

Directorate for Communities & Environment

Health & Environment Private Sector Housing Enforcement Policy 2026 - 2031

Effective Date: 8 July 2026

Signed: 

Assistant Director – Health & Environment

Separate to this enforcement policy and published on www.lincoln.gov.uk there is Directorate for Communities & Environment – Health & Environment Enforcement Policy 2026 – 2030 which details the enforcement approach for following Council regulatory services

- *Environmental Health – Food Safety, Health & Safety and Pollution Control*
- *Licensing*
- *Anti-social behaviour & Public Protection*



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Introduction

The City of Lincoln Council's Health & Environment, Private Sector Housing Service is responsible for protecting people's health, safety and wellbeing in the places that they live. Our regulatory focus, through its various compliance and consenting activities and functions, is based around four central principles:

- We will ensure that we enforce the law in a fair, equitable and consistent manner
- We will work to assist landlords and others in meeting their legal obligations
- Our focus will be on prevention rather than cure, where appropriate
- We will take action against those who breach the law or act irresponsibly

This policy sets out the Council's principles for enforcing and executing its duties as a Housing Authority under the relevant statute. A list of relevant statutes in Annex 1.

In particular:-

- (i) S3 Housing Act 2004 imposes a duty on Councils to keep housing conditions in their district under review with a view to identifying any action that may need to be taken by them.
- (ii) S107 Renters' Rights Act 2025 imposes a duty on the Council to enforce the Landlord Legislation. The Landlord Legislation is comprised of the following:
 - Chapters 3 and 6 of Part 1 of the Renters' Rights Act 2025,
 - Part 2 of the Renters' Rights Act 2025,
 - Sections 1 and 1A of the Protection from Eviction Act 1977, and
 - Chapter 1 of Part 1 of the Housing Act 1988.
- (iii) S110 Renters' Rights Act 2025 imposes a duty on the Council to report to the Secretary of State on the exercise of its functions under the Landlord Legislation.

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

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

A. Principles of Good Regulation

The Legislative and Regulatory Reform Act 2006, Part 2, requires the City of Lincoln Council to have regard to the Principles of Good Regulation when exercising a specified regulatory function.

We will exercise our regulatory activities in a way which is:

- (i) **Proportionate** – the Regulators’ Code promotes proportionate regulatory activity, which includes taking appropriate action where non-compliance is identified. The Public Interest Stage contained in the Code for Crown Prosecutors will always be considered when determining whether it is right to prosecute. Council activities will reflect the impact of the offending on those living in, working in and visiting the city and enforcement action taken will relate to the seriousness of the offence.
- (ii) **Accountable** – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures.
- (iii) **Consistent** – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in a consistent manner.
- (iv) **Transparent** – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- (v) **Targeted** – we will focus our resources on higher risk businesses and activities, reflecting local need and national priorities and intelligence.

B. Regulator’s Code

The Regulators’ Code has been a central part of the Governments’ better regulation principles for some time now. Its aim is to embed a risk based, proportionate and targeted approach to regulatory inspection and enforcement.

The Council have had regard to the Regulators’ Code in the preparation of this policy. In certain instances we may conclude that a provision in the Code is either not relevant, is outweighed by another provision or does not legally apply to some aspects of regulatory activity. The Renters’ Rights Act 2025 and the ‘Landlord Legislation’ (as defined by S107) and Part 1 of the Housing Act 2004 sit outside of the Regulators’ Code, and its provisions do not apply. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented. The Regulators’ Code can be accessed at:

<https://www.gov.uk/government/publications/regulators-code>

C. The Code for Crown Prosecutors

When deciding whether to prosecute the Council will have regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document (The Code for Crown Prosecutors) and it sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test':

- (a) **Evidential Test** - is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, we will consider what evidence can be used in court and is reliable. We must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender for each offence.

- (b) **Public Interest Test** - is it in the public interest for the case to be brought to court?

We will balance factors for and against prosecution carefully and fairly, considering each case on its merits. Before deciding that prosecution is appropriate we will consider the matters which, in the opinion of the City of Lincoln Council, are relevant and will have regard to the public interest. Our decision will reflect the impact of the offending on those living and working in the City.

D. Conduct of Investigations

All investigations will be carried out under the following legislation and in accordance with statutory powers and controls and any associated guidance or codes of practice, in so far as they relate to the Council:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Criminal Justice and Police Act 2001
- Human Rights Act 1998
- The Protection of Freedoms Act 2012 (Code of Practice for Powers of Entry and Description of Relevant Persons) Order 2015

- Data Protection Act 2018 and the UK [General Data Protection Regulation \(GDPR\)](#)
- Equality Act 2010
- Consumer Rights Act 2015
- Any other relevant legislation that may be in force

All enforcement action taken will be in accordance with relevant statutory Codes of Practice, Council procedures and protocols, and official guidance from central and local government bodies. The Council will where necessary produce in-house procedures and guidance to assist officers in making consistent enforcement decisions.

Subject to the needs of an investigation, officers will notify the individuals or business they are subject to an investigation as soon as is reasonably practicable. The Council will endeavour to make timely decisions about the progress of the investigation and decisions on the most appropriate action. The person or business subject to any investigation will be informed of the outcome.

The Council works in partnership and will share data with organisations in accordance with data protection legislation for the purpose of protecting safety, for the prevention and detection of crime and anti-social behaviour, problem solving and preventing harm to health. Where it is appropriate and the right action to take the Council will share and receive information from organisations including but not limited to:-

- Police
- National Crime Agency
- UK Border Force
- The Probation Service
- Social care
- Health service
- HMRC
- Revenues and benefits
- Lincolnshire Fire and Rescue
- Health & Safety Executive
- Food Standards Agency
- Environment Agency
- Other local authorities

Regard will always be had to the requirements of Data Protection legislation and Annex 2 sets out the Data Protection Statement relevant to this policy.

E. Enforcement Approach

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

S5 Housing Act 2004 places a duty on the City of Lincoln Council to take appropriate enforcement action where a Category 1 hazard exists.

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

In addition, Council officers will often investigate and identify the need to take enforcement action through a range of routes, including (but not limited to): proactive inspections of dwellings through licensing provisions; in response to a complaint or request for assistance; and referrals from other public bodies. All investigations will be carried out in accordance with the relevant statutory requirements. The Council will ensure that appropriate governance is in place to ensure that action is taken in accordance with appropriate policies.

The Council may commence enforcement with formal action instead of informal action in the first instance. In deciding whether to do so, the circumstances of the case will be taken into account. Relevant factors may include, but are not limited to:

- Where there is a risk to public health
- Where there is a blatant or deliberate contravention of the law
- Where there is history of non-compliance

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

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

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

F. Enforcement Sanctions

Appropriate enforcement action that can be taken includes but is not limited to:-

i. NO ACTION

There may be cases where contraventions of the law and findings from an inspection or investigation may not warrant any further legal action. Reasons for taking no action are considered on a case by case basis. Any details recorded about non-compliance may be used as a basis for judgement on future enforcement action.

ii. COMPLIANCE ADVICE & GUIDANCE AND SUPPORT

The Council use compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified.

Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter (sometimes called an 'informal notice') will set out what should be done to rectify the breach and to prevent re-occurrence. We will always make it clear what is a legal requirement and what is a recommendation of best practice. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction, but it may be presented in evidence.

Where formal enforcement action, such as a simple caution, imposing a civil penalty or prosecution, is taken, the Council recognises that there is likely to be an on-going need for compliance advice and support.

iii. STATUTORY (LEGAL) NOTICES

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be completed. It is likely to require that any breach or non-compliance is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient at the time of serving the statutory notice.

In the event of non-compliance, and in appropriate cases, costs associated with works in default may be recovered by registering as a local land charge on the property.

iv. WORKS IN DEFAULT

The enforcement options for non-compliance with formal Notices or breach of licence conditions include the carrying out of works specified in the Notice. This power may be exercised in addition to other enforcement proceedings taken for non-compliance. The Council has no duty to undertake works in default and it will be at its discretion.

v. CIVIL PENALTIES

The Association of Chief Environmental Health Officers (England) (ACEHO) have produced and approved a Civil Penalty Policy. The objective of this policy is to provide a more consistent national approach in regard to enforcing and serving Civil Penalties.

Therefore, the City of Lincoln Council have adopted this approved policy and is APPENDIX A to this policy and sets out the detail of how a civil penalty will be applied. [appendix-a-aceho-civil-penalties-policy](#)

However, the overriding principle when considering civil penalties is that the person on whom the civil penalty has been issued should not make any financial gain as a result of their failure to comply with the relevant legislation.

Civil penalties may be imposed on the owner, person having control, the licence holder of a property, or business as appropriate. The Council considers that the most likely recipients of civil penalty notices will be those persons who are involved in the owning or managing of private rented properties. However, the Council does have the power to impose them on tenants of Houses in Multiple Occupation for offences under section 234 of the Housing Act 2004, and will consider doing so where it is deemed appropriate.

A civil penalty can be considered as an alternative to prosecution for any of the following offences.

- Unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997
- Failure to comply with an Improvement Notice [s30 Housing Act 2004]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) [s72 Housing Act 2004]
- Offences in relation to the Selective Licensing of 'houses' [s95 Housing Act 2004]
- Failure to comply with an Overcrowding Notice [s139 Housing Act 2004]
- Failure to comply with a management regulation in respect of an HMO [s234 Housing Act 2004]
- Offences in relation to Regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- Failure to comply with a banning order [s21 Housing and Planning Act 2016]
- Failure to give a written statement of terms under section 16D of the Housing Act 1988
- Failure to give an existing tenant information about changes made by the Renters' Rights Act under paragraph 7(2) of schedule 6 to the Renters' Rights Act 2025
- Attempting to let a property for a fixed term under section 16E of the Housing Act 1988

- Attempting to end a tenancy orally or by service of a notice to quit under section 16E of the Housing Act 1988
- Serving an eviction notice that attempts to end a tenancy outside the prescribed section 8 process under section 16E of the Housing Act 1988
- Relying on a ground where the person does not reasonably believe that the landlord is/will be able to obtain possession under section 16E of the Housing Act 1988
- Relying on a ground knowing the landlord would not be able to obtain possession or being reckless as to whether they would under section 16J of the Housing Act 1988
- Failing to provide a tenant with prior notice that a ground which requires it may be used under section 16E of the Housing Act 1988
- Reletting or remarketing a property before expiry of the 12 month no-let period after using the moving and selling grounds under sections 16E and 16J of the Housing Act 1988
- Discriminating against prospective tenants during the letting process on the grounds that those tenants are in receipt of benefits or have children under sections 33 and 34 of the Renters' Rights Act 2025
- Marketing a letting without stating the proposed rent under section 56 of the Renters' Rights Act 2025
- Inviting or encouraging any person to offer to pay an amount of rent under the proposed letting that exceeds the stated rent under section 56 of the Renters' Rights Act 2025
- Accepting an offer from any person to pay an amount of rent under the proposed letting that exceeds the stated rent under section 56 of the Renters' Rights Act 2025
- The Energy Efficiency (Private Rented Property) England and Wales) Regulations 2015 (MEES)
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022

vi. PENALTY CHARGE NOTICE

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022- Statement of Principles

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

The Regulations introduced legal requirements on relevant landlords to:

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

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

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

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

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

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

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

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

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

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

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

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

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

A - Determining the amount of the penalty charge for a first breach

The minimum amount of a penalty charge for a first breach of the Regulations will be £2500. Only in exceptional circumstances may the Council depart from the application of this statement of principles and issue a penalty charge for less than £2500. Exceptional circumstances are rare and unusual and are not established merely by the presence of multiple mitigating factors.

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

Aggravating factors include, but are not limited to:

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

Mitigating factors include, but are not limited to:

- The property being small and low-risk (for example a one-bedroom

ground floor flat with a large number of fire escapes including large windows)

- A single occupant living in the property
- Evidence that all required alarms were checked and in working order at the start of the tenancy
- Written evidence that some efforts to gain access and comply with the remedial notice were made and access was prevented by the occupant

B - Determining the amount of the penalty charge for a subsequent breach

The penalty for subsequent breaches by the same landlord will be £5000. Only in exceptional circumstances may the Council depart from the application of this statement of principles and issue a penalty charge for less than £5000. Exceptional circumstances are rare and unusual and are not established merely by the presence of multiple mitigating factors.

vii. PENALTY CHARGE NOTICE

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (MEES) - Statement of Principles

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

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

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

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

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

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

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

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

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

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

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

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

- Where the landlord is not an individual, the landlord's name
- Details of the breach of these Regulations in respect of which the penalty notice has been issued
- The address of the property in relation to which the breach has occurred, and
- The amount of any financial penalty imposed.

The Council will impose the following financial penalties:

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

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

viii. PENALTY CHARGE NOTICE

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 – Statement of Principles

The above Regulations place a responsibility on landlords to ensure that Electrical Safety Standards within rented properties are met during any period that the property is occupied. This includes a requirement that the installation is inspected/tested by a suitably qualified person at intervals of no more than 5 years (or less if specified within the previous report), and to undertake such further investigative or remedial work as may be identified within that report.

Copies of the report must also be provided to new occupants before that tenant occupies the property, to existing tenants within 28 days of the inspection and test, and to the Council within a period of 7 days of receiving a request to do so.

Where the Council has reasonable grounds to believe that a landlord has failed to fulfil their duties under these regulations, the Council must serve on that landlord a Remedial Notice.

Should a landlord fail to comply with this notice, the Council may arrange for a suitable contractor to carry out the work, and in addition may require the landlord to pay a financial penalty of such amount as the authority may determine.

The amount of the penalty charge must not exceed £30,000. The Council has determined that where a landlord fails to fulfil their obligations under these regulations, the following financial penalties will be levied:

Failure to comply with Regulation 3

First occasion £5,000

Second occasion £7,500

Third and any subsequent occasions £10,000

Failure to Carry Out Urgent Remedial Action or Further Investigative Work

First occasion £7,500

Second occasion £10,000

Third and any subsequent occasions £15,000

ix. DETENTION AND SEIZURE OF DOCUMENTS

Following a s118 or s121 Renters' Rights Act 2025 entry, s123 authorises Council officers to seize and detain documents that the officer reasonably suspects may be required as evidence in proceedings relating to a breach of, or an offence under, the Rented Accommodation Legislation. When doing so, the officer will provide evidence of the officer's identity and authority if reasonably practicable. The officer will take reasonable steps to inform the person from whom documents have been seized that they have been seized, and will provide that person with a written record of what has been taken.

x. SIMPLE CAUTION

The Council have the power to issue simple cautions as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, the Council will consider prosecution. Any decision to offer a simple caution will take into account the criteria set down in the Code for Crown Prosecutors and approved by the Assistant Director – Health & Environment and in consultation with the Council's legal services.

A simple caution will appear on the offender's criminal record. It is likely to influence how the Council deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

xi. HMO LICENCE CONDITIONS

Conditions can be added to HMO licences to require work to meet specified standards or to address HMO Management Regulation requirements. In general, the Council ties should identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions. However this does not prevent the authority from imposing licence conditions relating to the installation or maintenance of facilities or equipment even if the same result could be achieved by the exercise of Part 1 functions.

Failure to comply with HMO licence conditions is a criminal offence, which may result in prosecution or the issuing of a civil penalty notice.

xii. REFUSAL/SUSPENSION/REVOCATION OF LICENCES

The Council issue a number of licences and permits for a number of different activities and enterprises, from licences for Houses in Multiple Occupation to Premises Licences for pubs and restaurants to licences for taxi drivers. The Council is under a statutory duty to ensure that the applicants for and holders of such licences are fit and proper persons. Most licences include conditions which require the licence holder to take steps

to ensure that, for example, a business is properly run. Licences can be revoked where any term of the licence has been breached or where other offences have been committed which mean that the persons involved are no longer fit and proper persons for licensing. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment. A review of a licence may be considered in addition to or as an alternative to any other action.

When considering future licence applications, the Council may take previous breaches and enforcement action into account.

The council will have regard to its own policies and schemes when determining whether to grant, refuse, suspend, revoke or vary a licence. These include, the Scheme for Mandatory Licensing of Houses in Multiple Occupation can be viewed using this link <https://www.lincoln.gov.uk/housing/landlords/houses-in-multiple-occupation-hmos/>

xiii. INTERIM OR FINAL MANAGEMENT ORDERS

The Council is under a duty to apply for an interim management order where a property requires a licence, or will after the current one is revoked, but there is no reasonable prospect of it becoming licenced or there are significant health and safety concerns at the property. An interim management order can be made for up to 12 months. Where an interim management order is coming to an end and the criteria for applying for the order still apply, the Council can apply for a final management order, which can be made for up to 5 years.

Whilst a management order is in place, the Council, or an agent appointed by the Council, will be responsible for managing the property and carrying out any works that are required. The Council will receive the rental income and deduct any relevant expenditure from this amount before transferring the excess, if any remains, to the landlord.

xiv. BANNING ORDERS

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

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

The Council may consider a Banning Order for the more serious offenders. It will take into account the seriousness of the offence(s), whether the landlord has committed

other offences (or received any Civil Penalty in relation to a Banning Order offence) and any history of failing to comply with their obligations or legal responsibilities. It will also take into account other relevant factors, including but not limited to:

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

xv. RENT REPAYMENT ORDERS

Part 2 of the Housing and Planning Act 2016 permits the Council to seek a Rent Repayment Order at the First Tier Tribunal Property Chamber to require the landlord of the property where the offence(s) has been committed to refund rent to the tenants or the Council. S48 of the Housing and Planning Act 2016 places a duty on the Council to consider applying for Rent Repayment Orders.

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

This power will be considered in response to all qualifying offences and where there is sufficient evidence for a successful application to the First Tier Tribunal.

The qualifying offences are:

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

An application for an RRO may be in addition to other formal action, such as prosecution proceedings or the imposition of a Civil Penalty. Where the Council has issued a Civil Financial Penalty or pursued prosecution, it will usually apply for a Rent

Repayment Order where public funds have been paid to a landlord who has committed a qualifying offence.

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

xvi. PROSECUTION

Where the circumstances warrant it and the alternative actions detailed previously in this policy are considered inappropriate, then prosecution may result. Any decision to prosecute will take into account the criteria set down in the Code for Crown Prosecutors and approved by the Assistant Director – Health & Environment and in consultation with the Council’s legal services.

The Council may prosecute without prior warning or recourse to alternative sanctions where the circumstances warrant it and the evidence to support the case is available.

Prosecution will only be considered where the Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s). Due consideration will be given to the availability and compliance with any relevant statutory defence.

Before deciding that prosecution is appropriate, the Council will consider all relevant circumstances carefully and will have regard to the public interest and, where appropriate, the views of any victim, injured party or other relevant person or impact on the community.

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any assets or profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

xvii. OTHER ENFORCEMENT OPTIONS

The above listed options ‘i – xvii’ are not an exhaustive list and there may be other options available dependent upon the legislation being used that whilst the legislation itself is statutory some of the available enforcement options contained therein may be civil actions.

G. Charging for enforcement activity

The following activities the Council can recover costs:

- (a) Works in default
- (b) Housing Act 2004 - a charge for Notices served and Orders made under Part 1 of the Act the amount if set is part of the Council's fees and charges and is subject to annual review. Under section 49 of the Act a charging notice can be served on the responsible party. If there is an appeal against the notice then the charge will not be applied until the appeal is resolved and subject to the notice being confirmed by the tribunal. There is no right of appeal against a charging notice; only to the notice or order to which the charge relates.
- (c) Legal fees –incurred as a result of a prosecution.

H. Media Publicity

Media coverage will normally be sought in the following cases:

- The offence is widespread in the area and coverage will assist in securing compliance by others;
- To draw attention to particular issue or set of hazards;
- The offence is serious and/or was committed wilfully and the Council wishes to draw attention to their willingness to take a hard line in such cases;
- Coverage is otherwise in the public interest;
- A press release will be issued about convictions where it is considered that publicity will bring in benefits by promoting compliance with those statutory requirements designed to protect the health, safety and welfare of customers, residents, workers and visitors, as well as the wider environment.

I. Appeals

Where any enforcement action is conducted under legislation which contains a specific appeals procedure, you will always be advised of that procedure at the required time.

J. Complaints

Should you have any concerns or complaints about the actions of any authorised officers then these should be made in the first instance to the manager of the service or team in question. A response to the complaint would be expected within 10 working days; if we are unable to respond within 10 working days we will respond and let you know when you can expect a response. If this does not resolve the complaint the Council also has a formal

complaints procedure which is published on the Council's website at <https://www.lincoln.gov.uk/lincoln/make-a-formal-complaint/>

K. Monitoring and Review

Investigating Officers will have regard to this policy when considering enforcement actions and when consulting with the Service manager, when seeking approval from the Assistant Director and consultation with legal services team of the Council. Where appropriate the Council will monitor compliance against this policy. This policy will be reviewed at least every 5 years and any supporting procedures or guidance for Officers will be regularly reviewed.

ANNEX 1 – List of Legislation

This list is not exhaustive but does list legislation which are relevant to this Enforcement Policy:-

Antisocial Behaviour Act 2003
Antisocial Behaviour, Crime and Policing Act 2014
Building Act 1984
Caravan Sites Act 1968
Caravan Sites and Control of Development Act 1960
Criminal Justice and Police Act 2001
Criminal Justice and Public Order Act 1994
Crime Justice and Public Order Act 1994
Criminal Law Act 1977
Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
Environmental Protection Act 1990
Housing Act 1957, 1985 and 1996
Housing Act 2004
Housing and Planning Act 2016
Housing (Grants, Construction and Regeneration) Act 1969
Lincoln City Council Act 1985
Local Government Act 1972
Local Government (Miscellaneous Provisions) Act 1976 and 1982
Prevention of Damage by Pests Act 1949
Protection from Eviction Act 1977
Public Health Act 1936 and 1961
Refuse Disposal (Amenity) Act 1978
Renters' Rights Act 2025
Smoke Alarm and Carbon Monoxide Alarm Regulations 2015
The Management of Houses in Multiple Occupation (England) Regulations 2006
The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007
Town and Country Planning Act 1990 s215, 219, 224 and 225
The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to belong to a scheme etc.) (England) Order 2014

Annex 2 – Data Protection Statement

The Council, the data controller takes its responsibilities seriously under the Data Protection Act 2018 and General Data Protection Regulations to ensure that any personal data it collects and uses is done so fairly, lawfully, proportionately, correctly and safely.

For information about what is, personal data please see the Information Commissioner's Office website: [What is personal data](#)

The privacy notices available below are those which relate to this Health & Environment enforcement policy and describes what data will be collected, how it is used, retained and disclosed. The personal data provided will not be retained for longer than necessary and within each privacy notice the data retention schedule can be viewed.

The Environmental Health privacy notice can be viewed using this link - [Environmental Health privacy notice](#)

The Public Protection and Anti-Social Behaviour privacy notice can be viewed using this link - [Public Protection and Anti-Social Behaviour privacy notice](#)

The Licensing privacy notice can be viewed using this link - [Licensing privacy notice](#)

Annex 3 - Equality and Access Statement

All of our customers are treated equally under this regulatory and enforcement policy.

However, City of Lincoln Council is committed to equality of opportunity for all taking into account the differences of race, gender, gender identity, religion, belief, sexual orientation, age, disability, pregnancy and maternity and marriage and civil partnership, and should an individual case indicate a potential additional impact because of one of these characteristics we will take this into account when applying the policy.

The organisation will uphold the human rights of all of its staff and service users in accordance with the Human Rights Act 1998.

In all of our regulatory and enforcement activities we will ensure we adhere to the Council's Equality, Diversity and Human Rights Policy (add link) and we will work to ensure that information and services are accessible. We will work to reduce the barriers people may face, for example due to disability or language by arranging appropriate translation, interpretation or transcription materials or equipment where appropriate or necessary.

