East Cambridgeshire District Council

# Housing Authority Enforcement Policy

**Written by Waste and Environmental Services (Domestic Team)**

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## 1. Introduction

This policy sets out the council's principles for enforcing and executing its duties as a Housing Authority under the relevant statute.

Section 3 of the 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.

Section 107 of the Renters' Rights Act 2025 imposes a duty on the council to enforce the Landlord Legislation. The Landlord Legislation comprises the following:

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

Section 110 of the 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.

## 2. Aims of the policy

The purpose of this enforcement policy is to provide guidance for authorised officers to ensure enforcement action is taken in line with the provisions of the Renters' Rights Act 2025 and mandatory guidance to local authorities.

The Act and the 'Landlord Legislation' (as defined by Section 107 Renters' Rights Act 2025) and Part 1 of the Housing Act 2004 are not listed in the Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 and therefore sit outside of the Regulators' Code, and its provisions do not apply.

This policy document sets out what owners, landlords, their agents or any other person involved in the letting or management of privately rented accommodation, and tenants of private rented sector properties, can expect from officers when dealing with non-compliance.

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

As a public body under the Human Rights Act 1998, the council will apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

## 3. Approach to enforcement

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

Section 5 of the Housing Act 2004 places a duty on councils to take appropriate enforcement action where a category 1 hazard exists.

Section 6A Housing Act 2004 permits the council, when first taking appropriate enforcement action under Section 5 Housing Act 2004 in relation to a category 1 hazard or a failure to meet a Type 1 requirement on qualifying residential premises, to impose a Civil Financial Penalty on the responsible person where, in the council's opinion, it would have been reasonably practicable for that person to secure the removal of the hazard or the meeting of the requirement. This power applies to qualifying residential premises other than the common parts of a building containing one or more flats.

Section 7 of the Housing Act 2004 gives councils a discretionary duty to take action where a Category 2 hazard exists. The council will usually take action where a 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
- houses if Selective Licensing is in force

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

# 4. Investigatory powers

In addition to the council's informal and formal powers of enforcement, there are investigatory powers relating to the collection of information and relating to the entry of premises including, but not limited to, the powers detailed below.

Power to Investigate

Section 114 of the Renters' Rights Act 2025 gives the council power to issue a notice to a relevant person to require the person to provide specified information to the council.

This notice may be given to any person with an estate or interest in the land; the licensor; their agents; or a marketer of a property. It may be given in regard to any offence under the following Legislation:

- Sections 1 and 1A of the Protection from Eviction Act 1977
- Chapter 1 of Part 1 of the Housing Act 1988
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013
- Sections 21 to 23 of the Housing and Planning Act 2016
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025

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

Section 115 of the Renters' Rights Act 2025 permits the council when it reasonably suspects a breach of the Rented Accommodation Legislation to issue a notice to any person requiring them to provide the information specified. This may only be done to investigate whether a breach has occurred under the Rented Accommodation Legislation, or to determine the amount of a penalty. For the purposes of this section, the Rented Accommodation Legislation means:

- Sections 1 and 1A of the Protection from Eviction Act 1977
- Chapter 1 of Part 1 of the Housing Act 1988
- Parts 1 to 4 and 7 of the Housing Act 2004
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013
- Sections 21 to 23 of the Housing and Planning Act 2016
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025

Where an individual has not complied with a Section 115 notice, Section 116 Renters' Rights Act 2025 enables the council to make an application to the Court to enforce the provisions of the notice and seek reimbursement for the costs of the application.

Section 131 of the Renters' Rights Act provides that, in addition to the offence of non-compliance with a Section 114 notice, it is an offence for an individual to obstruct a council officer seeking to exercise their powers without reasonable excuse. It is also an offence to fail to give an officer any additional assistance or information which they reasonably require without reasonable excuse.

Section 235 of the Housing Act 2004 allows the council to issue a notice to relevant individuals, including occupiers, directing them to provide specified documents under their control for the purpose of investigating whether an offence has been committed under Parts 1 to 4 of the Housing Act 2004 or exercising the council's functions under Parts 1 to 4 of the Housing Act 2004.

Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 also permits the council to issue a notice to an occupier, manager, or individual with an interest in the land to compel them to provide the council with information on the nature of their interest and the names and addresses of current occupiers and of any others with an interest in the land.

## Entry to Premises

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

Section 121 of the Renters' Rights Act 2025 allows a council officer named in a warrant to enter premises used for a rental sector business which is not mainly accommodation if there are documents on the premises which the officer could require under Section 122 or seize under Section 123. In addition, for this power to be exercised, one of the following conditions must be met:

- that access to the premises has been or is likely to be refused, and the council has provided notice of their intention to apply for a warrant to the occupier
- those documents on the premises would likely be concealed or interfered with if notice of entry were to be given
- that no occupier is present, and waiting for their return might defeat the purpose of the entry

Following a Section 118 or Section 121 Renters' Rights Act 2025 entry, Section 122 allows an officer at any reasonable time to require a relevant person on the premises to produce any documents relating to the business and to take copies of them. This may only be exercised to ascertain whether there has been a breach of the Rented Accommodation Legislation where an officer reasonably suspects there has been a breach or an offence; or to ascertain whether the documents may be required in evidence for proceedings regarding a breach or offence.

Following a Section 118 or Section 121 Renters' Rights Act 2025 entry, Section 123 authorises council officers to seize and detain documents that the officer reasonably suspects may be required as evidence in proceedings relating to a breach of, or an offence under, the Rented Accommodation Legislation. When doing so, the officer will provide evidence of the officer's identity and authority if reasonably practicable. The officer will take reasonable steps to inform the person from whom documents have been seized that they have been seized, and will provide that person with a written record of what has been taken.

Section 126 of the Renters' Rights Act 2025 permits the council to enter residential premises used for a tenancy at a reasonable time if the officer considers it necessary as part of an investigation into potential offences specified in Subsection 1(b). Where required, the council will give at least 24 hours' notice of this to the occupier and individuals with an interest in the property as per Subsection 1(c), detailing in writing why the entry is necessary and the suspected offences. Where there are occupiers found on the premises, the officer will provide evidence of the officer's identity and authority to at least one of the occupiers if reasonably practicable.

In addition, Section 239 of the Housing Act 2004 permits council officers to enter, if necessary and at a reasonable time, a property in order to carry out a survey or examination. This may be done if any one of the following is met:

- to determine if any Part 1-4 enforcement functions should be exercised
- the premises are part of an Improvement Notice or Prohibition Order
- a management order is in force under Chapter 1 or 2 of Part 4 on the premises

In certain circumstance the council may obtain a warrant to enter, by force if necessary, under Section 240 of the Housing Act 2004.

# 5. Informal action

Informal action taken by the council may be written or verbal advice. Additionally, a visit may be made at the outset by council Officers in cases where the initial complaint or contact indicates that an immediate investigation by a council officer is warranted.

In cases where officers visit an address, whether this is a result of a landlord's failure to adequately resolve a highlighted issue or as part of an audit or other investigation, written or verbal advice may be deemed sufficient should the inspection highlight only very minor deficiencies.

Where written advice is deemed appropriate by the council and is provided, timescales will normally be included to undertake any specified work or actions.

While the council will use its discretion on whether to carry out informal action for a Category 2 hazard, it does not need to provide written or verbal advice before commencing formal action.

# 6. Formal action

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

## Housing Act 2004 Part 1

Section 6A of the Housing Act 2004 provides for the imposition of a Civil Financial Penalty when first taking the appropriate enforcement action required by Section 5 Housing Act 2004, in relation to a category 1 hazard or a failure to meet a Type 1 requirement on qualifying residential premises, where the council considers that it would have been reasonably practicable for the responsible person to secure the removal of the hazard or the meeting of the requirement.

Issue an Improvement Notice in respect of any Category 1 hazards and any Category 2 hazards on the property. This requires the person to whom it is served to undertake the remedial action specified on the Notice within a given timeframe. The mandated work and the timeframe will be determined by the council depending on the nature and scale of the work.

Issue a Prohibition Order in respect of any Category 1 hazards and any Category 2 hazards on the property. This prevents occupation of whole or part of the property, or can be used to limit occupant numbers, within a specified time frame.

Issue a Hazard Awareness Notice in respect of any Category 1 hazards and any Category 2 hazards on the property. This makes the owner and occupiers aware of the hazards identified; however, it does not require remedial action. As a result, and because it does not secure risk-reducing works within a specified timeframe, a Hazard Awareness Notice will not usually be the most appropriate course of action where remedial works are necessary to reduce the risk of harm to occupiers or potential occupiers.

Demolition and Clearance are options for both Category 1 or Category 2 hazards.

Section 30 of the Housing Act 2004 provides that failure to comply with a Improvement Notice is a criminal offence, which will normally be followed by prosecution or the issuing of a civil penalty.

Section 32 of the Housing Act 2004 provides that failure to comply with a Prohibition Order is a criminal offence, which will normally be followed by prosecution.

Other formal notices served by the council may not relate to the landlord undertaking remedial works but may cover a range of other matters including, but not limited to, exercising a right of entry under Section 239 of the Housing Act 2004 and a request to provide information or the need to abate or avoid overcrowding.

## Work in default

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

## Emergency or suspended enforcement action

Where there is a Category 1 hazard present, Section 43 of the Housing Act 2004 permits the council to issue an Emergency Prohibition Order. This immediately prohibits the use of all or part of a dwelling if there is an imminent risk of serious harm to the health or safety of the occupants or others.

Section 40 of the Housing Act 2004 allows the council to undertake Emergency Remedial Action on the Category 1 hazard without prior notice. The council may then seek reimbursement of costs incurred on the work and the administration of the scheme.

The council also has the power to suspend action taken under Part 1 Housing Act 2004 in situations where it has the power or duty to take enforcement action through the service of an Improvement Notice or Prohibition Order. This will be at the council's discretion and will normally be considered for the purpose of minimising inconvenience to the current occupiers.

## 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, authorities should seek to 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 these conditions is a is a criminal offence, which may result in prosecution or the issuing of a civil penalty

## Other Legislative alternatives

There may be other legislative alternatives available to remedy deficiencies that cause Category 2 hazards which an authority may choose as a more appropriate enforcement approach.

## Prosecution

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

The decision to prosecute will be determined by the evidential strength of the council's case and the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors.

In many circumstances, where an offence is committed by a body corporate, legislation enables local authorities to pursue persons involved with the body corporate in addition to, or instead of, the body corporate. These include company officers and, where applicable, company members.

The council will determine, on a case-by-case basis, whether to take enforcement action against any person or persons that they consider fall within the scope of this category in addition to prosecuting the body corporate.

## Civil Financial Penalties for specified breaches and offences

This section relates exclusively to Civil Financial Penalties issued by the council for the below offences and breaches of housing law. The council has the power to impose a Civil Financial Penalty for the following:

- unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997
- failure to comply with an Improvement Notice [Section 30 of the Housing Act 2004]
- offences in relation to licensing of Houses in Multiple Occupation (HMOs) [Section 72 of the Housing Act 2004]
- offences in relation to the Selective Licensing of 'houses' [Section 95 of the Housing Act 2004]
- failure to comply with an Overcrowding Notice [Section 139 of the Housing Act 2004]
- failure to comply with a management regulation in respect of an HMO [Section 234 of the Housing Act 2004]
- failure to secure the removal of a category 1 hazard and failure to meet Type 1 requirements on qualifying residential premises, where it would have been reasonably practicable to do so [Section 6A Housing Act 2004]
- breach of duty under Regulation 3, 3B, 3C, and 3D of The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020
- failure to comply with a banning order [Section 21 of the 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

Civil Financial Penalties in respect of these offences operate according to their own independent standalone policy, formally adopted and in operation from 1st May 2026.

## 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 it will pursue a Rent Repayment Order unless there are exceptional case-specific reasons not to do so.

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 [Section 30 Housing Act 2004]
- offences in relation to unlicensed HMOs [Section 72(1) Housing Act 2004]
- offences in relation to unlicensed houses [Section 95(1) Housing Act 2004]
- failure to comply with a Prohibition Order [Section 32(1) Housing Act 2004]
- breach of a Banning Order [Section 21 Housing and Planning Act 2016]
- using Violence to secure entry [Section 6(1) Criminal Law Act 1977]
- knowingly or recklessly misusing a possession ground [Section 16J(1) Housing Act 1988]
- letting or marketing of a property within twelve months of using the 'moving in' or 'selling' ground of eviction [Section 16J(2) Housing Act 1988]
- continuous breach of certain tenancy reform requirements [Section 16J(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.

Section 49 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 to a relevant advice or representation service, such as Justice for Tenants, and by providing relevant evidence which may assist tenants in preparing, pursuing or participating in Rent Repayment Order proceedings.

## 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
- 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

## Costs and Charges

The council incurs costs in carrying out its functions. Where legislation allows, the council will seek to recover reasonable costs and expenses associated with its enforcement, licensing and wider regulatory activity. This may include (non-exhaustively) costs arising from inspections, investigation, evidence gathering, notices and other statutory documentation, follow-up action, compliance monitoring, and works or other interventions.

Recovery may be pursued using all available lawful routes, which may include civil action, local land charges, and enforcement against the property.

Where permitted, interest may be applied to outstanding sums until paid.

# 7. Complaints

Contact may be made with the council about any matters listed here by visiting our East Cambridgeshire District Council website (eastcambs.gov.uk)

Or by calling us on 01353 665555 or emailing us at ContactUs@eastcambs.gov.uk

If you wish to make a complaint, we encourage you to contact either the Customer Services team, the individual department or person you have been dealing with directly via any of the methods above. All our staff will always listen to you and try to resolve any grievances quickly and informally.

A service user can still make a complaint in cases where the council has instigated legal proceedings. However, making a complaint will not stop any impending legal action.

The complaints form can be found on the councils feedback page on the website (eastcambs.gov.uk/contact-us/feedback).

Where statutory notices have been served, making a complaint does not replace the statutory rights of appeal or the right to make representations. It also does not allow extra time to comply with any notice or order.

If a service user disagrees with a statutory notice, they should take action as specified in the notice or order to make an appeal, if any exists. Reference should be made to any notes that may accompany the notice or order for more detail.

## Revision and amendment record

### Revision number

2

### Date published

October 2026

### Completed by

Karen See

### Amendment details as follows:

1) Changed “s” to “Section” throughout
2) Added a paragraph regarding Section 6A Housing Act 2004 to “Approaches to enforcement”
3) Corrected inconsistent capitalisation at the start of bullet points
4) The following Bold section added to section within Approach to Enforcement:
   “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 or houses if Selective Licensing is in force.”
5) Added a paragraph regarding Section 6A Housing Act 2004 to “Formal action”
6) Changed the heading “Civil Financial Penalties for specified offences” to “Civil Financial Penalties for specified breaches and offences” and updated the wording of the first sentence beneath to reflect this amendment and added a bullet point for Section 6A Housing Act 2004
7) Updated “Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020” to “The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020”
8) Update to RRO section
9) Shortened “Aims of the policy”

End of document