item 6

Review of Public Protection Enforcement Policies

This document has been classified as: Not protectively marked

Joanne Chastney, Service Lead, Environmental Health
joanne.chastney@southtyneside.gov.uk

Cabinet date 5th November 2025

Report to: Cabinet

Cabinet Portfolio/Lead Member: Cllr Jane Carter, Lead Member for Housing and Community Safety

Report of: Stuart Wright, Director of Place Strategy

Subject: Review of Public Protection Enforcement Policies

Date: 5th November 2025

Wards affected: All

Council Ambitions: Part of Strong Communities, Healthy and Well, Targeting support to make things fairer

Does the report and any appendices contain information which has been identified as confidential or exempt?

- No, this report does not contain information identified as confidential or exempt.

For Executive Decisions only:

Is the decision a Key Decision? Yes

Is it included in the Forward Plan? Yes

If not in the Forward Plan is the report: General Exception Rule / Special Urgency Rule N/A

Relevant Scrutiny Chair: Cllr John McCabe

Is the decision eligible for call-in by Scrutiny? Yes

Purpose of Report

1. To seek Cabinet approval for several new and updated Enforcement Policies, that sit beneath the existing General Enforcement Policy for the Council's Public Protection Services, agreed by Council in September 2024. The new and updated policies include an overarching Private Sector Housing Enforcement Policy together with three supplementary policies to support specific areas of private sector housing work:

- Houses in Multiple Occupation (HMOs)
- Works in Default
- Housing Civil Penalties

2. Approval is also sought for a further two policies that relate to specific areas of wider Public Protection work, namely an Animal Licensing Policy and an Enforcement Policy relating to single-use vapes.

3. It is important that our residents, customers, businesses and others who might be affected by enforcement action have access to a clear statement of what they can expect from the Council's Public Protection Services. The Enforcement policies detailed in this report will, if approved, help to ensure consistent and fair enforcement, provide clarity for tenants and landlords operating in the private rented sector, and to local businesses, helping to promote a thriving local economy, where all businesses conduct their activities fairly, with no unfair advantage to be gained from violating laws or regulations.

Background Information

4. South Tyneside Council's General Statement of Enforcement Policy outlines how the Council will deliver proportionate, accountable, consistent, transparent and targeted enforcement, as required by the Legislative and Regulatory Reform Act 2006.

5. In addition, the Council has adopted the central and local government Concordat on Good Enforcement and in so doing has committed to following policies, procedures and guidance that contribute to improving standards, including *The Enforcement Concordat: Good Practice Guide for England and Wales and the Principles of Good Enforcement.*

6. South Tyneside Council's Public Protection Services are responsible for the regulation and enforcement of a wide range of legislation covering a broad spectrum of functions and service areas. The decision to take (or not to take) enforcement action is a serious one and it is important that we have policies in place that ensure fairness and consistency.

7. Under the umbrella of the General Enforcement Policy - Public Protection, supplementary enforcement policies to support specific areas of Public Protection work, are regularly developed, reviewed and updated as necessary. This ensures that policies remain relevant, effective, and compliant with current

legislation and best practice. The policies for which Council approval is sought support the work of the Environmental Health and Trading Standards teams and relate to regulation of the private rented sector, Animal Welfare and the ban on the supply of single-use vapes.

Public Health and Private Sector Housing Enforcement Policy (updated)

8. This policy primarily relates to powers available to regulate the Private Housing Sector and provides a framework for South Tyneside Council to fulfil its legal responsibilities.

9. The policy promotes efficient and effective approaches to regulatory inspection and enforcement and acts as a reference for officers undertaking enforcement activity – explaining why and how the Council will take action to regulate housing conditions, to ensure a level playing field for property providers.

10. In the area of Private Sector Housing a refresh of existing policy is considered necessary to ensure that policy reflects the current regulatory landscape and to reduce the risk of challenge to the Council's regulatory approach.

Houses in Multiple Occupation Policy (new)

11. The Council's Public Health and Private Sector Housing Enforcement Policy is concerned with private rented properties in general, however there are additional requirements specifically for Houses in Multiple Occupation (HMOs). This policy sets out how the Council will licence and regulate HMO properties taking account of the legislation and guidance issued by the Government.

12. An aim of the policy is to ensure that any financial benefit gained from non-compliance with the regulations is removed – it should never cost more to comply with the regulations than to evade legal responsibility.

13. The HMO Policy details the licensing procedure for those types of HMO that are subject to mandatory licensing, including the application and consultation process prior to granting or refusing a licence.

14. The policy addresses the relationship between planning status and HMO licensing. Should the HMO Policy be approved, the Council will in future, take account of the planning status of a property when determining an HMO licence application.

15. The Council has recently published its Amenity Standards which help to inform officer decisions about whether HMOs are reasonably suitable for occupation by the proposed number of occupants.

16. The policy clearly sets out the responsibilities of HMO landlords and managers, and the consequences of non-compliance with licence conditions and operating without a licence.

Works in Default Policy (new)

17. ‘Works in default’ refers to a situation where a local authority steps in to carry out repairs or other works to a property following non-compliance with a legal notice requiring those works. This typically happens in circumstances where the condition of the property is a risk to public health, safety or the environment.

18. This policy sets out the key considerations for works in default and the different legislation under which works in default are available, the mechanism for undertaking the work and the procedure for recovering any monies spent.

Housing Civil Penalties Policy (updated)

19. The general objective of this policy is to promote both transparency and consistency in the imposition of financial penalties under the Housing and Planning Act 2016 and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, so that, for example, those managing and having control of rented properties (a) know how the Council will generally penalise relevant offences and (b) are assured that, generally, like cases will be penalised similarly, and different cases penalised differently.

20. The Housing and Planning Act 2026 amends the Housing Act 2004 to allow Local Housing Authorities a discretion to impose financial penalties, up to a maximum of £30,000, as an alternative to prosecution for certain offences.

21. The policy revises and updates the Civil Penalties Policy 2019 taking into consideration tribunal decisions that have been critical of local authorities’ policies and procedures. The ***Leicester City Council vs Morjaria*** Upper Tribunal decision is a case of particular significance and has given rise to the need for most local authorities to review their civil penalty policies, and particularly the scoring matrix used to determine the penalty amount.

22. The revised Housing Civil Penalties Policy outlines in detail, the Council’s policy in setting the level of a civil penalty, in each case where it has been determined that a civil penalty will be issued as an alternative to prosecution proceedings.

Animal Licensing Policy (new)

23. An animal licensing policy is needed to ensure animal welfare and public safety, through the regulation of activities involving animals and the establishment of minimum standards for their care. This policy helps prevent animal suffering, promotes responsible pet ownership, and protects the public from potential harm.

24. Licensing frameworks, such as the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, set standards for the treatment of animals in various establishments, including boarding kennels, pet shops, and breeding facilities. This helps prevent neglect, cruelty, and inadequate living conditions.

25. Certain activities involving animals, such as the keeping of dangerous wild animals or the training of animals for exhibition, pose potential risks to the public. Licensing helps mitigate these risks by ensuring appropriate safety measures are in place.

26. Licensing can help prevent illegal breeding, the sale of sick or underage animals, and other harmful activities, by creating a system of oversight and accountability.

27. The Animal Licensing Policy provides a framework for local authorities to enforce animal welfare laws and regulations. It allows for inspections, investigations, and the taking of appropriate action against those who fail to meet the required standards.

Enforcement Policy – Single-Use Vapes (new)

28. As part of the Government's plans to tackle the rise in youth vaping and protect children's health, the Government has introduced the Environmental Protection (Single-use Vapes) (England) Regulations 2024 which support a ban on the supply of single-use vapes and came into force on 1st June 2025.

29. The new enforcement policy reflects the enforcement options available to South Tyneside Council, as the regulatory body, to enforce the ban across the borough. The policy introduces sanctions available to the Council against a business or person who supplies, offers to supply, or possesses with intent to supply, single-use vapes. Sanctions may include, but are not limited to issuing a stop notice, prosecution in the Magistrates' Court, applying to review a premises under the Licensing Act 2003, or issuing a fixed penalty notice of £200.

Main issues and Options to be Considered

30. Any regulatory policy aims to set out a clear rationale for application of the policy, providing necessary clarity to both victims and perpetrators, and consistency of approach across the relevant services.

31. The options available to Cabinet are:

- Agree all Policies presented as the Council's approach to enforcement within its Public Protection teams, with a review cycle of 3 years.
- Agree a number of the presented Policies.
- Not agree the new/updated policies.

32. The new and revised enforcement policies demonstrate how the Council's Public Protection services embody the Council's PROUD values in their approach to enforcement:

PROUD Values	Links to the proposal include:
Professional	Clear enforcement policies:

	• ensure that decisions and actions are guided by **consistent** application of the law, standards and best practice • support accountability
Respectful	The policies: • outline fair and proportionate approaches to enforcement, showing respect for the rights and circumstances of individuals and businesses • promote communication before confrontation, giving people a chance to comply voluntarily, where possible • demonstrate a respect for diversity by applying rules equitably regardless of background or status
Open and honest	Communication of policies: • ensures that the service's enforcement approach is transparent to the public, businesses and other stakeholders • helps the service to promote an honest commitment to protecting public health and the environment rather than penalising for its own sake
Understanding	The Council's enforcement policies: • include room for discretion based on individual circumstances, including first-time offences, financial hardship, or unintentional breaches • support a staged approach to enforcement, where appropriate, including steps like education and advice.
Do what we say we will	The enforcement policies help Public Protection Services do what they say they will do, by setting clear expectations and following through consistently. This helps to enhance professionalism, build public trust, and support a culture of respect and integrity

Implications

33. The implications of this report are set out above and below and should any or all of the enforcement policies not be agreed, enforcement work will continue in line with statutory duties, however the updated policies reflect current guidance and best practice and promote consistent decision-making so this position would potentially leave the Council open to challenge in respect of 'openness', through lack of up-to-date information and advice about the Council's enforcement approach.

Financial and Resources

34. There are no direct financial and resources implications associated with this report as the policies support existing statutory services, and enforcement

actions will usually be undertaken within existing approved service budgets, including works in default.

35. The Finance Business Partner has been consulted on the specific enforcement policies contained in this report.

Legal and Governance

36. The preparation and publishing of the Enforcement policies detailed in this report is not in itself a legal requirement, however, the Regulators' Compliance Code, issued in accordance with section 22 of the Legislative and Regulatory Reform Act 2006, requires regulators to have regard to this Code. The Code came into effect on 6^{th} April 2014.

37. It should be noted that Housing enforcement operates within a distinct legal and policy framework, and while local authorities may apply elements of the Code, they are not bound by it when fulfilling specific statutory functions. Paragraph 1.1 of the Code explicitly states: "The Code does not apply to regulators in circumstances where doing so would be inconsistent with the exercise of their statutory duties." If applying the flexible and collaborative approach encouraged by the Code would prevent a local authority from fulfilling its legal obligation to protect housing standards and tenant safety (e.g. to act on a serious (Category 1) hazard), then the statutory duty takes precedence.

38. The enforcement policies presented sit under the framework of the General Public Protection Enforcement policy, approved by Council on 5th September 2024. Cabinet has the authority to take the decision to approve the supplementary policies as set out in Part C – Responsibility for Functions, of the Council's Constitution.

Risk

39. The most significant risk associated with adoption of the enforcement policies presented, is legal challenge on policy content and on the application of policies. Controls have been identified and implemented to mitigate these risks, including:

- Ensuring policies recognise current legal requirements
- Ensuring policies take account of current best practice, enforcement guidance and case law, and are aligned to Council ambitions/priorities,
- Regular review of policies on a 3 – year cycle

Equality and Diversity and Community

40. Equality Impact Assessments have been undertaken and no significant risks identified (appendix G).

41. The recommendation to adopt the Public Health and Private Sector Housing Enforcement Policy will have an overall positive impact, by recognising and acknowledging the potential barriers to access and existing or anticipated unequal outcomes or experiences of vulnerable groups, who are more often found to live in poorer quality housing in the private rented sector. The policy seeks to safeguard tenants who share one or more of the nine protected characteristics from being subjected to sub-standard housing conditions.

42. The recommendation to adopt the new Animal Licensing Policy and the new Enforcement Policy – Single-use Vapes will have neutral impact on persons who share one or more of the nine protected characteristics.

43. The enforcement policies are consistent with national guidance on regulation and officers must have due regard to Code C of the Police and Criminal Evidence Act 1984 that protects young and vulnerable persons.

44. Introducing new enforcement policies has positive implications for Crime and Disorder. Effective enforcement, guided by the policies presented, can deter potential offenders by raising the perceived risk of financial penalty or prosecution, and can improve public safety by making public spaces safer and more enjoyable for residents and visitors.

Environmental and Sustainability

45. Enforcement of housing standards includes assessment of excess cold and excess heat hazards in residential dwellings, under the Housing Health and Safety Rating System (HHSRS) and the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, which determine that landlords must maintain effective hot water and space heating installations and a minimum level of energy efficiency in tenanted accommodation. In addition to enforcement, officers will use their day-to-day interactions with residents as opportunities to raise awareness of environmental issues and promote positive behaviour change. This includes sharing practical advice on energy efficiency, reducing resource consumption, and managing waste responsibly. These conversations not only support household wellbeing but also contribute to the Council's wider ambitions set out in the Sustainable South Tyneside Strategy, empowering residents to play an active role in creating a greener, fairer, and more resilient borough.

46. Effective application of the single-use vapes policy will help to reduce the number of vapes going into landfill or discarded as litter, where they can release harmful substances into the environment and endanger wildlife. It will also help stop valuable resources such as cobalt, copper and lithium being used in single-use devices.

Council Ambitions, Policies, Strategies and Plans

47. The proposed enforcement policies contribute positively to the following Council ambitions:

- Part of strong communities – protecting the public and the environment in which they live as well as maintaining a fair and equitable trading area for all businesses in the borough, will help build strong communities.

- Healthy and Well – delivery of fair and effective enforcement is an essential aspect of the Council's role in protecting public health.

The Council's Public Protection Services are also committed to:

- Targeting support to make things fairer – through a risk-based and intelligence-led approach to enforcement, residents, tenants, businesses and parts of the borough that need it the most will be supported, reducing inequalities, and making things fairer.

48. The Integrated Housing Strategy 2019 outlines the Council's commitment to improve the quality, choice and sustainability of the Private Rented Sector which the Public Health and Private Sector Housing Enforcement Policy supports. The following policies, strategies and plans are also relevant to the decision to be made:

- The South Tyneside Council Strategy 2023-2026
- The Community Safety Partnership action plan 2025
- South Tyneside Council Anti-social Behaviour Policy
- The Sustainable South Tyneside Strategy 2020-2025
- General Enforcement Policy for Public Protection Services

Consultation and Engagement

49. Place Scrutiny Committee reviewed the draft policies on 17th July 2025. Members welcomed the updated policies and were widely supportive of their contents, with particular interest and discussion in respect of the HMO Policy and the Single-use vapes ban.

50. There is no requirement to undertake statutory or public consultation in respect of the proposed Private Sector Housing policies, however internal services with an interest in the council's regulatory activities (Housing Strategy, Housing Options, Operational Housing and Homelessness), together with key external stakeholders in the private rented sector (Shelter, Citizens Advice, DASH Services), have been consulted over a four-week period in August/ September 2025.

51. Colleagues in the Housing Strategy team have provided useful feedback on the draft policies including the application of HMO licensing requirements. As a result further clarification of 'Exempt properties' i.e. those not classed as HMOs for licensing purposes, for example those owned or managed by registered social landlords, has now been included in the HMO Policy. Further advice provided on document accessibility will be followed up with the Web and Digital team, should the policies be approved, and prior to publishing on the Council's website.

52. During May 2025, an online consultation was posted on the Councils website seeking views on the proposed enforcement sanctions in respect of the Single-use Vapes ban. No responses were received. The Animal Licensing Policy has been reviewed by the Council's Licensing team who have indicated support for the approach adopted.

Recommendations

53. It is recommended that Cabinet approves the policies listed below and attached to this report, and that a 3-year review cycle for these policies is agreed:

- Public Health and Private Sector Housing Enforcement Policy, incorporating:
    - Houses in Multiple Occupation Policy
    - Works in Default Policy
    - Housing Civil Penalties Policy
- Animal Licensing Policy
- Enforcement Policy – Single-use Vapes

54. Cabinet is asked to provide delegated authority to the Director of Place Strategy, in conjunction with the Lead Member for Housing and Community Safety, to approve any amendments to the policies required during their operational periods, in view of the legislative changes expected prior to the 3-year review. Any amendments would be limited to those considered minor or inconsequential, meaning that they do not significantly impact on the meaning, intent or application of the policies.

Reasons for Recommendations

55. To ensure the Council's Public Protection teams can continue to work to up-to-date policies that align with current legislation and good operational practice and that comply with the Council's Human Rights, Equality and Safeguarding responsibilities.

56. To ensure a consistent and co-ordinated approach to enforcement across Public Protection and robust justification for enforcement decisions.

57. To support the principle of openness in providing clear information about how the Council's Public Protection teams carry out their work.

List of Appendices

The report includes the following draft enforcement policies as appendices:

Appendix A - Public Health and Private Sector Housing Enforcement Policy
Appendix B - Houses in Multiple Occupation Policy
Appendix C - Works in Default Policy
Appendix D - Housing Civil Penalties Policy
Appendix E - Animal Licensing Policy
Appendix F - Enforcement Policy – Single-use Vapes
Appendix G - Equality Impact Assessment

Review of Public Protection Enforcement Policies

The following is a list of the background papers (excluding exempt papers) relied upon in the preparation of the above report:

Background Paper	File Ref:	File Location
The South Tyneside Council Strategy 2023-2026		https://www.southtyneside.gov.uk/article/15972/The-South-Tyneside-Vision-and-Council-Strategy
The Sustainable South Tyneside Strategy 2020-2025		South Tyneside Council | Sustainable South Tyneside 2020-2025
The Community Safety Partnership action plan 2024-2027		South Tyneside Council | Community Safety Partnership Plan 2024-27
South Tyneside Council Anti-social Behaviour Policy		South Tyneside Council | Anti-social Behaviour Policy
Integrated Housing Strategy 2019		Integrated Housing Strategy (2019) - South Tyneside Council
The Legislative and Regulatory Reform Act 2006		Legislative and Regulatory Reform Act 2006
The Regulators' Code		Regulators' Code
General Enforcement Policy for Public Protection Services		General Enforcement Policy - Public Protection
Housing Act 2004		Housing Act 2004
Housing and Planning Act 2016		Housing and Planning Act 2016
Statutory Guidance: Civil Penalties under the Housing and Planning Act 2016		Civil penalties under the Housing and Planning Act 2016
The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017		The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017
The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020		The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
The Animal Welfare (Licensing of Activities		The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Involving Animals) (England) Regulations 2018		
Statutory Guidance for Local Authorities: Animal Activity licensing process		Animal activity licensing process: statutory guidance for local authorities - GOV.UK
Animals Penalty (Notices Act) 2022		Animals (Penalty Notices) Act 2022
The Animals (Penalty Notices) (England) Regulations 2023		The Animals (Penalty Notices) (England) Regulations 2023
The Environmental Protection (Single-use Vapes) (England) Regulations 2024		The Environmental Protection (Single-use Vapes) (England) Regulations 2024
Single-use vapes ban: information for businesses		Single-use vapes ban: information for businesses - GOV.UK

APPENDIX A

South Tyneside Council

Public Health & Private Sector Housing Enforcement Policy

South Tyneside Council
Date: November 2025

1. Purpose

This policy provides a framework for South Tyneside Council to fulfil its legal responsibilities and acts as a reference for officers undertaking enforcement activity - explaining why and how the Council will take action to regulate housing conditions and ensure a level playing field for property providers.

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

The policy also applies to owner-occupied homes and empty properties where necessary.

The policy aims to ensure that the Council's enforcement decisions are fair and objective and not affected by undue influence and are rooted in a belief in fair regulation and the principles of proportionality, transparency, consistency and targeted enforcement.

2. Introduction

The Council is committed to ensuring that all residents within the borough living in the private sector, occupy homes that are safe and meet the required standards. Enforcement powers are part of the statutory obligation placed on the Council to keep housing conditions within the district under review and take appropriate action where identified, to ensure safe standards in the private rented sector are maintained.

Private Sector Housing (PSH) enforcement is principally aimed at tackling poor and unsuitable housing conditions, the worst of which disproportionately affect the most vulnerable people in society.

The Council recognises that most landlords want to be compliant and provide a good standard of accommodation to their tenants, but effective enforcement is an important means of maintaining public confidence in the quality and safety of housing in the private rented sector and supporting our residents 'right to live in an environment that is safe and healthy'.

This policy sets out how the Council intends to take appropriate action using powers available under relevant legislation to tackle rogue landlords who have a clear disregard for their responsibilities and the safety of their tenants.

South Tyneside Council will be robust in its approach to dealing with private sector housing (PSH) matters through negotiation and enforcement, but the nature and intensity of any investigation will differ in each case and is dependent on the type of dwelling and the issue/s under consideration.

PSH enforcement can be reactive or proactive:

- **Reactive** – reports of poor conditions in a dwelling can be made by any person including local residents, Councillor's and partner organisations (such as the Police, Tyne and Wear Fire and Rescue Service (TWFRS) or South Tyneside Adult Social Care).
- **Proactive –** monitoring of licensed properties to ensure compliance with conditions set, targeting inspections in areas where housing conditions are typically below standard.

3. Enforcement Principles

- **Proportionality** – Any action that is taken will relate to the severity of the hazard(s) posed and/or the seriousness of the breach of legislation, with due consideration given to any particular vulnerability that any of the relevant parties may have. Officers will consider the full range of powers available to them which may include no action, informal discussions, negotiation or taking formal enforcement action.

- **Consistency** – Officers act in a similar way when faced with similar circumstances. The Council will also work with other services and Authorities to ensure that consistency is maintained at a local and national level as far as possible. It does not imply uniformity; rather a full and proper consideration of all the circumstances of a case to establish what reasonable and adequate requirements will remedy the matter.

- **Transparency** – The Council will try to help people understand what the law requires of them and make clear what needs to be done to achieve compliance. The Council will also make clear what people should do if they are not happy about any action taken or a decision not to take action. The Council will also provide transparency and clarity on courses of action that will be undertaken.

- **Targeting** – The Council's proactive enforcement efforts will be directed towards those whose activities pose the most serious risks or create the most danger to residents and those who have a history of non-compliance.

- **Accountability** – The reasons for taking enforcement action or carrying out an investigation will be explained. Any comments or complaints about the actions or the conduct of our officers will be taken seriously and investigated. The Council has an established complaints and comments process which can be easily accessed. In addition, there is usually a statutory right of appeal to formal enforcement action, and the Council will always ensure that those rights are detailed in relevant correspondence.

4. Equality Statement

The Council is committed to treating all customers fairly, and all enforcement decisions will be fair, independent and objective. The Council's enforcement teams are committed to promoting equality and will endeavour to ensure that all Landlords and tenants are treated fairly and without unlawful discrimination.

5. Legal Framework

The following summarises the primary legislation that informs the regulation of housing in the private sector:

- Housing Acts 1985 and 1988
- Housing Act 2004
- Housing and Planning Act 2016
- The Environmental Protection Act 1990
- The Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- Deregulation Act 2015
- Protection from Eviction Act 1997
- The Building Act 1984
- The Landlord and Tenant Act 1985
- The Public Health Act 1936
- The Prevention of Damage by Pests Act 1949
- Smoke and Carbon Monoxide Regulations 2015
- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

6. Powers to Investigate

South Tyneside Council's Private Sector Housing team will fully investigate all complaints and requests for service, using relevant powers to gather information and gain access to properties where necessary. Investigations are undertaken by competent and authorised officers who will determine whether enforcement action is needed.

6.1 Powers of Entry

Authorised officers have a number of powers of entry. The Housing Act 2004, section 239(3) or (7) is primarily used for this purpose, however officers do also have powers of entry under the legislation listed below which may be used where appropriate to the investigation.

- Environmental Protection Act 1990 (Schedule 3, para. 2)
- Prevention of Damage by Pests Act 1949 (Section 22)
- Public Health Act 1936 (Section 287)
- Building Act 1984 (Section 95)

The power of entry is to enter the land or premises at any reasonable hour for the purpose of carrying out an inspection and / or investigation either required by the legislation, or in order to ascertain if any part of the relevant legislation should apply.

For most of the above powers of entry, a minimum of 24 hours' notice of intended entry must be given to the owners or landlords (if known) and occupiers (if any) ahead of a property inspection, unless:

- The case is one of an emergency or where there is imminent risk to the health or wellbeing of persons using the property;
- The purpose of entry is to determine whether an offence has been committed in relation to sections 72, 95 or 234 of the Housing Act, where no notice of entry is required (these sections relate to the licensing of Houses in Multiple Occupation (HMOs), houses required to be licensed under Part 3, and HMO management regulations respectively).

If admission is refused, the premises are unoccupied or prior warning of entry is likely to defeat the purpose of entry, then the Council has the right to apply to the Magistrates' Court for a warrant to enter the land / property by force if necessary. This course of action will only be taken in cases where it is considered both necessary and proportionate to the matter under investigation.

Any person who wilfully obstructs an authorised officer, acting in exercise of a right to enter, commits an offence and may be liable on summary conviction to a fine, the level of which is specified by the respective legislation.

6.2 Power to Require Documentation

The main legislative tools used for gathering information as part of a PSH enforcement investigation include:

- Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (Requisition for Information Notice).

This section allows the Council to request information to determine details of anyone with an interest in the property being investigated (e.g. occupier, mortgagee, lessee or someone who is directly or indirectly receiving rent payments)

- Section 235 Housing Act 2004 (Requisition for Documents Notice)

The Council has the power to require documentation to be produced in order to identify whether any offence has been committed under Parts 1-4 of the Housing Act 2004 or to support its functions under Parts 1-4 of the Housing Act 2004.

Failure to respond to either of the above notices or within the specified time frame or deliberately providing false information is a criminal offence and may lead to prosecution.

- The Housing and Planning Act 2016

This act provides additional powers to require information to determine whether to apply for a Rent Repayment Order or Banning Order, to make an entry in the Rogue landlord database or when considering the level of a Civil Penalty

6.3 Power to Use Certain Information

In line with section 237 of the Housing Act 2004, as part of gathering information during an investigation, authorised officers have the power to refer to and use information held within other parts of the Council such as Council Tax records, Housing Benefit accounts and Electoral Register, as well as some external databases such as Land Registry Records or Ministry of Housing, Communities & Local Government (MHCLG) Rogue landlord Database.

7. Determining the Need for Enforcement Action

Some PSH issues reported are of a minor nature and formal action cannot be justified, thus the Council may not address all disrepair items and will only act when it is expedient to do so.

When deciding on the type of action required the Council will consider:

- The seriousness of the deficiencies identified in the property;
- The history of compliance;
- The confidence in management and the degree of wilfulness involved;
- The consequences of non-compliance;
- The existence of statutory duties or discretionary powers; and
- The likely effectiveness of the various enforcement options.

When deciding the appropriate action, consideration will also be given to the views of the tenants and landlord, as well as any relevant partners e.g. the Fire Service.

Depending on the outcome of these considerations, enforcement actions may be selected from the following range of options, including:

- Take no action;
- Take informal action;
- Take statutory action, e.g. Service of statutory notices;
- Carry out works in default;
- Issue licences with conditions, revoke licences or vary licence conditions;
- Issue a caution;
- Management orders;
- Civil penalties;
- Banning orders;
- Rent repayment orders; and/or
- Prosecute or seek an injunction.

Investigative cases (and any enforcement action as a result) are regularly reviewed by senior officers to ensure a consistent approach in deciding the appropriate enforcement action to be carried out.

8. Enforcement Options

8.1 Take No Further Action

Either the issue reported is not within the control of the legislation under which PSH operates, or the reported issue is considered to pose a minimal hazard and/or impact and therefore it is not expedient to pursue.

8.2 Informal Action

Informal action that is either verbal advice, requests or warnings, or letters and inspection reports can be used when:

- Concerns identified are not considered a serious risk;
- The property does not pose a significant risk to the safety or health of the occupant or others;
- Informal action will be more effective and/or quicker than formal action; or
- There is confidence in the manager/owner or there is evidence that they have previously responded well to advice and guidance from the team.

In the case of informal action, where the level of risk is not high and the landlord or managing agent is willing to work with the team, a reasonable timeframe will be allowed for recommended works to be carried out. If works are not completed in this time, then the matter may be escalated and prioritised for enforcement.

8.3 Statutory Action

Housing enforcement operates within a distinct legal and policy framework. While elements of the Regulators' Code may be applied to housing enforcement work, the Council is not bound by it when fulfilling specific statutory functions. In some cases the Council has a **duty** to take action and in these situations the flexible and collaborative approach promoted by the Code may be inappropriate or insufficient to safeguard tenants.

Paragraph 1.1 of the Code explicitly states: "The Code does not apply to regulators in circumstances where doing so would be inconsistent with the exercise of their statutory duties." If applying the flexible and collaborative approach encouraged by the Code would prevent the Council from fulfilling its legal obligation to protect housing standards and tenant safety (e.g. to act on a serious (Category 1) hazard), then the statutory duty takes precedence.

The Housing Health and Safety Rating System (HHSRS) is set out in Part 1 of the Housing Act 2004 and is the method prescribed for assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s).

There are two categories of possible hazards:

- Category 1 – represents a serious hazard to health and the Council has a duty to take appropriate action.
- Category 2 – represents a lesser hazard and the Council has a power to take appropriate action, where it considers this necessary.

Section 5 of the Housing Act 2004 places a duty on the Council to take enforcement action where a category 1 hazard exists in a property under the HHSRS.

Section 7 of the Housing Act 2004 gives the Council power to take action should a category 2 hazard under HHSRS exist.

Prior to taking enforcement action, the Council will need to carry out an assessment under the HHSRS to determine whether any hazards are present at the property and what, if any, enforcement action is needed. This will usually involve a visit to the property to carry out an inspection. The tenant and landlord (and other interested parties) will be made aware of the inspection in accordance with powers of entry set out in section 7.1. Where any defects are identified, an HHSRS assessment will be completed to determine if any category 1 or 2 hazards exist.

The Council will have regard to the HHSRS Operating Guidance and HHSRS Enforcement Guidance when determining the hazard rating and appropriate enforcement option.

The following enforcement options are available under this process:

- A Hazard Awareness Notice
- An Improvement Notice (including suspended notices)
- A Prohibition Order (including suspended orders)
- Emergency Remedial Action
- An Emergency Prohibition Order
- A Demolition Order
- Declaration of a Clearance Area

A statement of reasons under section 8 of the Housing Act 2004 must accompany any notice or order served. All notices and orders issued will include timescales that are reasonable and comply with statutory legislation. Landlords will also be informed of any right of appeal, the period within which an appeal can be made and to who the appeal should be made.

Contact with the landlord will be maintained throughout the duration of the notice or order to ensure any requirements are complied with. Landlords and managing agents can request an extension by contacting the officer who served the notice and outlining the reasons why an extension is required. This will be considered by the management team, who will approve or reject extensions. The outcome of this decision will be given to the landlord or managing agent in writing within 7 days of the request.

If a notice is not complied with, the case will be escalated to the next level of enforcement.

The Local Authority will also serve statutory notices under the following legislation to remedy public health issues within properties in situations where a more immediate response is needed to the hazard or the legislative provisions within are specifically tailored to the features of a particular hazard:

Environmental Protection Act 1990 (S.80) Abatement Notice
This notice shall be served where a local Authority is satisfied that a statutory nuisance (as prescribed in section 79) exists or is likely to occur or recur.

A notice may impose requirements to; abate the nuisance, prohibit or restrict its occurrence or recurrence, or the execution of such works as may be necessary for that purpose (or both). The notice will specify time or times within which the requirements are to be complied with. The notice is in effect from the date on which it is served.

There is a right of appeal which must be made to the Magistrates' Court within 21 days from the date on which the notice is served.

Prevention of Damage by Pests Act (S.4)
Notices under this Act may be served where it appears to a Local Authority that steps should be taken for the destruction of rats or mice on land or otherwise for keeping the land free from rats or mice.

A notice may impose requirements to undertake any form of treatment specified and/or carry out repairs or other works as specified. The notice will specify the times by which any treatment and/or works are to be carried out. The notice is in effect from the date on which it is served.

There is no right of appeal to this notice unless structural works are required, in which case there is a right of appeal to the Magistrates' Court within 28 days of service.

Building Act 1984 (S. 59)
A notice under this Act shall be served where it appears to the Local Authority that there is;

- Insufficient provision for drainage;
- Drainage infrastructure as specified in (1)(b) is defective to the point of admitting subsoil water, drainage infrastructure is in such a condition as to be prejudicial to health or a nuisance; or
- Former drainage infrastructure no longer in use is prejudicial to health or a nuisance.

A notice may impose requirements to either; make satisfactory provision for drainage, undertake works as may be necessary for renewing, repairing or cleaning of the relevant part of the drainage infrastructure, or removing or otherwise rendering innocuous the disused parts.

The notice will specify the times by which any works are to be executed. The notice is in effect from the date the notice is served. There is a right of appeal which must be made to the Magistrates' Court within 21 days from the date on which the notice is served.

Public Health Act 1936 (S. 83 & 84)

This shall be served where the Local Authority is satisfied that:

- Any premises is in such a filthy or unwholesome condition as to be prejudicial to health and/or verminous (s. 83)
- Any article in any premises is in so filthy a condition as to render cleansing, purification or destruction necessary, or is verminous or having been in contact with any verminous person, is likely to be verminous (s.84)

Properties affected by hoarding and extreme self-neglect will often fall within the provisions of this Act, allowing the Council to take action to restore the property to a wholesome and habitable condition.

The Homes (Fitness for Human Habitation) Act 2018
This Act amends the Landlord and Tenant Act 1985 to create a new duty on landlords to ensure homes are fit for human habitation at the start of a tenancy and throughout. The term fitness is amended from nine factors including repairs, water supply, freedom from damp, to also include any category 1 hazard under the HHSRS. This Act provides greater support to tenants, and the Private Sector Housing Team will provide assistance to tenants wishing to seek further advice about possible action.

See the 'Enforcement Options' section in the Addendum at the end of this policy for further details on the types of notice and orders used in Private Sector Housing enforcement.

8.4 Emergency Powers

Emergency powers allow the Council to carry out works, where justified on the grounds of risk to the public, without the prior service of a statutory notice. This is carried out when it is judged necessary to undertake works immediately. An example of this would be securing a building that is not adequately secured against unauthorised entry, with the intention of protecting the person entering the building and others against their acts, including arson. This is also carried out when it is not practicable to ascertain the details of an owner or to trace the whereabouts of an occupier who is not present at the property.

8.5 Works in Default

Works in default become an enforcement option after service of an enforcement notice or order which has not been complied with. This is a discretionary power, and the Council reserves the right not to act.

Works in default will be considered as a last resort after every effort has been made to secure compliance. In each circumstance, works in default will be considered on a case-by-case basis, taking into account certain factors such as the level of risk, vulnerability and costs. Please see South Tyneside Council's Policy on Works in Default for further information on using works in default powers.

Works in default can be a useful tool in ensuring the hazard(s) identified are still mitigated or minimised so they do not continue to pose a risk of harm while other formal action may be considered or taken. Undertaking works in default does not prevent the Council taking further action in the form of a prosecution or a civil penalty.

If works in default are actioned, it is an offence to obstruct the Council, or any contractor appointed by the Council to carry out the works, once they have started. The cost of the works and all other associated costs will be recovered from the responsible person in accordance with the relevant statutory provisions. All outstanding debs will be registered against the property as either a Local Land Charge or Title Deed Charge, in addition to any interest accrued, which will be added to the debt.

8.6 Simple Caution

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

• There is evidence an offender is guilty;
• The offender is eighteen years of age or over;
• The offender admits they committed the crime; and
• The offender agrees to be given a caution.

If the offender does not agree to receive a caution, then they are likely to be prosecuted instead. Simple cautions will not be used where there is history of offending within the last two years, or where the same type of offence has been committed before.

The case officer will present cases to the Service Lead, Environmental Health for authority to issue a simple caution. The Cautioning Officer will be the Senior Manager -Public Protection, who will act in conjunction with the Solicitor to the Council, who is the Head of Legal Services. They will follow the cautioning procedure from the Ministry of Justice guidance.

If an offender refuses to accept a formal caution, the delegated officer will refer the matter to the Head of Legal Services who may pursue a prosecution, taking into account the relevant guidance and the Council's Constitution.

8.7 Civil Penalties

Civil Penalties are a financial penalty that can be imposed under the Housing Act 2004 and the Housing and Planning Act 2016 (Section 23, 126 and Schedule 9) as an alternative to prosecution for the following offences:

- Failure to comply with an Improvement Notice (Section 30 of the Housing Act 2004);
- Offences in relation to licensing of Houses in Multiple Occupation (Section 72 of the Housing Act 2004);
- Offences in relation to licensing of houses under Part 3 of the Act (Section 95 of the Housing Act 2004);

- Offences in relation to contravention of an overcrowding notice (Section 139 of the Housing Act 2004); and/or
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (Section 234 of the Housing Act 2004).

A civil penalty will be imposed for each individual breach of the management regulations for Houses in Multiple Occupation (see 10.3).

Regulation 11 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 provides local authorities with the power to impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of breaches of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

In addition, section 23 of the Housing and Planning Act 2016 provides that a civil penalty may be imposed in respect of a breach of a Banning Order.

The same criminal standard of proof is required for a civil penalty as for prosecution. This means that before issuing a civil penalty, a Local Housing Authority should, in accordance with section 249(A)(1), be satisfied beyond reasonable doubt that a relevant housing offence has been committed.

Government guidance on civil penalties advises that each Local Authority must develop a policy outlining how they will decide when to use civil penalties and how the penalty amounts will be determined.

Please see South Tyneside Council's Civil Penalties Policy for more details on the use and application of Civil Penalties in South Tyneside.

The matrix within the above policy is not intended to provide a prescriptive tariff application but rather offers guiding principles intended to provide consistency, transparency and a fair assessment when determining the level of civil penalty to be imposed. The rationale will be applied on a case-by-case basis to the specific circumstances of each case.

The Council must have regard to the statutory guidance Civil Penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities when determining whether a civil penalty or prosecution is the appropriate sanction and the level of civil penalty, which can be up to a maximum of £30,000.00.

The factors within the statutory guidance that must be considered are:

a) Severity of the offence
b) Culpability and track record of the offender
c) The harm caused to the tenant
d) Punishment of the offender
e) Deter the offender from repeating the offence
f) Deter others from committing similar offences
g) Remove any financial benefit the offender may have obtained as a result of committing the offence.

The Council will also use powers to assess a landlord's assets and any income they receive (not just rental income) when determining an appropriate penalty.

Prior to imposing a civil penalty, a notice of intent must be served no later than six months after the Council has sufficient evidence of the conduct to which the penalty relates or at any time when the offending conduct is continuing.

The recipient has the option to make written representation within 28 days beginning from the date the notice is served.

The Council must decide whether to confirm, vary, or withdraw the notice. If the Council decides to impose the civil penalty, it must serve a final notice detailing the amount of penalty, the reasons for imposing the penalty, information on how to pay the penalty, the period in which to pay the penalty (28 days from when the notice is served), information on rights of appeal, and the consequences of failure to comply with the notice.

The Council can withdraw or vary a notice of intent or a final notice at any time. Any withdrawal or variation will be made in writing.

The recipient of a final notice has the right to appeal to the First Tier Tribunal within 28 days from the date the notice is served. The First Tier Tribunal has the power to confirm, vary (increase or reduce) the level of fine or cancel the civil penalty. It can only increase the fine to a maximum of £30,000.00. The final notice is suspended until the appeal is determined. Appeal rights are contained in Schedule 13A of the Housing Act 2004.

A civil penalty cannot be imposed where there has already been a conviction or where a prosecution is pending for the same offence. Similarly, if a civil penalty has been imposed, there cannot be a conviction.

If a penalty is not paid within the specified time period, the Council will refer the case to the County Court for an order of that Court to recover the money.

Legislation allows for the income from civil penalties to be retained by the Council's private sector housing team and used to fund their enforcement activities.

8.8 Penalty Charges

The Council has the power to issue a penalty charge up to £5000 where a landlord has breached their duty of compliance under the Smoke & Carbon Monoxide Alarm (England) Regulations 2015 (as amended).

Once a penalty charge has been imposed, and subject to any decision made via representation or appeal, any unpaid charges will be registered as a charge against the property until the debt is recovered.

8.9 Management Orders

The Council will consider a Management Order, or Empty Dwelling Management Order, where the legislation allows and where all other options have been exhausted, provided it is a financially viable option.

Under Part 4 of the Housing Act 2004, the Council will take over the management of a privately rented property through a management order in certain circumstances (where a privately rented property is unlicensed / no suitable licence holder can be found).

Section 26 and Schedule 3 of the Housing and Planning Act 2016 also allow the Council to make a management order in circumstances where a banning order has been made and where a privately rented property is being let in breach of a banning order.

8.10 Banning Orders

Under provisions granted to the Local Authority in the Housing & Planning Act 2016, the Council can apply to the First-Tier tribunal (Property Chamber) for a Banning Order against an individual and/or body corporate, following a conviction for a relevant banning order offence.

A banning order is an order by the First-Tier Tribunal (FTT) that bans a landlord from:

- Letting houses in England; and
- Engaging in letting agency or property management work in England.

The Council will consider applying for a Banning Order for the most serious and pernicious offenders. In doing so, the following factors will be considered:

- The seriousness of the offence
- Any previous convictions or listing on the National Rogue landlord database
- The harm to the tenant caused by the offence
- Whether the punishment is proportionate to the offence
- Whether it provides a sufficient deterrent to prevent repeat offending
- Whether it deters others from committing similar offences.

The Council will pursue a banning order in cases where it is believed an individual is a serious offender and poses significant risk as a practicing landlord. The Banning Order offences are listed in The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017 which apply to convictions for offences that occurred on or after the 6th April 2018.

A banning order can be imposed for a minimum of 12 months, but there is currently no maximum amount of time for which a banning order can be in place. The Council will recommend to the First-tier Tribunal the length of the ban, but the tribunal will ultimately determine the length of a Banning Order.

The Council must have regard to the statutory guidance: Banning Order Offences under the Housing and Planning Act 2016 Guidance for Local Housing Authorities, when making the decision to pursue a banning order.

Section 19 of the Housing and Planning Act 2016 makes provision for the Local Authority to require that a landlord provide information for the purpose of enabling the Council to decide whether to apply for a Banning Order. This can include requiring landlords to provide details on ALL properties that they own.

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

8.11 Rent Repayment Orders

Under provisions granted to the Local Authority in the Housing Act 2004 and extended in the Housing & Planning Act 2016, the Council can apply to the First-Tier Tribunal (Property Chamber) for rent repayment orders.

These were introduced under the Housing Act 2004 in respect of landlords who failed to obtain an HMO licence for a property which was required to be licensed as such (specifically, offences in relation to licensing of Houses in Multiple Occupation (Section 72(1)) and offences in relation to licensing of houses under Part 3 of the Act (Section 95(1)).

RROs are intended to have a real economic impact on an offender and demonstrate the consequences of not complying with their responsibilities. The responsible person is forced to repay rent, and thereby loses much, if not all, of the benefit that accrued to them by committing the offence.

Section 41 of the Housing and Planning Act 2016 extended the use of rent repayment orders to cover the following offences:

- 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;
- Breach of a banning order made under Section 21 of the Housing and Planning Act 2016;
- Using violence to secure entry to a property under Section 6 of the Criminal Law Act 1977; and
- Illegal eviction or harassment of the occupiers of a property under Section 1 of the Protection from Eviction Act 1977.
- Failure to obtain a licence for a licensable HMO under section 72 of the Housing Act 2004;
- Failure to obtain a licence for a licensable property under section 95 of the Housing Act 2004

Rent repayment orders can be granted to the tenant or the Council, depending on how the rent was paid. Any rent paid following a rent repayment order will be returned to either the tenant (if rent was paid directly by them) or the Council, (if rent was covered by Housing Benefit/Universal Credit).

A criminal standard of proof is required. This means that the First-Tier Tribunal must be satisfied beyond reasonable doubt that the landlord has committed the offence, or the landlord has been convicted in the Courts for the offence.

The maximum amount of rent that can be recovered is capped at 12 months. The Council will calculate the amount, but ultimately the First-Tier Tribunal will decide.

Seeking an RRO does not preclude or prevent the Council from also considering a prosecution or a civil penalty (unless the offence is being/ has been prosecuted).

Where it is determined that it is appropriate and proportionate to apply for an RRO the Council will seek to recover the maximum amount possible.

A rent repayment order can be made against a landlord who has received a civil penalty but only after the relevant appeal period has passed.

It should be noted that tenants also have the right to apply for a rent repayment order.

8.12 Rogue Landlords Database

The Housing and Planning Act 2016 (section 30) places a duty on the Council to input the details of any landlord or managing agent that has been issued with a banning order onto the national database of Rogue landlords.

The Council also has discretion to input the details of landlords or managing agents who have been convicted of a banning order offence or received two or more civil penalties within a 12-month period.

The Council will apply to have landlords or managing agents' details entered on the database where there is a duty to do so and in cases where the law allows discretion when it's in the public interest.

8.13 Injunctions

Injunctions are available and may be used by the Council to tackle housing conditions and public nuisance. Injunctions are flexible, straightforward and fast – a court can make an injunction before the problem escalates allowing for immediate protection of others. They can also prevent perpetrators from entering specific premises or areas.

8.14 Prosecution

The Council may decide to prosecute in respect of serious or recurrent breaches or where other enforcement actions such as statutory notices have failed to secure compliance.

When deciding whether to prosecute, enforcement officers will have regard to the Crown Prosecution Service Code for Crown Prosecutors. Prosecution will only be considered where the Council is satisfied that the prosecution is in the public interest, and there is sufficient evidence to provide a realistic prospect of conviction.

In a case where there is sufficient evidence to warrant a prosecution, but the public interest would not benefit from such a course of action, then a Simple Caution may be used as an alternative (see Section 8.6 above).

In most cases the Council will consider the use of civil penalties as an alternative to prosecution, whilst consideration will also be given to the use of Rent Repayment Orders in addition to prosecution and/or civil penalties.

Any decision to prosecute will be approved by the Service Lead, Environmental Health, after discussions with the investigating officer(s). Consideration will be given to any mitigating reasons to not pursue prosecution, such as:

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

If prosecution is deemed appropriate, then the case will be fully prepared and referred to the Council's Legal Services for consideration. All prosecutions will be brought without unavoidable delay, and generally there is a requirement to lay information with the Courts within six months of the identified date that the offence was committed.

9. Empty and Abandoned properties

9.1 Empty Dwelling Management Orders (EDMOs)

In respect of a wholly unoccupied property and in accordance with the Housing Act 2004, Part 4, Chapter 2, the Council may consider seeking an interim EDMO by application to the First-tier Tribunal.

The Council will only consider using this power as a last resort, and where the property is in a habitable condition or can be made habitable at a reasonable cost and is likely to become occupied if this action is taken. An EDMO gives the Council the right to possession of the property. The Council does not take over ownership of the property but is entitled to possession of it and can prevent the owner from using it or letting someone else use it while the order is in force.

There are two stages of an EDMO

- **Interim EDMO** – lasts for an initial period of 12 months during which time the Council must work with the owner to agree a way of getting the property back into use. The Council would still need to seek the owner's permission to let the property during this period.

- **Final EDMO –** lasts for a maximum period of 7 years and at this stage the owner has fewer rights in respect of how the property is brought back into use.

If the Council does not proceed to make a final EDMO, full possession is returned to the owner.

9.2 Enforced Sale

The Council will only consider enforced sale of a property where it is in relation to long-term empty property, and where it is appropriate. Enforced Sale is available where a debt has been incurred e.g. following works in default, and that debt has been registered against the property on the local land charges register. This power of sale comes from the Law of Property Act 1925.

See the Addendum at the end of this policy for relevant land charge legislation applicable to enforced sales.

Enforced sale forces the owner to sell the property or land so as to recover their debt. The Council will only consider using this power as one of last resort. South Tyneside Council's Enforced Sales Policy includes further detail on the use and application of this option.

9.3 Demolition Order

A Demolition Order is a power available to the Council that forces the owner of a dwelling in a poor condition to demolish the building at their own expense.

Compensation may need to be paid to the owner, but the owner does retain possession of the land. The Service Lead, Environmental Health, can authorise the making of a demolition order under Section 265 of the Housing Act 1985 as amended by the Housing Act 2004.

This order will be made if:
- The dwelling contains a Category 1 Hazard, and it is not economical to deal with the property in any other manner.
- Full consultation has taken place between the Council and all people with an interest in the property.

9.4 Declaration of a Clearance Area

Declaration of a Clearance Area will be used where the properties in a defined area all contain Category 1 Hazards or are in such condition so as to be a danger to the public.

Compensation may need to be paid to the owners of these properties. The Director of Place Strategy can authorise declaration of a clearance area under Section 289(2) of the Housing Act 1985 as amended by the Housing Act 2004.

The declaration shall be made if:
- Each of the residential buildings in the area contains a category 1 hazard,
- The other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area, and

- Full consultation has taken place between the Council and all people with an interest in the properties within the declared area.

9.5 Compulsory Purchase order (CPO)

A CPO will only be considered on a PSH enforcement case where it is in relation to a long-term empty property and all other possible actions or options have been exhausted to no effect.

Guidance issued by the Ministry of Housing, Communities and Local Government (MHCLG) encourages Local Authorities to make use of their CPO powers. The MHCLG is the department responsible for handling housing and planning CPOs. The Council must submit applications to confirm CPOs.

CPOs are a lengthy process but have been proven to be effective and are usually structured along the following lines:

- **Formulation –** proposal and negotiations to see if a CPO is justified
- **Resolution –** Council decides to serve the order
- **Order –** CPO is submitted to MHCLG and Secretary of State
- **Objections –** Owner and local residents have a chance to object
- **Inquiry –** (If required) there is a public inquiry
- **Decision –** Order is confirmed by Secretary of State or an inspector
- **Possession –** Minimum of 3 months following order being confirmed
- **Compensation-** Owner is compensated for the loss of the property where appropriate (although this is not always applicable where certain enforcement notices have been served)

All properties which have had a CPO served on them will be sold on, preferably through auction, and monitored to ensure they are brought back into use.

10. Houses In Multiple Occupation

The Council will investigate and inspect all houses in multiple occupation (HMOs) to ensure the health and safety of occupiers and compliance with the law. Where appropriate the Council will work on an informal basis with the landlord or managing agent to reach compliance. In cases where serious hazards are identified or there are serious contraventions, the Council will take the appropriate course of enforcement action to achieve compliance. The Council will consider imposing a civil penalty or prosecution for any breach of enforcement action. Please see South Tyneside Council's HMO Policy for more specific information relating to the operation and regulation of HMOs.

10.1 Licensing of Houses in Multiple Occupation (HMO)

The Council will work to ensure that all HMOs that are required to be licensed under the provisions of the Housing Act 2004 are properly licensed and that they comply with licence conditions. Licences will be granted where:

- The property is reasonably suitable for occupation as an HMO.
- The property can be made suitable by the imposition of conditions.
- The management arrangements are satisfactory.
- The proposed licensee is a fit and proper person to hold the licence.
- The proposed manager is a fit and proper person to either hold a licence or manage an HMO.

A licence will be refused if the landlord or managing agent has been issued with a Banning Order or does not meet the 'Fit and Proper Person' criteria.

The Council will consider imposing a civil penalty or prosecution for any licensing offences committed which include:

- Operating a licensable HMO without a licence.
- Allowing an HMO to be occupied by more persons than is specified on the licence.
- Breaching the licence conditions.

10.2 Variation and Revocation of an HMO Licence

The Council will seek to vary a licence where there has been a change of circumstances, or the property has changed since the licence was granted.

A licence will be revoked where:

- There is a change in ownership
- The license holder has died
- The property is no longer licensable
- The licence holder or manager is no longer a fit and proper person.

10.3 HMO Management Regulations

Section 234 of the Housing Act 2004 specifies regulations for HMOs to ensure that satisfactory management arrangements are in place. The regulations also impose duties in respect of repair, maintenance, cleanliness, and good order of the house and facilities.

A person commits an offence if they fail to comply with a regulation. The Council will consider imposing a civil penalty for each individual breach of the management regulations. For serious contraventions or recurrent breaches, the Council will consider prosecution.

11. Owner-Occupiers

There may be occasions where the Council is required to intervene and use powers on owner-occupiers. This will be administered largely through hazard awareness notices, however the use of improvement notices, prohibition notices and their emergency equivalents will be considered in cases involving:

- Vulnerable elderly people who are judged incapable of making informed decisions about their own welfare;
- Vulnerable individuals who require the intervention of the Council to ensure their welfare is best protected; and
- Serious risk of life-threatening harm such as electrocution or fire.

12. Registered Providers

Registered Providers (RP) are expected to ensure their homes are of the required standard. If this is not the case, then tenants will be advised to use their provider's in-house complaints process or contact the Housing Ombudsman Service. The Council will only step in to intervene in some circumstances, usually where there is imminent risk to health or safety, or tenant complaints have not been actioned.

13. Appeals

Where a statutory notice or order is served, or a licensing decision is made, the method of appealing will be included within the documentation provided. This will include the full postal address and contact information for the relevant appeal body and the relevant time period to submit an appeal.

To reduce the potential for unnecessary appeals, the Council will aim to provide clear reasons for any decision to a person against whom enforcement action is being taken.

14. Charges for Enforcement Action

The Housing Act 2004 (s49) allows the Council to charge for taking enforcement action where enforcement action involves the service of statutory notices and orders. A charge will normally be made for the cost of administration at the current rate for officers' time and other expenses involved. Charges may be waived at the Council's discretion, and no charge will be made for Hazard Awareness Notices served under the Housing Act 2004. Charge amounts will be periodically reviewed on the 1st of October each year.

15. Recovery of Expenses

The Council will recover expenses reasonably incurred, in line with relevant statutory provisions. The sum recoverable will be registered as a Local Land Charge on the property concerned until recovered, including any interest accrued. For larger sums of money, the Council may apply for the charge to be registered on the property title deed. In some circumstances, to recover monies owed, the Council may enforce the sale of the property according to the Law of Property Act 1925.

16. Working with other Agencies

Where there is wider regulatory interest, officers will refer information received to other relevant regulators. Where appropriate, enforcement activities will be planned and coordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness and consistency of any enforcement. Intelligence relating to wider regulatory matters will be shared with other regulatory bodies and enforcement agencies. These may include (but are not limited to) Government Agencies and Departments, other Local Authorities, Police Forces and Fire Authorities.

17. Illegal Eviction and Tenant Harassment

The Council will not tolerate the harassment of tenants or the pursuit of eviction through illegal means.

Harassment is distressing and may pressure the tenant into feeling that their only option is to move out. This is not the case, and harassment is in fact a serious criminal offence. Harassment may be used by the landlord to evict the tenant illegally. Illegal eviction can also occur because the landlord and tenant are not aware of the correct eviction procedure.

17.1 What Counts as Harassment?

Harassment occurs if a landlord does something that interferes with the tenants' ability to enjoy living in their home in peace and is intended to make them leave their home or take away their rights.

The fact that a landlord owns a property does not give them, or anyone acting on their behalf, a right to harass the tenant.

17.2 Examples of Harassment

Harassment can take several different forms, for example:

- Removing or restricting access to services such as gas, electricity or water, or failing to pay the bills so that these services are cut off;
- Visiting the dwelling regularly without warning, especially late at night;
- Threatening the tenant;
- Sending builders round without notice;
- Entering the property when the tenant is not there, without their permission;
- Allowing the property to get into such a bad state of repair that it's dangerous for the tenant to stay, or
- Harassing the tenant because of their gender, race or sexuality.

17.3 Enforcement Action

The Council's PSH team will investigate complaints of harassment or illegal eviction and work closely with the Council's Housing Options Service where there are cases of harassment or illegal eviction.

If the tenant has been illegally evicted from their home, the Council will contact the landlord and try to negotiate a way for the tenant to return to the house. Following an investigation and consideration of all the evidence, the investigating officer will recommend whether the case warrants formal enforcement action.

Where negotiation and other informal methods of resolving the situation have been exhausted, or are deemed inappropriate, the Service Lead, Environmental Health will determine whether to initiate proceedings.

Legal proceedings will be considered particularly where the tenant has been illegally evicted or has been harassed with the intention of forcing the tenant to vacate the dwelling.

A Simple Caution will not be considered as an option unless the Service Lead, Environmental Health is satisfied that there is no likelihood of subsequent harassment.

17.4 Disconnection of Utilities

The Council has powers under the Local Government (Miscellaneous Provisions) Act 1976, to make arrangements to secure the restoration or continuance of gas, water or electricity supplies for the benefit of residents (usually tenants) where the supplies have been, or are likely to be, cut off because of failure by the owner of the property to pay for the services.

18. Officer Competency

This policy is administered by the dedicated Private Sector Housing Team. All officers in the team are authorised to enforce delegated powers on behalf of the Council. The competency of officers to regulate the private rented sector through investigation and enforcement is maintained by completion of mandatory training and any relevant qualifications and continued professional development.

19. Publicity and Communications

Verdicts and sentences in criminal cases are given out in open court and are a matter of public record.

Evidence suggests that the public wants to know about the outcomes of local court cases. This information is also a legitimate way of engaging communities and making criminal justice services more transparent and accountable. The Council may publicise the outcomes of criminal cases and basic personal information about the convicted offender, in accordance with guidance issued by the Criminal Justice System (Publicising Sentencing Outcomes, CJS, 2011).

The Council will publicise action taken with the aim of:

- Providing reassurance to the public;
- Increasing trust and confidence in the criminal justice system;
- Improving the effectiveness of the criminal justice system; and
- Discouraging offending and/or re-offending.

20. Complaints About Service

The Council has a corporate customer feedback system that enables the public to provide their views on the Council's enforcement services. This system allows the public to register compliments, requests for service/ information, service improvement suggestions and dissatisfaction with the service. Further details can be obtained from the Customer Advocacy Team, Middlefields, Hudson Street, South Shields NE34 0NT.

ADDENDUM

Enforcement Options

The table below is for guidance and demonstrates the different levels and types of enforcement intervention.

	ACTION	COMMENT
Informal Interventions	Verbal advice	General advice as to standards required by the Council. Referring a landlord or agent to NRLA e.g.
	Advisory/warning letter	Advice on minor defects/minor items of non-compliance requiring attention. Warning where a breach occurs and is minor or the offender shows remorse/takes appropriate action including the showing of an intention to take action in a timely manner
	Consultation prior to Formal Action	An informal process seeking views on the scale and type of required works prior to service of formal or statutory notice. This is a discretionary action where Category 1 hazards are found
Formal low-level interventions	Legal or Formal Notice or Order	Means to secure works of repair or improvement e.g. improvement notice or abatement notice
	Penalty Application	Enforcement of legislation that can apply a penalty for a breach or offence such as for the Smoke and Carbon Monoxide Alarm (England) regulations 2015
Formal high-level interventions – Common use requires manager to sign off.	Caution	Where there is enough evidence of an offence to prosecute but there are very strong mitigating factors (e.g. a first offence with no harm done to public and the perpetrator cooperates fully with the investigation) we will consider use of cautions, expiring after two years.
	Prohibition Order	Where the hazard is serious enough to warrant sanctions on occupation - this will require consultation with the management team in accordance with the Council's scheme of delegation.
	Prosecution/Civil Penalty Notice	Clear breaches of a legal duty or failure to comply with an enforcement notice, order, HMO licence conditions(s) or any relevant HMO management Regulation(s)
	Rent Repayment Order	The Council will seek or assist with rent repayment orders where deemed appropriate.
	Work in Default and Emergency Action (emergency prohibition or remedial notice)	Where there is a failure to carry out a legal duty, the Council may carry out the works and recover charges plus fees, from the landlord. This is also applicable where the Council use emergency powers under the Housing Act 2004 where there is serious and imminent threat to health.
	Compulsory Purchase Orders	The Council may compulsorily purchase property under Section 17 of the Housing Act 1985. This power may be used as a last resort to acquire empty properties in order to bring them back into use.
	Interim and Final Management Orders	The Council will take over management of an HMO where the law demands it and the requirements are satisfied. The Council will attempt to work with the person having control/managing and exhaust other enforcement options (e.g. notices and/or prosecution) before proceeding with this action,
	Banning Order	The Council will apply to the First Tier Tribunal in line with statutory guidance.

There are six main enforcement notices & orders under Part 1 of the Housing Act 2004 as briefly outlined below:

Hazard Awareness Notice
This is available for both category 1 and 2 hazards and will state the nature of the hazard(s) and residential premises it relates to but does not impose any further requirements. The notice is in effect from the date the notice is served and there is no right of appeal.

Improvement Notice
This is available for both category 1 and 2 hazards and will state the nature of the hazard(s) and residential premises it relates to. It also imposes requirements to undertake works as specified to mitigate or minimise the hazard(s). The notice will stipulate the times by which works are required to commence and be completed. The notice is in effect from the date the notice is served.

There is a right of appeal which must be made to the First-tier Tribunal within 28 days from the date the notice was served.

Prohibition Order
This is available for both category 1 and 2 hazards and will state the nature of the hazard(s), residential premises it relates to and clearly stipulate the purposes (which may be for all purposes) for which a part or whole of the premises are prohibited to be used.

- The order comes into effect 28 days after the date on which it was served.
- There is a right of appeal which must be made to the First-tier Tribunal within 28 days from the date the order was served.

Emergency Remedial Action
This is only available for category 1 hazards and allows the Council to immediately undertake works at the premises to mitigate or minimise the hazard.

- A notice will be served within 7 days of the action being taken and will state the nature of the hazard(s), residential premises it relates to, and date on which the work was or is to be started.
- The Council is permitted under the Act to recover any expenses incurred in taking emergency remedial action.
- The notice is in effect from the date it was served.
- There is a right of appeal which must be made to the First-tier Tribunal within 28 days from the date the notice was served.

Emergency Prohibition Order
This is only available for category 1 hazards and will state the nature of the hazard(s), residential premises it relates to and clearly stipulate the purposes (which may be for all purposes) for which a part or whole of the premises are prohibited to be used.

- The order is in effect from the date it is served.

- There is a right of appeal which must be made to the First-tier tribunal within 28 days from the date the order was served.

Demolition Order
This is only available for category 1 hazards and will state the nature of the hazard(s), the residential premises it relates to and impose a requirement that the premises be vacated and demolished.

The order will specify the time at which the order becomes operative, and demolition must be completed following the order becoming operative or the date on which the property is vacated. There is a right of appeal which must be made to the First-tier Tribunal within 28 days from the date the order was served.

As permitted by the legislation, the Council charges for most enforcement notices or orders that are served under Part 1 of the Act. Details of the current charges can be found on our website: https://www.southtyneside.gov.uk/ housing-fees-and charges

Enforced Sale Legislation

The powers to carry out an Enforced Sale sit within the Law of Property Act 1925. There are a number of statutes which enable a charge to be placed on a property in the event of Works in Default which then confers a power of sale under the Act. The most common statutes to which this would apply are listed in the table below along with some notable differences between them. The following table is not exhaustive:

Act	Sections	Comments
Prevention of Damage by Pests Act 1949	• S.4 – Rats and Mice	• Charge arises from date works are completed • Priority charge • Reasonable interest can be claimed from date of service of demand.
Building Act 1984	• S. 59 – Drainage	• Charge arises from date works are completed. • Priority charge • Reasonable interest can be claimed from date of service of demand
Environmental Protection Act 1990	• S. 80 – Statutory nuisance	• Charge arises 21 days after service of demand • Reasonable interest can be claimed

Housing Act 2004	• S. 11/12 – Improvement Notice • S. 40 – Emergency remedial Action • S. 49 – Enforced Action • S. 50 – Recovery of Charges under S. 49	• Charges arise 21 days after service of demand • Reasonable interest can be clamed

Related Documents

Legislation And Guidance

- Housing Act 2004
- Housing and Planning Act 2016
- Enforcement Guidance issued under section 9 of the Housing Act 2004
- The Code for Crown Prosecutors
- HHSRS Operating Guidance
- HHSRS Enforcement Guidance
- Homes (Fitness for Habitation) Act 2018
- Civil Penalties Under the Housing and Planning Act 2016 Guidance to Local Authorities
- Electrical safety Standards in the Private Rented Sector (England) Regulations 2020
- The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017
- Banning Order Offences under the Housing and Planning Act 2016 Guidance for Local Authorities
- Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- The Police and criminal Evidence Act 1984 – codes of practice
- The Criminal Procedures and Investigations Act 1996
- The Regulation of Investigatory Powers Act 2000

Links To Other Corporate Documents

- Civil Penalties Policy
- HMO Policy
- Enforced Sale Policy
- Work in Default Policy

APPENDIX B

South Tyneside Council

Houses in Multiple Occupation Policy

South Tyneside Council
Date: November 2025

Overview

The Councils' Private Sector Housing Enforcement Policy is concerned with private rented properties in general, however there are additional requirements specifically for Houses in Multiple Occupation (HMOs). This policy sets out how the Council will Licence and regulate HMO properties taking account of the legislation and guidance issued by the Government.

Our policy is also here to ensure that any financial benefit gained from not complying with the regulations is removed – it should never cost more to comply with the regulations than to evade legal responsibility.

Introduction

A House in Multiple Occupation (HMO) is a building or part of a building that is occupied by at least 3 people forming 2 or more households who share basic amenities such as kitchens and bathrooms and is their only or main residence. The full definition is detailed within the Housing Act 2004: Section 254

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, sharing one or more basic amenity (e.g. toilets, bathrooms or kitchens) are licenced. Mandatory licensing is required under Part 2 of the Housing Act 2004.

The national mandatory licensing scheme ensures that the highest risk properties in the Borough meet defined minimum standards. The Housing Act 2004 requires that all large, high risk, Houses in Multiple Occupation are licensed by the Council.

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 Council's website includes information to assist with compliance with these requirements.

In deciding whether to grant a licence, the local authority will 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.

The Licensing Procedure

The Service Lead for Environmental Health may grant or refuse an HMO licence or may grant or refuse a Temporary Exemption Notice, and can also vary, refuse to vary, revoke or refuse to revoke a Licence issued under Part 2 of the Housing Act 2004.

If you are unsure whether your property requires a licence or not, please contact the Private Sector Housing team on (0191) 424 7000 who will be happy to advise you.

Dispute over the Status of a Property

If, following consultation with the property owner, the Council decide that the property must be licensed, the applicant will be informed of the details of the decision and how to appeal against it. The Notice will be served following the process detailed in the Housing Act 2004.

The Licence Application

The owner of an existing House in Multiple Occupation must apply for a Licence if the property meets the mandatory licensing criteria as defined within the Housing Act 2004: Section 254.

New owners of an existing HMO property must also apply immediately for a new licence for an existing House in Multiple Occupation, that is already licensed under Part 2 of the Act, as licenses are not transferable to new owners.

For a new House in Multiple Occupation, either purpose built or converted - the owner must apply for a Licence under Part 2 of the Act, before the 5th occupant takes up residence.

Applications for the Grant/Renewal of a Mandatory Licence for a House in Multiple Occupation must be made in the prescribed manner and accompanied by all the relevant documentation, otherwise the application will not be treated as valid by the local authority.

The Council will determine the application within 8 weeks of the date of a duly made application (complete application). The Council will share the information on the application form with relevant consultees.

At least one inspection of the property will be made by prior appointment. Checks may be made to ensure that the applicant and other persons specified in the Act are fit and proper persons (see Refusal of a Licence)

Application Costs

The Council will determine the licence fee each year and publish this on its website. It will have effect for 1 year starting on 1st April each year. The Fee that applies will be the fee set for the year in which the Licence application is made.

The licence fee is payable in two parts; Part one is payable on application to cover the cost of the application process, and the Part 2 fee is payable when the relevant persons have been issued with a ‘Notice of Intention to Grant a Licence’ and covers the operation and enforcement of the ongoing scheme costs.

An application will not be processed without a Part 1 payment. Local authorities cannot revoke a licence for non-payment of a part 2 fee, however, should any Part 2 fee not be paid upon invoicing, the Council will seek to recover these costs from the applicant through the County Court.

Refunds of Part 1 HMO licence application fees will only be issued in the event of a duplicate application or in circumstances where an application for an exempt property is made in error. Refunds will not be issued if an application is refused or withdrawn; the licence is later revoked (taken away); or if planning permission has been refused where there are 6 or more occupiers in occupation. If licences are surrendered before they expire, there will not be a refund for any remaining time on the licence.

Consultation Process

Before a Licence is granted, refused, varied or revoked, or if the Council refuse to vary or revoke a licence, or in any other circumstance defined in Statutory Instruments, the applicant and any other person with an interest in the property shall have the right to make representation in writing to the Service Lead for Environmental Health. All representations will be taken into consideration before the final decision is made.

The Council's Planning department and Building Control service are routinely consulted, which may bring about additional considerations in terms of planning permission or approved building works.

Planning Status and HMO Licensing

The Council will take into account the planning status of a property when determining an application for an HMO licence. Where the property does not have the requisite planning permission or lawful use to operate as a House in Multiple Occupation, the Council is likely to refuse the licence.

However, in circumstances where the property is occupied and the owner or developer is actively seeking to regularise the planning position, the Council may consider granting a licence for a shorter duration (for example, one year). This approach is intended to allow time for the applicant to obtain the necessary planning consent or certificate of lawful use.

Failure to secure the appropriate planning status within the specified period may result in the refusal of any subsequent licence application and/or enforcement action under housing or planning legislation.

Refusal of a Licence and Fit and Proper Persons

A Licence cannot be granted if a person has been convicted of certain offences; has 'unspent' or other convictions relevant to the Rehabilitation of Offenders Act 1974; or if the property is poorly managed or there is little confidence in the proposed management. In this case the Council will look at serving an Interim Management Order if an application for licence is being sought for an existing HMO and there is no suitable alternative person considered fit and proper to take over the property's management.

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.

Amenity Standards

The Council has published its Amenity Standards which help to inform their decisions about whether HMOs are reasonably suitable for occupation by the number of occupiers being proposed. Where HMOs do not meet these standards, they are much less likely to be granted a licence.

The Council may serve an enforcement 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.

Granting a Licence

Licences are generally issued for the maximum 5-year term, unless there are reasons to issue for a shorter 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, 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 property is without planning permission
- The owner or manager has only made the application as a result of a written warning letter from the Council.
- The applicant has requested a shorter term.

When a licence is issued, conditions will be attached to the licence, and these conditions will be monitored. Further inspections after a licence has been issued will be undertaken on a risk assessed basis to monitor licence conditions. An Officer may inspect the property if the Council has reason to believe that Licence conditions are not being met.

The Council will issue a reminder to renew the Licence 6 months prior to the current Licence expiring.

Data Sharing (for the purposes of determining whether or not to grant a Licence

The Council needs the personal data of the applicant and other relevant persons or bodies to enable it to issue a House in Multiple Occupation licence. The Council may also use this data for the prevention and detection of fraud. The Council may share the data with other organisations such as other Local Housing Authorities as part of our joint approach to ensuring that only fit and proper people are licensed to own or manage a House in Multiple Occupation.

Data held by the Council in respect of licensing of Houses in Multiple Occupation will be stored in a Register as required by Section 232 of the Housing Act 2004. The information in this Register will be available, upon request, to third parties as set out in Section 232 of the Act.

Variation and Revoking of a Licence

If there is a change in circumstances then, with the agreement of all relevant persons, the Licence can be varied. If the Council considers that the Licence should be varied, then they will follow the consultation process detailed in the Housing Act 2004.

If the Council consider that the management of the property has fallen below the standard required, then the Licence holder will be informed of the matters to be addressed, and the timescale within which they must be addressed. If matters are not properly resolved, then the Council will revoke the licence. If a suitable alternative licence holder cannot be appointed to reapply for a new property licence, then the Council will consider the service of an Interim Management Order.

An 'Interim Management Order' is a legal mechanism that allows the local authority to take temporary control of a property, typically a house in multiple occupation (HMO), when the landlord is not fulfilling their management responsibilities towards the safety and well-being of their tenants / occupants. This usually happens when the property is not licensed, or there are significant management issues. An IMO allows the council to manage the property, collect rent, and make necessary repairs for a period of up to 12 months, providing a solution while a more permanent management plan is developed or landlord issues are addressed.

Exempt Properties

The Housing Act 2004 and associated regulations define certain exemptions from licensing.

A property is not classed as an HMO for licensing purposes if it falls into one of the exemption categories as defined in Schedule 14 of The Housing Act 2004. This includes properties owned or managed by public bodies, the local housing authority, registered social landlords, buildings controlled or managed by cooperative societies, student accommodation managed by an educational establishment, buildings occupied by religious communities and regulated buildings (such as bail hostels).

An owner of the property can also apply for a temporary exemption from Licensing if it is their intention to take particular steps, with a view to securing that the property is no longer required to be licensed.

This exemption shall be for a maximum of three months from the date that the Notice of Temporary Exemption is served. In exceptional circumstances The Service Lead for Environmental Health may grant one further ‘Notice of Temporary Exemption’ lasting for a maximum of three months.

Refusal to Grant a Temporary Exemption Notice

If, following consultation with the applicant, the Council refuse to grant a Temporary Exemption Notice then the applicant will be informed of the details of the decision and how to appeal against it.

Death of Licence Holder

If an HMO licence holder dies, the HMO licence ceases to be in force from the date of death. For three months following the death, the property is treated as if a Temporary Exemption Notice (TEN) had been granted, providing time for the estate to sort out the property. If ownership is not finalised, a Temporary Exemption Notice must be applied for, which provides for a further 3 months to resolve any issues. The maximum exemption period is 6 months from the date of death. A new licence application is required if the property continues to be used as an HMO after this period – this needs to be from the person managing or in control of the property (the person to whom rent is paid).

Ensuring Licensing and Standards in all HMOs

Conversion of a property to an HMO will generally require planning permission if the HMO is to be occupied by more than 6 persons. The local authority will offer advice to property developers on receipt of planning consultations for conversion to HMO use. The Council will also offer advice to owners who approach directly and will encourage landlords to access the information available provided on the Council’s website to assist property owners in compliance with the required standards.

HMOs that do not fall within the remit of the mandatory licensing regime may be identified by a landlord approaching the Council for advice or via a complaint received from an occupier, neighbour or advocate, or targeted enforcement. These HMOs will be required to be brought up to appropriate standard as the HMO ‘Management Regulations’ (detailed in the Legislation and Guidance section below) still apply, even though Part 2 of the Housing Act does not. These properties will then be subsequently risk assessed for inclusion within a planned inspection program - staffing resources permitting.

The Council has a legal duty to ensure that HMOs within the Borough that are required to be licensed are so licensed. It is a criminal offence not to licence an HMO that is required to be licenced, as per section 72 of the Housing Act 2004.

Internal Council services will work together to proactively identify new licensable and non-licensable HMOs where resources allow. For example, the Private Sector Housing Team who are responsible for HMO licensing, may liaise with Council Tax and Planning Enforcement teams. 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, the local authority will gather evidence and prioritise enforcement action on unlicensed HMOs.

Where there is 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's interest.

Failure to Comply with Licence Conditions

When a licence is issued, conditions will be attached to the licence, and these conditions will be monitored. Further inspections after a licence has been issued will be undertaken on a risk assessed basis 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 they are failing to comply with a licence condition and detail the steps required to remedy the breach.
- If the licence holder fails to comply with this communication; the breach is considered serious; or this is not a 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 licence conditions; the breach is considered to be serious; or a repeated breach of conditions occurs, then the Council may consider revoking the HMO Licence.

Penalties for Operating Without a Licence

The Council will consider proceedings against the owner of an unlicensed House in Multiple Occupation, which would normally involve prosecution in the Magistrates Court, or the service of a Civil Penalty. A 'civil penalty' is available as an alternative to prosecution for certain specified housing offences under the Housing Act 2004, that allows the local authority to impose a maximum financial penalty of up to £30,000 per offence committed.

The Council may ask the Residential Property Tribunal (RPT) to allow the Housing Benefit Service to recover money paid as Housing Benefit and for the Tenant to recover money paid as rent, from the date on which the House in Multiple Occupation should have been licensed – this is known as a Rent Repayment Order.

Where there is evidence of a breach of the Housing Act 2004 or the Management Regulations, enforcement action will be considered; where breaches are considered serious; are repeat breaches; or are numerous, then the imposition of a civil penalty (per offence) or prosecution may be considered.

The Public Register

Every local housing authority must establish and maintain a register of all licences granted by them under Part 2 or 3 which are in force, all temporary exemption notices served by them under section 62 or section 86 which are in force; and all management orders made by them under Chapter 1 or 2 of Part 4 which are in force.

The register may, subject to any requirements that may be prescribed, be in such form as the authority considers appropriate, and the local authority must ensure that the contents of the register are available at the authority's head office for inspection by members of the public at all reasonable times.

If requested by a person to do so and subject to payment of such reasonable fee (as the authority may determine), a local housing authority must supply the person with a copy (certified to be true) of the register or of an extract from it. A copy so certified is prima facie evidence of the matters mentioned in it.

The Council will determine the fee each year and publish on the Council's website.

Landlord and Managing Agent Responsibilities

Landlords and managing agents must comply with:

- The legal requirements for all HMOs as set out in current legislation (see section below).
- All licence conditions, if licensable
- South Tyneside Council's HMO Amenity Standards
- General landlord duties e.g. Right To Rent checks, protecting tenancy deposits in a government approved scheme, legal eviction procedures, etc. Please see the government's 'How to Let' Guidance at How to Let - A guide for current and prospective private residential landlords in England - March 2023.

Legislation and Guidance

- The manager's duties for ALL HMOs are set down in The Management of Houses in Multiple Occupation (England) Regulations 2006.
- All HMOs must comply with legal prescribed standards in schedule 3 of The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.

- All HMOs, in addition to compliance with the prescribed standards, will be expected to comply with South Tyneside Council's HMO Amenity standards.
- All HMOs will be expected to comply with the guidance for fire safety as set out in – Fire Safety, Guidance on Fire Safety Provisions for Certain Types of Existing Housing.
- Licensable HMOs have additional manager's duties for refuse management and minimum room sizes as set out in The Licensing of Houses in Multiple Occupation (Mandatory Conditions) (England) Regulations 2018.
- All HMOs with 5 or more people from 2 or more households sharing an amenity, require a licence under The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018.
- Gas Safety (Installation & Use) Regulations 1998, Regulation 36.
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
- The furniture and Furnishings (Fire) (Safety) Regulations 1988, as amended Housing Act 2004.
- The Energy Performance of Buildings (England & Wales) Regulations 2012
- The Energy Efficiency (Private Rented Property) (England & Wales) Regulations 2015.

HMO landlords / managers have the following responsibilities:

- Control of Occupation Levels - occupation must be controlled and must not exceed the maximum number of households, maximum number of occupiers, or the maximum number of people per room as stated on the licence. If the occupation of an unlicensed HMO increases to 5 or more occupants, then an HMO licence is a legal requirement (penalties for non-compliance - prosecution or civil penalty of up to £30,000.)
- Fire safety – must have a fire risk assessment; ensure that all exit routes (fire doors and corridors) are kept clear; fire alarms are tested regularly (weekly/monthly) and serviced at a specified frequency (6-monthly / annually); any emergency lighting serviced annually; and fire doors are maintained in good order, close effectively, and are checked regularly (not wedged open).
- Gas safety - Landlords must have gas installations (boilers, gas cookers/hobs etc) checked by a Gas Safe engineer and provide a Gas Safety Certificate (GSC) to tenants / occupants at the start of a tenancy and annually thereafter (managers of licensed HMOs must also proactively send a copy of the certificate to the private sector housing team at the council every year).
- Electrical installation - Landlords must have inspections of electrical installations and provide the Electrical Installation Condition Report (EICR) to tenants / occupants at the start of their tenancy (for all new tenancies from 1st July 2020 and all existing tenancies from 1st April 2021), and 5 yearly thereafter.
- Electrical portable appliances – Managers must ensure that all electrical appliances they provide in the house are maintained in a safe and working condition.
- A clean bedroom must also be provided when each new tenant moves in.

- Maintenance - managers must make arrangements for all common parts (including the shared kitchen, shared bathrooms, corridors, gardens, yards, outbuildings and building structure), fixtures, fittings and appliances, to be maintained and kept in good repair. This includes regular garden maintenance and a reasonable response time to remedy reported defects.
- Refuse - managers must make satisfactory arrangements for the storage and removal of refuse (e.g. food, general waste & recycling storage bins inside & outside the property) and provide instructions to tenants. Managers must also deal with any non-compliance by tenants and any build-up of excess refuse or ‘side-waste’ at the property.
  - Supply of utilities – managers must ensure maintenance of supplies of water, electricity and gas (if supplied) to the house & ensure that it is not unreasonably cut off.
  - Safety - make sure that the house is free from health & safety hazards and generally safe for occupation.
  - Display of manager’s contact details - on a notice, in a prominent position, giving their name and contact telephone number (must be available 24/7 with answerphone or voicemail).
  - Furniture - Landlords must ensure that any furniture and furnishings (e.g. curtains) supplied by the landlord have the required labels and fireproofing.
  - Fire risk assessment - The Regulatory Reform Fire Safety Order 2005 applies to the common parts of HMOs and places a legal duty on the responsible person to carry out a fire risk assessment and in the case of licensed HMO’s - to record any significant findings. This legal requirement is enforced by the Fire Rescue Authority.
  - The keeping of a fire safety logbook for all maintenance (including testing). Servicing requests are also recommended for recording.
  - Energy performance - Landlords must ensure that properties that are within the scope of the legislation reach at least an Energy Performance Certificate (EPC) rating of E and have a current EPC certificate.
  - Licence renewal – submit a new application to renew your HMO licence at least 6 weeks before its expiry date.
  - General landlord duties – e.g. Right To Rent checks, protecting tenancy deposits in a government approved scheme, legal eviction procedures etc.
  - Legal eviction - only evict tenants using legal procedures - notify them in writing, give the correct amount of notice, and if necessary, obtain a court order. Some tenants can only legally be evicted with a court order.

Consequences of Non-Compliance

- Prosecution - you could be prosecuted (unlimited fine) or up to 2 years imprisonment for gas safety offences, or 6 months for illegal eviction.
- Civil Penalty – a financial penalty (up to £30,000) imposed by the Council as an alternative to prosecution for some offences
- Banning Order – You could receive an Order that bans you from; property letting, engaging in letting agency work or property management work; or doing two or more of those things. Breach of a banning order is a criminal offence
- Rent Repayment Order – if prosecuted, you may be ordered to pay back up to 24 months’ rent, plus any housing benefit.

- Rogue landlord database - you could be placed on this database that is shared by all Councils in the country for intelligence purposes
- Improvement Notice and/or Emergency Remedial Action with recovery of expenses

Please refer to South Tyneside's Public Health & Private Sector Housing Enforcement Policy for further details on enforcement options.

Fire Safety in HMO's

Fire safety in HMO's can be a real concern, in particular some of South Tyneside's larger HMO properties present significant challenges in ensuring fire detection and safety measures are maintained and adhered to.

The Council will often request assistance from Tyne and Wear Fire and Rescue Service to advise landlords and agents on the most appropriate detection system for their property.

Failure to implement or maintain specific fire safety precautions is likely to result in enforcement action from not only the local authority, but from Tyne and Wear Fire and Rescue Service, who may invoke their powers to bring the property up to a safe standard or prohibit the property for occupational use.

South Tyneside Council Amenity Standards contain fire safety measures and guidance for HMO landlords and agents; however you will be required to complete a fire safety risk assessment upon application for a licence and are encouraged to seek independent advice and guidance from specialist fire safety sources.

BS 5839-6:2020 is the Code of practice for the design, installation, commissioning and maintenance of fire detection and fire alarm systems in domestic premises and should be adhered to comply with fire safety requirements.

The LACORS Fire Safety Guidance is a useful resource in determining what fire safety measures are required in your HMO.

Other Licensing Regimes

The Housing Act 2004 allows for the introduction of Selective Licensing Schemes and Additional Licensing Schemes.

APPENDIX C

South Tyneside Council

Works in Default Policy

South Tyneside Council
Date: November 2025

Policy Scope

This policy sets out the key considerations for WID and the different legislation under which works in default are available, the mechanism for undertaking the work and the procedure for recovering any monies spent.

Introduction

The Council has a duty to act in particular circumstances laid down by legislation. Wherever possible, we try to do this through discussion and co-operation, however sometimes it becomes necessary to require action from a third party through formal enforcement and the use of statutory notices. Environmental Health, Building Control and Planning, are the main service areas for such rechargeable works.

In the vast majority of cases, informal action will see the issue resolved. Dealing with complaints in such a way where there is a realistic chance of a successful outcome is a cost-effective use of our resources. The Council's Public Health & Housing Enforcement Policy sets out how we will make decisions on the type of enforcement action taken, although <u>every</u> case is considered on its own merits.

When it becomes necessary for the council to undertake the works required by a legal notice because the owner or the person on whom the notice was served has failed to do so, this is called 'works in default'. On occasion, the Council may have to take urgent steps or works in default to mitigate imminent risk to life in the case of an of emergency.

Works in default (WID) may be carried out where one of the following applies:

- There is no prospect of the person responsible carrying out the work, e.g. the person is absent or otherwise unable to act because of medical or mental incapacity
- There is a continuing risk to the occupants of any building and their visitors
- There is an imminent risk to public health
- A prosecution is not appropriate
- A prosecution has been brought, and works have still not been carried out
- It is appropriate for a public health nuisance to be abated quickly

In most circumstances, the cost of the work is recovered from the person on whom the notice was served.

Where legal powers exist to recover costs in undertaking WID, the Council will always look to do so, although every case will be considered individually, taking into account the specific circumstances involved.

Where a debt to the Council results from completing work in default, the costs are recoverable through the county court and/or as a local land charge on the property. Until repayment, the Council can levy interest on the amount outstanding.

Key Considerations for Work in Default

There are several considerations that the Council must take into account, when making decisions about undertaking WID. These factors influence every decision we make, whether we chose to act or not:

Legal Authority and Compliance

- Correct legal basis: Ensure the legislation being used provides the power to carry out works in default. Common examples include:
    - Environmental Protection Act 1990 (e.g. s80 for statutory nuisances)
    - Public Health Act 1936
    - Housing Act 2004
    - Prevention of Damage by Pests Act 1949
    - Building Act 1984
- Validity of notice: The original legal notice must be correctly served, with clear wording and compliance deadlines
- Right to appeal: Ensure any appeal period has expired or appeals have been dismissed before proceeding
- Entry powers: Secure the necessary legal powers for entry, which may require a warrant if entry is refused

Procedural Considerations

- Documentation: Maintain a clear paper trail showing:
    - Notice served
    - Evidence of non-compliance
    - Attempts to engage the responsible party
- Communication: Notify the responsible party of intention to carry out works in default
- Quotes and procurement: Follow proper procurement processes for enlisting contractors
- Risk assessment: Conduct a site-specific risk assessment and appropriate health & safety checks

Financial Considerations

- Cost recovery: The local authority can usually recover costs from the responsible party and will consider;
    - Invoicing the person served
    - Placing a legal charge against the property (especially under Housing Act 2004)
    - Pursuing recovery through civil courts if payment is not made
- Budget planning: The Council must have internal funds available to undertake the work initially

Enforcement Prioritisation

- Public health risk: Consideration of the urgency and scale of the risk to health or the environment. Priority is given where there's an imminent risk (e.g. raw sewage, pest infestations, category 1 hazards)
- Feasibility and proportionality: Ensure the work is proportionate to the nuisance/risk and technically feasible

Ethical and Social Considerations

- Vulnerable persons: If the responsible party is vulnerable (e.g. elderly, mentally unwell), then liaison with social services or adult safeguarding teams is necessary
- Community impact: Assessment of the wider public interest, especially for issues affecting multiple households or neighbourhoods.

Post-Completion

- Evidence gathering: Photographs and/or video footage and detailed notes of the condition before and after works
- Follow-up inspection: Confirm the nuisance or hazard has been abated / reduced
- Cost accounting: Accurate record keeping of all expenses incurred, including labour, materials, and officer time.

Scope of Works

There are several Council departments who are tasked with regulatory duties, which can result in the service of an enforcement notice against companies or individuals.

Environmental Health, Planning and Building Control, are the regulatory services most often called upon to carry out work in default, which includes works such as:

- ***Remedial work or demolition to make a property safe***

- Fencing off dangerous buildings/sites
- Boundary walls
- Structural repairs to property in dilapidated /dangerous condition
- Demolition
- **Emergency action to deal with structures/buildings which are immediately dangerous to the public**

- ***Drainage***

- Works to remedy defective toilets, drains, private sewers, waste pipes, soil pipes
- Works to provide adequate drainage
- Works to remedy blocked or otherwise defective drainage (above or below ground)
- CCTV surveys of drainage systems
- Remedy uneven/badly draining yard surfaces
- Works to remedy blocked or leaking sanitary appliances

- ***Empty Properties***

- Boarding up of empty property – where open to unauthorised access or 'likely to become a danger to public health' – generally within 48 hrs of a notice being served
- Works to improve unsightly land or the external appearance of a property

- ***Nuisance***

- Removal of accumulations likely to attract or harbour rodents
- Cleansing of filthy or verminous premises – could include the presence of pests (rats, mice, insects, parasites 9including eggs, larvae, pupae) and often with a large amount of rotting food or human or animal excrement inside
- Removal of refuse from property - located internally /externally
- Garden maintenance works to remedy overgrown conditions
- Electrical works to disable house/property alarms
- Works to disable car alarms

- ***Works to remedy Housing Disrepair***

- Structural repairs to property – to remedy a range of disrepair/building defects/dangerous condition of any part of the building structure (including wet rot/dry rot, dampness, roof defects)
- Electrical works to make installations safe
- Structural repairs to drainage systems, camera surveys, drain clearance
- Access to a locksmiths and other tradespersons
- Installation /repair/ upgrade of Fire Safety measures in domestic property (including Houses in Multiple Occupation)
- Heating system repairs/installation, including works to make gas systems safe

Legislative Background

Primary enforcement powers to undertake WID are authorised under the following legislation:

Enforcement

- Housing Act 2004, section 31 and Schedule 3
- Public Health Act 1936, sections 290 to 295
- Public Health Act 1961, section 17 (4)
- Local Government (Miscellaneous Provisions) Act 1976, section 35 (2) and (3)
- Building Act 1984, section 99
- Local Government (Miscellaneous Provisions) Act 1982, section 29 (9)
- Prevention of Damage by Pest Act 1949, sections 5 and 7
- Environmental Protection Act 1990, section 81 (3) and (4)
- Antisocial Behaviour Crime and Policing Act 2014, section 47(2)
- Town and Country Planning Act 1990, sections 178 and 215.

Power of Entry

- Housing Act 2004, s.239 (1)
- Public Health Act 1936, section 287
- Building Act 1984, section 95
- Prevention of Damage by Pest Act 1949, section 22
- Environmental Protection Act 1990 Schedule 3

This list is not exhaustive, and various Local Government Acts as well as local legislation may create additional scope for such works.

In some cases, prosecution will be a more appropriate option than carrying out costly works in default or it may be appropriate to do both. In either case, such decisions are discretionary and should be recorded. They are open to judicial review and disclosable under the Openness of Local Government Bodies Regulations 2014 (subject to data protection requirements).

Works in Default Procedure (WID)

WID are generally completed where the person or persons on whom the legal notice has been served, fail to comply, but this may not always be the case, since we may choose to do WID “with the agreement” of the owner/person responsible where, for example they are vulnerable and/ or elderly, and cannot arrange for these works independently.

WID are always discretionary, even when the statutory notice is a mandatory one, so the Council must show it has exercised its discretion properly. The Council will therefore determine the extent to which the required works are completed, if at all. In many cases, doing only part of the work should not normally be considered, but it may be appropriate in some limited circumstances to do so. In such situations, the Council will need to consider the impact of doing only some of the work and the views of the occupants of the property or neighbouring properties (where appropriate).

Whilst the specific legislation under which WID are being instigated may vary, there are some basic procedures / practices that are common to all cases (as outlined below).

Step 1: Confirm the original enforcement notice has not been complied with and within the timescale specified.

Step 2: Confirm there is no active appeal against the enforcement notice or request for an extension of time.

Step 3: Prepare a short report for the case file detailing the extent of compliance and outstanding works, an estimate for the time and cost required for completion and consideration of any mitigation on behalf of the responsible person.

Step 4: Case review with the appropriate management team to consider this report and available enforcement options.

Step 5: Any decision to carry out WID must be authorised by a manager. The approximate cost of the WID determines who is authorised to approve the work, based on financial limits. This decision must be recorded in accordance with regulation 7 (2) of the Openness of Local Government Bodies Regulations 2014.

Step 6: Following WID approval, complete the procurement process to appoint a contractor to carry out the work using framework contractors where one exists, or engagement in the tendering process in consultation with procurement services. Where officers can demonstrate that this is going to cause an unacceptable delay in getting the works completed, or in the case of emergency works, then guidance on possible options must be obtained directly from the Council's procurement service. This process must be carried out in accordance with the Contract Procedure Rules, which are set out in Part D of the Council's Constitution.

Step 7: Notice to the responsible person that sets out the legislation under which action is being taken. The notice must set out every item of work to be carried out in default, when the works will start and their estimated cost.

It is important that the responsible person is informed that the council intend to undertake WID and the likely cost of these works, so that they may have the opportunity to respond or make representations.

Step 8: Determine powers of entry and application for a warrant if necessary.

Step 9: Once a contractor has been identified following the procurement process as referred to in step 6, suitable arrangements for the contractor to access the site must be made.

It is only those works detailed in the notice that can be undertaken by the local authority.

If during the course of undertaking WID it transpires that extra works are required, they may be carried out with the agreement of the responsible person(s) or, in the absence of such agreement, another enforcement notice will need to be served.

Step 10: Full cost of WID are calculated, which may include; staffing costs, overheads, admin costs and consulting fees. Fees and expenses must be reasonable. As with all other aspects of a legal notice, works in default (WID) are open to challenge through appeal and/or later at County Court when the Council seeks to recover its debt.

Step 11: Issue a demand for payment to the responsible person.

Step 12: If payment is not met then the debt recovery process is started.

Particular types of legal notice will detail specific procedures and legislation, including powers of entry, use of warrants and obstruction, to ensure that particular procedural steps have been accurately followed. Failure to do so may jeopardise the Council's ability to recover costs and could result in a formal complaint, appeal or judicial review.

Debt Recovery

Demand Notice and Other Charges

Different statutory powers provide different means by which the debt can be recovered. Generally, where a demand for payment is unmet, the debt can be set against the property as a local land charge and/or recovered through the county courts.

In the case of notices served under the Housing Act 2004, a recovery or demand notice must be served on the owner, in some cases a copy of the notice is also served on every other person who, to the knowledge of the authority, has an interest in the premises before any expenses or costs can be recovered. In the case of the Environmental Protection Act 1990, the original notice and the demand for payment must be served on the owner of the land/property.

In the appropriate cases, an automatic charge on the property comes into existence as soon as the demand is served/becomes operative. An 'Automatic Statutory Charge' is a legal mechanism that allows a local authority to recover the cost of carrying out certain works in default by placing a charge on the property without needing to go to court for a court order. This charge is automatically created by law when some notices are served, and /or if WID is taken, as soon as the local authority incurs and demands costs. If the owner doesn't pay, then legislation provides that the costs automatically become a charge on the land or property, meaning that the debt is secured against the property and must be repaid when the property is sold or transferred.

Such a charge binds all estates and interests in the property and takes precedence over any existing mortgage etc.

Automatic statutory charges will be placed on the Council's Local Land Charge Register. A local land charge is a legal restriction placed on the property, registered by the local authority, that binds the charge to the land – not just the current owner. An LLC is an administrative registration that alerts future buyers and ensures the Council has a record of costs associated with the land.
The most common legislation used by the Council which creates an automatic statutory charge includes;

- The Local Government (Miscellaneous Provisions) Act 1982
- The Housing Act 20024
- Environmental Protection Act 1990
- The Building Act 1984
- Town and Country Planning Act 1990

The effect of the Limitations Act 1980, Section 20 on an unpaid local land charge is to require its discharge if it remains unpaid after 12 years of being registered. This requirement is waivered when a debtor has paid something towards the debt owed, even if that something is very small.

County Court Procedure (For Recovering a Debt)

The local authority should attempt to recover the outstanding debt using the County Court.

If the identity of the debtor is known, action can be commenced against them by summons, alleging that the debt is owed to the local authority. The summons, with particulars of the claim attached, is issued by the court and the procedure is started.

Should the debtor fail to respond to the summons within the prescribed time, the local authority can gain judgement in default. The judgement can then be enforced by the local authority using the court bailiffs.

The debtor may seek to defend the action, in which case a hearing of the matter will follow.

After judgement is awarded for the local authority and bailiffs engaged, it may become clear that the debtor has no goods against which the debt can be levied, and the local authority may not be able to recover any costs at the end of the process

Debt Recovery (No Automatic Charge on the Property)

An early decision is needed on pursuing debt through civil courts if the demand is not successful in getting payment or an agreed payment plan.

Action to collect a debt is taken in court (County Court < £100,000, fast track<£25,000, small claims <£10,000).

Complex cases and those above £25,000 in value may be dealt with in the High Court. Once a County Court Judgement is obtained, the debt can be collected in several ways:

- Through bailiffs:
- Attachment of earnings:
- Third-party debt order:
- Applying for a Charging Order – if the debtor has assets such as property or shares. This has the same effect as a charge on a property, but it is at the discretion of the court and ranks behind existing mortgages etc. Such an Order can be sought against any asset owned by the debtor, not just the property which is the subject of WID action.

Debt Recovery (automatic charge on the property)

A formal demand must be issued in this instance, including rights of appeal and stating the effects of the charge. Apart from using the normal debt collection process, the local authority can also enforce such a charge by:

- Sale and Lease (taking possession and selling the property (often used by banking companies);
- Receivership (putting a receiver in and collecting any rents);
- Foreclosure (seeking a vesting order (this transfers the property to the local authority without further payment (this is foreclosure, wiping out any equity in the property)).

Joint Liability

Where the Council has served the original legal notice on more than one person, all recipients of the notice must receive correspondence and any further formal notices, such as the demand notice for expenses incurred related to WID. The demand for payment must be split equally between all parties. On appeal, the court may have the power to reapportion costs based on evidence that one or more individuals have differential responsibility for paying for the work. For example, an agent who is collecting the rent on behalf of the landlord.

Once WID are complete, the full cost of the work will be recovered (along with all reasonable administrative costs in some cases) by means of a sundry debt against all those on whom the original notice was served. Please note, that depending on the legislation used, a demand notice may need to be served before expenses can be recovered. If one recipient pays the demand in full, that extinguishes the debt for all other persons.

Value Added Tax

The application of Value Added Tax (VAT) is generally not applicable on WID. As a public authority implementing public law, Council activities are VAT exempt. VAT is therefore not applied to the debt owed. However, in the interest of fairness, whilst the cost of organising WID are exempt, the actual work should be subject to VAT given that it is supplied as part of a business or commercial operation. Since VAT is chargeable where the works are carried out with agreement, it would be unfair if, by failing to comply with a notice, there was a financial advantage in that VAT is not passed on. Therefore, the Council is of the view that VAT on the actual WID should be charged when the money is recovered.

Interest

In most cases, interest is chargeable on the outstanding debt from the point at which the debt becomes effective until payment. Interest will be waivered if the debt is paid in full within 28 days of receiving the invoice. Otherwise, interest will be charged from the date of service of the recovery or charging notice or invoice date, whichever is the earliest.

The interest will be assessed as 8% compound annually and calculated as of the date of payment. In the case of interim payments, these will be paid against accrued interest before capital. Any request to waiver the right to apply interest must be authorised by the Service Lead for Environmental Health, Public Protection Manager or Director of Place Strategy.

In all cases, where statute allows an unpaid debt should be registered as a local land charge as soon as possible after the charging notice or invoice is served.

Where a debt remains unpaid, the Council reserves the right to recover the debt through enforced sale or other appropriate means.

APPENDIX D

South Tyneside Council

Housing Civil Penalties Policy

South Tyneside Council
Date: November 2025

Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

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.

Section 126 and Schedule 9 of the Housing and Planning Act 2016 provide local authorities with the power, through the insertion of section 249A Housing Act 2004, to impose a civil penalty as an alternative to prosecution in respect of the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice [section 30]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) under Part 2 [section 72]
- Offences in relation to the Selective Licensing of 'houses' under Part 3 [section 95]
- Failure to comply with an Overcrowding Notice [section 139]
- Failure to comply with a management regulation in respect of an HMO [section 234]

Regulation 11 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 provides local authorities with the power to impose a civil penalty in respect of breaches of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

In addition, section 23 of the Housing and Planning Act 2016 provides that a civil penalty may be imposed in respect of a breach of a Banning Order.

The Council has the power to impose a civil penalty of up to a maximum of £30,000 for each separate offence. If multiple offenders have committed the same offence at the same property, a separate civil penalty can, and usually will, be imposed on each offender. In each case, the level of civil penalty imposed on each offender will be in line with this policy.

This document outlines the Council's policy in setting the level of a civil penalty in each case where it has been determined to issue a civil penalty as an alternative to prosecution proceedings.

The Council considers the need for transparency and consistency in the discharge of its functions under the Housing Act 2004 to be of primary importance. The general objective of this policy is, therefore, to promote both transparency and consistency in the imposition of financial penalties under the 2004 Act so that, for example, those managing and having control of rented properties in the Council (a) know how the Council will generally penalise relevant offences and (b) are assured that, generally, like cases will be penalised similarly, and different cases penalised differently. The further objectives of using financial penalties in particular as a means of enforcing the above offences are explained below.

Statutory Guidance

The Government has issued statutory guidance under Schedule 9 of the Housing & Planning Act 2016 entitled "Civil penalties under the Housing and Planning Act 2016. Guidance for Local Housing Authorities". The Council has regard to this guidance in the exercise of their functions in respect of civil penalties.

Paragraph 3.5 of the statutory guidance states that 'The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord's previous record of offending'. The same paragraph sets out several factors that should be taken into account to ensure that the civil penalty is set at an appropriate level in each case:

a) **Severity of the offence.** The more serious the offence, the higher the penalty should be.
b) **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
c) **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
d) **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
e) **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

f) **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.
g) **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

The factors detailed in the statutory guidance and policy aims will be considered by the Council when deciding where, within the Civil Penalties matrix below, a particular offence and penalty fall.

Other Policy Aims

The Council is mindful that despite its best efforts, many landlords may operate unlawfully for a significant period of time without detection, and only a proportion of landlords committing relevant offences will be discovered. The Council is, therefore, mindful that when deciding to impose a Civil Penalty, it should create an environment where it is clear to the offender and others that operating unlawfully as a landlord will be financially disadvantageous when compared to operating lawfully.

The Council intends to create an environment where landlords engage with the Council's requests and demands fulsomely, openly and honestly. This helps creates a level playing field which supports the aims of transparency and consistency. No landlord should be able to financially benefit from withholding information the Council deems relevant that is, or should be, in their control to disclose. It is expected that fulsome and complete supporting evidence is provided to support any Written Representations received in response to a Notice of Intent.

Civil Penalties Matrix

In determining the level of a civil penalty, officers will have regard to the matrix set out below, which is to be read in conjunction with the associated guidance. The matrix is intended to provide indicative 'starting level' under the various offence categories, with the final level of the civil penalty adjusted in each case, taking into account aggravating and mitigating factors the Council deems significant including, but not limited to, factors relating to the track record and culpability of the landlord and the actual or potential harm to the occupants.

In deciding what level of penalty to impose, officers will conduct the following three stage process. First, they will consider the seriousness of the relevant housing offence to identify a starting level of the penalty. Second, an assessment of the number of rental properties controlled or owned or managed by the landlord and/or their experience in the letting/management of property will be considered, which may have the effect of increasing or decreasing the penalty. Third, aggravating and mitigating factors that may relate to a number of factors including, but not limited to, culpability, track record and harm will be considered, which may have the effect of increasing or decreasing the penalty.

Once the seriousness of the relevant housing offence has been identified, the starting level of the penalty will be identified using the table below with the headings 'Seriousness of offence' and 'Starting level [£]'. Consideration of the number and type of rental properties controlled or owned or managed may adjust the penalty.

To reflect the seriousness of the offence(s) in question, the presence of one or more mitigating factors will rarely result in the penalty being decreased in excess of a total of £5000. In exceptional circumstances, officers may determine that the presence of one or more mitigating factors justify a decrease in the penalty in excess of £5000. The presence of numerous mitigating factors will not automatically be considered as exceptional circumstances.

The Council has not provided a list of mitigating factors in this policy because it acknowledges that there are myriad possible circumstances that might give rise to mitigation.

To ensure that any penalty imposed is proportionate to the offending behaviour the presence of one or more aggravating factors will rarely result in the penalty being increased in excess of a total of £5000. In exceptional circumstances, officers may determine that the presence of one or more aggravating factors justify an increase in the penalty in excess of £5000. The presence of numerous aggravating factors will not automatically be considered as exceptional circumstances.

The Council may, exceptionally, including for the reason given above, increase the penalty by greater than £5000 on account of aggravating factors or, again exceptionally, decrease it by greater than £5000 on account of mitigating factors. In order to meet the objectives of this policy, including the need for transparency and consistency in the use of such penalties, the Council will exercise its discretion to increase or decrease a penalty by greater than £5000 on account of aggravating or mitigating factors in exceptional circumstances only. The Council will consider on a case-by-case basis whether any such circumstances exist.

Seriousness of offence	**Starting level [£]**
Mild	2500
Moderate	7500
Serious	12500
Very Serious	17500
Severe	22500
Very Severe	27500

Offences where a civil penalty may be levied as an alternative to prosecution and relevant considerations as to the level of that penalty

Failure to comply with an Improvement Notice - Section 30 of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with an Improvement Notice - Unlimited

An Improvement Notice served under Part 1 Housing Act 2004 specifies repairs/improvements that the recipient should carry out in order to address one or more identified Category 1 and/or Category 2 hazards in a property. Category 1 hazards are the most serious hazards, judged to have the highest risk of harm to the occupiers; the Council has a duty to take appropriate action where a dwelling is found to have one or more Category 1 hazards present.

In some cases, the service of an Improvement Notice will have followed an informal stage, where the landlord had been given the opportunity to carry out improvements without the need for formal action. In such cases, an identified failure to comply with an Improvement Notice will represent a continued failure on the part of the landlord to deal appropriately with one or more significant hazards affecting the occupier[s] of the relevant dwelling.

The Council would view the offence of failing to comply with the requirements of an Improvement Notice as a significant issue, exposing the tenant[s] of a dwelling to one or more significant hazards.

The seriousness of the offence is viewed by the Council as being a Severe matter, attracting a financial penalty with a starting level of £22500.

Under the Council’s policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £17500.

Under the Council’s policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22500.

Under the Council’s policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £27500.

Aggravating features/factors specific to non-compliance with an Improvement Notice

- The nature and extent of hazards that are present. Multiple hazards and/or severe/extreme hazards that are considered to have a significant impact on the health and/or safety of the occupant[s] in the property or their guests would justify an increase in the level of the civil penalty.

Generic aggravating features/factors

The Council will have regard to general factors in determining the final level of the civil penalty including, but not limited to:

- A previous history of non-compliance would justify an increased civil penalty. Non-exhaustive examples of previous non-compliance would include previous successful prosecutions [including recent convictions that were 'spent'], receipt of financial penalties, rent repayment orders, works in default of the landlord and breaches of regulations/obligations, irrespective of whether these breaches had been the subject of separate formal action.

- A failure to cooperate with a Council investigation. Non-exhaustive examples of failure to cooperate would include failing to comply with a s.16 Local Government (Miscellaneous Provisions) Act 1976 notice, failing to comply with a s.235 Housing Act 2004 notice, failing to provide a substantive response to a letter of alleged offence.

- Deliberate intent when committing the offence. Non-exhaustive examples of deliberate intent would include knowledge that the offence was occurring, committing the offence after relevant correspondence was sent by the Council.

- The number of residents placed at risk.

- Offending over an extended period of time i.e. 3 months or longer.

- Whether any vulnerable residents were in occupation at the time of the offence. Non-exhaustive examples of vulnerable residents include young adults and children, persons vulnerable by virtue of age, persons vulnerable by virtue of disability or sensory impairment, persons with a drug or alcohol addiction, victims of domestic abuse, children in care or otherwise vulnerable by virtue of age, people with complex health conditions, people who do not speak English as their first language, victims of trafficking or sexual exploitation, refugees, asylum seekers.

Failure to Licence offences

Maximum Court fine following prosecution that can be levied for failure to licence an HMO or Part 3 House – Unlimited

Failure to license a Mandatory 'HMO' – Section 72(1) of the Housing Act 2004
Under Part 2 Housing Act 2004, most higher risk HMOs occupied by 5 or more persons forming 2 or more households are required to hold a property licence issued by the local authority. HMO licensing was introduced to allow local authorities to regulate standards and conditions in high risk, multiply occupied residential premises. Through the property licence regime, local authorities ensure that the HMO has sufficient kitchens, baths/showers and WCs and place a limit on the number of persons permitted to occupy it and the licence holder is required to comply with a set of licence conditions.

The Council would view the offence of failing to licence an HMO as a significant failing; Licensing was introduced by the Government in order to regulate management, conditions, standards and safety in the properties considered to represent the highest risk to tenants as regards such matters as fire safety and overcrowding.

This seriousness of the offence is viewed by the Council as being a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to failure to licence offences

- The condition of the unlicensed property. The nature and extent of any significant hazards that are present would justify an increase in the level of the civil penalty. Equally, an HMO that was found to be poorly managed and/or lacking amenities/fire safety precautions and/or overcrowded would also justify an increased civil penalty.

- Any demonstrated evidence that the landlord/agent was familiar with the need to obtain a property licence e.g. the fact that they were a named licence holder or manager in respect of an already licensed premises.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Failure to Comply with an Overcrowding Notice – Section 139 of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with an Overcrowding Notice – Unlimited

Section 139 Housing Act 2004 allows the Council to serve an Overcrowding Notice in respect of an HMO that is not required to be licensed under Part 2 Housing Act 2004. The notice specifies, on a room-by-room basis, the maximum number of persons allowed to occupy each room as sleeping accommodation or that the room is not considered suitable for that purpose.

The Council would view the offence of failing to comply with the requirements of an Overcrowding Notice as a significant matter, exposing the tenant[s] of an HMO to unacceptably cramped living conditions.

The seriousness of the offence is viewed by the Council as being a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to non-compliance with an Overcrowding Notice

- The level of overcrowding present – breaches that related to over-occupation of multiple rooms or extreme over-occupation of an individual room would justify a higher civil penalty.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Failure to Comply with a Banning Order – Section 21 of the Housing And Planning Act 2016

Maximum Court fine that can be levied for failure to comply with a Banning Order following prosecution – Unlimited. In addition, the Court can also impose a prison sentence for up to 51 weeks.

The Housing and Planning Act 2016 includes provisions and processes for a person to be banned from being involved, for a specified period, in one or more of the following activities:

- Letting housing
- Engaging in letting agency work
- Engaging in property management work

Banning Orders are reserved for what are recognised as being the most serious housing-related offences. In the event that the Council was satisfied that the offence of breaching a Banning Order had occurred, this would normally be the subject of prosecution proceedings. Where it was determined that a civil penalty would be appropriate in respect of a breach of a Banning Order, this would normally be set at the maximum level of £30,000 to reflect the severity of the offence.

Failure to Comply with The Management of Houses in Multiple Occupation [England] Regulations 2006 and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007

Maximum Court fine following prosecution that can be levied for failure to comply with each individual regulation - unlimited

The Management of Houses in Multiple Occupation (England) Regulations 2006 impose duties on the persons managing HMOs in respect of:

- Providing information to occupiers [Regulation 3]
- Taking safety measures, including fire safety measures [Regulation 4]
- Maintaining the water supply and drainage [Regulation 5]
- Supplying and maintaining gas and electricity, including having these services/appliances regularly inspected [Regulation 6]
- Maintaining common parts [Regulation 7]
- Maintaining living accommodation [Regulation 8]
- Providing sufficient waste disposal facilities [Regulation 9]

The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 impose duties on the persons managing HMOs as defined by Section 257 Housing Act 2004 in respect of:

- Providing information to occupiers [regulation 4]
- Taking safety measures, including fire safety measures [regulation 5]
- Maintaining the water supply and drainage [regulation 6]
- Supplying and maintaining gas and electricity, including having these services/appliances regularly inspected [regulation 7]
- Maintaining common parts [regulation 8]
- Maintaining living accommodation [regulation 9]
- Providing sufficient waste disposal facilities [regulation 10]

It is important that the manager of an HMO complies with all regulations, but the Council recognises that a failure to comply with certain regulations is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with the duty of manager to provide information to occupier

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide information to occupier as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council’s policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Management Regulation breach offences

- The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Duty of manager to take safety measures
The Council would view the seriousness of the offence of failing to comply with the duty of the manager to take safety measures as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Duty of manager to maintain water supply and drainage
The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the water supply and drainage as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Duty of manager to supply and maintain gas and electricity
The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the gas and electricity supply as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Duty of manager to maintain common parts, fixtures, fittings and appliances
The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the common parts, fixture, fittings and appliances as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Duty of manager to maintain living accommodation
The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the living accommodation as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' above.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Duty to provide waste disposal facilities
The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide waste disposal facilities as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Breach of licence conditions – Section 72(3) Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with a licence condition - unlimited

All granted HMO licences impose a set of conditions on the licence holder. These conditions impose a variety of obligations relating to the letting, management and condition of the rented property.

It is important that the manager of a licensed property complies with all imposed conditions, but the Council recognises that a failure to comply with certain licence conditions is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with licence conditions related to:
- Signage or the provision of information for tenants
- Provision of written terms of occupancy for tenants

- Procedures regarding complaints
- Procedures regarding vetting of incoming tenants
- Compliance with deposit protection legislation
- Harassment and illegal eviction
- The recording and provision of information regarding rent payments
- Procedures relating to rent collection
- The provision of information regarding occupancy of the property
- The provision of information regarding change of managers or licence holder details
- The provision of information related to changes in the property
- The provision of information relating to a change in mortgage provider
- Requirements relating to the sale of the property
- Attending training courses
- Requirements to hold insurance
- The provision of insurance documentation
- The provision of or obtaining of suitable references
- The provision of keys and alarm codes
- Security provisions for access to the property
- The provision of suitable means for occupiers to regulate temperature and ventilate the property

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above.

Failure to comply with licence conditions related to:

- Procedures and actions regarding Inspections
- Procedures regarding Repair issues
- Maintenance and use of common parts (including gardens, outbuildings and property exterior) and living areas
- Safeguarding occupiers and minimising disruption during works
- The provision of information regarding alterations and construction works
- Procedures regarding emergency issues
- Waste and waste receptacles, pests, minor repairs, alterations or decoration.
- Giving written notice prior to entry
- Allowing access for inspections
- Minimising risk of water contamination
- The compliance of furnishings or furniture with fire safety regulations
- Providing adequate, functional, and compliant shared amenities for occupants

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above.

Failure to comply with licence conditions related to:

- The provision of documentation regarding energy performance certificates, fire detection and prevention, emergency lighting, carbon monoxide detection, fire risk assessments, gas installations, electric installations and appliances
- Notification of legal proceedings, contraventions and other relevant information that may affect a fit and proper person status
- Procedures and actions regarding ASB

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Failure to comply with licence conditions related to:

- Minimum floor areas
- Occupancy rates
- Occupancy of rooms or areas that are not to be used as sleeping accommodation
- Limits on number of households allowed to occupy the property or part of the property

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Failure to comply with licence conditions related to:

- The condition or existence of smoke alarms, carbon monoxide alarms, emergency lighting, gas installations, electric installations and appliances, fire detection or other fire safety features or requirements
- The prevention including provision of safe means of escape

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Severe matter, attracting a financial penalty with a starting level of £22500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £27500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (4), (5a), (6)

The Council would view the seriousness of the offence of failing to comply with (4), (5a) or (6) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Electrical Safety Regulations breaches of duty

- The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation.
- Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work.

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above.

Process For Imposing a Civil Penalty and The Right To Make Representations

Before imposing a financial penalty on a person, the Council will give the person a Notice of Intent.

A person who is given a Notice of Intent may make written representations to the Council about the proposal to impose a financial penalty. Any representations must be made within a 28-day period, this period starting the day after the date on which the Notice of Intent was given. As the burden lies with the recipient of any such notice to explain why, exceptionally, the Council should, or should not, depart from the Civil Penalties Matrix and guidance above, the Council will expect the recipient of a Notice of Intent to explain and provide fulsome and cogent evidence to support the existence of any such circumstances when they make representations in response to the notice.

In the event of two or more persons receiving separate Notices of Intent for the same matter, it should be noted that acceptance/payment of a civil penalty by one person will not negate the Council's intention to impose a civil penalty on the second or further persons. Each person served with the Notice of Intent is considered individually liable to pay the civil penalty notified to them. It is therefore important that any recipient of a Notice of Intent takes the opportunity to make representations should they consider for any reason a civil penalty should not be individually imposed upon them.

After the end of the period for representations the Council will:

(a) Decide whether to impose a financial penalty on the person, and
(b) If it decides to impose a financial penalty, decide the amount of the penalty

In determining whether to impose a financial penalty, and the level of any penalty, the Council will consider any written representations received in the appropriate time period and will also consider the totality principle.

Furthermore, an offender's compliance with the identified breach during the representation period would not, in itself, be reason for the Council to determine that the imposition of a financial penalty was inappropriate. However, compliance at that stage may be relevant with respect to any mitigating factors that could decrease the amount of any imposed financial penalty.

If, following the receipt of written representations and/or the expiry of the time period to make written representations, the Council decides to impose a financial penalty on the person, it will give the person a Final Notice imposing that penalty.

The Final Notice will set out and summarise:

a) The amount of the financial penalty,
b) The reasons for imposing the penalty,
c) Information about how to pay the penalty,
d) The period for payment of the penalty,
e) Information about rights of appeal, and
f) The consequences of failure to comply with the notice

APPENDIX E

South Tyneside Council

Animal Licensing Policy

South Tyneside Council
Date: November 2025

Contents

1. Introduction

1.1 Background

South Tyneside Council ("The Council") has a statutory responsibility for licensing all business operators, also known as licence holders, where the business activities fall under the (Licensing of Activities Involving Animals) (England) Regulations 2018 (LAIA Regs), Dangerous Wild Animals Act 1976 and Zoo Licensing Act 1981.

This policy has been introduced pursuant to the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 ("the Regulations") introduced on 1 October 2018. The Council will review the policy on a 3 year cycle or at any other times as considered necessary, to reflect any significant changes in legislation or guidance.

The Council is the enforcing authority for activities relating to animal welfare that are subject to the above legislation. Licensing, compliance and enforcement will be the responsibility of the Local Authority's Environmental Health Service. When considering the granting of a licence relating to a licensable activity, the contents of this policy, the current legislation and guidance notes must be considered. Guidance for Local Authority inspectors on licensing activities involving animals is published by the Department for Environment, Food and Rural Affairs (Defra) Statutory guidance for Local Authorities: Animal activities licensing and is also available on South Tyneside Council's website at Animal welfare licensing - South Tyneside Council.

1.2 Aims and Objectives

The licensing of activities involving animals aims to protect the public and to promote animal welfare. Animal licences can authorise any, or all, of the following activities in one premise:

- Providing (or arranging for the provision of) boarding for cats and dogs by:
  i) Providing boarding for cats
  ii) Providing boarding in kennels for dogs
  iii) Providing home boarding for dogs
  iv) Providing day care for dogs
- Selling animals as pets
- Hiring out horses for riding or instruction
- Breeding of dogs
- Keeping or training animals for exhibition

A risk-based process is applied and a "Star Rating" is given to each establishment based on the findings at the inspection visit. This will enable the public to make an informed choice when selecting which establishment to use. The purpose of the risk-based inspection is to ensure the operator is a fit and proper person, that any conditions applicable to the individual activity are being met, and that welfare standards and management controls are in place and being maintained to ensure animals are protected from harm.

1.3 Organisational Arrangements

The process for the licensing of animal welfare establishments includes not only the administrative process of the licence application and collection of the appropriate fee but also includes a physical inspection of the premises to verify compliance with welfare standards and management controls.

The inspecting officer will complete a relevant inspection proforma and report. Following the inspection, a risk score, and where appropriate, a star rating will be applied to the business together with notification of the licence duration.

All administration processes will be the responsibility of the Council's Licensing team

1.4 Competent Officers

The Council must appoint suitably qualified and competent officers to undertake any inspections and enforcement activities in relation to animal welfare. This duty extends to the Council in respect of the appointment of suitably qualified and "listed" veterinary officers to undertake inspections of specified licensable activities.

1.5 Fees

Licensing fees are calculated on a cost recovery basis. Activities covered by the licensing fees set out in Regulation 13 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 are as follows:

A local authority may charge such fees for:

- The consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration, of the grant, renewal or variation
- The reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in sub-paragraph bullet point 1 including any inspection relating to that consideration
- The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator

In setting fees, all relevant guidance will be taken into consideration and the fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection.

Fees are reviewed annually and published on the Council's website.

Where a vet has had to attend as part of the application or subsequent inspection these fees will be re-charged to the applicant/licence holder separately.

Any fee submitted for an application that is rejected or withdrawn will be refunded minus any costs incurred by the Council in reviewing the application. Such costs will be based on the Officer hourly rate for business advice/assistance.

There will be no refunds or partial refunds in the case of applications rejected or withdrawn after an inspection has been carried out.

2. Licensing Activities and Legislation

2.1 Animal Welfare Act 2006

This Act is the primary piece of legislation controlling the welfare of animals in England and Wales and established set welfare standards that must be maintained by all people who are responsible for an animal. The Act has consolidated animal welfare legislation in areas such as preventing unnecessary suffering, mutilation and animal fighting. The Act also places responsibilities on to numerous enforcement agencies.

The Act introduces a ‘duty of care’ on any person that is responsible for an animal to ensure that the needs of that animal are met. A person does not have to be the owner of the animal for the ‘duty of care’ to apply to them.

The Act creates an offence of failing to provide for the needs of an animal in a person’s care and increases the penalties for animal abuse allowing the courts to disqualify a person from being in charge of animals. Any person disqualified under the Act will also be disqualified from holding a licence under any of the primary licensing acts. The Act permits the Department for the Environment, Food and Rural Affairs (Defra) to pass regulations that may repeal or amend any of the primary licensing acts or to create new forms of licences.

Section 9 of the 2006 Act creates five overarching principles of animal welfare. The Act refers to these as the ‘five needs’ of all animals. It is the duty of any person responsible for an animal to ensure that each of these five needs are met, they include:

- The need for a suitable environment - this should include appropriate shelter and comfortable resting area.
- The need for a suitable diet - providing free access to fresh water and a diet to maintain health.
- The need to be able to exhibit normal behaviour patterns - providing sufficient space and an environment that is conducive for the animal to display normal behaviour.
- Any need to be housed with, or apart from, other animals - providing the company of an animal of its own kind, where appropriate, or separation from any animal that would cause it stress or harm.
- The need to be protected from pain, suffering, injury and disease – providing preventative treatment or urgent veterinary care where necessary and ensuring conditions or treatment that avoid mental or physical suffering.

Licence types covered by this Policy involve what are considered “protected animals” under the Act. A “protected animal” is defined as an animal commonly domesticated in the British Isles, is under the control of man whether on a permanent or temporary basis or is not living in a wild state.

2.2 Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (LAIA)

The Animal Welfare (Licensing of Activities Involving Animals) Regulations provide the legal framework for the following licensable activities:

- Dog Breeding
- Boarding of Dogs in Kennels
- Home Boarding of Dogs
- Dog Day Care
- Boarding of Cats
- Selling Animals as Pets
- Hiring of Horses
- Keeping or Training of Animals for Exhibition

Guidance documents for each licensable activity have been published on the Government website, all of which are available at Animal activities licensing: statutory guidance for local authorities - GOV.UK

3. Licensing Process

3.1 Applications

All licence applications include the following:

- Administration of licence and payment of fee
- Processing of licence application and an initial inspection of the premises
- Placing appropriate conditions on licence
- Issue of licence

The duration of the licence may be legislation specific; however, the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 require that the inspection process includes the production of a risk rating score by the inspecting officer, and the application of a star rating to every licensable activity.

The star rating allocated will have a direct impact on the duration of the licence and therefore the costs to the operator and the enforcement burden placed on the licence holder. The enforcement of Animal Welfare licences will generally include an interim inspection of the business during the life of the licence. In addition, licences issued for Hiring out of Horses are statutorily required to include an annual Veterinary inspection by a Council appointed 'listed vet'. Officers may also visit where the Council receives information or a complaint raising concern about animal welfare issues.

Applications made must be completed using the relevant Application forms available from the Council website or on request from the Licensing team. Any application submitted that, upon review, is without the supporting documentation will be rejected. Applicants are advised to seek the relevant planning permission (as applicable) before seeking a licence.

Each licence type has its own application process and requirements that the Council need to take into consideration before granting a licence. Details on how to apply for a licence can be viewed at Animal welfare licensing - South Tyneside Council Each of the primary licensing Acts state clearly the criteria which the Council must be satisfied of before any licence is granted.

Where the relevant licensing officer is not satisfied that the legal requirements are met, or when an inspector or the listed Veterinary surgeon has raised concerns that the legal requirements or standards are not met or unlikely to be met, the applicant will be notified. The applicant will have the opportunity to address these matters in the hope of satisfying the relevant criteria.

3.2 Persons who may not apply for a licence

The following persons may not apply for a licence in respect of any licensable activity:

- A person listed as a disqualified person in paragraph 4 or any of paragraphs 6 to 17 of Schedule 8 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (LAIA Regs) where the time limit for any appeal against that disqualification has expired or where, if an appeal was made, that appeal was refused.
- A person listed in any of paragraphs 1 to 3 and 5 of Schedule 8 of the 2018 Regulations as having held a licence which was revoked where the time limit for any appeal against that revocation has expired or where, if an appeal was made, that appeal was refused.

Any licence granted or renewed, or held by, a person mentioned above is automatically revoked.

Regulation 4 para (7) of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 also requires applicants to be 'fit and proper':

- In considering whether the licence conditions will be met, a local authority must take account of the applicant's conduct as the operator of the licensable activity to which the application for the grant or renewal relates, whether the applicant is a fit and proper person to be the operator of that activity and any other relevant circumstances.

If on renewal, operating standards have fallen below the minimum required, and welfare issues relating to the care, treatment and management of animals in the applicant's care, have been identified by the inspector, then the Council may consider the applicant to NOT be 'fit and proper' and a licence may not be renewed.

For applicants who have previously been trading unlicensed but have been identified as trading either through a complaint or intelligence, and where:

- there are no suspected or identified animal welfare issues relating to the care, treatment and management of animals in the applicants care and,
- providing the applicant has fully engaged in the licensing procedure and,

- regulatory enforcement for animal welfare offences under any of the relevant legislation is not under consideration,

Then the Council may accept the application and process accordingly. In making its decision the Council reserves the right to consider all relevant factors, including submissions made in each individual case and the circumstances at the time.

3.3 Risk scoring of inspections

For those activities falling under the LAIA Regulations the officer must assess the standards on animal welfare and the management controls in place, including previous compliance.

The process includes ascertaining whether the business is meeting the minimum or higher standards, and whether some minor failing exists. The officer completes a risk score matrix and the star rating will be determined from those findings.

Where a veterinary inspection is required, the contents of the report will have a direct influence on the star rating allocated to that activity.

The star rating allocated will have a direct impact on the business, therefore it is in the interest of the operator to have and maintain the highest possible welfare standards and management controls in place.

The risk score matrix and the output of the scoring exercise is a procedural document and forms part of the Regulations to promote consistency.

3.4 Register of licensed premises within South Tyneside

The Authority holds a register of premises licensed under animal welfare legislation which is available at Animal welfare licensing - South Tyneside Council. The register is regularly amended to include the Star Rating allocated to premises licenced under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

3.5 Change of circumstance

The Authority has an expectation that licence holders will inform them should there be significant changes to how their business operates. For example, where a licence holder decides to employ a manager who will have responsibility for the day to day operation of the business, where this was not the case at the time of application.

The Authority must ensure that licence holders remain fit and proper during the life of a licence. For this reason, licence holders must notify the Authority, in writing, within 72 hours, if any of the following occurs:

- they have any type of animal licence suspended or revoked.
- they are convicted or receive warnings or cautions for serious offences.
- they are arrested or charged with a serious offence

- are subject to bail conditions which may affect the licence holder's ability to operate their business.

Failing to notify the Council will raise serious questions as to the integrity of the licence holder

4 Enforcement

4.1 General

Inspectors from the Council are appointed to fulfil duties and carry out licensing functions on its behalf. They may inspect the premises at all reasonable times. If the Council has any concerns about the welfare of the animals kept under the licence it may be that the Council instructs a vet to ascertain if the measures in place are acceptable.

It is an offence to breach any licence condition. It is also an offence not to comply with an inspector's request in the process of taking a sample from an animal. Samples should be as non-invasive as possible however inspectors may deem more invasive samples necessary if there are concerns over the welfare of the animals. The provision for sampling is primarily aimed at veterinarians carrying out inspections, and it is not expected that samples will be taken by any person without the appropriate training to enable them to properly and safely do so. It is also an offence to obstruct an inspector who has been appointed by a local authority to enforce the 2018 Regulations.

Committing either of these offences could result in an unlimited fine. If a licence holder is not complying with their licence conditions the Council may take appropriate enforcement action. This may be to advise them that they no longer meet the licensing requirements and must cease the licensable activity, or to prosecute them.

Anyone who carries on any of the licensable activities without a licence is liable to imprisonment for a term of up to six months, a fine or both. Section 30 of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.

4.2 Powers of Entry

An inspector may not enter any part of the premises which is used as a private dwelling unless 24 hours' notice of the intended entry is given to the occupier. Parts of the premises which are not a private dwelling may be entered by an inspector if the premises is specified in a licence as premises on which the carrying on of an activity to which a licence relates is being carried on.

A Justice of the Peace can issue a warrant authorising an inspector or a constable to enter a premises on the request of an inspector or constable, using reasonable force if necessary, in order to search for evidence of the commission of a relevant offence. The justice will only issue a warrant if there are reasonable grounds for believing that a relevant offence has been committed on the premises, or that evidence of the commission of a relevant offence is to be found on the premises, and that section 52 of the Animal Welfare Act 2006 is satisfied in relation to the premises.

All other considerations from the Animal Welfare Act also apply.

4.3 Suspension, variation without consent or revocation of a licence

A local authority may, without any requirement for the licence holder's consent, decide to suspend, vary or revoke a licence at any time on being satisfied that:

- The licence conditions are not being complied with
- There has been a breach of the 2018 Regulations
- Information supplied by the licence holder is false or misleading
- It is necessary to protect the welfare of an animal.

4.4 Fixed penalty notices (FPN's)

The Animals (Penalty Notices) (England) Regulations 2023 came into force from 1st January 2024 following the passing of the Animals (Penalty Notices) Act 2022 in April 2022. It provides for the use of fixed penalty notices for operators who are in breach of:

- Animal Welfare Act 2006 and any associated Regulations.
- Animal Health Act 1981
- Dangerous Wild Animals Act 1976
- Zoo Licensing Act 1981
- Wild Animals in Circuses Act 2019
- Retained European Union law relating to animals or animal products
- Dangerous Dogs Act 1991

The Council would only seek to use these notices in relation to those areas where it has enforcement powers and authorised officers, which include:

- Animal Welfare Act 2006 and any associated Regulations.
- Animal Health Act 1981.
- Dangerous Wild Animals Act 1976
- Zoo Licensing Act 1981
- Dangerous Dogs Act 1991
- The Trade in Animals and Related Products Regulations 2011 (TARP)
- Animal By Products (Enforcement) (England) Regulations 2013

The introduction of penalty notices complements the existing portfolio of enforcement measures available to the Authority relating to the enforcement of animal health and welfare legislation, such as warning letters, statutory notices, and the suspension and revocation of licences. Further information in relation to enforcement can be found General Enforcement Policy - Public Protection.

Penalty notices provide a "middle ground" enforcement tool that sits between the existing measures referred to above and prosecution in the criminal courts. Penalty notices, as stated, can be an alternative to prosecution and the risk of an individual obtaining a criminal record. Penalty notices give a person who is issued with such a notice, the opportunity to discharge any liability to conviction for the relevant offence, by the payment of the amount specified in the penalty notice.

The amount specified in a penalty notice may not exceed whichever is the lesser figure of £5,000 or the maximum fine for which a person convicted of the relevant offence would be liable to pay on summary conviction.

The amount of the penalty notice is determined by the Council using a ‘Calculator’ provided by the Department for Environment, Food & Rural Affairs. This measures a combination of ‘Harm’ and ‘Culpability’ to derive a figure that is then subject to ‘Mitigating’ or ‘Aggravating factors’ which may lead to an increase or decrease of the original calculated figure. The amount is reduced by 50% if the fine is paid within 14 days.

Penalty notices can only be issued if the person responsible for issuing the penalty notice believes beyond reasonable doubt that a relevant offence has been committed by the person to be served with the penalty notice i.e. the same test that would be applied were a criminal court to be determining the matter.

The Authority must consider the factors set out in section 4(2) of the Act in every case when determining the level of penalty to be imposed. The factors are:

- The seriousness of the conduct to which the proposed notice relates (the “relevant conduct”).
- The duration of the relevant conduct.
- Any evidence of intention behind the relevant conduct.
- Any evidence of previous acts or omissions by the person similar to the relevant conduct.
- Any action taken by the person to eliminate or reduce any risk of harm resulting from the relevant conduct.
- Any action taken by the person to remedy or mitigate any harm resulting from the relevant conduct.
- Whether the person reported the relevant conduct to the enforcement authority or constable.
- The conduct of the person after the relevant conduct is drawn to their attention by the enforcement authority or constable.

In addition to the factors set out in section 4(2) of the Act and the statutory guidance published under the Act, the Authority should consider other matters which include:

- The number of penalty notices received by a person within the last 3 years.
- What offences the previous notices were received for.
- The nature and seriousness of the offence(s) being considered
- The nature and seriousness of the previous offences
- The offender’s circumstances and whether there is an explanation for the repeat offending.

Sums received by the Authority from the penalty notices must be paid by the Authority into the “Consolidated Fund” which is the government’s general bank account with the

Bank of England. Before paying sums to the Consolidated Fund, the Authority can deduct the costs of investigating the offence and issuing the penalty notice.

If the maximum fine an individual could be liable to pay if convicted for an animal health or welfare offence is £5,000 or more, the Authority will apply the tables set out in the Statutory guidance on the use of penalty notices for Animal Health and Welfare Offences, to determine the starting point and range of penalty notice amount to be applied. There is no right of appeal against the service of a penalty notice. Payment of the penalty within the requisite period removes an individual's criminal liability. If payment is not made, then the individual can be prosecuted for the original offence and if convicted will be sentenced by the Court.

5. Appeals

5.1 Right to appeal star rating

The business operator has the right to appeal the star rating allocated to their business through the licencing process. Right to appeal will be available in written correspondence of the licensing inspection and subsequent star rating

5.2 Right to appeal suspensions and variations

Where the business operator is aggrieved by the decision of the Authority to refuse, vary, suspend or revoke an animal welfare licence, they have the right to appeal that decision, in the first instance to the Authority.

5.3 Right to appeal to first-tier tribunal

Where the business operator having exercised their right to appeal to the Authority, is aggrieved by the decision of the Authority to refuse, revoke, suspend or vary an animal welfare licence, they have the right to appeal that decision to a First-tier tribunal.

5.4 Transfer of licence in case of death of the licence holder

If a licence holder dies, the procedure in regulation 12 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 applies. It allows the personal representative of the deceased to take on the licence provided that they inform the Authority within twenty-eight days of the death, that they are now the operators of the licensable activity. The licence will then remain in place for three months from the death of the former holder or for the rest of the time it was due to remain in force if that time period is shorter.

The new licence holder should then apply for a new licence one month before the expiry of this new period. Additionally, the Authority can extend the three-month period by up to another three months if requested by the representative and if they believe this time is needed to wind up the estate of the former licence holder. If the personal representative does not notify the Authority within 28 days of the death of the licence holder, the licence will cease to have effect after those 28 days.

6. Complaints

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 contain a number of safeguarding measures whereby a business operator who is aggrieved by the process can appeal.

The business operator has recourse to the complaints procedure (including taking the matter to the Local Government Ombudsman where appropriate) if they consider that a council service has not been properly delivered and in accordance with its policy. Complaints can be logged via one of the following methods:

- Online using the Complaints form
- In person at South Shields Town Hall (Customer Service Centre) or Jarrow Town Hall (Customer Service Centre)
- By telephone on **0191 427 7000**
- By letter to South Tyneside Council, Town Hall & Civic Offices, Westoe Road, South Shields, Tyne & Wear, NE33 2RL

APPENDIX F

South Tyneside Council

Enforcement Policy (Single-Use Vapes)

South Tyneside Council
Date: November 2025

Guidance on the Use of Fines, Notices and other Civil Sanctions by South Tyneside Council When Enforcing the Environmental Protection (Single-use Vapes) (England) Regulations 2024

Introduction

South Tyneside Council is a regulator for the purposes of enforcing the Environmental Protection (Single-use Vapes) (England) Regulations 2024 (referred to as the Regulations in this guidance). As a regulator the council is required to publish guidance on our use of the fines, notices and other penalties contained in the Regulations.

This guidance should be read in conjunction with the Regulations, South Tyneside South Tyneside Council's General Statement of Enforcement Policy and the General Enforcement Policy - Public Protection

The Criminal Offence of Supplying a Single-Use Vape

If a person, as a business, supplies a single-use vape they commit a criminal offence. A single-use vape is a vape which is not intended to be re-used. A legal vape must be refillable and rechargeable and the coil (heating element) must be able to be replaced by the consumer. The government guidance to the Regulations provides more detail on what each of these terms mean -Single-use vapes ban - GOV.UK

Supply includes giving such vapes away. It is also an offence for a person to offer to supply such vapes or for a person to have them in their possession ready to supply.

In line with our enforcement policy South Tyneside Council may take legal action against a person who supplies, offers to supply or possesses for supply a single-use vape. Legal action may include, but is not limited to, prosecuting someone in the magistrates' court, applying to review a premises licence under the Licensing Act 2003 or using the penalties explained in this guidance.

The Criminal Offence of Failing to comply with an enforcement requirement *If a person without reasonable excuse, fails to comply with any requirement imposed in the exercise of an enforcement officer's powers or otherwise obstructs an enforcement officer in the exercise of powers under the Regulations, they are guilty of an offence.*

In line with our enforcement policy South Tyneside Council may take legal action against a person who fails to comply with an enforcement requirement. Legal action may include, but is not limited to, prosecuting someone in the magistrates' court, applying to review a premises licence under the Licensing Act 2003 or using the penalties explained in this guidance.

Publication of Information About Enforcement Action

Where we use the penalties under these Regulations, we must from time to time publish details of the cases in which the penalties have been used.

Withdrawing or Amending a Notice

Penalties in the Regulations include the use of various notices. The council may at any time withdraw a notice, reduce the amount of any penalty in a notice or change the steps in a notice required to ensure compliance. Where we do this, we will do so in writing.

Fixed Monetary Penalties and Compliance Notices

Where a person commits an offence under these regulations South Tyneside Council may issue a fixed penalty notice. This is a fine issued by the council and is a penalty of £200. Details of how to pay the fine are included in the notices. Failure to pay a fine will result in a prosecution in the Magistrates' Court who have the power to issue unlimited fines.

When will we issue a fine?

South Tyneside Council has a zero-tolerance approach to the supply of single-use vapes. Unless there are aggravating circumstances, we will issue a penalty where there is evidence to show that a person has committed an offence under these Regulations, even if it their first offence.

Where there are aggravating circumstances we might take other action, even for a first offence. Examples of aggravating circumstances would include the supply of a single-use vape to a child or if someone commits a second offence or where a person is in possession of a large quantity of single-use vapes.

We will not issue a fine where a business can show it has taken all reasonable steps to avoid committing an offence. We will not issue a fine where we have issued a compliance notice and the business have carried out the tasks detailed in that notice.

When will we issue a Compliance Notice?

This is a notice that we may issue to a person telling them what action they must take to ensure that no further offences are committed. The notice will tell the person how long they have to comply with our instructions. A compliance notice will be used where the authority considers it the most appropriate way to ensure further offences are not committed. Failure to comply with a notice will lead to a person being issued with a fine or the authority may take legal proceedings against them.

Notice of Intent

If we are considering issuing a fine or a compliance notice on a person we must issue them with a notice of intent. This tells the person what action we propose to take and why we intend to take it. The notice must include either the value of the fine or the details of the action we require the business to take.

A person who is given a notice of intent may offer to put right any damage or compensate another person who has been affected by the offence. This is known as a third-party undertaking. South Tyneside Council will consider whether to accept any offer of such an undertaking on a case-by-case basis. We must consider any third-party undertakings made before we issue any final notices.

Rights to Make Representations and Objections

A person who is issued with a notice of intent has 28 days to make any objections or representations. These should be made in writing to the Trading Standards Service, South Tyneside Council, Town Hall & Civic Offices, South Shields, Tyne & Wear NE33 2RL.

In the case of a fine a person can clear their liability by paying £100 with 28 days of the issue of the notice.

Final Notice

28 days after we issue the notice of intent, and having considered any objections or representations, we must decide whether or not to issue the fine or compliance notice. The notice will include the grounds for imposing the penalty, the amount to be paid, how payment may be made and the period within which payment must be made. It will also include how to appeal and the consequences of failing to pay the fine or comply with the notice.

Right to Appeal

The person receiving the final notice may appeal against it if they think we made an error in the facts, we didn't apply the law properly or that our decision was unreasonable. Anyone wishing to appeal a final decision should do so in writing to The First Tier Tribunal General Regulatory Chamber

Failure to pay the fine or to take the action detailed in the compliance notice will result in the person to whom it was issued being prosecuted. Details of how to pay a fine are detailed in the final notice.

Stop Notices

Where South Tyneside Council considers it appropriate we may serve a stop notice on any person where we reasonably believe is carrying on an activity that is an offence under these Regulations and which is causing, or where there is a significant risk of it causing serious harm to the environment (including the health of animals). We can also issue a Stop Notice if the activity will involve or will be likely to involve the commission of an offence under Regulations.

The notice must explain the steps required to remove or reduce the harm or risk of harm to the environment. It must also include the reasons why we've issued the notice, how a person can appeal the notice and the consequences of failing to comply with the notice.

Failure to comply with a Stop Notice is a criminal offence punishable by up to 2 years in prison.

Completion Certificates

Once we are satisfied that the person issued with a Stop Notice has taken the steps specified in the notice, we must issue a certificate confirming this. This is called a "completion certificate". Once we have issued this the stop notice ends. A person who has been given a stop notice can ask us for a certificate at any time and we must decide as to whether to issue one within 14 days. We must give a written answer to the person if we decide not to issue the certificate.

Appeals Against Stop Notices & Completion Certificates

The person receiving the stop notice may appeal against it if they think we made an error in the facts, we didn't apply the law properly, that our decision was unreasonable or that they had not committed an offence under the Regulations. Anyone wishing to appeal a final decision should do so in writing to The First Tier Tribunal General Regulatory Chamber

Compensation

If the stop notice is later withdrawn or amended by us because the decision to issue it was unreasonable or any step specified in the notice was unreasonable or the person successfully appeals against the stop notice because the issue of the notice was unreasonable, we must compensate that person. If we unreasonably refuse to issue a Completion Certificate, we must also compensate that person.

Appeal against compensation decision

A person may appeal against a decision not to award compensation, or the amount of compensation awarded on the grounds that our decision was unreasonable or that that the amount we offer is incorrect.

Enforcement Undertakings

Where we think a person has committed an offence under these Regulations, they can offer to take some action to ensure offences are not committed in the future. They can also offer to act to put right any damage caused to another person or to compensate them for that damage. They can also offer to correct any damage caused to the environment by their actions. This offer is known as an Enforcement Undertaking. South Tyneside Council will consider whether to accept any offer of such an undertaking on a case-by-case basis.

If we have accepted an enforcement undertaking, we cannot prosecute for the offence to which it relates, nor can we issue a fine for that offence.

Completion Certificates

Once we are satisfied that the person has taken the steps specified in the undertaking, we must issue a certificate confirming this. This is called a “completion certificate”. A person who has given an undertaking can ask us for a certificate at any time and we must decide whether to issue one within 14 days. We must give a written answer to the person if we decide not to issue the certificate.

Appeals Against a Decision to not Issue a Completion Certificate

A person may appeal against our decision to refuse a completion certificate it if they think we made an error in the facts, we didn’t apply the law properly or that our decision was unreasonable. Anyone wishing to appeal a decision should do so in writing to The First Tier Tribunal General Regulatory Chamber.

Non-compliance with an Enforcement Undertaking

If a person does not take the action agreed in the undertaking we can either take action to issue any of the other notices in the regulations, we can issue a fine or we can prosecute the person. If a person has complied partly but not fully with an enforcement undertaking, we must consider this before we take any further action.

Non-Compliance Penalties

If a person fails to comply with a compliance notice, a third party undertaking or an enforcement undertaking, South Tyneside Council may recover any costs from that person by issuing them with a penalty.

We will seek 100% of all costs incurred by South Tyneside Council of fulfilling the remaining requirements including any costs of clean up or disposal costs. Where more than one person has been identified as being responsible for the non-compliance South Tyneside Council will treat all persons as being jointly and individually liable for all of the costs.

The council must issue the person with a notice which tells them why we are imposing the penalty, the amount to be paid, how payment may be made, the period in which payment must be made and their right to appeal. It must also tell them the consequences of non-payment and the circumstances in which the council might reduce the amount of the penalty.

If the requirements of the compliance notice or the third-party undertaking is complied with before the deadline for payment is reached, then the penalty will be cancelled.

Appeals against non-compliance penalties

A person may appeal against our decision to issue a penalty if they think we made an error in the facts, we didn't apply the law properly, that our decision was unreasonable or that the amount of the penalty was unreasonable. Anyone wishing to appeal a decision should do so in writing to The First Tier Tribunal General Regulatory Chamber.

Enforcement Cost Recovery Notices

The Council may serve a notice (an "enforcement cost recovery notice") on a person on whom a compliance or stop notice has been served which requires that person to re-pay what it has cost the South Tyneside Council to enforce the law before the notice is issued.

There is no limit on what types of costs apply but they will include investigation costs, administration costs and the costs of obtaining expert advice (including legal advice). We can only recover costs that were necessary for us to enforce the law.

The enforcement cost recovery notice must tell a person how payment may be made, the amount required to be paid, the period in which payment must be made, why the notice has been issued, how a person can appeal and what the consequences of a failure to comply with the notice might be. The person can ask the council to provide a detailed breakdown of the amount.

Appeals Against Enforcement Cost Recovery Notice

The person required to pay the costs may appeal against the Council's decision to require them to pay costs or against their decision about the amount of those costs. Anyone wishing to appeal a decision should do so in writing to The First Tier Tribunal General Regulatory Chamber

How we enforce payments

South Tyneside Council may choose to recover unpaid penalties as a civil debt (by registering a claim in court) or by applying to a court for an order so we can enforce the payment through:

- a warrant of control, allowing a county court bailiff to take control of goods or money to the value of the amount being recovered
- a charging order, placing a charge on property so that the debt due is paid from the proceeds of sale before the debtor receives them
- a third party debt order, requiring a third party to pay the outstanding debt directly to the creditor from the debtor's money. Court fees can also be recovered from the debtor.

Equality Impact Assessment (EqIA)

All public authorities are required to, in carrying out their functions, show due regard for the need to: eliminate unlawful discrimination; advance equality of opportunity between people who shared a protected characteristic and those who don't; and foster good relations between people who share a relevant protected characteristic and those who do not (Equalities Act 2010).

Services are responsible for ensuring that EqIAs are completed to help inform decision making on all relevant Key Decisions, new or revised policies and any substantial proposed changes to services.

This process helps decision makers to assess, and evidence that they have assessed, the potential implications of a proposed policy or service change on service users with protected characteristics. It supports reflection on implications for different groups and prompts the identification of any mitigation activities that may need to be taken to minimise potential inequalities that could result from the proposal.

Directorate	Place Strategy	Service	Trading Standards
Responsible Officer (Title)	Judith Shewan Operations Manager, Trading Standards	Date of Assessment	9th October 2025

Brief description of the proposed new or altered policy or service?

Ban on single-use vapes to reusable products requiring a new Enforcement Policy

As part of the Government's plans to tackle the rise in youth vaping and protect children's health the Government introduced the Environmental Protection (Single- Use Vapes) (England) Regulations 2024 which support a ban on their supply and came into force on 1st June 2025.

It is now illegal to sell, supply or possess for sale or supply any single-use (disposable) vapes, including non-nicotine versions.

South Tyneside Council is a regulator for the purposes of enforcing these regulations – this means that the council are responsible for enforcing the new law in its local area.

As a regulator, South Tyneside Council are required to have an enforcement policy.

This policy must:

- Include our use of fines, notices and other penalties contained in the regulations
- Be consulted on
- Be published once it is finalised

Who are the main customer or employee groups affected by this new or altered policy or service?		
The Policy is designed to support Officers of the Council in appropriately applying the relevant enforcement legislation. Also to inform retailers of the Council's approach to vape enforcement.		
What evidence and engagement has been considered to inform this assessment? *(Please reference and summarise data sources or engagement exercises and their findings)*		
Using the Council's Assure PP data base 93 small/medium sized businesses in South Tyneside were identified and advised by letter during April in advance of the ban. In May the public and the Council's Public Health team were consulted on the forthcoming ban by posting information on South Tyneside Council Trading Standards webpage. No responses were received.		
Identification and description of impact. Please identify where there is a positive, neutral or negative impact. Then describe in more detail the nature of any identified potential disproportionate negative impact, including any potential barriers to access, existing or anticipated unequal outcomes or experiences, and effect on intra-group relations and community cohesion:		
The Nine Protected Characteristics (as identified by the Equalities Act 2010)		
Age	Positive	The primary aim of the ban is to curb the rise in youth vaping, as disposable products have been particularly popular among young people. A positive equality impact is expected in this area. The ban could unintentionally affect adult smokers using disposable vapes as a tool to quit smoking, with some potentially relapsing to tobacco. This particularly impacts younger adult vapers (18–24 years old) and those with a history of mental health conditions. Local stop-smoking services can provide comprehensive support, including the provision of alternative nicotine replacement therapies and support for switching to reusable vapes.
Disability	Positive	The transition from simple single-use vapes to reusable alternatives may disproportionately affect people with certain disabilities. This includes individuals with dexterity issues (such as Parkinson's Disease), mental health conditions, or learning difficulties. Vape retailers are stocking a range of reusable devices, including simpler "pod-kit" systems retailing at prices similar to single-use vapes.
Sex	Neutral / No Impact	No direct impact likely.

Sexual Orientation	Neutral / No Impact	No direct impact likely.
Gender Reassignment	Neutral / No Impact	No direct impact likely.
Marriage or Civil Partnership (in employment only)	Neutral / No Impact	No direct impact likely.
Pregnancy and Maternity	Neutral / No Impact	While some may perceive vaping as a safer alternative to smoking, it is not harmless and presents its own set of risks to both the pregnant person and the baby. Local stop-smoking services are funded to provide comprehensive support, including the provision of alternative nicotine replacement therapies and support for switching to reusable vapes.
Race (including colour, ethnicity, nationality or national origin)	Neutral / No Impact	No direct impact likely.
Religion or belief	Neutral / No Impact	No direct impact likely.
Other Groups		
Care Leavers	Neutral / No Impact	No direct impact likely.
Armed Forces Veterans	Neutral / No Impact	No direct impact likely.
Those at risk of socio-economic disadvantage	Neutral / No Impact	People at socioeconomic disadvantage have fewer resources and lower income to shop around for the cheapest products. However in general the price of rechargeable vaping products are comparable to that of single - use vapes (when legal) and available widely on the high street.

Please indicate what actions you intend to take to mitigate negative impact, where it has been identified
No negative impacts identified.
Are there any negative impacts that cannot reasonably be avoided? If so, on balance, please describe your rationale for why it is it still appropriate to proceed with the proposal.
No

How do you plan to monitor ongoing impact and the effectiveness of any identified mitigation activities?					
Responsible Officer Title & Sign-Off Date	Judith Shewan, Operations Manager – Trading Standards 09/10/2025	Head of Service Title & Sign-Off Date	James Maughan, Senior Manager Public Protection 9/10/25	Lead Member & Sign-Off Date	Cllr Jane Carter, Lead Member Housing and Community Safety 15/10/25

Equality Impact Assessment (EqIA)

All public authorities are required to, in carrying out their functions, show due regard for the need to: eliminate unlawful discrimination; advance equality of opportunity between people who shared a protected characteristic and those who don't; and foster good relations between people who share a relevant protected characteristic and those who do not (Equalities Act 2010).

Services are responsible for ensuring that EqIAs are completed to help inform decision making on all relevant Key Decisions, new or revised policies and any substantial proposed changes to services.

This process helps decision makers to assess, and evidence that they have assessed, the potential implications of a proposed policy or service change on service users with protected characteristics. It supports reflection on implications for different groups and prompts the identification of any mitigation activities that may need to be taken to minimise potential inequalities that could result from the proposal.

Directorate	Place Strategy	Service	Public Protection
Responsible Officer (Title)	Joanne Chastney	Date of Assessment	10/10/25
Brief description of the proposed new or altered policy or service?			
• New Animal Licensing Policy			
Who are the main customer or employee groups affected by this new or altered policy or service?			
• Environmental Health, Licensing • Local businesses impacted by the Council's Animal Activities Licensing regime			
What evidence and engagement has been considered to inform this assessment? *(Please reference and summarise data sources or engagement exercises and their findings)*			
• Relevant legislation including: The Animal Welfare Act 2006, Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 and The Animals (Penalty Notices) (England) Regulations 2023 • Relevant statutory guidance including the Animal Licensing statutory guidance for Local Authorities and the use of penalty notices for animal health and welfare offences.			
Identification and description of impact. Please identify where there is a positive, neutral or negative impact. Then describe in more detail the nature of any identified potential disproportionate negative impact, including any potential barriers to access, existing or anticipated unequal outcomes or experiences, and effect on intra-group relations and community cohesion:			
The Nine Protected Characteristics (as identified by the Equalities Act 2010)			
Age	Neutral / No Impact		

Disability	Neutral / No Impact	
Sex	Neutral / No Impact	
Sexual Orientation	Neutral / No Impact	
Gender Reassignment	Neutral / No Impact	
Marriage or Civil Partnership (in employment only)	Neutral / No Impact	
Pregnancy and Maternity	Neutral / No Impact	
Race (including colour, ethnicity, nationality or national origin)	Neutral / No Impact	
Religion or belief	Neutral / No Impact	
Other Groups		
Care Leavers	Neutral / No Impact	
Armed Forces Veterans	Neutral / No Impact	
Those at risk of socio-economic disadvantage	Neutral / No Impact	
Please indicate what actions you intend to take to mitigate negative impact, where it has been identified		
N/A		
Are there any negative impacts that cannot reasonably be avoided? If so, on balance, please describe your rationale for why it is it still appropriate to proceed with the proposal.		
N/A		

How do you plan to monitor ongoing impact and the effectiveness of any identified mitigation activities?					
N/A					
Responsible Officer Title & Sign-Off Date	Joanne Chastney, Service Lead Environmental Health, 27.05.25	Head of Service Title & Sign-Off Date	James Maughan, Senior Manager, Public Protection 27.05.25	Lead Member & Sign-Off Date	Cllr Jane Carter, Lead Member Housing and Community Safety, 27.05.25

Equality Impact Assessment (EqIA)

All public authorities are required to, in carrying out their functions, show due regard for the need to: eliminate unlawful discrimination; advance equality of opportunity between people who shared a protected characteristic and those who don't; and foster good relations between people who share a relevant protected characteristic and those who do not (Equalities Act 2010).

Services are responsible for ensuring that EqIAs are completed to help inform decision making on all relevant Key Decisions, new or revised policies and any substantial proposed changes to services.

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<table>
<tr><td>Directorate</td><td>Place Strategy</td><td>Service</td><td>Public Protection</td></tr>
<tr><td>Responsible Officer (Title)</td><td>Joanne Chastney Service Lead, Environmental Health</td><td>Date of Assessment</td><td>27th June 2025</td></tr>
<tr><td colspan="4">Brief description of the proposed new or altered policy or service?</td></tr>
<tr><td colspan="4">Public Protection Enforcement Policies, including:
• Public Health and Private Sector Housing Enforcement Policy (updated)
• Houses in Multiple Occupation Policy (new)
• Works in Default Policy (new)
• Housing Civil Penalties Policy (updated)</td></tr>
<tr><td colspan="4">Who are the main customer or employee groups affected by this new or altered policy or service?</td></tr>
<tr><td colspan="4">• The policies are designed to support Officers of the Council in appropriately applying the relevant enforcement legislation
• Also to inform Private Sector Landlords, Owner- occupiers and Registered Providers of the Council's approach to housing enforcement</td></tr>
<tr><td colspan="4">What evidence and engagement has been considered to inform this assessment?
(Please reference and summarise data sources or engagement exercises and their findings)</td></tr>
<tr><td colspan="4">South Tyneside Data Observatory - Breakdown by Tenure in South Tyneside:
• Private Rented: 9,025 (13.2%)
• Owner-occupied: 38,655 (56.6%)
• Social – rented (non –council): 4,488 (6.6%)
• Lives rent free: 64 (0.1%)
• Shared ownership: 336 (0.5%)</td></tr>
</table>

There are over 9,000 homes in South Tyneside's private rented sector. Between 1st April 2024 and 31st March 2025 497 complaints were received from tenants regarding the condition of their property. The high volume of complaints about sub-standard housing conditions in the sector signals potential inequalities within the tenant population and concern that certain groups such as those with protected characteristics may be disproportionately affected by these issues Older people or those with disabilities may be more vulnerable to the health impacts of poor housing. Tenants in the private rented sector may also be more reluctant to report issues due to fear of eviction or landlord reprisals, meaning a lot of issues may go unreported. This is particularly relevant for tenants with little understanding of their rights, or how and where to report.
Identification and description of impact. Please identify where there is a positive, neutral or negative impact. Then describe in more detail the nature of any identified potential disproportionate negative impact, including any potential barriers to access, existing or anticipated unequal outcomes or experiences, and effect on intra-group relations and community cohesion:

The Nine Protected Characteristics (as identified by the Equalities Act 2010)		
Age	Positive	Older people are more likely to live in poor-quality housing, especially in the private rented sector. The policy is drafted to improve housing conditions (e.g. MEES enforcement or safety standards) which can positively impact older people. Younger tenants, such as students or young families, are often in insecure or shared housing. This policy does not inadvertently exclude certain age groups from support schemes like ECO 4 (e.g. any age-restricted eligibility).
Disability	Positive	People with disabilities may have a need for adapted housing, the policy seeks to accommodate this via established links with Adult Social Care. Enforcement of housing quality (e.g. damp, accessibility, fire safety) can have a significant positive effect on health and safety. The policy doesn't include funding or assistance for any necessary adaptations required in homes (e.g. handrails, ramps), as this is outside the remit of this policy, however it doesn't penalise landlords unfairly for any adaptations required.
Sex	Positive	Women, particularly single mothers, are more often found to live in poor-quality housing or face harassment in the private rented sector. The policy ensures robust protections against harassment or coercion by landlords, and the service can signpost support services with a gender-aware approach if necessary.
Sexual Orientation	Positive	Risk of discrimination by some landlords does exist. This policy will enforce standards fairly to help ensure equal treatment. The policy makes clear the Council's position against harassment or discrimination in private sector housing and allows for proactive monitoring, where discriminative practices are identified

Gender Reassignment	Neutral / No Impact	No direct impact is likely, but the policy ensures inclusive access to housing services and enforcement that does not discriminate. Staff training is in place to ensure recognition and respect for the gender identity of individuals when accessing housing support or during inspections.
Marriage or Civil Partnership (in employment only)	Neutral / No Impact	The policy is unlikely to have a direct differential impact, but consideration is given in terms of joint tenancies or support schemes for couples. The policy ensures there is no indirect discrimination in access to support or enforcement based on relationship status.
Pregnancy and Maternity	Positive	Pregnant women and new mothers are particularly vulnerable to poor housing conditions (e.g. cold, damp, overcrowding) and a policy that improves housing conditions can offer health and well-being benefits. Inspections and support are prioritised for households with new or expectant mothers.
Race (including colour, ethnicity, nationality or national origin)	Positive	Some minority ethnic groups are overrepresented in the private rented sector and may face discrimination or substandard conditions. Implementing this policy can reduce inequality by enforcing standards uniformly. Materials and communications are accessible (e.g. multiple languages) and staff are trained in cultural sensitivity.
Religion or belief	Neutral / No Impact	Little direct impact, but cultural needs (e.g. space for prayer, gender-specific housing needs) may influence housing preferences. The policy ensures officers respect cultural practices in inspection scheduling and when entering homes.
Other Groups		
Care Leavers	Positive	Those who are part of the 'Leaving Care' system may lack the knowledge or support to navigate the PRS, and as such are at higher risk of exploitation, insecure tenancies and unsuitable accommodation. This policy allows for targeted support for this group and transitional support into adulthood via liaison with Children's Services. The policy will ensure that landlords housing care leavers are meeting extra safeguarding duties.
Armed Forces Veterans	Positive	Veterans may face difficulty adjusting to civilian housing, especially if dealing with PTSD, disability of mental health issues. They are also at higher risk of homelessness or poor housing if discharged without stable accommodation. The policy allows for support or priority inspection work for veteran housing and collaboration with armed forces charities.
Those at risk of socio-economic disadvantage	Positive	People at socioeconomic disadvantage are often in lower quality private rented accommodation, with fewer options and less power to challenge landlords. They also often struggle to afford heating, repairs or legal advice. This policy allows for proactive enforcement in low-income areas and avoids punitive enforcement which can lead to displacement or eviction without support. There is scope for joined up working with benefits team and welfare support services to help provide alternatives to enforcement where tenants are at risk of homelessness.

Please indicate what actions you intend to take to mitigate negative impact, where it has been identified					
No negative impacts identified.					
Are there any negative impacts that cannot reasonably be avoided? If so, on balance, please describe your rationale for why it is it still appropriate to proceed with the proposal.					
No					
How do you plan to monitor ongoing impact and the effectiveness of any identified mitigation activities?					
On a case-by-case basis					
Responsible Officer Title & Sign-Off Date	Joanne Chastney, Service Lead Environmental Health, 27.05.25	Head of Service Title & Sign-Off Date	James Maughan, Senior Manager, Public Protection 27.05.25	Lead Member & Sign-Off Date	Cllr Jane Carter, Lead Member Housing and Community Safety, 27.05.25