

# **Sefton Council**

## **Housing Standards Enforcement Policy**

**For the Regulation of Housing Standards**

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## **Executive Summary**

This Policy updates the Council's previous Housing Enforcement Policy. It sets out the Council's continued commitment to improving housing standards within the private sector and takes into account recent legislation and guidance to ensure that the Council's response remains effective and legally compliant.

In accordance with guidance and the current Regulators Code, the Council will seek to work with landlords in the first instance to achieve improvements to housing quality and management. However, this Policy also sets out the range of legislative tools available to the Council in circumstances where owners are non-compliant or unable to facilitate improvements to their properties.

## **1. Introduction**

### **1.1 Scope and Purpose of the Policy**

This document applies to all housing standards functions. All decisions on enforcement action within Private Sector Housing shall be made following consideration of this policy.

The primary function of central and local government enforcement work is to protect the public, the environment and specific groups such as tenants and consumers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. Sefton is committed to ensuring that all persons living in the Borough are housed in dwellings that meet the standards set down in legislation.

The effectiveness of legislation in protecting tenants or other sectors of society depends on the compliance of those regulated. We recognise that in most cases landlords want to comply with the law. We will, therefore, take care to help landlords and others to meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who disregard their obligations under the law or act irresponsibly.

## **2. Purpose**

The purpose of this Housing Standards Enforcement Policy is to set out the legal responsibilities, policies and priorities that the Housing Standards team will follow when enforcing legislation.

The document sets out what owners, landlords, tenants and others being regulated can expect from the Housing Standards Team enforcement Officers. It commits the Council to good enforcement policies and procedures.

It should be read in conjunction with other policies and strategies such as the Housing Standards Civil Penalties Policy and Empty Homes Strategy.

### **3. General principals in Relation to Enforcement**

Any enforcement action taken by Sefton Council's Housing Standards Team will be in line with the principles of good enforcement outlined in the

- Regulators Compliance Code 2014

The aim is to enforce the legislation efficiently and effectively without imposing unnecessary burdens upon property owners and occupiers. In carrying out its enforcement policy, the Council will have regard to;

#### **Economic Growth & Development**

With an increasing number of privately rented premises in Sefton, this policy is not intended to stifle further growth and development. Indeed the Council recognises the need for a well-managed and regulated private housing sector and will seek to work with landlords and developers who wish to invest in the borough. It is expected that the landlords and investors will comply with all housing legislation as a minimum.

#### **Property Inspections and Compliance Visits**

The Council has a general duty to keep housing conditions under review in Sefton in order to identify any action that may need to be taken under the Housing Act 2004. We will undertake a general housing stock condition exercise to collate information about housing conditions in the borough at least every 5 years. We will also carry out inspections to properties in greatest need. We will also target inspections on properties that require a licence.

#### **Advice & Guidance**

The Council will provide general information, advice and guidance to make it easier for property owners/managers to understand and meet their responsibilities.

#### **Standards of Service**

The Housing Standards Team has developed a clear set of standards, which sets out levels of service, and performance that users of the service can expect to receive.

In line with good practice and to ensure we use Council resources on the more serious cases where landlords have not addressed the concerns of the tenant, we will encourage the occupier to contact the landlord directly before we take any action. This is in line with the Regulators' Code, which encourages intelligence led enforcement.

#### **3.1 Openness**

The Housing Standards Team will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. The Service will be open about how we carry out our work including any charges we set. We will discuss

general issues, specific compliance factors or problems with anyone experiencing difficulties.

### **3.2 Helpfulness**

The Housing Standards Team will provide a courteous and efficient service and will identify themselves by name. We will provide a contact point and telephone number for future dealings with the service and will encourage all those who have dealings with us to seek advice/information from us. We will also signpost customers to relevant services where we are not able to assist ourselves.

### **3.3 Complaints about the Service**

The Council will provide well-publicised, effective and timely complaints procedures that are easily accessible to all who have dealings with us. If disputes cannot be resolved we will explain rights of complaint or appeal giving details of the process and time-scale involved.

### **3.4 Proportionality**

The Housing Standards Team will ensure that any action required is proportionate to the risks. When the law allows, when considering what action to take we will take account of the circumstances of the case and the attitude of the individual.

### **3.5 Consistency**

The Housing Standards Team will carry out its duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities.

### **3.6 Competence and Authorisations**

Sefton Council is committed to ensure that all officers are competent to carry out their functions in a professional way. Only Officers deemed to be competent will be authorised to carry out formal action under the Council's scheme of delegations.

### **3.7 Targeting of Resources**

The Council has a duty to keep the housing conditions in their area under review. Either as a result of that review, or for some other reason such as receipt of a service request, the Council can inspect a property if they have reason to believe a health and safety hazard exists there. The Council will prioritise inspections and further intervention towards those properties which give rise to the most serious risks or where the Council has reason to believe that any hazards are least able to be managed and rectified by the landlord.

The tenant must have followed the Council's advice first (**See Appendix 1**)

This includes the tenant having notified their Landlord of the issue (in writing/text/email) and allowed sufficient time for the problem to be rectified.

### **3.8 Carrying out inspection**

A property inspection will be carried out where there is a statutory duty to do so, or in cases where the local authority considers that it is appropriate for an inspection to be conducted.

#### **The Health and Safety Rating System (HHSRS)**

The HHSRS is set out in the Housing Act 2004. It is a method of assessing how likely the condition of a property is to cause a hazard to health. There are two categories of possible hazards. Category 1 hazards represent a serious danger to health and safety, and the Council has a duty to take action to deal with these. Category 2 hazards represent a less serious danger and the Council has the power, but not a duty to take action. A range of enforcement powers are available under the Act to remove or reduce any hazards identified to an acceptable level. (Detailed below)

## **4. Enforcement Options for Housing Act Offences**

Enforcement options that are available, having considered all relevant information and evidence are:

- a) Take no action
- b) Informal action, including written guidance, advice and notices
- c) Use of statutory notices
- d) Carrying out work in default
- e) Issuing civil penalty notices
- f) Use of various management orders
- g) Issuing simple cautions
- h) Refusal, revocation or the attachment of conditions to a licence
- i) Prosecution, issuing civil penalties, rent repayment orders, banning orders
- j) Compulsory purchase or enforced sale

### **No Action**

Where an inspection or investigation reveals full compliance with the criteria of the Housing Health & Safety rating System (HHSRS), no further action will be required. Details of the fact that the inspection revealed that no action was required will be recorded in the premises file.

### **4.1 Informal Action**

In the majority of cases the first course of action, should the complaint be justified, would be to take informal verbal or written action. In deciding to take formal enforcement action many criteria will be considered, including:-

- a) Whether the act or omission is serious enough to warrant formal action.
- b) Whether past history with the local authority indicates that informal action can be expected to achieve full compliance.
- c) Whether officers' confidence in the premise's management is high.

- d) Whether the consequences of non-compliance will pose a significant risk to the occupants or the public as a whole.

Informal action to secure compliance with legislation may be given in the form of:

- a) Verbal Advice/Warnings
- b) Written requests for action or advice
- c) Issue Hazard Awareness Notice

#### **4.2 Verbal Advice**

The giving of advice or verbal warnings is a discretionary function of an authorised officer. Advice or verbal warnings may be given when an infringement is not considered sufficiently serious to require written warning, formal caution or prosecution.

Advice may be confirmed in writing, and must be recorded on the premises file.

#### **4.3 Written Advice/ Warnings**

Where the inspecting officer feels it is appropriate to put requests for action in writing legal requirements and recommendations will be clearly differentiated.

It should be noted that should the property become empty during the course of the investigation the authority will in most cases decide to continue with the action.

#### **4.4 Hazard Awareness Notice**

Where the legislation/findings require this procedure will be followed. The procedure informs interested parties that the Local Authority is bringing certain hazards to the attention of the landlord but is not taking any further action. The identification of hazard awareness notices is left to the discretion of suitably qualified officer.

#### **4.5 Formal Action**

Should the informal approach fail to prompt action by the owner, then the next stage will be statutory action.

Formal action may include:

- Action under the provisions of Part 1 of the Housing Act 2004 to:
  - Serve an Improvement Notice under section 11/12
  - Serve a Suspended Improvement Notice under section 14
  - Make a Prohibition Order under section 20/21
  - Make a Suspended Prohibition Order under section 23
  - Serve a Hazard Awareness Notice in accordance with section 28/29
  - Take Emergency Remedial Action under section 40 or
  - Make an Emergency Prohibition Order under section 43;

- The refusal to grant or the revocation of a licence under Parts 2 & 3 of the Housing Act 2004. All matters relating to Selective licensing under Part 3 of the Housing Act 2004 and the factors affecting decisions to grant a licence or otherwise will be laid out in the designation of any scheme that is made. All matters relating to Additional (HMO) Licensing under Part 2 of the Housing Act 2004 and the affecting decisions to grant a licence or otherwise will be laid out in the designation of any scheme that is made.
- The making of Management Orders under Part 4 of the Housing Act 2004
- The making of Orders under the provisions of the Housing Act 1985, as amended
- The service of an abatement notice under the Environmental Protection Act 1990
- The service of Statutory Notices under the provisions of other legislation, including but not limited to the Prevention of Damage by Pests Act 1949 and the Local Government (Miscellaneous Provisions) Act 1982
- The making of a Compulsory Purchase Order under the Housing Act 1985 or other legislation
- Works in default of completion by an owner, agent, person responsible, manager or occupier
- Simple caution
- Prosecution
- Service of a Civil Penalty Notice

All Notices will only be issued by officers who have been properly authorised to do so.

Should it become necessary for the local authority to serve a Housing Act 2004 Notice, reasonable costs based on certain administrative charges and other expenses incurred by the Local Authority, as set out in the Housing Act 2004, will be charged for the actions set out below:

- Improvement Notice
- Prohibition Order
- Emergency Remedial Action
- Emergency Prohibition Order
- Review of Suspended Improvement Notice
- Review of Suspended Prohibition Order
- Demolition Order

The charges will be in line with the current fees and charges.

#### **4.6 Improvement Notices**

Improvement Notices will not be issued for minor technical infringements of the HHSRS; hence they will be issued when one or more of the criteria below apply:

- a) There are significant Category 1 or 2 hazards as identified by a HHSRS assessment

- b) If a property is in such a condition, renovation can be demonstrated to be the most suitable course of action, and
- c) One or more of the criteria below apply:
  - i. The owner/landlord/agent/manager/occupier etc. has failed to respond to the informal approach.
  - ii. The owner/landlord/agent/manager/occupier etc. has failed to demonstrate his willingness to co-operate with the local authority.
  - iii. There is history of non-compliance

Should the Notice recipient wish to do alternative works, to those contained in the schedule of works, to meet the relevant standards it is necessary that the alternative works are set out in writing to the investigating officer. In deciding if the alternative works are reasonable the following will be taken into account:

- a) Will the alternative works meet the relevant standards?
- b) Will the alternative works meet current Building Regulation and Planning approval?
- c) How long the alternative works will take to complete?
- d) Will the alternative works cause more disturbance to the occupier?
- e) Will the alternative works mean that the occupier has to move out?

Once the request for an extension of time has been considered the recipient of the notice will be advised, in writing as to whether the request was adjudged reasonable or otherwise. The reasons for that decision will be explained and any new time limits reconfirmed.

All notices served will be placed on the Authority's public register as prescribed by the relevant legislation.

Where the legislation prescribes, failure to comply with the Improvement Notice will, in general, result in the institution of court proceedings, service of a Civil Penalty Notice and/or the carrying out of works in default

If the property becomes empty during the course of the investigation the works contained in the Notice will still be required to be completed.

#### **4.7 Prohibition/Demolition Orders**

The serving of

- a) A Prohibition Order to close premises or part of the premises,
- b) An Emergency Prohibition Notice
- c) A Demolition Order to demolish a premises

A Prohibition/Demolition Order will only be considered in one or more of the following circumstances:

- a) The consequences of not issuing a Prohibition/Demolition Order to protect the occupants or public health would be unacceptable.

- b) The risk of injury can be demonstrated. If the risk is immediate then an Emergency Prohibition Notice should be served.

If there is a current occupier, their views and circumstances should be taken into account when deciding the most appropriate course of action. As this course of action has the effect of making current occupiers homeless the Housing Options Team will be contacted to offer the occupier advice and support.

#### **4.8 Emergency Remedial Action**

When the Council is satisfied that a Category 1 hazard exists and that hazard/s involves an imminent risk of serious harm to the health and safety of any occupiers, Emergency Remedial Action (ERA) may be taken by the authority. The remedial action taken will include whatever remedial action the Council considers necessary to remove the imminent risk of harm.

The Council will serve notice within 7 days of taking the ERA.

#### **4.9 Suspension of Notices**

As long as there is no immediate risk to the health, safety and welfare to the occupants or the public as a whole the most appropriate action may be to serve a Suspended improvement/prohibition notice. By serving a suspended Notice on the responsible person, it gives the local authority more time to consider the property's long-term future.

#### **4.10 Simple Caution**

Officers may use Simple Cautions where someone has committed a less serious crime. Simple Cautions warn people that their behaviour has been unacceptable and makes them aware of the legal consequences should they commit further offences. Simple cautions can only be issued where:

- There is evidence an offender is guilty
- The offender is 18 years of age or older
- The offender admits they committed the crime
- The offender agrees to be given a caution – if the offender does not agree to receive a caution then they are likely to be prosecuted instead.

Simple cautions are normally not appropriate where there is history of offending within the last 2 years or where the same type of offence has been committed before. In these circumstances prosecution is more appropriate.

#### **4.11 Prosecution**

In making a decision to prosecute there must be sufficient, admissible and reliable evidence that an offence has been committed by an identifiable individual or company, and there is a realistic prospect of conviction.

Secondly, a decision must be made as to whether a prosecution would be in the public interest. Where there is evidence, officers will consider prosecution, however mitigating actions will be taken into consideration including:

- Any reasonable explanation provided by the individual or company
- Evidence that the individual or company intends to prevent a recurrence of the problem
- An individual's age and state of health
- The offenders attitude to the offence

Any decision to prosecute will initially be considered by the Team Manager. If prosecution is deemed appropriate then there will be a pre-prosecution meeting with the officer and the Legal Team. If prosecution is deemed appropriate then the prosecution case file will be fully prepared and referred to the Legal Team. All prosecutions will be brought without unavoidable delay and generally there is a requirement to lay information with the Courts within six months of the identified date that the offence was committed.

#### **4.12 Civil Penalties**

The Power to impose a civil penalty as an alternative to prosecution for certain specified housing offences was introduced by the Housing & Planning Act 2016. (See inserted section 149A into the Housing Act 2004.)

Civil Penalties can be imposed by the Council as an alternative to prosecution for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice
- Offences in relation to licensing of Houses in Multiple Occupation
- Offences in relation to licensing of houses under Part 3 of the Act
- Offences of contravention of an overcrowding notice
- Failure to comply with management regulations in respect of Houses in Multiple Occupation
- Offences subject to Banning Orders

Local housing authorities have the power to impose Civil Penalties for up to £30,000 on individuals and companies as an alternative to prosecution.

The Council have an approved Civil Penalty Policy which details how they will be issued.

#### **4.13 Work in Default**

The local authority always has the discretion whether or not to carry out works in default. The decision is not taken lightly and is based on the circumstances of each case. Non-compliance with a Notice will not automatically result in the instigation of Work in Default. If it becomes necessary to carry out default work, consideration should be given to whether a prosecution is appropriate.

#### **4.14 Revocation of Housing Licenses**

A Mandatory/Additional or Selective licence can be revoked on the grounds that the Council no longer considers that the licence holder is a 'fit and proper person' or where the Council no longer consider that the management of the house is carried out by persons who are fit and proper persons to be involved in the management of the property.

#### **4.14 Interim Management Order (IMO)**

The Council must make an IMO in respect of a licensable property which is not licensed if it is satisfied that there is no reasonable prospect of the property being licensed in the near future with appropriate conditions or it is necessary to protect the health, safety or welfare of occupiers of the property or properties in the vicinity.

An IMO is in force for 12 months and allows the Council to manage the property with many of the rights of a landlord and to collect rent and expend it on work to the property.

The Council may delegate the management of the property to another organisation. An IMO ceases to have effect if a licence is granted. There are provisions to vary, revoke and appeal against an IMO.

#### **4.15 Final Management Order (FMO)**

The Council must make a FMO where, on expiry of an IMO if, the property requires to be licensed but the Council considers it is still unable to grant a licence.

An FMO is similar to an IMO in that the Council continues to manage the property with many of the rights of the landlord, but they must be reviewed from time to time. The Council may delegate the management of the property to another organisation. As with IMOs, there are provisions for varying, revoking and appealing the making of a FMO.

#### **Powers of Entry**

In certain circumstances, Powers of Entry into a property are provided to authorised officers in accordance with the legislation under which we operate. In general the powers will allow an officer at any reasonable time to:

- Enter a property to carry out an inspection and gather evidence
- Take someone with them
- Take equipment or materials with them
- Take measurements, photographs or make recordings
- Leave recording equipment for later collection
- Take samples of articles or substances; and
- In some cases to carry out works.

In most cases prior notice must be given to owners and to the occupiers. The notice given depends on the legislation being enforced and can range from 24 hours to 7 days. Notice that powers of entry need to be carried out will normally be in writing or by email but can in some circumstances be given verbally, depending on the relevant statutory provision.

The powers of entry can be enforced with a warrant. The Police will accompany officers where that is appropriate. It is an offence to obstruct an officer in the course of their duty. Officers exercising their Power of entry will carry identification and details of their authorisation to carry out their action.

## **5. Special Powers in Relation to Houses in Multiple Occupation (HMOs)**

In addition to the previously mentioned enforcement options the Council has further powers to ensure adequate standards in HMOs are met and maintained. The Housing Act 2004 introduced a mandatory scheme to licence HMOs. Mandatory licensing is intended to apply only to larger high risk HMOs of three or more stories occupied by five or more people, comprising two or more households. (From 1<sup>st</sup> October 2018 the storey element will be removed from this definition and a HMO with any number of storeys, occupied by five or more people, comprising two or more households, that share amenities such as bathroom, kitchen, or toilet facilities or where all the units of accommodation are not fully self-contained, will require a Mandatory HMO licence).

The HMO licensing regime provides procedures to assess the fitness of a person to be a licence holder, potential management arrangements of the premises and suitability of the property for the number of occupants, including the provision of relevant and adequate equipment and facilities at the property.

It is a criminal offence if a person controlling or managing a licensable HMO does not have the required licence. Breaking any condition of a licence is also an offence. The Housing Act 2004 also addresses the on-going management of unlicensed or problem HMOs, with view to protecting occupiers and those in the vicinity and, where possible getting properties licensed and properly managed.

### **5.1 Management Regulations**

Management regulations made under the Housing Act 2004 imposes duties on landlords and managers of HMOs (whether or not subject to licensing). There are no notice serving powers under the Management Regulations but the Council can prosecute for breach of the regulations or serve a Civil Penalty Notice, and is able to do so where a premises exhibits multiple contraventions.

### **5.2 Overcrowding Notices**

Overcrowding notices apply to HMOs that are not required to be licensed. The effect of an overcrowding notice is that the person served must comply with the terms of the notice and if they fail to do so they commit an offence for which the Council is able to prosecute.

An overcrowding notice must either prohibit new residents or limit the number of people sleeping in the HMO. The Council may take action on overcrowding under the HHSRS related to crowding and space.

## **6. Housing Licensing**

### **6.1 Mandatory Licensing**

The Housing Act 2004 introduced a mandatory licensing requirement for certain types of HMOs and came into force in April 2006. The aim of licensing is to ensure that these “higher risk” premises are safe for occupants and visitors, well managed and suitable for use as a HMO.

A Mandatory HMO licence is required for a HMO comprising 3 storeys, occupied by five or more people, comprising two or more households, and share amenities such as bathroom, kitchen, or toilet facilities or where all the units of accommodation are not fully self-contained. (From 1<sup>st</sup> October 2018, the storey element of the definition is removed and any landlord of a HMO fitting the new definition MUST have applied for a HMO Licence prior to this date)

### **6.2 Selective Licensing**

Sefton has declared a Selective Licensing Area. This is an area of the borough that has been identified as having significant anti-social behaviour; poor property conditions; a high level of deprivation and high levels of crime. The aim of the Selective Licensing area is to promote good management of all privately rented properties within the area. From 1<sup>st</sup> March 2018 a licence is required for each privately rented dwelling in the area. The Licensing scheme will be in place for 5 years.

### **6.3 Additional (HMO) Licensing**

Sefton has declared two Additional (HMO) licensing areas. These are areas of the borough which have high concentrations of problematic HMOs and have seen an increase in ASB and crime over recent years. This is having an adverse impact on communities and businesses in these areas. From 1<sup>st</sup> March 2018 a licence is required for every type of HMO located in either of the 2 designated areas. The Licensing scheme will be in place for 5 years.

### **6.4 Housing Licensing Enforcement**

The Council will take steps to ensure that properties that require a licence are licensed and take enforcement action against landlords of unlicensed properties that require a licence. A licence holder must be a fit and proper person to hold such a licence and there must be satisfactory management arrangements in place.

Licence conditions must be adhered to by the licence holder and these aim to ensure that minimum standards are met in relation to gas, electric and fire safety. Conditions also relate to proper tenancy management and seek to ensure the rental property is in a good state of repair.

It is a criminal offence for a person to manage or control a property which requires a licence under the Licensing Schemes yet doesn't have such a licence. This offence is punishable on conviction by the courts to an unlimited fine. A Civil Penalty can be imposed, as an alternative to prosecution, by the Council for up to £30,000

The Council will robustly pursue any person (individual or company) who is managing or in control of a property without the required licence. The Council will take a zero tolerance stance to all unlicensed properties which require a Licence.

The Council will also robustly enforce against those who do not comply with the licence conditions and/or any breaches of management regulations found (if applicable depending on the type of property).

A licence holder must continue to be fit and proper to hold a licence for the duration of the licence period. The Council will consider revoking a property licence if an issue comes to light regarding a person's fitness to hold such a licence.

## 7. Rent Repayment Orders

In all instances, the Council will consider applying for a Rent Repayment Order (RRO) where a landlord has committed any of the following offences to recover Housing Benefit and the housing costs element of Universal Credit from the landlord:

- Offences in relation to licensing of houses in multiple occupation (s.72(1) Housing Act 2004)
- Offences in relation to licensing of houses under Part 3 of the Housing Act 2004 (s.95(1))
- Failure to comply with an Improvement Notice (s.30 Housing Act 2004)
- Failure to comply with a Prohibition Order/Emergency Prohibition Order (s.32/43 Housing Act 2004)
- Breach of a Banning Order (s.21 Housing and Planning Act 2016)

This may be following conviction or, depending on the offence, may be in addition to a civil penalty. The decision to apply for a RRO will be taken on a case by case basis and will be in accordance with Government guidance to Local Housing Authorities ensuring that all statutory requirements are met.

The Council could also apply for RROs where a landlord has committed offences described below. However these fall outside the scope of actions taken by Housing Standards service.

- Using violence to secure entry to a property (s.6 Criminal Law Act 1977)
- Illegal eviction or harassment of the occupiers of a property (s.1 Protection from Eviction Act 1977)

## 8. Banning Orders & Database of Rogue Landlord

The Housing & Planning Act 2016 introduces Banning Orders and Database of Rogue Landlords and comes into effect from 1<sup>st</sup> April 2018.

Where someone has been convicted of a Banning Order Offence the Local Authority can apply to the First Tier Tribunal for an order banning that Landlord or property agent from being involved in the letting and/or management of property. In addition, someone who has been convicted of a Banning Order Offence, or has received 2 or more Civil Penalties as an alternative to prosecution for banning order offences within a 12 month period, can be included in the Database of Rogue Landlords and Property Agents. If they have also had a banning order made against them, their details must be included in the database.

A Banning Order can only be made against someone who has been convicted of a Banning Order offence.

There are a variety of Banning Order Offences, from several regulatory bodies, but the list below contains the relevant Housing Act 2004 offences:

- Failure to comply with an Improvement notice (section 30)
- Failure to comply with a prohibition Order (section 32)
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) (section 72)
- Offences in relation to licensing of houses under Part 3 of the Act (section 95)
- Contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of HMOs (section 234)
- Providing false or misleading information (section 238)

## **9. Enforcement Action in relation to Empty Properties**

One of the priorities of the Housing Standards Team is to bring long term empty properties back into use. These are classed as properties that have been empty for 6 months or more. Given the Council's limited resources, the main focus of action will tend to be on properties which have been empty for 2 years or more and causing nuisances to neighbours and communities.

There are several enforcement options available to officers to deal with long-term empty properties and these are detailed in Sefton's Empty Homes Strategy and are summarised below. These options would normally only be considered appropriate for a small number of problematic properties.

### **9.1 Enforced Sales/Orders for Sale**

The Council is able to consider forcing the owner to sell the property in certain circumstances and where the legislation allows.

If the Council is owed money following non-payment of Council tax, or where the council has needed to take action due to the condition of the property and the legislation allows us to recover the costs it will consider forcing the sale of the property in order to recover its costs.

### **9.2 Empty Dwelling Management Orders (EDMO)**

The Housing Act 2004 introduces Empty Dwelling Management orders (EDMO) in order to unlock the potential of empty homes and to get them back into use as houses as quickly as possible.

There are two types of order, Interim EDMO and Final EDMO. An EDMO allows the Council to secure the occupation and proper management of privately owned houses and flats that have been unoccupied for a specified period (at least six months).

### **9.3 Compulsory Purchase Orders (CPOs)**

Compulsory Purchase Orders enable Local Authorities, when appropriate, to apply to the Secretary of State to compulsorily purchase properties that have been empty for a minimum of 6 months.

## **10. Other Legislation**

### **10.1 Smoke & Carbon Monoxide Regulations**

The Council has powers to enforce The Smoke and Carbon Monoxide Alarm (England) Regulations 2015. Where an offence has been committed officers will serve a remedial notice on the relevant landlord giving them time to remedy the defect. Should this approach fail to prompt the required action, then a Penalty Charge Notice will be served and Work in Default carried out. The Council will have due regard to its Statement of Principals in determining the amount of Penalty Charge.

### **10.2 The Redress Scheme for Letting Agency Work & Property Management Work Order 2014**

The Council has powers to enforce this Order. For offences under this Order officers may serve a Notice of Intent, which provides the recipient with 28 days to join one of the Redress Schemes approved or designated by the Secretary of State. If this does not prompt the required action then officers may make the decision to serve a final notice imposing a monetary penalty.

### **10.3 Other General Legislation**

Officers in the Housing Standards Team are able to use various other pieces of legislation to deal with specific issues related to property conditions. Officers will always use the most relevant legislation in line with Government Guidance. (See Appendix 2)

## **11. Referral to Other Regulatory Bodies**

Where it is necessary i.e. in the case of a wider regulatory interest, relevant information will be referred to other regulatory bodies e.g. the HSE in the case of gas safety within residential private sector dwellings and the Fire & Rescue Authority in the case of high risk HMOs.

## **12. Links to other Council Policies**

Equality and Diversity Policy  
Sefton Housing Strategy 2016- 2021  
Economic Strategy  
Health & Wellbeing strategy

## **13. Evaluation**

This policy will be reviewed every year and at the time of any significant change of circumstances, changes to legislation and local needs.

## **14. Contacts**

For general enquiries about the services the Housing Standards Team provide, please contact:

Housing Standards Team  
Magdalen House  
30 Trinity Road  
Bootle  
L20 3NJ

Tel: 0345 140 0845

Email : [private.housing@sefton.gov.uk](mailto:private.housing@sefton.gov.uk)

## APPENDIX 1

# I am a tenant and want to make a complaint about disrepair to a property. What should I do?

Firstly, you should report any problems to your Landlord in writing. We've produced a sample [letter to Landlord](#) that you can adapt to suit your particular need. You are advised to request your landlord to acknowledge receipt of the letter but you must allow a reasonable time for your landlord to fix the problem. The time needed will be dependent on the urgency of the problem; however your landlord should be able to resolve most repairs within 28 days.

If the landlord does nothing, you could send a second letter, warning that you will contact the Housing Standards Team at Sefton Council if the repairs are not done by a certain deadline.

We would recommend that you send all correspondence through recorded delivery; there is a cost to this but it provides the proof of delivery. You may prefer to send an email or text to your landlord and again you should keep all copies of these messages.

# Gas Safety

A gas safety certificate must be given to you at the start of your tenancy in the property. If you haven't received a gas safety certificate send a letter to your landlord before contacting the relevant authorities, we have produced a sample [gas letter to Landlord](#) for you. We would recommend that the letter is sent recorded delivery, there is a cost to this but it provides the proof of delivery. You may prefer to send an email or text to your landlord but you should keep copies of these messages.

The gas safety certificate must be supplied by a registered Gas Safe Engineer. If you are unsure that he/she is registered you can check their details on the [Gas Safe website](#) .

If you have not received a certificate please contact [Gas Safe](#)  or the [Health and Safety Executive \(HSE\)](#) . The certificate should be given to you by your landlord every 12 months and is produced by a registered Gas Safe Engineer who comes and checks your gas appliances.

As from 1 of October 2008 Energy Performance Certificates (EPC) are mandatory and required by law for all new tenancies after said date. If you have not received an EPC ask your landlord to produce one. The EPC should be produced every 10 years. From 1<sup>st</sup> April 2020, a property cannot be privately rented unless the EPC rating is E or above.

## In brief, you must follow the process for all complaints -

- Write a letter to your landlord.
- If no action has been taken by your landlord, then you need to contact us after 28 days.
- We will write to you and your landlord stating that we have registered your service request and tell your landlord that we have received a complaint and to find a resolution to the items of disrepair

### In urgent cases

As a matter of urgency we will act in the following circumstances **but** you must contact your landlord first for a solution:

- No hot water and heating (time of the year dependant)
- Imminent structural collapse
- Gas leaks or phone [National Grid](#)  on **0800 111 999**
- Serious structural storm damage / Snow damage

- Blocked drains phone Sefton Council or blocked common drains (please note the rules regarding common/ private drains changed in October 2011) phone United Utilities ☎ on **0845 746 2200**
- No Water - phone United Utilities ☎ on **0845 746 2200**
- No electricity (Interruptions in supply not applicable)
- No Gas (Interruptions in supply not applicable)
- Unusable toilet (If there is only one in the property)
- Burst water pipes
- Fire alarm has become unoperable

If any of these cases are applicable phone your landlord immediately first. If your landlord does not act as a matter of urgency please phone Sefton's Housing Standards Team on 0345 140 0845

## I have written to my landlord and he/she has done nothing, what should I do?

If all else fails you can make a complaint to Sefton Council regarding disrepair issues. Phone 0345 140 0845 or alternatively use Sefton Council's online service.

The person who holds the tenancy agreement **must** be the person who makes the complaint

The information we require from you is:

- Your name and telephone number
- The address of the property in question
- The landlord or managing agents name The telephone and address of your landlord
- A high level of detail of the disrepair issues within the property
- The track and trace number for recorded delivery to your landlord (if applicable)
- A valid tenancy agreement
- A copy of the letter sent to your landlord

You will be advised to make the complaint in writing to your landlord if you have not already done so. If you have written a letter you will be asked to send a copy of the letter to us. This can be emailed to [private.housing@sefton.gov.uk](mailto:private.housing@sefton.gov.uk)

## What will be done next?

The housing standards team will assess the disrepair and send you and your landlord a letter and invite your landlord to telephone us about the situation and what they are intending to do about the disrepair. If the timescale of works is not satisfactory to us then we will consider serving a legal notice.

If we fail to hear from you within one month from the date of our letter we will assume that both parties are satisfied with the outcome and we will close the case.

## The Landlord has not been in contact with you and the Housing Standards Team for resolution

In this instance we will have no option other than to deal with the complaint in a formal manner and will issue a notice of entry under the Housing Act 2004 and inspect the property. Upon inspection a Housing Standards Officer will conduct a full assessment of the property on the 29 hazards under the Housing Health and Safety Rating System  as required by the Housing Act 2004.

Potentially, a legal notice could be served requiring the Landlord to carry out the works. If a notice is served on the landlord a charge will be levied to the Landlord. [The enforcement fees and charges can be viewed here.](#)

These are the problems most commonly assessed by the Housing Standards Service:

- Dampness and mould growth
- Heating and hot water
- Crowding and Space
- Entry by intruders
- Falls on level surfaces
- Falls on stairs
- Electrical Hazards
- Fire
- Lighting
- Domestic Hygiene, pest and refuse
- Structural Collapse and falling elements
- Food safety
- Dangerous or decaying stairs

Once the disrepair issues have been assessed the Landlord will be given a timescale, usually 28 days (depending on the amount of remedial work), to complete the repairs and eradicate the hazards. If the Landlord fails to comply then Sefton Council will serve a notice requiring the Landlord to complete the works dependent on the category of the hazards. This notice will be charged to the Landlord. [The enforcement fees and charges can be viewed here.](#)

If the landlord continues to fail to carry out the repairs as indicated then the Council can proceed with a prosecution of the landlord for failing to comply with the Legal Notice or issue a Civil Penalty.

In exceptional circumstances the Council will carry out works in 'default'. This means that we will arrange for a contractor to carry out the repairs and then we will invoice the Landlord for the cost of the works plus an administration fee.

## What if I contact Housing Standards 3 months from the date of your letter?

The procedure will be followed again and a new case will be opened. We will not re-open the original case as it will have been considered closed due to you not informing us the work was not done.

## APPENDIX 2

Summary of legislative powers/actions in addition to those already outlined in the policy under the Housing Act 2004 and the Housing and Planning Act 2016. This list is not exhaustive.

Issue/Problem	Legislation	Action Required
Property in such a state as to be a nuisance (for example causing dampness in adjoining property) or prejudicial to health	Environmental Protection Act 1990, Section 79  Building Act 1984, Section 76	Requires the owner to take steps to abate the nuisance  Gives the Council powers to take action to abate the nuisance
Blocked or defective drains or private sewers	Local Government (Miscellaneous Provisions) Act 1976, Section 35  Building Act 1984, Section 59  Public Health Act 1961, Section 17	Requires an owner to address obstructed private sewers  Requires the owner to address blocked or defective drains, gutters etc.  Requires the owner to address defective drains or private sewers