

# **Planning, Health and Environment Division**

## **Housing Enforcement Policy**

### **Introduction**

The Housing Section of Wyre Forest District Council's Planning, Health and Environment Division carries out a wide range of legal duties under various Acts and regulations. We carry out programmed inspections, licensing of caravan sites and houses in multiple occupation, respond to complaints and enquiries and offer advice. This Policy outlines the approach we take when considering enforcement action. It is intended to ensure that we deal with everyone in a consistent and fair way in accordance with the Enforcement Concordat, published by the Cabinet Office in 1998. The enforcement of legislation by the Housing Section is predominantly in relation to public health risks and risks to persons arising from the condition of dwellings and their associated environment.

### **Principles of Enforcement**

The Service has formally adopted the central and local government Concordat on Good Enforcement. This means that we will be open, helpful and fair and careful to ensure that any action we require is proportionate to the risks.

Wherever possible we will utilise relevant codes of practice, guidance and recognised standards to promote consistency. Staff carrying enforcement will have appropriate training and internal procedures will be used to maintain consistency of approach in the work of the team, including enforcement.

Enforcement of the various legislation that the Housing Section acts under provides for a wide range of potential action. Any decision to consider formal enforcement action shall be properly considered and the basis for the decision recorded. The decision making process will always take into account the evidence available, the significance of the alleged offence, the likely affect of the proposed enforcement action, the response and history of the alleged offender and the consideration of public interest. The following are an indication of that range of potential action.

### **Levels of Enforcement Action**

#### **Prevention**

We believe that the first step in enforcement is to help prevent contravention of the law by raising awareness and promoting good practice. Methods of achieving this include the provision of advice and information, the advising of persons at the earliest opportunity of any offence or likely offence, the setting of reasonable standards in licensing and liaison with other agencies, for example the fire service.

#### **Informal Action**

Where appropriate we will seek to resolve situations where the law may have been broken without issuing formal notices, or referring the matter to the courts. This will be our first option when the circumstances indicate that a minor offence may have been committed and we are confident that appropriate corrective action will be taken. We will confirm the situation in writing in a clear manner and explain why any recommended remedial work is necessary and over what time scale it should be completed. We will make sure that legal requirements are clearly distinguished from recommendations.

### **Legal Notices**

Many of the various pieces of legislation that we enforce provide for the service of formal notices on individuals, businesses and other organisations. For example:

- Improvement notices can specify contraventions of legislative requirements and set out required works or actions with timescales. Notices can thereby be used to improve a situation.
- Prohibition notices can be used to prevent matters occurring, including the prohibition of occupation of all or part of a dwelling. Such action will only be taken when warranted by significance of risk to the health and safety of people who may be affected thereby.
- Suspended notices may be served where appropriate, for example when little current risk is apparent but potential future changes, such as change in the sort of person occupying of a dwelling, would increase the risk.

Where a formal notice is served, the method of appealing against the notice and the time scale for doing so will be provided in writing at the same time. The notice will explain what is wrong, what is required to put things right and what the likely consequences are if the notice is not complied with.

### **Formal Caution**

The use of a formal caution will be considered as an alternative to prosecution. In simple terms, before issuing a caution, the following conditions must be satisfied:

- there must be evidence of guilt sufficient to give a realistic prospect of conviction if the case were prosecuted
- the offender must understand the significance of the formal caution and consent to it
- the offender must admit the alleged offence by signing a formal caution form

A formal caution is a serious matter, which will influence any future decision should the company or individual offend again. It can be referred to in any subsequent court proceedings, but this will not apply if the caution was issued more than 3 years before. Where the offer of a formal caution is refused, a prosecution will generally be pursued.

### **Prosecution**

Where the circumstances warrant it and the alternative actions mentioned previously in this policy are considered inappropriate, then prosecution may result. Any decision to prosecute will take into account the criteria set down in relevant national guidance, for example the Code for Crown Prosecutors. The range of factors to be considered include the public interest, the history of the alleged offender and the significance of the alleged contravention and effect thereof. The decision will also take into account any submission by the alleged offender and the evidence and relevant matters submitted by the investigating officer. The decision will be taken by a senior officer who has not carried out the actual investigation and provision of information.

### **Carrying out of Works**

We will always look principally to the relevant responsible person(s) to resolve matters of concern but will, where necessary and enabled by legislation, take immediate action in the interests of health and safety, or to prevent an imminent risk to health.

We will also consider carrying out works in default of responsible persons where they have failed to carry out the works required themselves. Failure by persons to carry out required works themselves will also lead to consideration of prosecution or formal caution.

### **Charges**

We are empowered to charge for enforcement action taken under the Housing Act 2004, for example the inspection of a dwelling and the serving of statutory notices. The reasonable costs of officer time, administration and the services of contractors will be charged to responsible persons when action has been necessary to secure improvements. Failure to pay such costs may affect a decision regarding prosecution.

Should works in default be carried out we will endeavour to ensure that the cost of works are reasonable. However the costs of officer time, administration and any additional relevant costs will be included and charged to the responsible persons.

### **Action against Owner-Occupiers**

We are enabled by legislation to take action against owner-occupiers regarding their dwelling's condition, the state of it inside and condition of the external environment etc. However we will only look to act when the contravention identified is adversely affecting others or has the potential to do so. Examples of such cases include foul drainage defects giving rise to a public health risk to the community and a holed roof leading to rainwater penetration into a neighbouring property.

### **Registered Social Landlords**

Where complaints are made regarding properties rented out by registered social landlords, we will first direct the tenant to the relevant Estate Office or repairs contact telephone. When considered appropriate, we will ask to be kept informed regarding progress of works within a reasonable timescale. Where there is a failure to act or the intended or actual action falls short of legal requirements, the Council will then take appropriate enforcement action.

### **Financial Assistance**

Discretionary financial assistance will be considered as an alternative to enforcement action where appropriate as detailed in the Private Sector Housing Assistance Policy.

### **What you can expect from us**

- We will be objective to ensure that our decisions are not influenced by the gender, ethnic origin, religious or political beliefs, or sexual preferences of any alleged offender
- We will enter into discussion and offer advice to anyone to try to ensure that they do not unnecessarily expose themselves to the possibility of formal action through a lack of understanding, or information
- We will be consistent in our approach by following the criteria and guidance set down in relevant legislation and codes of practice.
- We will ensure that before deciding to offer a formal caution, or take a prosecution, the case will be subject to independent review by a senior manager
- We will provide a courteous and efficient service and our staff will identify themselves by name when they visit you, or speak to you on the telephone