



## BCP COUNCIL OFFICER DECISION RECORD

This form should be used to record Executive decisions taken by Officers	Decision Ref. No: DRO36
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<b>Service Area:</b>	Regulatory Services, Communities	<b>Date:</b>	
<b>Contact name:</b>	Peter Haikin Head of Regulatory Services	<b>Tel. No.:</b>	01202 128929
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<b>Subject:</b>	Update the Private Sector Housing (PSH) Enforcement Policy by way of a further appendix.		

### Decision taken:

To update the Private Sector Housing (PSH) Enforcement Policy with:

- To operationally be able to restrict or reduce the granting of a full 5-year HMO licence under certain circumstances.

### Reasons for Decision:

This appendix to the Private Sector Housing Enforcement Policy means that there is a continued focus on improving the quality of the Private Rented Sector locally and tackling those landlords who are not adhering to their requirements, responsibilities, and legal obligations as a landlord or a person in control of a mandatory HMO.

The added appendix also means that the Council can be in a better position to deal with poor quality HMOs and is an incentive for landlords to drive up the quality of HMOs being offered to all spectrum of tenants. Poor quality housing can lead to immediate health problems such as respiratory conditions, injuries arising from hazards, but also longer-term mental health impacts from unsuitable premises.

### Background:

The Private Sector Housing Enforcement Policy details how the Council will regulate standards in Private Rented Housing. It also provides a background to the legislation and guidance on which it is based. It is important for local authorities to have an enforcement policy to ensure consistency of approach among Council Officers and for members of the public to know what to expect from the service.

An enforcement policy also provides clarity if the Council takes legal proceedings or enforcement action is appealed against.

The Private Sector Housing Enforcement Policy outlines the Council's general approach to enforcement across a wide range of activities. The policy provides details of the Council's specific approach to regulating housing standards in Bournemouth, Christchurch, and Poole.

The Private Sector Housing Enforcement Policy confirms that:

- The Council will provide awareness, advice, and assistance whenever possible to the public, businesses, and organisations to help them meet their legal obligations in relation to the relevant legislation before embarking on the enforcement process.
- The Council is committed to carrying out its duties in a fair and consistent manner, ensuring that enforcement action is proportional to the seriousness of failure to comply with statutory requirements.
- The decision to use enforcement action will depend on the severity of the non-compliance

The Council currently has 1,462 mandatory licensed HMOs operating within Bournemouth, Christchurch, and Poole. However, to date, the Council currently estimates that there are a further 1,600+ unauthorised HMOs operating within the Bournemouth, Christchurch, and Poole area.

The Council took the decision not to proceed with the implementation of Selective or Additional Licensing schemes, but to bring forward a new Private Sector Housing Strategy to set out how we wish to deliver improvements in the private rented sector. This appendix is part of how we are to deliver improvements and standards within the Private Rented Sector.

When the Council makes a decision to grant an HMO licence it will normally be for the maximum 5 years allowed in accordance with the Housing Act 2004.

However, where evidence exists that gives cause for concern with regards to any person responsible for operating the licence, managing the property and/or the property conditions, it may be more appropriate to issue a licence for a shorter term instead.

This means the council will consider granting a licence for a shortened period of 1 year only.

The circumstances that will be a cause for concern, include, but are not limited to, the following:

- Proposed management arrangements in place
- Failure to obtain consents or approvals appropriate to the property use (such as for planning or building regulation purposes)
- Applications containing material omissions and inaccuracies, deliberately misleading information, failing to notify relevant parties of an application, or failing to submit timely applications.
- Management deficiencies and failings
- Failing to comply with obligations to tenants
- History of complaints
- Previous formal action
- Compliance issues with previous licences
- Failure to pay relevant charges, fines, or penalties to the Council (including Council Tax)

In cases where the above circumstances come to light after a licence has been issued, the licence may be varied to reduce the licence period. The Council will also take appropriate enforcement action in line with our Private Sector Housing Enforcement Policy.

Any proposal to grant a 1-year licence will be subject to the statutory consultation process for HMO licences and any representations received will be considered before a final decision is made.

Granting a 1-year licence will require the licence holder to submit a new licence application on expiry of the 1-year time period. It is expected that the concerns that resulted in the granting of a 1-year licence will be satisfactorily dealt with during the 1-year licence period.

This should allow a replacement licence to be granted for the full 5 years. If there are continuing concerns, then a further 1-year licence may be issued. It may also be considered appropriate to take other enforcement action. This could include refusing to grant a new licence.

There would be no reduction in the cost of a licence for issuing a one-year licence. This is because the fees are based on the costs involved in processing and determining the application and for the continued administration of the licence scheme and related enforcement costs. These costs are not dependent on the length of the licence term.

There will be an Appendix within the Private Sector Housing Enforcement policy that provides examples of circumstances where there will be a 'presumption in favour' of a 1 year only licence being granted.

Examples of circumstances that give rise to a presumption in favour of HMO licences being granted for a reduced period or varying a licence to reduce the licence period.

Failure to comply with previous HMO licence conditions (where applicable).	2 years
Failure to comply with Planning requirements.	1 year
Council tax payments not up to date	2 years
Failure to comply with HMO management regulations.	1 year
History of substantiated complaints in respect of the property.	1 year
Failure to apply voluntarily for licence.	3 years

Other factors that may be considered:

- Non-compliance with Building Regulations.
- Failure to provide up-to-date certificates on time (for previous licences).
- No provision of written tenancy or licence agreements.
- The existence of significant hazards within the dwelling.
- Deliberately providing false or misleading information in a licence application
- Where the licence is a renewal and the works required on a previous licence have not been carried out
- Failing to notify relevant parties of an application
- Underlying conduct leading to convictions/CPNs in respect of more than one property
- Alterations to properties or subdivision of rooms without appropriate consents or approvals
- Failure to provide an Electrical Installation Condition Report, or failure to remedy items listed within an Electrical Installation Condition Report as being 'danger present' or 'potentially dangerous'
- Failure to provide a gas safety certificate or failure to remedy defects listed within a gas safety certificate
- Defective doors and windows
- Failure to protect a tenant's deposit

Significant and/or numerous items of disrepair found at the time of inspection, examples of such disrepair often found during our licensing inspections include: -

- *Defective fire alarms*
- *Damaged doors or frames, or latches that do not properly engage their keeps, or, where fitted, self-closing devices that do not engage the door's latch to its keep or missing intumescent strips and smoke seals*
- *Ill-fitting windows, or broken glazing, or windows having broken sash cords or perished glazing putties or are otherwise defective*
- *Broken or loose electrical fittings*
- *Defective mechanical extract ventilation*
- *Broken, loose or missing handrails and balusters to stairs*
- *Excessively worn, torn or loose stair carpeting* It is accepted that things may break – what we do not expect to find during our inspection is evidence of lots of things that are broken or have clearly been so for a long time - If we do then it is likely that a licence will be limited to one year only.

**Options - and reasons for rejection:**

N/A

**Consultations undertaken:**

Legal Services

**Finance/Resource Implications:**

There are no financial or resource implications with the decision to not proceed.

**Legal implications:**

None. Though Legal Services have made the following comments:

- Concerns that we are not seen to fetter our discretion or be too specific. For example, a minor breach of HMO Licence conditions may result in less of a reduction than a more serious breach.
- Be less specific on the term of licence we grant. We need to look at each case on its merit and may reduce the licence period.

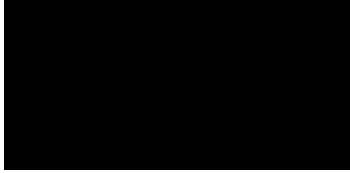
The above comments have been considered and as such amended not to include the number of defined years based on failure. Example below:

Failure to comply with previous HMO licence conditions (where applicable).	2 years
Failure to comply with Planning requirements.	1 year
Council tax payments not up to date	2 years
Failure to comply with HMO management regulations.	1 year
History of substantiated complaints in respect of the property.	1 year
Failure to apply voluntarily for licence.	3 years

**Risk assessment:** No Risk Assessment Required

**Decision taken by: Peter Haikin, Head of Regulatory Services**

**Signed:**



**Date of decision: 7<sup>th</sup> February 2022**