



Colchester City Council
Private Sector Housing Enforcement Policy
Version 11
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1. What is the purpose of this Enforcement Policy?

This document provides a framework for Colchester City Council to fulfil its legal responsibilities to regulate housing conditions across the city. It aims to ensure that our enforcement activity is proportional, consistent, transparent and fair.

The purpose of this enforcement policy is to provide guidance for Private Sector Housing (“PSH”) officers to ensure enforcement action is taken in line with the Regulators Code and the principles of good regulation where required 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
- Part 8 of the Housing Act 1996
- Parts 2 to 5 of the Housing Act 2004

are subject to The Legislative and Regulatory Reform (Regulatory Functions) Order 2007.

It explains why and how the Council will take action to regulate housing conditions to ensure a level playing field for property providers which will help to enhance the economic vitality of local communities.

It is based on the principle that no-one who breaks the law should gain a financial advantage over someone who does not.

It aims to ensure that enforcement decisions are fair and objective and not affected by undue influence. Enforcement decisions will not be affected by improper or undue pressure from any source.

The Council believes in firm but fair regulation and the principles of proportionality, transparency, consistency and targeting enforcement.

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 action taken will be in accordance with relevant statutory Codes of Practice, Council procedures and protocols, and official guidance from central and local government bodies.

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.

Activity under this Policy will contribute to the delivery of the Council’s Strategic Plan for 2023-26 [The Council's Strategic Plan · Colchester City Council](#)

It will also contribute to the 4 key priorities in the Council’s [Colchester Housing Strategy 2022-2027](#) and the vision this sets out for Colchester:

‘Colchester, where all residents have access to a safe and affordable home that promotes health and equality, in a sustainable community’.

2. What guidelines have been followed when drafting this Policy?

The Legislative and Regulatory Reform Act 2006 requires regulatory activities to be carried out in a way which is transparent, accountable, proportionate and consistent. It also states that regulatory activities should be targeted only at cases in which action is needed.

Transparency

We will publish and regularly update advice and guidance about our requirements and how to meet them on our website here [Private Sector Housing · Colchester City Council](#)

We will also aim, where possible, to engage with landlords, managing agents and tenants to allow them to offer views. This may be through working groups, forums, surveys, consultations or the Council’s complaints, compliments and comments process.

Accountability

We will explain why we are taking enforcement action or carrying out an investigation.

Any complaints or comments about our actions or the conduct of our officers will be taken seriously and investigated. The Council has an established compliments, comments and complaints process which can be easily accessed.

In addition, there is usually a statutory right of appeal to formal enforcement action and we will always ensure that those rights are detailed in relevant correspondence.

Proportionality

We will ensure that any action we require, or take, is proportionate to the seriousness of the breach and the risk to health, safety and welfare or the effect on the local neighbourhood.

The most serious formal action will be for serious breaches of the law where there is a significant risk to health and safety and welfare or where there has been a flagrant disregard for the requirements of the law.

We will seek to create an environment in which those we regulate feel able to seek advice without fear of triggering enforcement action. However, in some circumstances we will be under a duty to take action if we become aware of a breach or of a failure to comply with the law or the existence of a hazard.

We will provide the opportunity for response to any proposed enforcement action unless that action is required to prevent or respond to a serious breach, where immediate action is required or where doing so would defeat the purpose of the proposed action. In practice this means that we will normally give reasonable notice of inspections (where legally required) and we will normally consult interested parties before serving notices or orders.

Consistency

We will do the following to ensure a consistent approach to our enforcement decisions:

- We will discuss and compare enforcement decisions within the team. We may also do so externally through liaison and in benchmarking with other local authorities and enforcement bodies.
- All staff undertaking enforcement duties will be suitably trained, qualified and authorised to ensure that they are fully competent to undertake their enforcement duties.
- We will have regard to statutory guidance, relevant tribunal decisions, case law and current good practice.

Targeting

We may target our enforcement action towards those situations that give rise to the most serious risks, where the risks are least well controlled and against deliberate or organised breaches of the law.

Other factors also determine priorities for enforcement activity, including government targets and priorities, new legislation, national campaigns and public concerns.

Targeting may be based on a number of factors, for example:

Inspections may be targeted at premises - based on their age, size or other characteristics that may make the existence of a hazard more likely.

Previous performance - where a landlord or managing agent is identified to be responsible for premises which do not comply with the law, then the inspection of these and other premises owned or managed by them may be prioritised.

Where complaints have been received.

Where intelligence from other sources has highlighted potential non-compliance with legal requirements.

This Policy has been developed in accordance with the Regulators Code issued by the Better Regulation Delivery Office, April 2014, which sets out 6 principles:

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow
2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
3. Regulators should base their regulatory activities on risk
4. Regulators should share information about compliance and risk
5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
6. Regulators should ensure that their approach to their regulatory activities is transparent

More information is available here: [Regulators Code](#)

This Policy has been developed with regard to the Principles of Good Enforcement detailed within the Enforcement Concordat and associated Good Practice Guide issued by the Dept. for Trade and Industry which has been adopted by Colchester City Council.

1. Setting clear standards. This Policy sets out the standards that those regulated or affected by it can expect.
2. Openness – The provision of clear information. The Council's website has a range of information and advice to assist property owners in ensuring they are compliant. Our fees and charges are published on the website and we will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties. [Private Sector Housing · Colchester City Council](#)
3. Helpfulness – Recognising that in many cases prevention is better than cure and that our role therefore involves working with property providers to advise and assist with compliance.
4. Complaints about service – We have an effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups including an escalation process. There is a link to this process on the relevant web pages.
5. Proportionality - Ensuring that enforcement action is proportionate to the risks involved. As far as the law allows, we will take account of the circumstances of the case and the attitude of the housing provider when considering action.
6. Consistency - Ensuring fair, consistent and equitable enforcement practice. Whilst officers are expected to use their professional judgement in individual cases, we will have arrangements in place to promote consistency.

More information is available here: [Enforcement Concordat Good Practice Guide](#)

3. What types of housing are covered by the Policy?

This Policy applies to all types and tenures of housing, including those owned and controlled by registered providers of social housing.

Our enforcement approach to housing owned and controlled by registered providers may vary from the general approach set out in Section 9 below. We may advise the tenant to contact the Housing Ombudsman to seek a resolution to their complaint through that route, rather than submitting a complaint to us. We may also advise they do this in addition to submitting a complaint to the Council. There is more information on the Housing Ombudsman here [Online complaint form | Housing Ombudsman Service](#)

Properties owned by the Council and managed through its Arm's Length Management Organisation, Colchester Borough Homes (CBH) are still required to comply with the requirements of all legislation covered by this Policy, however, the Council is unable to take any enforcement action against itself, thus, any involvement by enforcement officers with such properties would be on an informal, advisory basis.

We would expect tenants of properties managed by CBH to have followed and exhausted the appropriate repairs complaints process before they approach the Council.

The way this Policy is applied will take into account the specific circumstances in each case. Important considerations are:

- Who is at risk and how much control do they have over their housing conditions?
For example, owner-occupiers are responsible for their own housing conditions and have a greater degree of control and choice over them than tenants or licensees.
- Any additional responsibilities that the Council and any of its partners have for placing residents in suitable accommodation.
Housing providers (landlords and their agents) working with the Council to provide permanent and temporary accommodation for residents must meet all legal requirements to provide safe, healthy and energy efficient accommodation and will be subject to action under this Policy if hazardous conditions arise.

4. What does the Council do to encourage housing providers to provide good quality homes and act within the law?

A range of information is published on the [Private Sector Housing · Colchester City Council](#) web pages to encourage compliance and good practice.

We will assist providers who approach us for advice and information tailored to their individual circumstances. This service is chargeable at an hourly rate and can include advisory inspections, the preparation of schedules of work to ensure compliance and the drawing up of floor plans if requested prior to development for letting. More information on this service is available here: [Private Sector Housing · Colchester City Council](#)

We are consulted on planning applications for conversions or change of use to residential accommodation and on new residential developments. This ensures that advice can be given at the early stages of a development to ensure that poor design and potential hazards are designed out at the planning stage.

5. What is the extent of the private rented sector in Colchester?

According to the 2021 Census data, approximately 21.5% of Colchester's residents live in private rented sector dwellings. With the number of residential dwellings registered for Council Tax purposes at 1 April 2025 at 86,516, this equates to around 18,600 privately rented homes.

A student population also helps to drive demand for lower cost private rented housing including Houses in Multiple Occupation (HMOs) where people rent rooms but share other amenities such as bathrooms and kitchens. HMOs are important in the local supply of housing and can be run as successful businesses. However, bringing separate people together to share facilities can increase safety risks such as fire and of ill-health due to poor hygiene, inadequate space and disputes between residents. As a result, there are additional legal responsibilities placed on landlords and managers to ensure that their HMOs are of a good standard and are effectively managed.

6. Context of the Policy

Good housing is a prerequisite of good health and wellbeing and recognised as one of the wider determinants of health.

Conversely, poor housing can cause poor health and increase the risks of ill health and injury. It can be an obstacle to the improvement of some health conditions, or a barrier against general wellbeing

15 million people live in poor housing in England, this equates to 29% of the total population. Poor housing conditions are most common in the private rented sector, with 40% of those living in poor condition being in privately rented housing.

The costs to the NHS of poor housing is estimated to be in the region of £600 million per year, with costs to the society in general approaching £2.5 billion per year.

The Government, through the Marmot Review published in 2010, identified that all stakeholders in the nation's health and wellbeing needed to work differently. The focus should be on prevention and the multiple factors that impact on health, housing being a main factor to be considered.

This Enforcement Policy details how the Council will use the range of powers available to improve housing conditions within the City.

Government Ministers have made it very clear that they expect local housing authorities to use their enforcement powers robustly, including those introduced by the Housing and Planning Act 2016.

High profile cases have shown how poor housing conditions can lead to ill health and death. A letter sent from Sir Michael Gove, the Secretary of State for Levelling Up, Housing and Communities, to all Local Authorities in November 2022 urged Local Authorities to priorities enforcement action to improve housing conditions:

"I am writing to you to request you do everything in your power to prioritise the improvement of housing conditions for the millions of private and social tenants, in line with existing duties in the Housing Act 2004."

7. What are the Objectives of enforcement action?

The Council have a legal obligation imposed by the Housing Act 2004 to keep the housing conditions in their area under review. In addition, we have a duty to take action where Category 1 hazards exist, as assessed under the Housing Health and Safety Rating System.

Through the effective implementation of this Policy, we aim to:

- a) Ensure private rented sector tenants and tenants in properties owned by registered housing providers have a safe and healthy home.
- b) Improve housing conditions within the private rented sector and in properties owned by registered housing providers where appropriate, by taking action to deal with Category one and higher Category two hazards as assessed using the Housing Health and Safety Rating System (HHSRS) to ensure that they are removed or greatly reduced. This may be through reacting to complaints from tenants and their advocates, inspections as requested by other agencies or partners, inspections of properties to be used by the Council's own services such as the Private Sector Leasing Scheme or Home Step service and targeted activity where appropriate.
- c) Ensure that Houses in Multiple Occupation comply with the law including the requirement to be licensed where appropriate. Through a combination of advisory inspections, proactive/planned inspections undertaken on a risk assessment basis, annual and ad hoc monitoring of conditions imposed by licences and reacting to complaints.

- d) Undertake risk based targeted enforcement activity where identified to be appropriate or necessary, through the use of local intelligence, various sources of information and research, emerging good practice or changes to legislation.
- e) Work with other enforcement agencies as required, or make referrals as appropriate, to ensure a holistic and joined up enforcement approach.
- f) Through a lighter touch enforcement approach, bring long term empty properties back into productive residential use and ensure that whilst empty they do not cause an unreasonable adverse effect on the neighbourhood on receipt of complaints. Whilst recognising that taking action on long term empty properties will always be a lower priority to the Council than dealing with occupied homes.

8. What rights do Council officers have to enter privately owned homes and what to expect on an inspection?

In most cases, a property inspection will be conducted in response to an invitation to enter a home by the occupier. Our officers are authorised to enter premises under a number of laws as set out in authorisation documents which they carry with them. Under Part 1 of the Housing Act 2004, officers will provide a minimum of 24 hours advance notice (usually in writing by email) to the owner (or their appointed agent) and the occupier of an inspection that could result in enforcement action, unless there is an imminent risk to the health and safety of the occupier, when no prior notification is required.

No prior notice is required where an offence is being investigated. For example, under Section 72 of the Housing Act 2004 - breach of licensing requirements, or, under Section 234(3) of the Housing Act 2004 - failure to comply with the [HMO Management Regulations 2006](#).

Where entry is refused, or prior notification would defeat the purpose of entry or in specific other circumstances, officers are authorised to obtain a warrant from a Justice of the Peace to enter premises, by force if necessary. Please refer to [Section 239 Housing Act 2004](#) for further information.

It is a criminal offence to obstruct an officer who is legitimately carrying out an investigation in accordance with these legal powers.

All officers carry an ID card with their name and photo and a separate authorisation detailing the legislation they are authorised to enforce.

An officer who is authorised to enter may take other persons with them, bring equipment or materials, take measurements, photographs or make recordings and take samples of any articles or substances found on the premises and may also ask to see a copy of any relevant documentation during the inspection.

Officers will require access to all parts of the property in order to carry out a full inspection. This will include loft spaces, cellars, gardens and outside spaces where appropriate.

9. The Enforcement Procedure

Whilst every case will be different, the same basic steps will be followed in any enforcement case as detailed below:

Receipt of request and Inspection

When an enquiry or request for service is received, we decide on whether we need to take action by asking relevant questions and collecting information.

Except in emergency situations, we will ask the tenant to contact their landlord or agent to report defects if they have not already done so. We will not normally continue to receive their request unless they have

followed this route, unless there are extenuating circumstances. We will ask for a copy of their correspondence with their landlord or agent.

We will research who is responsible for the property and write to them advising them that we intend to inspect their property. This correspondence will be issued under Section 239 of the Housing Act 2004 as notification of entry, normally by email.

If the tenant has asked for advice about items in disrepair in order to explain them to their landlord, then the Council may choose to provide that advice and not contact the landlord.

Follow up action

Normally, we will contact the landlord or managing agent as appropriate following an inspection.

If there are no deficiencies noted, or they are considered to be minor in nature and not within the remit of this Enforcement Policy (see Point 11 below) then an informal correspondence may be issued with advice only. No further follow up action would be taken in such cases.

Each case will be considered individually. The course of action taken may change as the investigation progresses depending on the level of cooperation received from the responsible party.

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.

Section 5 Housing Act 2004 places a duty on Councils to take formal enforcement action where a Category 1 hazard exists.

Section 7 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.

We will be minded to take enforcement action to reduce Category 2 hazards where:

- They are high Category 2 hazards in Bands D, E or F; **and**
- An assessment of the risk indicates that current occupiers or their visitors are likely to be particularly at risk of harm (including impact on mental health and wellbeing) from the hazards identified; **or**
- An assessment of the risk, taking national guidance into account (e.g. [LACORS Fire Safety Guidance](#)) indicates that those risks are not adequately controlled.

For lower Category 2 hazards, Bands G-J, we are minded not to take enforcement action but may consider advising the responsible person of those hazards on an informal basis.

However, it may be considered appropriate in certain circumstances to take action for lower Category 2 hazards, Bands G-J, **if** there are a number of such hazards **and** it is considered by their cumulative effect that they could adversely affect the health, safety and welfare of the occupier (including their mental wellbeing), **or**, they exist alongside other hazards that are being enforced as detailed above (i.e. Category 1 and higher Category 2 hazards)

In addition, 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. 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 public health

- Where there is a blatant or deliberate contravention of the law
- Where there is history of non-compliance

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

The Council will take formal enforcement action in the first instance for breaches of the Landlord Legislation.

Informal action

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 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.

Formal action

Under the Housing Act 2004, Councils have a duty to take enforcement action where conditions mean that people are much more likely to experience harm and where death or serious illness or injury could be anticipated. These are classified as Band A, B or C hazards and are known collectively as Category 1 hazards: [Housing Act 2004 \(Part 1 - Housing conditions\)](#)

Councils also have a legal power to take enforcement action in response to less hazardous housing conditions, hazard Bands D-J, known collectively as Category 2 hazards.

We will undertake our legal duty and take enforcement action to reduce Category 1 hazards.

All officers who are authorised by the Council to undertake this work have received HHSRS practitioners training and passed an assessment of competency. The HHSRS Operating Guidance issued by the Government is used together with emerging case law and good practice to inform our assessments. This Guidance is available here: [HHSRS Operating Guidance](#)

If formal action is considered appropriate, the following options are available to the Council.

Statutory notices

Section 11 and Section 12 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.

Section 6A 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.

Section 30 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

Section 239 of the Housing Act 2004 and a request to provide information or the need to abate or avoid overcrowding.

Work in default

The enforcement options for non-compliance with formal Notices or breach of license 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.

We will take emergency remedial action where there is an imminent risk of serious harm and the responsible person cannot be contacted or is unable or unwilling to take remedial action quickly enough.

In addition, we will consider undertaking works at the request of an owner if they are unable or unwilling to arrange for the works themselves.

Works undertaken in default of the responsible person will carry an administration charge calculated on officer time spent on the arrangement of the works, the unit price is published in our PSH Fees and Charges plus any additional costs incurred in this work and any professional fees incurred (for example Planning application fees or structural engineers' costs) The total cost of the work and fees is recoverable from the person on whom the notice was served and/or the owner. Please refer to [Schedule 3, Housing Act 2004](#) for further details relating to Housing Act notices.

A local land charge will be secured on the property until the debt is paid and debt collection procedures will be undertaken. The securing of a charge on the property gives the Council the same powers as a mortgagee under The Law and Property Act 1925, including the power to enforce sale to recover our debt. Under some pieces of legislation, the charge secured attracts interest until the debt is paid.

Note that undertaking the work on behalf of the person/company on whom the notice was served in order to address hazardous housing conditions, does not prevent prosecution, the issuing of a civil penalty, or the issuing of a simple caution to that person/company where the circumstances justify both courses of action.

Emergency or suspended enforcement action

Where there is a Category 1 hazard present, Section 43 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.

Section 40 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 minimising inconvenience to the current occupiers.

Prosecution

Where a Civil Financial Penalty is an available alternative to prosecution, the Council will only consider using its power to prosecute under Part 1 Housing Act 2004 in more serious cases. 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.

Prosecution action will likely be considered in these situations:

- Where the maximum financial penalty that can be imposed through the Civil Penalty Notice (CPN) process (£40,000) fails to redress any quantifiable financial benefit that has been gained by the commission of the offence.
- Where CPNs have previously been issued and have had little or no effect on compliance.
- If there is likely to be a difficulty in recovering a CPN - such as overseas operators, internet-based companies or those organisations with no legal entity.
- Where the offence is ongoing – for example, an HMO licence has not been applied for after a previous CPN has been issued or an improvement notice has yet to be complied with after a CPN has been issued.
- The offence is a failure to comply with a Banning Order. This offence is punishable in the Magistrates Court by an unlimited fine and prison sentence. Banning Orders are reserved for the most serious offences. If an order is breached, the presumption would be to prosecute rather than to issue a CPN.
- Failure to supply information without reasonable excuse or knowingly or recklessly supplying false or misleading information, such as required by Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 or Section 235 Housing Act 2004. It is essential that lawful requests for information by the Council are complied with and that accurate information is always supplied to enable informed regulation to be exercised.
- Obstruction of Council staff in carrying out their powers. The Council regards the obstruction of, or assaults on its staff while lawfully carrying out their duties as an extremely serious matter.

In all prosecution cases the Council will look to recover its costs incurred.

When considering whether to take prosecution proceedings, the Council will apply two tests – The Evidential Test and the Public Interest Test.

The Evidential Test

We must be satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed and that there is enough evidence to provide a 'realistic prospect of conviction' against each defendant on each charge.

A realistic prospect of conviction is an objective test that means that a First-tier Property Tribunal, a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged.

If the case does not pass this evidential test, it will not proceed, no matter how important or serious it may be.

Where there is sufficient evidence, a prosecution will not be commenced or continued by the Council unless it is also in the public interest to do so.

The Public Interest Test

If a case passes the Evidential Test, in deciding whether to proceed, we will also consider what is in the public interest having regard to a number of factors, including:

- The seriousness of the offence
- The impact on the occupier's health, safety and wellbeing
- The foreseeability of the offence or the circumstances leading to it
- The intent of the offender, individually and/or corporately
- The history of offending
- The attitude of the offender
- The deterrent effect of a prosecution, on the offender and others
- The personal circumstances of the offender.

We will always consider taking action against both company directors or officers of companies as well as the company itself. This is particularly the case where there are previous convictions or the offence is serious or the director/officer is, or has been, involved with other companies.

Prosecution of a director/officer will also be considered where, for whatever reason, the company is at risk or going into liquidation.

A person who is believed to have committed an offence for which we are considering taking prosecution proceedings may be formally interviewed under caution in accordance with the requirements of the [Police and Criminal Evidence Act \(PACE\) Code E](#). This will be to establish the facts of the case, the person responsible for any offence and whether there are any circumstances that would influence a decision to prosecute.

Any formal interview will normally take place at the Council offices and will be conducted under the rules of the Police and Criminal Evidence Act 1984. It will be recorded and the person being interviewed will have the right to be accompanied by a legal representative.

Civil Financial Penalties for specified offences

This section relates exclusively to Civil Financial Penalties issued by the Council for breaches of the below housing law.

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 1997
- Failure to comply with an Improvement Notice [Section 30 Housing Act 2004]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) [Section 72 Housing Act 2004]
- Offences in relation to the Selective Licensing of 'houses' [Section 95 Housing Act 2004]
- Failure to comply with an Overcrowding Notice [Section 139 Housing Act 2004]
- Failure to comply with a management regulation in respect of an HMO [Section 234 Housing Act 2004]
- Offences in relation to Regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- Failure to comply with a banning order [Section 21 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
- Offences in relation to the PRS database [Part 2, Chapter 3 Renters' Rights Act 2025]
- Offences in relation to the landlord ombudsman [Part 2, Chapter 2 Renters' Rights Act 2025]
- Breach of the decent homes standard [Part 3, Renters' Rights Act 2025]

Civil Financial Penalties in respect of these offences operate according to their own independent standalone policy.

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; This is a very important factor when determining whether to apply for a banning order. The greater the harm or the potential for harm (this may be as perceived by the tenant), the longer the ban should be. Banning order offences include a wide range of offences, some of which are more directly related to the health and safety of tenants and could therefore be considered more harmful than other offences (such as fraud).
- The need to punish the offender; A banning order is a severe sanction. The length of the ban should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending. It is, therefore, important that it is set at a high enough level to remove the worst offenders from the sector. It should ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
- The need to deter the offender from repeating the offence; The ultimate goal is to prevent any further offending. The length of the ban should prevent the most serious offenders from operating in the sector again or, in certain circumstances; help ensure that the landlord fully complies with all of their legal responsibilities in future. The length of ban should therefore be set at a long enough period such that it is likely to deter the offender from repeating the offence.
- The need to deter others from committing similar offences. An important part of deterrence is the realisation that (a) the local authority is proactive in applying for banning orders where the need to do so exists and (b) that the length of a banning order will be set at a high enough level to both punish the offender and deter repeat offending.

The Council can apply to the First-tier Tribunal for a Banning Order when an offence has been committed as described in [The Housing and Planning Act 2016 \(Banning Order Offences\) Regns 2017](#)

The impact of a banning order is to prevent the landlord from letting housing in England or engaging in letting agency and/or property management work in England. It also means that a landlord is unable to hold an HMO licence such that their property may become subject to a management order.

An application for a Banning Order will be made only for the most serious offenders and we will follow the guidance issued by DCLG when considering when to take this action:
[DCLG Guidance Banning Orders](#).

An application must be made within 6 months of the conviction.

10. What are the main legal requirements for letting out homes?

The law does not set a minimum standard for the condition of homes. Instead, it requires the use of the Housing Health and Safety Rating System (HHSRS). This is a risk assessment tool to assess homes, to determine the likelihood of a hazard occurring and the likely harm outcome, and severity of that harm if the hazard did occur.

The HHSRS considers whether the risk of accidents and ill-health, due to the design or condition of the property, is acceptable or too high. The HHSRS is based on evidence of what has caused illnesses and injuries in housing in the UK and compares the property being assessed with the average of a property of its age and type.

The HHSRS considers the risks to occupiers and their visitors over a 12-month period.

We encourage landlords and property managers to find out more about HHSRS so that they can use it to inform investment and maintenance of their properties. The Government has published a guidance document available here: [HHSRS guidance for landlords and property professionals](#)

Whilst there are 29 hazards that can be assessed using the HHSRS, the following hazards are those most frequently identified in Colchester:

- **Excess cold**
(due to low energy efficiency from expensive or inadequate heating and/or inadequate insulation)
- **Damp and Mould**
- **Falls on stairs and steps**
- **Falls on the level**
- **Fire**

The Code of Practice for the Private Rented Sector provides more detail and links to useful information:
[Code of Practice on Private Rented sector](#)

11. What enforcement options are available to the Council to take in response to hazardous housing conditions?

Under the Housing Act 2004, under Sections 5 and 7, the following enforcement options are available in response to Category 1 or Category 2 hazards:

<p>Hazard Awareness Notice (HAN) Sections 28 and 29</p>	<p>A notice to inform all persons with a legal interest in a property that a significant hazard(s) exists together with an indication of the works required to reduce the hazard(s) to an acceptable level. A HAN carries no requirement to undertake hazard reduction works.</p> <p>This could be appropriate where an owner-occupier has responsibility for their own living conditions and other parties are not considered at significant risk</p>
<p>Improvement Notice Sections 11 and 12</p>	<p>A notice requiring works to be undertaken to reduce Category 1 or Category 2 hazard(s) to an acceptable level within a set timescale.</p> <p>This could be appropriate in rented homes where the works required can be achieved at reasonable cost so that the home can continue to be occupied.</p>
<p>Suspended Improvement Notice Section 14</p>	<p>As above but where the notice only becomes active after a specified event or timescale.</p>
<p>Prohibition Order Sections 20 and 21</p>	<p>A notice that restricts the use of a dwelling or part of a dwelling for a particular purpose (e.g. habitation) or that limits the number or type of occupiers to control one or more hazards.</p> <p>This could be appropriate where it is not economic to undertake required works to remove serious hazards, or where a building is vacant and works are required before reoccupation.</p>
<p>Suspended Prohibition Order Section 23</p>	<p>As above but where the notice only becomes active after a specified event or timescale.</p>
<p>Demolition Order Section 46 and Section 265 of Housing Act 1985</p>	<p>A notice requiring the demolition of a property. Limited use where, relative to the value of the property, it is not economic to repair.</p>
<p>Clearance Area Section 47 and Section 289 of Housing Act 1985</p>	<p>A notice requiring the clearance (demolition) of two or more properties. Very limited use where, relative to their value, it is not economic to repair the properties located in the clearance area.</p>
<p>Prosecution under the Management of Houses in Multiple Occupation (England) Regulations 2006</p>	<p>A power to prosecute without the need for service of a formal notice. To be used where contraventions of the Regulations are noted that evidence poor management practices.</p>

In addition, the following options are available in response to Category 1 hazards only, where there is an imminent risk of serious harm:

Emergency Remedial Action Section 40 and 42	This provides the power for the Council to act quickly on behalf of the owner (with or without their consent) to take reasonable action to remove an imminent risk of serious harm and serve notice after the event and recover costs.
Emergency Prohibition Order Section 43	This provides the power for the Council to act quickly to restrict the use of a dwelling or part of a dwelling for a particular purpose (e.g. habitation) or that limits the number or type of occupiers to control an imminent risk of serious harm. This order is effective immediately.

More information is available here: [Housing Act 2004 \(Part 1 and Part 2\)](#)

The following table sets out a number of other pieces of legislation that officers are authorised to use where considered appropriate:

Law	Applied to
Environmental Protection Act 1990, sections 79 & 80	Premises which are found to be causing a Statutory Nuisance or to be prejudicial to health, due to their condition, either to their occupier or to the occupier of a neighbouring dwelling
Public Health Acts 1936 & 1961(as amended) and Building Act 1984	Deal with a range of drainage defects
Local Government (Miscellaneous Provisions) Act 1982, section 29	Empty properties which need to be boarded up/made secure against intruders
Prevention of Damage by Pests Act 1949	Deal with circumstances where there is evidence to indicate a risk of infestation by rats and/or mice and remedial works are required
Public Health Act 1936	Where a premises is assessed as being filthy and verminous and therefore pose a significant risk to the occupier(s) or people in neighbouring dwellings
Housing Act 1985 Parts 8 & 9	Action where a group of homes or a wider area requires improvement or clearance and redevelopment
Town and Country Planning Act Section 215	Power to deal with a property or land which is adversely affecting the neighbourhood – for example long term vacant properties.

In addition to those shown above, some additional subject/hazard specific enforcement actions are detailed later in this Policy.

12. The use of Housing Act 2004 Section 235 and other powers used to obtain information etc.

When considering the most appropriate course of action to be taken and the works required to remedy a hazard, we may require documents to be submitted to assist our decision making. Examples of documents we may require include but are not limited to - copies of tenancy agreements, Landlord's Gas Safety Record, Electrical Installation Condition Report or other documentation relating to the electrical installation, fire alarm or emergency lighting documentation and PAT certificate.

The Housing Act 2004, Section 235, gives the power to the Council to ask for appropriate documents to be submitted on a given date.

We may use this power as appropriate and all officers are duly authorised to do so.

In addition, Section 237 of the Housing Act 2004 allows us to use information obtained through the Council's Housing Benefit or Council Tax duties for our enforcement purposes. We may use this as a source of information to identify landlords or persons in receipt of rent for a property.

We may also use the powers within the [Local Government and Miscellaneous Provisions Act 1976](#) to require information if required for enforcement purposes.

13. How does the Council recover costs for enforcement action taken in response to hazardous housing conditions?

[Section 49 Housing Act 2004](#) allows for the Council to make a reasonable charge for certain enforcement action.

Our fees and charges are reviewed and adopted by Cabinet annually. These are set to reflect the cost of work involved in securing compliance and are regularly benchmarked against those of other Essex Local Authorities.

Fees and charges apply per property and not per notice. If similar notices are being served on a number of recipients for the same property at the same time, only one fee will be charged.

Our Fees and Charges are published on the Council's website here [Private Sector Housing · Colchester City Council](#)

To recover the costs incurred in taking enforcement action, an invoice will normally be issued and the debt secured on the property as a local land charge and followed up through the Council's standard debt recovery process. The charge will remain as a local land charge until the debt is recovered.

14. How long will the Council give for remedial works to be undertaken?

Unless emergency action is required to reduce an imminent risk of harm, then for most types of enforcement action we are legally required to give a minimum of 28 days before works are required to commence.

In practice, a longer timescale to start and complete works is more likely to be given having regard to:

- The seriousness and nature of the hazard and when it is likely to impact on occupiers (e.g. A requirement for additional heating may not be so urgent during summer months compared to winter months)
- The circumstances of the occupier(s) (if any) and any consideration to their preferences
- The time needed to organise the works and apply for any consents required (e.g. Building Regulations approval or Listed Buildings consent)
- The extent and nature of the works and subsequently the time needed to complete the works
- The likely cost of the works
- Whether the responsible person has a number of properties with similar hazards and a hazard reduction programme can be planned across those properties

15. When will the Council apply for a Rent Repayment Order?

We will consider applying for a Rent Repayment Order if a person is convicted of a relevant offence and we may consider if a person is not convicted of an offence, for example, if they have been issued with a civil penalty instead of taking prosecution proceedings.

These offences include:

- Failure to comply with an Improvement Notice (under section 30 of the Housing Act 2004)
- Failure to comply with a Prohibition Order (under section 32 of the Housing Act 2004)
- Operating or managing an unlicensed HMO
- Breach of a Banning Order made under Section 21 of the Housing and Planning Act 2016
- Illegal eviction or harassment of the occupiers of a property (under section 1 of the Protection from Eviction Act 1977)

Under the provisions of the Housing and Planning Act 2016, the Authority may choose to apply to the First Tier Tribunal to make a Rent Repayment Order in the event it has sufficient evidence that a relevant offence has been committed.

Rent repayment orders can be granted to either the tenant or the local housing authority. If the tenant paid their rent themselves, then the rent must be repaid to the tenant.

Where rent has been paid by Universal Credit or Housing Benefit, an application for a Rent Repayment Order will generally be considered appropriate, to underpin the principle that state benefits should not be used to finance substandard accommodation. The rent would then be repaid to the local housing authority.

If an application for a Rent Repayment Order is to be made, the following factors will be taken into account when considering how much rent the Authority will seek to recover:

a) Punishment of the Offender

This should have a real economic impact on the offender, and the conduct of the offender, offending history and their financial circumstances will be considered

b) Deter the Offender from repeating the offence

The level should be high enough to deter further offences being committed

c) Dissuade others from committing similar offences

d) Remove any financial benefit the offender may have obtained as a result of committing the offence

We will first issue a Notice of Intent stating that we intend to apply for a Rent Repayment Order and consider any representations made during the notice period before determining whether to apply to the Residential Property Tribunal for the Order.

We do not have the resource to assist tenants to apply for a Rent Repayment Order. However, we will signpost tenants to other agencies which may be able to assist them with this process.

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. S48 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 and where there is sufficient evidence for a successful application to the First Tier Tribunal.

The qualifying offences are:

- Unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997
- Failure to comply with an Improvement Notice [s30 Housing Act 2004]
- Offences in relation to unlicensed HMOs [s72(1) Housing Act 2004]
- Offences in relation to unlicensed houses [s95(1) Housing Act 2004]
- Failure to comply with an Improvement Notice [s30(1) Housing Act 2004]
- Failure to comply with a Prohibition Order [s32(1) Housing Act 2004]
- Breach of a Banning Order [s21 Housing and Planning Act 2016]
- Using Violence to secure entry [s6(1) Criminal Law Act 1977]
- Knowingly or recklessly misusing a possession ground [s16J(1) Housing Act 1988]
- Letting or marketing of a property within twelve months of using the 'moving in' or 'selling' ground of eviction [s16J(2) Housing Act 1988]
- Continuous breach of certain tenancy reform requirements [s16J(3) Housing Act 1988]
- Landlord's failure to become a member of a landlord redress scheme [Renters' Rights Act 2025, s67]

- Landlord's failure to join a PRS database [s92 Renters' Rights Act 2025]
- Landlord's failure to comply with the requirements of a PRS database, or in providing false or misleading information to the database operator [s92 Renters' Rights Act 2025]
- Offences in relation to the landlord ombudsman [s67 Renters' Rights Act 2025]

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.

S49 of the Housing and Planning Act 2016 enables the Council to assist tenants in applying for Rent Repayment Orders. The Council will usually assist tenants by referring or signposting them to Justice For Tenants.

16. When will the Council issue a simple caution?

A simple caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction.

The Council can issue a simple caution when all of the following criteria have been satisfied:

- Sufficient evidence must be available to prove the case
- The offender must admit the offence
- It must be in the public interest to use a simple caution
- The offender must be 18 years or over.

If the offender has received a simple caution from the Council for a similar offence within the last 2 years, then a further simple caution will not be offered.

Simple cautions are intended to:

- Deal quickly and simply with certain, less serious offences where the offender has admitted the offence;
- Avoid unnecessary appearance in criminal courts;
- Reduce the chance of offenders re-offending and
- Record an individual's criminal conduct for possible reference in future criminal proceedings.

The reason for issuing a caution instead of taking a prosecution in the courts would commonly be that the offender has no previous history in relation to a minor offence and had done everything in their powers to make amends - such as undertaking the required works.

We will follow the guidance issued by the Ministry of Justice in November 2013 that is applicable to all regulators regarding the implementation of a caution. For more information:

[Ministry of Justice Guidance.](#)

17. What is the Council's approach to tackling Damp and Mould?

As required by the Secretary of State for Levelling up, Housing and Communities, the Council has published a plan on the website setting out how we will prioritise addressing the issues of damp and mould for private rented properties in Colchester here - [Private Sector Housing · Colchester City Council](#)

There is specific guidance available on the Council's website here - [Private Sector Housing Colchester City Council](#)

There is government issued guidance for landlords and tenants here - [Understanding and addressing the health risks of damp and mould in the home - GOV.UK \(www.gov.uk\)](#)

The Government has made it clear that tenants should not be blamed for damp and mould. Damp and mould in the home are not the result of 'lifestyle choices' and it is the responsibility of landlords to identify and address the underlying causes of the problem, such as structural issues or inadequate ventilation.

The Government issued guidance sets out what is expected of landlords.

Landlords must ensure that their properties have all the measures in place to ensure that damp and mould have been minimised.

Landlords should regularly inspect their properties, remedy deficiencies promptly and ensure that they have a regular programme of maintenance and management.

If a tenant reports damp and mould, landlords should establish the source of the damp, whether there is any defect to the property that is causing it, and then carry out the appropriate remedial work.

The causes of this hazard are varied and often this hazard will co-exist with an Excess Cold hazard as a number of the contributory factors are similar.

The Council's enforcement procedure to complaints alleging damp and mould, or where damp and mould are identified on inspection, will be broadly similar as for all other hazards, as set out in Chapter 17 and subsequent Sections of this Policy.

However, certain additional pieces of information may be used to assist in the assessment of the hazard, including the Energy Performance Certificate. We may also use pieces of specialist equipment, such as damp meters, temperature and humidity data loggers and thermal imaging cameras to assist in our assessment.

We may also require a landlord to provide a specialist report from a suitably qualified and competent person to assist us in our consideration of the most appropriate work to be required to remedy the deficiencies causing the hazard.

Action may be taken using the Housing Act 2004 if the damp and mould hazard falls into a banding for which we are minded to take action. The assessment of the hazard of damp and mould, and all hazards under the Housing Health and Safety Rating System, is based on the risk to the potential occupant who is most vulnerable to that hazard. Any particular vulnerabilities or health conditions experienced by the current occupiers cannot be taken into account. However, in determining what action to take, we will use our judgement and the current occupants may influence our choice of enforcement action.

Damp and mould may not score highly enough to fall within a hazard banding that we are minded to take action for under this Policy. However, damp and mould will often co-exist with an excess cold hazard which is more likely to score as a higher Category 2 or a Category 1 hazard which are hazard bandings that we are minded to take action for. Therefore, by requiring works to remove the excess cold hazard, this will also mitigate the damp and mould hazard.

Typical works that may be required to remedy a damp and mould hazard may include:

1. Installing an efficient, controllable and programmable heating system that is appropriate for the dwelling.
2. Improving thermal insulation to the structure including walls, roofs, etc

3. Improving ventilation, including by openable windows, air bricks, trickle vents or mechanical extract ventilation to kitchens, bathrooms/shower rooms.
4. Repairing external structural defects that may be causing penetrating dampness – such as defective rainwater goods and drainage, defective pointing/rendering/roof coverings etc.
5. Installing a damp proof course or membrane.
6. Replacement of internal finishes such as wall and ceiling plaster.

However, if there are no deficiencies noted to the property that are contributing to the presence of damp and mould and there are no improvements that are appropriate to require the responsible person to make, there may still be steps that would be appropriate for the Council to recommend.

An appropriate response may be to:

1. Recommend that the landlord arrange for a fungicidal wash of mould affected internal surfaces of the property, such as walls, ceilings, window reveals etc using a proprietary product following manufacturers' recommended method of use.
2. Recommend that the landlord have a competent person install a suitable positive pressure ventilation system of a capacity and design that suits the property and provides guidance to the occupiers in its use.

Damp and mould growth may also be considered to fall within the definition of Prejudicial to Health and warrant action under the Environmental Protection Act 1990, see Section 12 of this Policy.

18. What is the Council's approach to tackling overcrowding?

Overcrowding or the hazard of Crowding and Space as assessed using the HHSRS is due to a mismatch between the size of the accommodation and the number of residents.

The causes of this hazard are varied but the solution usually involves some or all of the residents moving out of a home.

Where overcrowding has been caused because a family has outgrown the size of its home (due to birth of children or moving relatives into their home) then a likely response is for the Council to serve a Hazard Awareness Notice in recognition of the problem but without placing any obligation on the landlord to take action to reduce overcrowding that they have not caused.

In circumstances where a landlord has caused overcrowding by knowingly permitting too many people to occupy a home, then other enforcement options will be considered to remedy the hazard. Any action that could result in tenants requiring alternative accommodation would be undertaken in discussion with the Housing Options service.

The relevant guidance issued by LACORS will be followed.

19. What is the Council's approach to enforcing the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022?

The Regulations [The Smoke and Carbon Monoxide Alarm \(Amendment\) Regulations 2022](#) require property owners/landlords to:

1. Ensure at least one smoke alarm is equipped on each storey of their properties where there is a room used as living accommodation.

2. Ensure a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers).
3. Ensure smoke alarms and carbon monoxide alarms are repaired or replaced once informed and found that they are faulty

There is guidance to the requirements available on the Council's website here [Private Sector Housing · Colchester City Council](#)

There is Government issued guidance for landlords and tenants here [Smoke and Carbon Monoxide Alarm \(Amendment\) Regulations 2022: Guidance for landlords and tenants](#)

We will presume to take enforcement action when these requirements are not met and serve a Remedial Notice. Failure to take action to install detectors within 28 days will result in a financial penalty.

The Council has set out its approach to this specific area of enforcement in a Statement of Principles as required by the legislation. This is available on the Council's website here [Private Sector Housing · Colchester City Council](#)

20. What is the Council's approach to enforcing the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

When taking action against any privately rented property, including single family homes and Houses in Multiple Occupation, where appropriate we will require the person responsible to submit an Electrical Installation Condition Report (EICR) within 7 days of the request, as allowed for by Regulation 3.

Guidance for landlords re their obligations under these Regulations is available here [Gov.uk Guidance for landlords](#)

There is guidance to the requirements available on the Council's website here [Private Sector Housing · Colchester City Council](#)

Failure to comply with this request, or the submission of an "Unsatisfactory" certificate with no evidence that remedial works identified have been completed, is likely to result in the issue of a Remedial Notice under Regulation 4. This will require either the inspection and test of the electrical installation or the completion of the remedial works identified in the EICR submitted.

Failure to comply with a Remedial Notice is likely to result in the arrangement of works in default of the owner, as allowed for by Regulation 6, for which our contractors' costs plus officer's time at our published hourly rate will be charged.

Where an EICR is submitted and Urgent remedial works are identified and no evidence has been provided that those urgent remedial works have been completed, we are likely to arrange for those works to be undertaken and serve notice after the works have been completed, as allowed for by Regulation 10, for which our contractors' costs plus officer's time will be charged.

When taking enforcement action under these Regulations, we will have reference to the Government guidance issued to Local Authorities available here [Gov.uk Electrical safety Regns enforcement guidance](#)

[For further information see the Council's published Private Sector Housing Civil Penalties Notice Policy. Link here.....](#)

21. What other action will the Council take to ensure those involved in property management are compliant?

The industry's Code of Practice for the Private Rented Sector is available on the Council's website here [Code of Practice on Private Rented sector](#)

Every person/company managing a property that they do not own is required to belong to one of the two recognised Redress Schemes by the following pieces of legislation –

Enterprise and Regulatory Reform Act 2013: [Enterprise and Regulatory Reform Act 2013](#)

Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to belong to a scheme etc) (England) Order 2014 (SI 2014 No. 2359): [Redress Scheme Order](#)

The approved schemes are:

- Property Redress Scheme www.theprs.co.uk
- The Property Ombudsman www.tpos.co.uk

We may periodically undertake checks of persons/companies managing property within the City to ensure they are current members of one of the approved schemes. If they are found not to be, enforcement action may be taken following the relevant guidance: [Enforcement Toolkit](#)

This guidance states that a £5,000 penalty should be considered the norm and that a lower penalty should only be charged if the enforcement authority is satisfied that there are extenuating circumstances. Our Policy therefore is to impose the maximum £5,000 penalty for failure to comply.

More information is available on the Council's website here [Private Sector Housing · Colchester City Council](#)

22. What is the Council's approach to tackling harassment and illegal eviction?

Whether it is due to ignorance or wilful disregard for the law, there is potential for this problem to increase in Colchester's private rented housing market if demand outstrips supply and rents continue to increase.

23. What additional requirements are there for Houses in Multiple Occupation?

Broadly speaking, a House in Multiple Occupation (HMO) is a house, bungalow or flat that is occupied by three or more unrelated people who share basic amenities such as kitchens and bathrooms. The full definition is detailed within the Housing Act 2004: [Section 254 Housing Act 2004](#)

The Management of Houses in Multiple Occupation (England) Regulations 2006 require owners and managers of all HMOs to undertake regular checks to ensure that HMOs are properly managed and services, communal areas and escape routes in particular are maintained in safe working order and clean condition. The Regulations are here: [HMO Management Regulations](#)

Where there is evidence of a breach of the Regulations, enforcement action will be considered; where breaches are considered serious, are repeated breaches, or are numerous, then the imposition of a civil penalty (per offence) or a prosecution may be considered.

Certain HMOs also require a licence. The mandatory licensing scheme which applies across England and Wales currently requires that all HMOs where five or more unrelated people, forming two or more households, who share one or more basic amenity (e.g. toilets, bathrooms or kitchens) are licenced.

There is more information available on the Council's website including a link to the HMO licence application form [Private Sector Housing · Colchester City Council](#)

In deciding whether to grant a licence, Council's assess whether the applicant/proposed manager(s) is/are suitable to hold a licence and whether the house is reasonably suitable for occupation by the number of occupiers being proposed.

When considering whether the applicant/proposed manager(s) is/are fit and proper to hold a licence, we will consider all factors detailed within Section 66 of the Housing Act 2004. Evidence that the applicant/proposed manager has committed any of the offences detailed within this Section will not automatically suggest that the person is not "fit and proper".

However, more weight would be given to the following offences that could determine a person to not be fit and proper:

- Convictions relating to fraud
- Offences relating to running an unlicensed HMO
- Violent offences
- Convictions for harassment and/or illegal eviction
- A conviction based upon the existence of a significant hazard

More than one contravention or conviction will normally carry more weight than isolated or one-off incidents, unless the single breaches are particularly serious.

Essex Councils have worked together to develop a Code of Practice on Amenity Standards. This is available on the Council's website here [Private Sector Housing · Colchester City Council](#)

This helps to inform decisions about whether HMOs are reasonably suitable for occupation by the number of occupiers being proposed. Where HMOs do not meet this code, then works will be required prior to the issue of the licence, or as a condition to the licence. In some circumstances, a waiver to the standards may be acceptable and this will be detailed in the licence.

Specific controls are also available to enable Councils to serve a notice where rooms in non-licensable HMO are not large enough or the facilities in an HMO are inadequate for the number of people. The notice may prescribe which rooms can be occupied and by how many people or may state that certain rooms are unsuitable to be occupied.

The guidance issued by Lacors, developed in conjunction with various partners, including the Chief Fire Officers' Association, is used by officers to inform their judgement with regard to works required to reduce the hazard of fire in HMOs and all residential properties. This is available here - [Fire safety law and guidance documents for business](#)

24. What steps will the Council take to ensure appropriate standards in all HMOs and to ensure licensable HMOs are licensed?

There is no Article 4 Planning Direction in force in the City, which means conversion of a single dwelling house into a small HMO (with no more than 6 residents) does not require any change of use in planning terms as this falls within permitted development rights under [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#)

However, conversion of a property to an HMO will generally require planning permission if the HMO is to be occupied by more than 6 persons.

We will also offer advice to owners who approach us directly and who apply for our paid for our advice service, a wide range of information is available on the Council's website here [Private Sector Housing · Colchester City Council](#)

The Council has a legal duty to ensure that HMOs within the City that are required to be licensed are licensed. It is a criminal offence not to licence a HMO that is required to be licenced.

A licence application is deemed to have been duly made if the following have been submitted:

- A correctly completed application for an HMO licence
- Floor plan that meets the guidance published on our website.
- Management agreement (if applicable)
- All of the required supporting documentation required to enable us to assess the licence application including; satisfactory gas certificate (if applicable), satisfactory EICR or other satisfactory form of electrical certification, PAT documents (if applicable) satisfactory certification re automatic fire detection and emergency lighting systems (if applicable) and a copy of the current/sample tenancy agreement
- Satisfactory proof of address for the proposed licence holder
- Satisfactory proof of address for the proposed manager
- Any other documents specific to the case
- First stage payment fee.

Licences are generally issued for the maximum 5-year term, unless there are reasons to issue for shorter time period, for example:

- Renewal applications where the applicant has delayed in submitting all required supporting documentation
- There is a history of problems at the property with regard to conditions or facilities or disrepair;
- There is a history of statutory enforcement action against the owner or manager;
- There are concerns about the current or proposed management arrangements for the property;
- The owner, licence holder or manager has unspent convictions other than those considered in the fit and proper person assessment;
- The owner or manager has only made the application as a result of a written warning letter from the Council.

We may work with internal and external agencies to proactively identify new licensable and non-licensable HMOs where resources allow. For example, Council Tax and Planning Enforcement teams. We may also undertake street surveys or on-line searches to identify potential licensable HMOs that are not licensed.

HMO owners and managers who ignore the requirement to obtain a licence are also more likely to put residents at risk in unhealthy, unsafe or overcrowded conditions. As a result, we will gather evidence and prioritise enforcement action on unlicensed HMOs. Where we find evidence that a licensable HMO is operating without a licence, formal proceedings will be immediately considered against the owner or manager, when in the public interest. This is likely to be the issue of a civil penalty notice

When a licence is issued, conditions will be attached to the licence and these conditions will be monitored. Inspections after a licence has been issued may be undertaken on a risk assessed basis and to monitor licence conditions.

If it is found that a licence holder is failing to comply with any licence conditions, the following action may be taken:

- For a minor first-time breach that doesn't put the residents' health and safety at risk, the licence holder will usually be advised in writing that he is failing to comply with a licence condition and the steps required to remedy the breach.
- If the licence holder fails to comply with this communication, or the breach is considered serious, or this is not the first-time breach of conditions, then prosecution or imposition of a civil penalty may be considered.

- If there is a successful conviction for a breach of a licence condition, or a breach is considered to be serious, or a repeated breach of conditions occurs, the Council may consider revoking the HMO Licence.

HMOs that do not fall within the remit of the mandatory licensing regime may be identified by a landlord approaching us for advice, through a complaint received from an occupier or neighbour or advocate or targeted action. These HMOs will be required to be brought up to appropriate standards. They will subsequently be risk assessed for inclusion within a planned inspection program, staffing resources permitting.

The Housing Act 2004 allows for the introduction of Selective Licensing Schemes and Additional Licensing Schemes. These are not currently considered appropriate to be adopted within Colchester, but this matter will be kept under review.

Our Policy with regard to the refund of HMO licence application fees/part payments is that we will provide a refund if you make a duplicate application or you make an application for an exempted property by mistake.

We will not give you a refund and we will continue to take final payment of the balance fee and determine the licence application if you request to withdraw your application after it has been “duly made”. For example, if you have decided since submitting your licence application to sell the property or return it to single family use.

We will not give you a refund if we revoke (take away) your licence or you are refused planning permission for a house in multiple occupation with 7 or more occupiers.

If you cancel your licence before it expires, we cannot give you a refund for any unused time.

25. What action does the Council propose to undertake in response to empty homes?

Only a small proportion of homes are out of use at any given time, with the percentage of vacant dwellings less than 2% of the total stock. Council Tax premiums apply to encourage owners of empty homes to bring them back into occupation.

Improving conditions in occupied properties will always be of higher priority than the resource intensive and complex nature of enforcement action generally required to bring empty homes back in to use.

However, a light touch enforcement approach may be used to engage with owners of long- term empty homes to give them advice on their options to bring their property back in to use. This may include a referral to Colchester Borough Homes for the Private Sector Leasing or HomeStep Schemes.

In addition, more formal enforcement action may be considered if the long-term empty dwelling is causing an adverse effect on neighbouring properties or the neighbourhood in general, for example, with an over grown garden or untidy frontage. In such cases, a referral for Planning Enforcement action may be appropriate.

If the property has accumulations on the land that may be prejudicial to health or attract vermin, then a referral for action by the Environmental Protection Team may be appropriate.

If the property is insecure, enforcement action may be appropriate to ensure that the property is made secure.

The Council does have the power to serve an Empty Dwelling Management Order (EDMO), an order that gives the Council the management of a vacant property and allows it to carry out repairs and arrange for it to be let and undertake all of the duties of a landlord. The use of this power is not considered a priority. It may only be considered where –

- The property has been vacant for at least 2 years, and
- All discussions with the owner to bring the property back in to use have failed, including the offer of financial assistance or referral on to other agencies, or
- The owner cannot be traced after all reasonable enquiries have been made, **and**
- The property is having a significant detrimental effect on the neighbourhood and is the subject of multiple complaints from neighbouring residents and the detrimental affect cannot be rectified by the use of other enforcement powers.

The use of the EDMO power is extremely resource intensive and not one that is considered to be a high priority. Each case will be considered on its merits.

More information and a form to report a problem empty home is available on the Council's website here [Private Sector Housing · Colchester City Council](#)

26. What sources of information might we use to identify when enforcement activity may be appropriate

Much of our enforcement action will be reactive, responding to service requests from residents, advocates on their behalf or other internal departments and resources.

However, we may also take proactive enforcement action where considered appropriate and we may use a range of sources of information to enable us to identify which properties or property owners/managers to take action against.

We may search and may use the full range of information available on the internet including on social media sources such as Facebook and LinkedIn. This will be undertaken in accordance with the Council's own Policy on the use of social media.

We may use Energy Performance Certificate information which is publicly available here: [Get energy performance of buildings data – GOV.UK](#)

We may use tenancy deposit data available from the three schemes to identify privately rented properties.

We may use the National Anti-Fraud Network (NAFN) subscription service, which may include checks with credit reference agencies and other sources of information to assist in investigating offences.

27. What other agencies may we work with to improve housing standards in the private sector?

We may liaise with the Essex County Fire and Rescue Service when enforcing works to reduce the risk of fire in HMOs and other accommodation.

The Council has signed up to an Essex wide protocol that adopts the approach detailed in the Lacors fire guidance to be taken when enforcing fire standards in residential accommodation.

We may make referrals to, and engage with, the Health and Safety Executive as the enforcing authority with regard to gas safety in residential properties.

We may make referrals to Trading Standards at Essex County Council as the enforcing authority with regard to the provision of Energy Performance Certificates.

We may receive referrals from Citizens' Advice or other advocates on behalf of residents that need our assistance and we may also sign post to these agencies.

We may work with our health and social care partners to receive referrals regarding housing conditions on behalf of occupiers and we may make referrals to those agencies to ensure the holistic needs of occupiers are met.

We may liaise with both UK Border Force Immigration Enforcement and the Gangmasters' and Labour Abuse Authority regarding non-UK Nationals who may be living in overcrowded or otherwise unsuitable housing.

We may work with Essex Police where appropriate.

Where appropriate, enforcement activity may be planned and co-ordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness and consistency of enforcement.

We may work with other Council Services who may also make referrals to us, for example Planning enforcement regarding the inappropriate conversion of a property or Council Tax regarding change of use to an HMO. We may also receive intelligence from other Local Authorities regarding concerns about landlords operating in their area that may also have properties within the Colchester City.

We may work with Colchester Borough Homes (CBH) to ensure that our activity is coordinated with their Housing Options service, this may be by receipt of referrals from them or by our action leading to the awarding of increased priority for bidding through the Gateway to Homechoice.

We may also inspect properties being used by CBH to house people on a temporary or longer-term basis within the private rented sector, to ensure those properties meet required standards, either under the Private Sector Leasing Scheme or through the HomeStep Scheme to ensure fair enforcement across the private rented sector.

We will work collaboratively with other departments with regards to the Renters Rights Act.

28. What rights do I have if I am facing enforcement action under this Policy and how can I contact the Private Sector Housing team?

The relevant officers contact details will be included in any correspondence they send you. They may be contacted by email, telephone or by letter.

Email: HousingPrivate@colchester.gov.uk

Telephone: 01206 282581, Option 6

In writing: Colchester City Council
Rowan House, 33 Sheepen Road, Colchester, Essex CO3 3WG

In person: Currently we do not have facilities to meet you in our offices in person.

If you have been served with a legal notice or order, you may have grounds to make an appeal to the Courts and Tribunals Service against enforcement action if you consider it has not been taken correctly. The notes accompanying each type of enforcement action set out the grounds for an appeal, how to make an appeal and the timescales in which this can be made.

29. Quality of Service and how to offer feedback or complaints.

The Private Sector Housing team aims to provide a professional and efficient service within the resources available within the team.

As with any other aspect of service provided by the Council, if you wish to make a comment, compliment, offer feedback or if you are dissatisfied with the way in which your case has been handled

and wish to make a complaint, here is how to do this: [Comment, Compliment, Complaint](#)

Contact may be made with the Council about any matters listed here by post at:
Private Sector Housing, Colchester City Council, Rowan House, 33 Sheepen Road, Colchester, Essex
CO3 3WG

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.

30. Publicity and Rogue landlord database

The Council will consider publicising any conviction, banning order or civil penalty notices which could assist in drawing public attention to the need to comply with legal requirements, or to deter others from non-compliance.

To assist other agencies, we will add details to the MHCLG rogue landlords' database of persons against whom a banning order has been made, or who have been convicted of a banning order offence or who have received two or more financial penalties over a 12month period.

The Council's default position is that, following an offence, details of relevant convictions should be made available on the above public database unless it is satisfied that there is a compelling reason as to why the data should not be made public and that any actual or potential damage and/or distress arising from publication outweighs the public interest.

Entry onto the PRS database

Under Section 83(1) of the Renters' Rights Act 2025, the Authority has a duty to make an entry on the Private Rental Sector database in respect of a person where:

- A relevant Banning Order has been made against that person following an application by the authority;
- The person has been convicted of a relevant Banning Order offence following criminal proceedings brought by the authority; or
- The authority has imposed a Financial Penalty on the person in relation to a Banning Order offence.

Under section 83(2), the Authority has the power to make an entry where:

- The person has been convicted of a relevant Banning Order offence following criminal proceedings brought by someone other than a local housing authority, or
- A Financial Penalty has been imposed on the person in relation to a relevant Banning Order offence by a person other than a local housing authority.

Renters Rights Act 2025

Section 107 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,
- Part 2 of the Renters' Rights Act 2025,
- Sections 1 and 1A of the Protection from Eviction Act 1977, and
- Chapter 1 of Part 1 of the Housing Act 1988.

Section 110 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' are defined by the Housing Act 2004.

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 including, but not limited to, the powers detailed below.

Power to Investigate

Section 114 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 Section 114 notice is an offence under Section 131 Renters' Rights Act 2025, as is being obstructive and intentionally or recklessly making false or misleading statements in response to a Section 113 notice.

Section 115 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 Section 115 notice, Section 116 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.

Section 131 Renters' Rights Act provides that, in addition to the offence of non-compliance with a

Section 114 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.

Section 235 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.

Section 16 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.

Entry to Premises

Section 118 Renters' Rights Act 2025 permits Council officers to enter business premises of relevant people (including landlords, letting agents, and marketers) if it is necessary for the production or seizure of documents under Section 122- Section 123 Renters' Rights Act 2025. This power will be exercised without a warrant.

Section 121 Renters' Rights Act 2025 allows a Council officer named in a warrant to enter premises used for a rental sector business which is not mainly accommodation if there are documents on the premises which the officer could require under Section 122 or seize under Section 123. 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 a Section 118 or Section 121 Renters' Rights Act 2025 entry, Section 122 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 Section 118 or Section 121 Renters' Rights Act 2025 entry, Section 123 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.

Section 126 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, Section 239 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;
- 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 Section 240 Housing Act 2004.

- 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.

31. How will the Council review this Policy?

This Policy will be subject to ongoing review and amendments as required by the Private Sector Housing Manager. We will take into account:

- Tribunal decisions, especially higher-level Tribunals
- Magistrates' Court decisions
- Changes in legislation
- Emerging good practice and learning from the outcomes of corporate complaints
- Opportunities to work with partner organisations
- Local intelligence and data which helps to better target our resources

32. Equality Impact Assessment

We aim to make our services accessible to all who need them. If required, we can offer:

- A minicom and loop service for personal callers
- Language line translation services
- Other personal translators depending on requirements

An Equality Impact Assessment (EqIA) has been completed of this Policy to ensure that its implementation does not adversely affect protected groups. The EqIA helps to ensure that the Policy does not discriminate, that everyone can access our services, that we promote equality and we meet our legal obligations.

Negative impacts have been identified but have been minimised or removed.

33. Privacy Notice

Information obtained in connection with our enforcement activity will be stored, used and retained in accordance with our Privacy Notice available on the Council's website here [Privacy Notice](#)

34. Definitions

For the purposes of this Enforcement Policy, the following definitions apply.

“The Council” means Colchester City Council, acting in its capacity as the Local Housing Authority for the purposes of the Housing Act 2004, the Renters’ Rights Act 2025, and all other relevant legislation.

“Landlord” includes any person or organisation involved in the letting, management, control, or licensing of privately rented accommodation. This includes letting agents; managing agents; property owners; licensors; directors and officers of corporate landlords; and any person acting on behalf of a landlord.

“Landlord Legislation” has the meaning given in section 107(5) of the Renters’ Rights Act 2025 and includes:

- Chapters 3 and 6 of Part 1 of the Renters’ Rights Act 2025;
- Part 2 of the Renters’ Rights Act 2025;
- Sections 1 and 1A of the Protection from Eviction Act 1977;
- Chapter 1 of Part 1 of the Housing Act 1988.

“Rented Accommodation Legislation” has the meaning given in sections 115–116 of the Renters’ Rights Act 2025 and includes:

- 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;
- Sections 83(1) and 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.

“HMO” or “House in Multiple Occupation” has the meaning set out in sections 254–260 of the Housing Act 2004.

“Category 1 Hazard” and **“Category 2 Hazard”** have the meanings set out in Part 1 of the Housing Act 2004 (Housing Health and Safety Rating System).

“Financial Penalty” or **“Civil Financial Penalty”** means a penalty imposed by the Council as an alternative to prosecution under the Housing Act 2004, the Housing and Planning Act 2016, or the Renters’ Rights Act 2025.

“PRS Database” means the Private Rented Sector Database established under Part 2 of the Renters’ Rights Act 2025.

“Landlord Ombudsman” means the statutory redress scheme established under Part 2, Chapter 2 of the Renters’ Rights Act 2025.

“Improvement Notice” means a formal notice served under sections 11 or 12 of the Housing Act 2004 requiring remediation of Category 1 or Category 2 hazards.

“Prohibition Order” means an order made under section 20 or 21 of the Housing Act 2004 prohibiting the use of all or part of a dwelling due to hazards.

“Emergency Remedial Action” refers to action taken by the Council under section 40 of the Housing Act 2004 where there is an imminent risk of serious harm.

“Banning Order” means an order made under Chapter 2 of Part 2 of the Housing and Planning Act 2016 preventing a person from engaging in letting or property management activities.

“Rent Repayment Order” (RRO) means an order of the First-tier Tribunal under Part 2 of the Housing and Planning Act 2016 requiring repayment of rent to the Council or to tenants.

Appendix 1 – Statement of principles to determine the amount of a penalty charge under Part 4 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 (“the Regulations”)

Section 13 of the Regulations requires local housing authorities to prepare and publish a statement of principles which they propose to follow in determining the amount of a penalty charge.

The Regulations introduced legal requirements on relevant landlords to:

1. Equip a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation.
2. During any period when the premises were occupied under the tenancy, to ensure that a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and which contains fixed combustion appliance other than a gas cooker.
3. Carry out checks by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.
4. Where, following a report made on or after 1st October 2022 by a tenant or by their nominated representative to the landlord, a prescribed alarm is found not to be in proper working order, the alarm is repaired or replaced.

For the purposes of the legislation, living accommodation includes a bathroom or lavatory.

Where the Council believe that a landlord is in breach of one or more of the above duties, the Council must serve a remedial notice on the landlord. The remedial notice is a notice served under Regulation 5 of the Regulations.

If the landlord then fails to take the remedial action specified in the notice within the specified timescale, the Council can require a landlord to pay a penalty charge and can arrange for remedial action to be taken under certain circumstances. The power to charge a penalty arises from Regulation 8 of the Regulations. Failure to comply with each remedial notice can lead to a fine of up to £5,000. Fines will be applied per breach, rather than per landlord or property.

The Council will impose a penalty charge where it is satisfied, on the balance of probabilities, that the landlord has not complied with the action specified in the remedial notice within the required timescale.

A landlord will not be considered to be in breach of their duty to comply with the remedial notice if they can demonstrate they have taken all reasonable steps to comply. Where there is evidence, including written correspondence, of repeated and consistent efforts to obtain access to the property, with access repeatedly being prevented by the occupant(s) of the property, a landlord will not be considered to be in breach of their duty to comply with the remedial notice. A landlord will be expected to have:

- Communicated the risk of harm that the lack of functioning alarms posed to all occupants in writing on multiple occasions
- Requested access to comply with the remedial notice on a regular basis of no longer than every seven days in writing

In considering the imposition of a penalty, the Council may look at the evidence concerning the breach of the requirement of the notice. A non-exhaustive list of methods that may be used to obtain relevant evidence includes, but is not limited to:

- Evidence obtained from a property inspection
- Evidence provided by the tenant or agent
- Evidence provided by the landlord demonstrating compliance with the Regulations by supplying dated photographs of alarms, together with installation records
- That all detector heads have not passed their expiration or replacement date

Landlords need to take steps to demonstrate that they have met the testing requirements at the start of the tenancy requirements. A non-exhaustive list of methods that may be used to evidence compliance with these testing requirements includes, but is not limited to:

- Tenants signing an inventory form which states that they observed the alarms being tested and confirming that the alarms were in working order at the start of the tenancy

Where a landlord is in breach, the local housing authority may serve a remedial notice. Failure to comply with each remedial notice can lead to a fine of up to £5,000. Fines will be applied per breach, rather than per landlord or property

When determining the amount of the penalty charge, regard will be had to whether this is a first breach under the Regulations.

Determining the amount of the penalty charge for a first breach

The minimum amount of a penalty charge for a first breach of the Regulations will be £2500. The starting level of a penalty charge for a first breach of the Regulations will be £3000. The penalty charge amount will then be varied depending on aggravating and mitigating factors.

Aggravating factors include, but are not limited to:

- The number of alarms not working or missing (the Regulations state there should be one per storey)
- Other fire safety concerns/defects in the property which increase the risk posed to the occupants
- The length of time the offence is believed to have been on-going
- The frequency of complaints by the occupiers to the landlord about the non-working or missing alarms
- The costs of any remedial work the Council have carried out in response to the breach
- Whether the property is let as a HMO (which increases the overall risk)
- The number of occupants living in the property
- Presence of vulnerable occupiers such as elderly, children or disabled people
- Any history of previous enforcement or non-compliance of the landlord
- Attempts to obstruct the investigation

Mitigating factors include, but are not limited to:

- The property being small and low-risk (for example a one-bedroom ground floor flat with a large number of fire escapes including large windows)
- A single occupant living in the property
- Evidence that all required alarms were checked and in working order at the start of the tenancy
- Written evidence that some efforts to gain access and comply with the remedial notice were made and access was prevented by the occupant

Determining the amount of the penalty charge for a subsequent breach

The penalty for subsequent breaches by the same landlord will be £5000.

Appendix 2: 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

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (“the Regulations”) make it unlawful to rent out a domestic property if it has an EPC (Energy Performance Certificate) rating of F or G (unless a valid exemption has been registered on the PRS Exemptions register).

The Regulations make it unlawful to fail to comply with a compliance notice served by the Council.

The Regulations cover all relevant properties, even where there has been no change of tenancy.

The Regulations were introduced to improve the energy efficiency of housing in the private rented sector and to reduce greenhouse gas emissions and tackle climate change. They should help make tenants’ homes more thermally efficient.

An energy performance certificate (EPC) gives the property an energy efficiency rating – A rated properties are the most energy efficient and G rated are the least efficient. It’s valid for 10 years and must be provided by the owner of a property, when it is rented or sold.

If you are a landlord and you fail, when requested, to provide an EPC for the start of a tenancy, you will be in breach of the Regulations.

An EPC contains information about the type of heating system and typical energy costs. It also gives recommendations about how the energy use could be reduced, lowering running costs. You can find the recommended energy efficiency improvements on the current EPC.

If you’re a private landlord, you must either:

- ensure your rented properties have an EPC with a minimum ‘E’ rating
- register a valid PRS exemption on the PRS exemptions register

Failure to do either of these is a breach of the Regulations.

The Council investigates any potential breaches of the regulations. If the Council is satisfied that you are, or have at any time in the 18 months preceding the date of service of the penalty notice, breached the Regulations, you may be subject to a penalty notice imposing a financial penalty. The Council may also impose a publication penalty.

The “publication penalty” means publication, for a minimum period of 12 months, or such longer period as the Council may decide, on the PRS Exemptions Register of such of the following information in relation to a penalty notice as the Council decides:

- Where the landlord is not an individual, the landlord’s name

- Details of the breach of these Regulations in respect of which the penalty notice has been issued
- The address of the property in relation to which the breach has occurred, and
- The amount of any financial penalty imposed.

The Council will impose the following financial penalties:

- a. letting a property with an F or G rating for less than 3 months: £2,000
- b. letting a property with an F or G rating for more than 3 months: £4,000
- c. registering false or misleading information on the PRS exemptions register: £1,000
- d. failing to provide information to the Council demanded by a compliance notice: £2,000

The Council may not impose a financial penalty under both subsections (a) and (b) above in relation to the same breach of the Regulations. But they may impose a financial penalty under either paragraph (a) or paragraph (b), together with financial penalties under paragraphs (c) and (d), in relation to the same breach. Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.