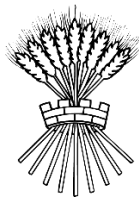


RYEDALE  
DISTRICT  
COUNCIL



POLICY

## Private Sector Housing Enforcement Policy

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## **1.0 INTRODUCTION**

Local Housing Authorities are the primary enforcement agency for ensuring the protection of the health, safety and welfare rights for occupiers and visitors in private sector housing within England and Wales.

For Ryedale District Council (“the Council”), this responsibility is with the Private Sector Housing Service which is part of Specialist Service (People).

Authorised officers (“officers”) within the Specialist Service (People) have both duties and discretionary powers to take enforcement action, using a range of legislation to address issues arising at privately owned accommodation and caravan sites.

## **2.0 AIMS OF THE POLICY**

This Enforcement Policy aims to:

- Demonstrate the transparency of enforcement with respect to private sector housing and caravan sites in Ryedale, by setting out legal requirements, policies and principles that officers will follow when enforcing legislation;
- Improve housing conditions and raise the standard of property management within the private rented sector;
- Provide safer, healthier, affordable and warmer homes in the private sector to enable all people within Ryedale to benefit from healthy housing and environments; and
- Bring empty homes into use.

## **3.0 WHAT IS ENFORCEMENT ACTION?**

Enforcement in its simplest sense is the process of ensuring a law or rule is met or complied with. For the purpose of this policy, it means an action carried out by the authority against a background of statutory powers. Enforcement is not limited to formal action, such as a prosecution or service of a legal notice; it includes inspections, investigations, interventions and the provision of advice and assistance, with the aim of ensuring service users comply with regulatory requirements.

## **4.0 ENFORCEMENT OBJECTIVES**

The main objectives of this enforcement policy are to ensure that:

- Privately rented accommodation, including houses in multiple occupation (“HMO”), and accommodation provided by registered providers of social housing, are free from actionable hazards<sup>1</sup> that affect the health and safety of the tenant, licensee or any visitor;
- Private rented accommodation and tenancies are managed in accordance with relevant statutory requirements;
- Privately rented accommodation meets minimum energy efficiency ratings;
- All licensable properties are licensed, with licence conditions being met;
- Empty properties are tackled with the aim of addressing security, visual amenity and statutory nuisance issues and also returning them back into occupation.
- Owners or occupiers of privately owned accommodation or land do not cause statutory nuisance, or an unacceptable risk to public health and safety, or to the environment or neighbourhood;
- Lettings and property management businesses are registered with a government-approved redress scheme and comply with relevant legislation and codes of practice;
- Caravan and camp sites are managed in compliance with site licence conditions and relevant statutory requirements.

<sup>1</sup>An actionable hazard is one that has been assessed to be a Category 1 hazard using the Housing, Health and Safety Rating System (“HHSRS”) under the Housing Act 2004 and the Housing Health and Safety Rating System (England) Regulations 2005. The authority has a duty to act where Category 1 hazards are identified. The authority has a discretionary power in respect of Category 2 hazards and will take enforcement action in cases where there is a significant risk to the health and safety of the occupiers.

### **Category 1 and 2 Hazards**

For hazards assessed as being a Category 1 hazard it is mandatory to take enforcement action. The type of action will be determined by reference to the Enforcement Guidance and the Council’s priorities to protect health and wellbeing, particularly of the vulnerable. In particular, hazards relating to physiological requirements and protection against infection are more likely to be addressed in this way.

<https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-enforcement-guidance-housing-conditions>

There are discretionary powers to deal with Category 2 hazards. These hazards will only be dealt with:

- where the hazard score exceeds the national average by more than 2 bands; or
- where the hazard band is D or E (i.e. the higher Category 2 bands); and
- where a number of hazards at Band D or below appear, when looked at together, to create a more serious situation.

Each case will be considered on its merits. Where appropriate, action outside these guidelines may be authorised by the Principal Specialist (People) and the Lead in Specialist Services.

## **5.0 REGULATORS’ CODE**

The Legislative and Regulatory Reform Act 2006 (“the 2006 Act”) requires the authority to have regard to the Regulators’ Code produced by the Better Regulation Delivery Office in April 2014 when developing its policies and procedures to guide regulatory activity.

This Enforcement Policy has regard to the Regulators’ Code in that it:

- Follows the principles of good regulation set out in the 2006 Act, in that regulatory activities are carried out in a way that are transparent, accountable, consistent, proportionate to risk and targeted at cases where action is required;
- Supports businesses to comply and grow;
- Provides simple ways to communicate and share information amongst regulators to reduce duplication; and
- Provides clear information and guidance.

## **6.0 EQUALITY STATEMENT**

The Council is committed to treating all customers fairly and all enforcement decisions will be fair, independent and objective.

A priority for the Private Sector Housing Service is to improve standards in private rented accommodation that is occupied by the most disadvantaged persons living in this sector.

## 7.0 TENURE GROUPS

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

- **Private Landlords and Tenants**

Tenants within rented accommodation do not have the same level of control of their homes, in the same way that owner occupiers benefit from. They are reliant on landlords or their agent to adequately maintain their homes in accordance with legal requirements. The Council will take enforcement action where required, against landlords or agents who are putting the health and safety of their tenants at risk, or in circumstances where conditions are causing serious issues to neighbouring property.

- **Owner Occupiers**

Owner occupiers are usually in a position to make informed decisions about maintenance or safety issues in their homes. Formal enforcement action therefore against this tenure group would be limited. Officers would always aim to provide owner occupiers with appropriate advice and recommendations as to how they can mitigate any hazards identified. In cases, however, where there is a severe risk to the health and safety of occupiers, or where there are conditions that have the potential to cause serious issues to neighbouring property, the Council may take formal action against owner occupiers.

- **Registered Social Landlords (“RSL”)**

These are usually housing associations, being a private, non-profit making organisation that provides low cost “social housing” for people in need. Their performance is scrutinised by Homes England and the Housing Ombudsman. RSL’s have written arrangements for reporting problems and clear response times for addressing these issues, in addition to having systems for registering any complaints about service failure. This service will not normally take action against an RSL, unless the problem in question has been properly reported to the RSL, who has then failed to take the appropriate action. The Council will consider enforcement action against an RSL where there are significant risks to the health and safety of tenants and/or the wider public.

## 8.0 REACTIVE INSPECTIONS

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

These will typically be in circumstances where initial communications between this service and the landlord, agent or owner have not successfully resolved the issues for the customer.

There will be circumstances where an inspection may be undertaken in the first instance, for example where:

- There appears to be significant risks to the health and safety of occupiers and/or visitors;
- The tenant/s or prospective occupier is vulnerable;
- The issues are complex or involve neighbouring properties;
- There is a poor history of compliance with legal requirements for housing conditions and/or management practices;
- The property is empty;
- A financial application is involved; and
- The property is put forward for use to house homeless persons or refugees.

Where an inspection is undertaken, officers will assess compliance with all enforceable legal requirements, including a risk assessment under the Housing Health and Safety Rating System (“HHSRS”) and also licence conditions. This may involve referrals to other agencies or local authority service areas.

It is the Council’s aim to action requests for service within appropriate timescales. Requests for service can be received from:

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

## 9.0 PROACTIVE INSPECTIONS

Inspections will be carried out by the Private Sector Housing Service on a pro-active basis as follows:

- Private rented accommodation that is subject to HMO and Discretionary Licensing, under Parts 2 and 3 of the Housing Act 2004 respectively, for assessing compliance with:
  - Licence conditions, licensing evasion;
  - Legislation relating to housing conditions, including for example HHSRS, drainage and refuse;
  - Legislation relating to property management.
- Inspections of caravan sites licensed by the Council, in order to assess compliance with licence conditions.
- Investigations to establish whether or not a letting agent or property manager has joined one of the Government-approved Property Redress Schemes.

## 10.0 ENFORCEMENT

### Delegated Authority

*Officers carrying out enforcement functions have been authorised by the Council in accordance with the Council Constitution and scheme of Delegation.*

### Enforcement Actions

The Specialist (Private Sector Housing) Service offers an opportunity to work informally with landlords, agents, owners and service users, by providing a range of information and guidance. In cases where there has been a complaint about a private rented property or empty home, and where it is the first contact about property standards, the service will normally notify responsible parties and/or will provide an inspection report outlining breaches in legal requirements.

The purpose of this is to enable responsible landlords, agents and owners to comply with regulatory requirements and agree to undertake the works required by the authority in **a short timescale.**

The underlying aim of these communications is to establish good management practices from the outset that ensure compliance with regulatory requirements for property standards and that this approach continues through each subsequent tenancy.

All powers available to the Specialist (Private Sector Housing) Service will be used in order to meet the enforcement objectives set out in this policy. Enforcement action can be separated into **3 stages,** as outlined below. Decisions will be made by competent and authorised officers, in accordance with guidance, as to the most appropriate course of action to be taken.

Different types of enforcement action may be undertaken in relation to any given case depending on legislation used. In some instances, multiple actions may be taken as the case progresses through the different stages of the regulatory process.

Where there is non-compliance with legal requirements, after an informal approach has been made, formal action will be taken as detailed in stages 2 and 3 below.

However, where there are serious breaches in legal requirements, the authority will take a formal approach in the first instance and will move to stages 2 and 3.

To safeguard the health and safety interests for occupiers, visitors and members of the public, formal action will also be considered in the first instance, where:

- The landlord or owner has previous history of non-compliance with legal requirements;
- The landlord, agent or owner has previously been made aware of their legal responsibilities through letters and reports for other properties.

In a small number of cases, there may be circumstances where a decision is made to *not* take formal action. These may include, for example:

- Where there are low risks to the health and safety of occupiers, visitors or members of the public;
- Where there are special circumstances regarding the person against whom action would be taken;
- Where legal action would be disproportionate or inappropriate, taking into account the circumstances of the case;
- Where the tenant does not want action to be taken and a decision is taken that it is not appropriate to take any further action at that time, given the circumstances present.

### **Shared Enforcement**

Officers may work with other services within the authority, such as the Place and the Community team, as well as other enforcing authorities who have the power to take enforcement action. These authorities may include:

- North Yorkshire Fire and Rescue Service;
- North Yorkshire Police;
- UK Visas and Immigration;
- Trading Standards.
- Gangmasters & Labour Abuse Authority

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

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

Officers will have regard to the (“GDPR”) when handling all manual and computerised personal data. Any requests for access to information to the Council can be done in accordance with the Freedom of Information Act 2000 and the GDPR.

In the event of emergency enforcement action being taken regarding tenanted properties which will lead to tenants becoming homeless the action will be discussed with the Principle Specialist (People).

## Stage 1 – Informal Enforcement Action

### Providing Assistance, Information, Education and Informal Action

<b>Information and leaflets</b>	A wide range of information and links are available on our website <a href="http://www.ryedale.gov.uk">www.ryedale.gov.uk</a>
<b>Telephone calls, emails and letters</b>	To advise of works or actions to be taken, following a request from a tenant or as a result of an inspection by this service. These will cover deficiencies in regulatory requirements
<b>Inspection report</b>	A report showing deficiencies or areas of noncompliance with specific legislation. The report may also include recommended works of good practice.
<b>Landlord forums</b>	The Service hosts an annual Landlord forum
<b>Facebook and Twitter</b>	Information is also available on social media.
<b>Loans and grants</b>	Loans and grants for specific circumstances are administered by this service.
<b>Referrals to other services/agencies or regulators</b>	For specialist areas within their remit.
<b>Landlord and agent associations</b>	Information and support can be obtained from industry-led organisations such as the RLA, NLA, ARLA and NALS. Please refer to the organisation's website for details.

## Stage 2 – Formal Enforcement Action Issued by the Local Authority

Formal notices will be served or formal action will be taken in situations where:

- The council has a **duty** to serve a notice or take a specified action;
- Statutory requirements have been breached;
- Remedial action needs to be taken quickly;
- An owner, landlord or agent has a history of non-compliance;
- A property has actionable hazards (see page 2) that create risks to an occupier's health and safety (or that of a visitor), and
- There is a long term empty property.

In cases where an officer decides it is more appropriate to take formal enforcement action without first giving an opportunity to resolve the issue informally, the officer will explain to the person concerned the reasons for this decision.

Where notices and orders are served, the authority will provide copies to other interested parties, such as the occupier; mortgagee; freeholder; leaseholder or agent in accordance with the specific legislative requirements.

Certain notices, orders and charges are required to be registered as a local land charge and whilst the matter is outstanding, these will be disclosed to any prospective purchaser making a local land search.

There are a number of different types of formal notices, licences, warnings and charges that can be issued by the authority:

<b>Formal notice, compliance notices, or licence</b>	Served to require works or actions to be undertaken in accordance with specified legislative requirements.
<b>Notices to recover costs and expenses incurred by the authority in taking enforcement action</b>	Served in connection with Housing Act 2004 notices for the recovery of costs and expenses
<b>Power of Entry notices</b>	Served when access is required into residential premises at a specified date and time.
<b>Notices requiring information or documents</b>	Served to require prescribed documents or information to be supplied
<b>Emergency Prohibition Order</b>	Served under the Housing Act 2004 to immediately prohibit use of premises (or part of) where a serious health and safety issue exists.



<b>Emergency remedial action</b>	Serious, emergency works undertaken immediately by the local authority in default. Costs incurred by the Council in taking this action will be recovered.
<b>Revocation or variation of an improvement notice, prohibition order or emergency prohibition order</b>	Notices served to vary or revoke the terms of a previously served enforcement notice or order.
<b>Revocation, variation or refusal to licence premises</b>	Notices served to vary the terms or revoke a previous licence issued, or to refuse to licence a property.
<b>Works in default</b>	Works undertaken in default by the authority to ensure compliance with a legal requirement. Costs incurred by the Council in taking this action will be recovered.
<b>Civil or monetary penalty</b>	A notice issued by the local authority to impose a financial penalty. It is to be paid to the authority in situations where there are breaches of legal requirements or where offences have been committed.
<b>Simple caution</b>	Issued by the local authority where offences have been committed.
<b>Compulsory Purchase Order and enforced sale</b>	An Order served by the authority for a long term empty home where it is causing blight and statutory nuisance in an area. It is used only where there is proven demand for this house type. A sale of a property can be imposed to recover unpaid debts incurred by the authority for undertaking essential repair works in default.
<b>Management orders and empty dwelling management orders</b>	Orders served by the authority where no responsible person can be identified to manage a privately rented or empty home.

### Stage 3 -Formal Enforcement Action Progressed by Courts or Tribunals

Failure to comply with legal requirements, such as a formal notice may result in a stage 3 action. Before considering a stage 3 action, the investigating officer will consider the appropriate actions available for the legislation concerned.

<b>Prosecution in criminal Courts (Magistrates and Crown Court)</b>	Legal proceedings instigated where there is a flagrant breach of law; noncompliance with a legal notice or legal requirements; a history of noncompliance and for serious offences where there is a community benefit.
<b>Warrant to enter premises</b>	Warrants issued by the Magistrates Court for officers to enter premises by force, if required.
<b>Rent Repayment Order</b>	An Order issued by the First Tier Tribunal for the repayment of rents received where there has been an offence or breach of legislative requirements.
<b>Proceeds of Crime Actions</b>	An Order issued by the courts for confiscation and civil recovery of proceeds from criminal acts
<b>Injunctions</b>	Issued by the courts to prevent certain actions, activities or threats being carried out by a specific person.

## 11.0 LICENSING

Mandatory requirements for licensing apply only to houses (or flats) that are in multiple occupation (“HMO”).

A landlord or agent must apply to the authority for a licence for each residential property having:

- Five or more occupiers living in two or more households, and
- Two or more households sharing amenities (either a kitchen, living room or bathroom/toilet facilities).

The licence fee is detailed in the website.

Councils have discretionary powers to introduce licensing for other residential accommodation through *Additional or Selective Licensing* schemes.

*Additional Licensing* can be used for a HMO that is not subject to mandatory licensing.

*Selective Licensing* can be used for areas with private rented property, where there are issues such as poor housing conditions, low demand or high levels of anti-social behaviour.

Before a discretionary licensing area is declared, the Council must carry out a public consultation process and present a business case that supports the introduction of the licensing scheme.

Currently, other than the mandatory HMO licensing scheme, the Council has no additional or selective licence schemes operating within the authority.

### **Operating a Licensable property without a licence**

Where the Council becomes aware of a licensable property operating without a licence, there will be a presumption to take formal action, such as instigating legal proceedings for a prosecution. Each case will be considered on its own merits.

In these circumstances, the council will issue a reduced term licence and will remove the entitlement to any fee discount.

Where landlords have been prosecuted for operating an unlicensed property, the Council will give consideration to the use of Rent Repayment Orders. These can be used by the authority to claim back any Local Housing Allowance paid whilst the property was unlicensed up to a maximum of 12 months.

Also, tenants can be provided with information and advice on how they can apply to The First Tier Tribunal Service to claim back the rent they have already paid, for the duration that the property was unlicensed up a maximum of 12 months.

### **Duration of Licences**

Licences will normally be granted for a full five year period for mandatory licensing schemes. However, for landlords who are late in making a licence application or who are found to be operating a property without a licence, these will be issued with a reduced-term licence.

For discretionary licensing schemes, a licence is issued after an application is received and it runs until the end of the scheme. This will be for a maximum of 5 years but will often be less depending on the remaining term left for the scheme to operate.

## **Refusal of Licences**

The Council may refuse to issue a licence to the applicant or proposed manager of residential premises. An example of this can be where the applicant or manager is deemed to not be a fit and proper person. Also, a licence will be refused in circumstances where the accommodation is not capable of being operated as a licensable HMO or other licensable property.

## **Variation and Revocation of Licences**

The Council may vary a licence, either by agreement with the licence holder or on its own decision, where it considers that there has been a change of circumstances since the licence was granted.

A licence will be revoked following a change in ownership; death of the licence holder or by agreement with the licence holder if the property is no longer licensable.

The Council may revoke a licence if the licence holder or manager is no longer deemed to be a fit and proper person.

## **Breach of Licence Conditions**

Conditions listed on a licence cover the provision of amenities and property management standards, and include specific timescales for compliance. They also include the number of persons or households that are permitted to occupy a property. Formal action will be taken where there are serious contraventions of licence requirements.

### **12.0 MANAGEMENT ORDERS**

The Council will consider serving a Management Order in respect of residential premises where there is no reasonable prospect of an owner or landlord being identified as being responsible for controlling or managing the property. This action is available for both licensable and non-licensable residential premises.

A Management Order can be used in very serious circumstances, where it is necessary to protect the health, safety or welfare of occupiers, visitors or persons living in the vicinity, or where there is anti-social behaviour that is affecting the neighbourhood.

### **13.0 OVERCROWDING IN SINGLE AND MULTIPLE OCCUPANCY DWELLINGS**

The Specialist (Private Sector Housing) Service will investigate complaints about overcrowded conditions from:

- Private rented sector tenants complaining about their own property;
- Other parties where they are concerned about children or vulnerable adults;
- Other parties where there are significant conditions that are legitimately impacting on a neighbour's health, safety or welfare.

In certain circumstances, advice may be given to the occupiers that their health and safety is at risk from the overcrowded conditions, but no enforcement action will be taken against the landlord.

Where enforcement action is taken that requires tenants to move out of a property, this service will liaise with the Council's Specialist Services Team, who will be able to give advice and, in some circumstances, assistance on alternative accommodation available.

## **14.0 FIRE SAFETY IN SINGLE AND MULTIPLE OCCUPANCY DWELLINGS**

An agreement has been drawn up between the North Yorkshire Fire and Rescue Service and the North Yorkshire and York local authorities for joint working to secure fire safety in HMOs.

A guide has been produced, to help landlords meet the standards of fire precautions normally required in various types of HMO, without the need for intervention by the local authority. This guide is available on our website at [www.ryedale.gov.uk](http://www.ryedale.gov.uk)

## **15.0 HARASSMENT, ILLEGAL EVICTIONS AND RETALIATORY EVICTION**

Where this service becomes aware of allegations or offences about illegal eviction or harassment that threatens the tenant's rights in their tenancy, a referral will be made to the Community Team for initial investigation.

The landlord or agent will then be investigated by Specialist Services (People) and where appropriate, enforcement action taken.

Examples of circumstances that would merit investigation include:

- Entering the property without the appropriate notice;
- Disconnection of utility supplies;
- Changing locks to the premises;
- Attempting to terminate a tenancy without serving the appropriate legal notice;
- Attempting to terminate a tenancy as a result of a retaliatory eviction. These are where a complaint of poor property conditions made to a landlord is substantiated by the authority and an Improvement Notice served or Emergency Remedial Action taken;
- Illegal eviction from the property not involving court bailiffs and a possession order from the courts.

## **16.0 EMPTY HOMES**

It is a key priority for the York, North Yorkshire and East Riding Housing Strategy to reduce the number of empty homes in Ryedale, particularly those that are long term empty. Empty homes present a wasted resource, particularly with the shortfall in housing supply, as well as creating barriers for sustainable communities where deteriorating property conditions can attract antisocial behaviour.

This service will encourage owners of private sector empty homes to bring their properties back into occupation through letters, advice and financial assistance.

Where informal action is not successful, the service will consider using a range of enforcement measures shown in Stages 2 and 3 of the Enforcement Action which can include:

- The service of a statutory notice;
- Arranging for works to be carried out in default of the owner;
- Serving Empty Dwelling Management Orders (Part 4 of the Housing Act 2004);
- Enforced sale (Law of Property Act 1925) and.
- Compulsory Purchase Order action (Part 2 of the Housing Act 1985).

## **17.0 CARAVAN SITES**

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

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

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

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

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

The Council has the power to charge annual fees for residential caravan sites and mobile home parks under the Mobiles Homes Act 2013. All charges are set out in the Mobile Homes Charging Policy, The current fees are detailed on the Council's website [www.ryedale.gov.uk](http://www.ryedale.gov.uk)

## **18.0 PROPERTY REDRESS SCHEME**

All letting agents or property management businesses are legally required to be a member of one of the three registered property redress schemes.

Where a letting agent or property manager is identified as not being registered with one of the schemes, then a monetary penalty will be imposed by the Council.

Notices will be served on an organisation prior to a monetary penalty being issued. There are rights of appeal to the First Tier Tribunal.

There is no limit to the number of fines that can be levied on a single letting agent or property manager if they continue not to be a member of a scheme.

The fees are detailed on the Council's website [www.ryedale.gov.uk](http://www.ryedale.gov.uk)

## **19.0 CHARGING FOR ENFORCEMENT ACTION**

The Council will make a reasonable charge to recover administrative and other expenses incurred when taking the enforcement action under the Housing Act 2004. This will include when the following notices are served or actions taken:

- Serving an Improvement Notice under Sections 11 and/or 12;
- Making a Prohibition Order under Section 20 or 21;
- Serving a Hazard Awareness Notice under Section 28 or 29;
- Taking Emergency Remedial Action under Section 40;
- Making an Emergency Prohibition Order under Section 43;
- Undertaking an annual review of a Suspended Improvement Notice or a Suspended Prohibition Order, and
- Making a Demolition Order under Section 265 of the Housing Act 1985.

Any charges made for taking enforcement action will be detailed in a 'Demand for Payment' notice which will accompany the enforcement notice(s). The Charge will be recovered through the Council's Finance Service.

This charge is registerable as a local land charge on the Land Charges Register.

The current fees are detailed on the Council's website [www.ryedale.gov.uk](http://www.ryedale.gov.uk)

## **20.0 FINES, RECOVERY OF COSTS AND PROCEEDS OF CRIME**

In prosecution cases where the defendant is found guilty by either the Magistrates or Crown Courts, unlimited fines can now be imposed.

In addition, the Council will seek to recover the costs incurred in taking a prosecution case, which include administrative costs incurred for preparing the prosecution file; attendance at court and Legal Services costs for preparing and presenting the case.

In cases where a property has been let illegally, or where there has been a breach of legal requirements, the Council will consider applying to the First Tier Tribunal Service to recover rent from a landlord through a Rent Repayment Order. It will also give advice to tenants on how they may recover rents through applying to the Tribunal Service in these circumstances.

Where there is substantial financial gain for a landlord or owner through noncompliance with legislative requirements in the private rented sector, the Council will consider taking action to confiscate or recover monies gained through illegal activities under the Proceeds of Crime Act 2002.

## **21.0 WORK IN DEFAULT**

The Council will undertake work in default where there has been non-compliance with a statutory notice. Any action taken would be in accordance with legislative requirements and may be taken either with or without the consent of the responsible person.

The Council will recover the actual capital costs for the work and an administrative charge to recover costs incurred in arranging for a contractor; supervising the work and all associated administrative procedures.

The Council will register all costs incurred in undertaking default works as a local land charge against the premises.

Normally, the responsible person will be given notice of the Councils' intention to carry out works in their default. Although, in emergency situations, the statutes provide that no prior notice is required before undertaking works in default.

The Council will consider taking enforcement action in cases where officers or contractors are obstructed in undertaking their duties or carrying out works. The same obstruction offences still apply once emergency procedures have commenced.

Works in default may be undertaken in addition to instigating legal proceedings.

## **22.0 CIVIL PENALTIES, MONETARY PENALTIES AND PENALTY CHARGES**

Civil Penalties, Monetary Penalties or Penalty Charges will be imposed where there is a breach in legal requirements according to specific legislative requirements.

These are located on the website.

Where a fixed penalty is not paid within the prescribed period, legal proceedings will be instituted for non-payment.

The current charges are detailed on the Council's website [www.ryedale.gov.uk](http://www.ryedale.gov.uk)

## **23.0 PROSECUTIONS**

Cases will only be recommended for a prosecution once this service has:

- Confirmed the appropriateness of the cases for legal proceedings;
- Confirmed compliance with the Regulator's Code, and
- Considered specific legislative requirements, enforcement procedures and this Enforcement Policy.

Regard will be made to the evidence and statutory defences available and the public interest tests as to whether the case should be pursued further, as set out in the Code for Crown Prosecutors. Cases are usually heard in the Magistrates Courts.

A checks and balance assessment is carried out before a case is referred to the Council's Legal Services, with the final decision being taken by the Head of Legal Services.

#### **24.0 SIMPLE CAUTION**

Simple Cautions may be considered as an alternative to taking a prosecution.

Any decisions to give a simple caution will be made in accordance with guidance issued by the Ministry of Justice -Simple Cautions for Adult Offenders (2015).

#### **25.0 PUBLICISING OUTCOMES**

Verdicts and sentences in criminal cases are given out in open court and are a matter of public record. Evidence suggests that the public 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 authority will publicise the outcomes of criminal cases and basic personal information about the convicted offender, in accordance with guidance issued by the Criminal Justice System (Publicising Sentencing Outcome, CJS, 2011). The reasons are to:

- Reassure the public;
- Increase trust and confidence in the criminal justice system;
- Improve the effectiveness of the criminal justice system, and.
- Discourage offending and/or re-offending.

#### **26.0 FORMAL APPEALS**

Where a statutory notice/order is served, or a licensing decision is made, the method of appealing the decision 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, clear reasons will be given, wherever possible, to a person against whom enforcement action is being taken. On request, these reasons will be confirmed in writing at the earliest opportunity and will include information about any relevant complaint or appeals procedure.

All formal appeals made will be responded to in accordance with statutory time limits and with advice from the Council's Legal Services.

#### **27.0 COMPLIMENTS AND COMPLAINTS POLICY**

The Council recognises the need to provide an excellent public service which is responsive to the views of both residents and businesses. We are therefore committed to continually improve the Private Rented Sector in Ryedale and want customers and service users to provide feedback, which may be used to improve our services further.

As required by the Regulators Code, the authority has a Compliments and Complaints Procedure which allows all service users to give a compliment, give feedback or make a formal complaint. This can be accessed through the Ryedale District Council website [www.ryedale.gov.uk](http://www.ryedale.gov.uk) or by telephoning the Council Tel: 01653 600666

Through the Compliments and Complaints Procedure, it is the aim that complaints are resolved speedily, effectively and fairly.



The tone of our contact is open, responsive and avoids unnecessary formality. Our written correspondence uses plain English and where appropriate, will be backed up with action to resolve such complaints.

If a complainant is not satisfied at the end of the complaints process, the matter can be raised with the relevant ombudsman service.

## **Appendix 1: List of Consultees**

This policy was made available for consultation with the following bodies.

### **Internal:**

Ryedale Specialist Team (People) – Homelessness, Tenancy Relations and Gypsy Liaison

Legal Services

### **External**

National Landlord Association

Private Rented Sector Landlords and Agents

## **Appendix 2: Typical Legislation used by this Enforcement Policy**

Building Act 1984

Caravan Sites Act 1968

Caravan Sites and Control of Development Act 1960

Deregulation Act 2015

Energy Act 2013

Enterprise and Regulatory Reform Act 2013

Environmental Protection Act 1990

Home Energy Conservation Act 1995

Housing Act 1985, 1996 and 2004

Housing and Planning Act 2016

Housing Grants, Construction and Regeneration Act 1996

Local Government and Housing Act 1989

Local Government (Miscellaneous Provisions) Act 1976 and 1982

Local Government Act 2003

Mobile Homes Act 2013

Prevention of Damages by Pest Act 1949

Protection from Eviction Act 1977

Public Health Acts 1936 and 1961

Regulatory Reform (Housing Assistance) Order 2002

Sustainable Energy Act 2003

Homeless Reduction Act 2018

Including Regulations and Orders made under the Act.