A link to the constitution can be found [here](#).

9.0 – What to expect from the Private Sector Housing Team.

The Private Sector Housing Team has investigative and enforcement powers relating to all private housing regardless of tenure. However, the approach may vary depending on the tenure of the household.

9.1 – Owner Occupiers

Owner occupiers including long leaseholders can usually make informed decisions about maintenance or safety issues in their homes. Officers would always aim to provide owner occupiers with appropriate advice and recommendations as to how they can mitigate any hazards identified.

- We will expect owners to maintain the properties they live in
- Enforcement action will be considered if there is an imminent risk to a person's life or other exceptional circumstances.

Such cases may involve:

- Vulnerable people who are unable to make informed decisions about their own welfare.
- Vulnerable individuals who require the intervention of the Council to ensure their welfare is best protected
- Hazards that might reasonably affect persons other than the occupants
- Serious risk of life-threatening harm such as electrocution or fire

Unless an identified hazard is judged to pose an imminent risk of serious harm, the Council will contact the owner to confirm its involvement, explain the nature

of the hazard and confirm the action it is intending to take. The Council will take account of any proposals or representations made by, or on behalf of the owner. The Council will solicit and take account of the opinion of the relevant Welfare Authority in considering both the vulnerability and capability of such persons as well as in determining what action it will then take.

9.2 – Landlords in the Private Rented Sector

Tenants within privately rented accommodation have less control of their homes than other tenures. They are reliant on landlords or their agent to adequately maintain their homes in accordance with legal requirements. They can also be the subject of harassment and illegal eviction from landlords/agents, which occupiers of other tenures will not experience.

The Council have a duty to take enforcement action where required, against landlords or agents who are putting the health and safety of their tenants at risk, where the stability of the tenancy is threatened.

When communicating with landlords:

- We will advise of any action needed to comply with the legislation
- Where landlords have been served with a legal notice we provide the option of proposing an alternative method of compliance, to that suggested in the notice, where appropriate.
- If we are satisfied with the proposal, we will work with the landlord to agree acceptable timescales.
- If we are not satisfied with the proposal or how the work is progressing, we will initiate further formal action in a proportionate manner as appropriate to the circumstances.
- In making any decision to proceed to prosecution or civil penalty we will have regard to how serious the offence is, the benefit of enforcement action and whether some other action would be appropriate.
- A charge will be made for the service of the notice under the Housing Act 2004.

In cases concerning breaches of the renters Rights Act 2025 the council will take an enforcement first approach and issue a civil penalty in most cases

9.3 – Private Tenants

To enable the Council to carry out its statutory duty and help tenants, effective communication between tenants, their landlord(s), and the Private Sector Housing Team is essential.

- We will expect tenants to advise their landlord of any issues within their property, preferably in writing, before contacting us.
- We will advise tenants as to what action we can take and advise them of the expected timescales.
- We will expect tenants to cooperate with the landlord to get the works carried out and to advise us of any action taken by the landlord.

9.4 – Registered Provider Properties

These are usually housing associations, being private, non-profit making organisations that provide low cost “social housing” for people in need. Their performance is scrutinised by the Homes and Communities Agency and the Housing Ombudsman. Registered Providers have written arrangements for reporting problems and clear response times for addressing these issues, in addition to having systems for registering any complaints about service failure. The Council will therefore not normally consider action against registered providers unless:

- They are satisfied that the problem in question has been properly reported by the tenant to the registered provider; and
- The registered provider has then failed to take appropriate action within a reasonable timescale, taking into account its published or other realistic response targets.

If the Council determines that it is appropriate to take action it will then normally notify the registered provider that a complaint has been received and /or a hazard identified and seek their comments and proposals. Only in cases where it judges that an unsatisfactory response has been received will the Council take further action, and will then determine which of the available enforcement options is the most appropriate, taking into account the facts of the case.

9.5 Owners of Empty Homes

For more information please see the Chesterfield Borough Council’s Empty Homes Strategy 2016.

- We will work proactively with owners of empty homes to encourage and assist in bringing their empty homes back into use.
- Where an empty property is having detrimental impact on the neighbouring area enforcement action will be considered.
- If owners fail to take responsibility for their properties, are not willing to engage or negotiations have failed, and where there is little prospect of a property being brought back into use voluntarily, enforcement action will

be considered such as Compulsory Purchase Order, Empty Dwelling Management Order, and/or Enforced Sale)

10.0 – Situations where service may not be provided

Where any of the following situations arise, consideration will be given to not providing or to cease to provide a service:

- Where the tenant(s) unreasonably refuse access to the landlord, managing agent or landlord's builder, to arrange or carry out works.
- Where the tenant(s) have, in the opinion of the Council, clearly caused the damage to the property they are complaining about, and there are no other items of disrepair.
- Where the tenant(s) have requested a service and then failed to keep an appointment and not responded to a follow-up letter or appointment card.
- Where the tenant(s) have been aggressive, threatening, verbally or physically abusive towards Officers.
- Where there is found to be no justification for the complaint, on visiting the property.
- Where the tenant unreasonably refuses to provide the Council with relevant documentation.
- Where hazards are found but deemed not to be significant and of a minor nature such as a low scoring Category 2 hazard.

11.0 – Advice and Guidance

The Private Sector Housing Team will provide authoritative, accessible advice around Private Sector Housing. The Council's website is used to provide general information, advice and guidance to make it easier for landlords, agents, home owners and others to understand their obligations. It is provided in clear, concise and accessible language, using a range of appropriate formats and media. When offering compliance advice, the Private Sector Housing Enforcement team will distinguish between statutory requirements and advice or guidance aimed at improvements above minimum standards. Advice will be confirmed in writing, if requested.

The Private Sector Housing Team will not act as a consultant for home owners or landlords and reserve the right to decline or to charge a fee as detailed in the separate **Private Sector Housing Fees and Charges Policy 2019/20** to complete non-statutory, detailed assessments for specific properties (such as fire safety

risk assessments; confirming in detail the work that would be required to let a property in multiple occupation; or detail the work required to reduce the risk from significant hazards in a property to an acceptable level).

12.0 – Review of Enforcement Action

If there is a change in the occupation of a premises (leading to either an increase or decrease in the apparent risk to occupiers) the current state of any outstanding enforcement action should be reviewed by the investigating officer, in consultation with his or her line manager, to ensure that it is still appropriate and proportionate to the risk posed from the identified hazard(s).

13.0 – Publicising Outcomes

Verdicts and sentences in criminal cases are given out in open court and are a matter of public record. Evidence suggests that the public want to know about the outcomes of local court cases. This information is also a legitimate way of engaging communities and making criminal justice services more transparent and accountable.

The authority will publicise the outcomes of criminal cases and basic personal information about the convicted offender, in accordance with guidance issued by the Criminal Justice System (Publicising Sentencing Outcome, CJS, 2011). The reasons are to:

- reassure the public
- increase trust and confidence in the criminal justice system
- improve the effectiveness of the criminal justice system
- discourage offending and/or re-offending

14.0 – Fees and Charges

14.1 – Power to Charge for Enforcement Action

The Local Authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in:

- serving an improvement notice under section 11 or 12;
- making a prohibition order under section 20 or 21;
- serving a hazard awareness notice under section 28 or 29;
- taking emergency remedial action under section 40;
- making an emergency prohibition order under section 43; or

- making a demolition order under section 265 of the Housing Act 1985 (c. 68).

14.2 – When the Demand becomes Operative

When the charge demand becomes operative, the sum recoverable will be a local land charge, until such time as the debt is repaid in full.

As a charge on the property, the costs give the Authority the same powers and remedies as a Mortgagee under the Law of Property Act 1925.

14.3 – Work In Default

Costs incurred carrying out Work in Default or Remedial Action will be charged separately to the demand.

The costs incurred will include the full costs incurred by the Council in undertaking work in default plus the officer costs incurred in arranging and coordinating the work.

14.4 – Non Statutory Inspection Charges

The Private Sector Housing Team will charge for inspections that are non-statutory. These include inspections relating to fitness of dwellings for the purposes of immigration requests

(Please refer to our Private Sector Housing Fees and Charges Policy 2019/20.)

15.0 – Recovery of Expenses

Where charges for enforcement action are levied, they will be registered as a local land charge against the owner's property. This means that when the property is sold the debt has to be repaid including any interest accrued on the initial charge. The Council will vigorously pursue all debts owed to it as a result of enforcement charges or charges for carrying out works in default (as well as any other charges). This includes smaller debts where the cost of recovery is greater than the debt owed.

To recover debts the Council will use some of the following means;

- The enforced sale procedure under the Law and Property Act 1925. This allows the Council to force the owner to sell their property in order to recover its costs

- Invoice for the applicable amount and County Court action if the invoice is not settled in full.
- A charge put on the property. The charge remains in place until the debt is cleared.

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

This Order makes it a legal requirement for all lettings agents and property managers in England to join a Government-approved redress scheme by 1 October 2014.

This now means that tenants, prospective tenants, landlords dealing with lettings agents in the private rented sector, as well as leaseholders and freeholders dealing with property managers in the residential sector can complain to an independent person about the service received. The intention of the scheme is to make it easier for tenants and landlords to complain about bad service and prevent disputes escalating.

The requirement will be enforced by local housing authorities. The enforcement authority can impose a fine of up to £5,000 where it is satisfied, on the balance of probability that someone is engaged in letting or management work and is required to be a member of a redress scheme, but has not joined.

The expectation is that a £5,000 fine should be considered the norm and that a lower fine should only be charged if the enforcement authority is satisfied that there are extenuating circumstances. It will be up to the enforcement authority to decide what such circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a fine.

The enforcement authority can impose further penalties if a lettings agent or property manager continues to fail to join a redress scheme despite having previously had a penalty imposed.

There is no limit to the number of penalties that may be imposed on an individual lettings agent or property manager, so further penalties can be applied if they continue to be in breach of the legislation.

17.0 – The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, Premises occupied under a tenancy must have:

- A smoke alarm fitted on each storey of the premises on which there is a room used wholly or partly as living accommodation
- A carbon monoxide alarm is fitted in any room of which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
- Checks are made by or on behalf of the landlord to ensure that each alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

Under the Regulations, local authorities are required to issue a remedial notice where they have reasonable grounds to believe a landlord has not complied with one or more of the requirements of the regulations. The landlord must comply with the notice within 28 days.

If they do not, the local authority must carry out the remedial action (where the occupier consents) to ensure the requirements of the regulations are met and can issue a civil penalty of up to £5,000. Landlords can request a review of the Council's decision to serve a penalty notice.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Statement of principles sets out the principles that the Council will apply in exercising its powers to require a relevant landlord to pay a financial penalty.

18.0 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

The Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015 establish a minimum level of energy efficiency for privately rented property in England and Wales. Landlords of privately rented domestic and non-domestic property in England or Wales must ensure that their properties reach at least an Energy Performance Certificate (EPC) rating of E.

If a landlord believes that an EPC F or G rated property they let qualifies for an exemption from the minimum energy efficiency standard, that exemption must be registered on the PRS Exemptions Register – a self-certification database.

Statement of principles to determine the amount of a penalty charge for a breach of minimum energy efficiency standards (MEES) with respect to domestic

privately rented property sets out the principles that the Council will apply in exercising its powers to require a relevant landlord to pay a financial penalty.

19.0 – Empty Homes

Empty homes can be a blight on our community as well as a wasted housing resource. Our approach will be to work alongside owners of empty homes with a solution based approach to support and encourage voluntary action.

However, we are also committed to using appropriate enforcement action where owners fail to take responsibility for their properties, reasonable negotiations fail or there is little prospect of the property being bought back into use voluntarily.

Enforcement options may include the following:

19.1 – Empty Dwelling Management Orders

Where a property has been left empty for over two years and is attracting anti-social behaviour, the Council may seek an EDMO, the provisions for which are contained in the Housing Act 2004.

An EDMO allows the Council to take over full management of the property for up to seven years, reclaiming any management and refurbishment costs from the rental income.

19.2 – Compulsory Purchase Orders

CPOs can be made under s17 of the Housing Act 1985 or s226 of the Town & Country Planning Act 1990. They allow local authorities to purchase properties in specific circumstances without the owner's consent.

19.3 – Enforced sale procedure

The Law of Property Act 1925 allows the recovery of debt secured by a registered charge by forcing the sale of a property. In situations where the Council has incurred costs in relation to the property, the Council will register a charge against the property and should the owner still not pay this debt, the Council can commence legal proceedings to sell the property to recover the costs. An enforced sale under a different procedure can also be used to recover Council Tax arrears.

19.4 – Statutory nuisance provisions

If a property is unsafe, causing or is likely to cause a nuisance to the locality, the Council can take action to ensure that the condition of the property is improved.

A full list of these enforcement powers is available in the Chesterfield Borough Council Empty Homes Strategy.

For more information please see the [Chesterfield Borough Council's Empty Homes Strategy 2016](#).

20.0 – Caravan and Park Home sites

Caravan and camping sites provide accommodation both for residential, holiday and touring purposes. It is a requirement that all sites are registered with the Council and that owners apply for a caravan site licence.

Licences are issued with conditions attached in accordance with their planning permissions and Model Caravan Standards.

The requirement to apply for a caravan site licence refers to all sites, including park home sites. However, it does not apply to Council managed Gypsy and Traveller sites, nor to unauthorised sites without the appropriate planning permissions as these cases would require investigation from other enforcement bodies.

Caravan sites will be inspected on a cyclic basis or as a result of a complaint made to the service. This is to ensure that there is compliance with conditions listed on the site licence and also, where appropriate, with other legislative requirements.

Where there is non-compliance with licence conditions or legal requirements, these deficiencies will be notified to the licence holder, owner or manager. Formal action will be taken where there is insufficient progress, limited co-operation or, in the first instance, where serious issues are identified.

The Council has the power to charge annual fees for residential caravan sites and mobile home parks under the Mobiles Homes Act 2013. All charges are set out in the Chesterfield Borough Councils Residential Caravan Site Fee Policy Council Fee Structure.

21.0 – Monitoring and Review

The Service will keep its regulatory activities and interventions under review.

Changes will be introduced into this document where necessary to accommodate new legislation, guidance and local needs.

22.0 – Complaints

The Council's complaints policy and process are [available online](#).

A service user can still make a complaint in cases where the Council has instigated legal proceedings. However, making a complaint will not stop any impending legal action. Where statutory notices have been served, making a complaint does not replace the statutory rights of appeal or the right to make representations. It also does not allow extra time to comply with any notice or order. If a service user disagrees with a statutory notice, they should take action as specified in the notice or order to make an appeal, if any exists. Reference should be made to any notes that may accompany the notice or order for more detail.

23.0 – Application of the Policy

All Officers must have regard to this policy when making enforcement decisions.

If you have any comments or queries on this policy, please contact:
Chesterfield Borough Council Private Sector Housing Enforcement Manager
By Email: PSHO@Chesterfield.gov.uk
By telephone: 01246 345748