

To: Deputy Leader and Members of the Resources Board

Councillors Symonds, Barnett, Chapman, Clews, Davey, Humphreys, Parsons, O Phillips, Simpson, Stuart, Taylor and Watson

For the information of other Members of the Council

For general enquiries please contact Democratic Services on 01827 719237 or via email – democraticservices@northwarks.gov.

For enquiries about specific reports please contact the Officer named in the reports.

This document can be made available in large print and electronic accessible formats if requested.

RESOURCES BOARD AGENDA

3 JUNE 2024

The Resources Board will meet on Monday 3 June 2024 at 7.00pm in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire.

The meeting can also be viewed on the Council's YouTube channel at www.youtube.com/user/northwarks

AGENDA

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests.**

4 **Public Participation**

Up to twenty minutes will be set aside for members of the public to put questions to elected Members.

Members of the public wishing to address the Board must register their intention to do so by 9:30am two working days prior to the meeting. Participants are restricted to five minutes each.

If you wish to put a question to the meeting, please register by email to democraticservices@northwarks.gov.uk or telephone 01827 719221 / 719226 / 719237.

Once registered to speak, the person asking the question has the option to either:

- (a) attend the meeting in person at the Council Chamber.
- (b) attend remotely via Teams; or
- (c) request that the Chair reads out their written question.

The Council Chamber has level access via a lift to assist those with limited mobility who attend in person however, it may be more convenient to attend remotely.

If attending remotely an invitation will be sent to join the Teams video conferencing for this meeting. Those registered to speak should dial the telephone number and ID number (provided on their invitation) when joining the meeting to ask their question. However, whilst waiting they will be able to hear what is being said at the meeting. They will also be able to view the meeting using the YouTube link provided (if so, they made need to mute the sound on YouTube when they speak on the phone to prevent feedback).

- 5 **Minutes of the Resources Board held on 11 March 2024** – copy herewith, to be approved as a correct record and signed by the Chairman.

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

- 6 **Haunchwood Sports Junior Football Club and Ansley Workshops Sports Ground** – Report of the Director of Leisure and Community Development

Summary

This report seeks the Board's approval to enter into a long-term lease with Haunchwood Sports Junior Football Club, through which it could assume responsibility for the management and maintenance of Ansley Workshops Sports Ground and secure its engagement in the national Home Advantage Programme, through which a 100% grant of up to £250,000 is available to help improve the site. This matter has already received the consideration and in

principle approval of the Community and Environment Board at its meetings held in August 2023 and May 2024.

The Contact Officers for this report are Simon Powell (719352) and Stephanie Wagstaff (719353).

- 7 **Council Tax - Discretionary Reduction in Liability S13A Policy** – Report of the Interim Corporate Director – Resources (Section 151 Officer)

Summary

The purpose of this report is to present the Council Tax – Discretionary Reduction in Liability S13A policy detailed in Appendix A for members approval.

The Contact Officer for this report is Katie Hines (719234).

- 8 **Internal Audit Annual Report 2023-24** - Report of the Interim Corporate Director – Resources (Section 151 Officer)

Summary

The purpose of this report is to present the Head of Internal Audit's Annual Opinion Report (Head of Central Midlands Audit Partnership CMAP).

The Contact Officers for this report are Alison Turner/Richard Boneham (719374).

- 9 **Members' Allowances 2023/24** – Report of the Interim Corporate Director – Resources (Section 151 Officer)

Summary

The purpose of this report is to advise Members of the allowances paid for 2023/24. The Council also has a duty to publish the amounts paid to Members under the Members' Allowance Scheme.

The Contact Officer for this report is Nigel Lane (719371).

- 10 **Environmental Health and Private Sector Housing Enforcement Policy** - Report of the Director of Housing

Summary

This report introduces an updated Environmental Health and Private Sector Housing Enforcement Policy, together with associated policies, to enable robust and fair regulation of matters relating to Environmental Health and Private sector housing.

The Contact Officer for this report is Angela Coates (719369).

- 11 **Housing Ombudsman Service** – Statutory Complaints Handling Code - Report of the Director of Housing

Summary

This report asks the Board to consider the revised complaints policy for its domestic stock and to comment on how the Housing Division is handling complaints received about the service.

The Contact Officer for this report is Angela Coates (719369).

- 12 **Social Housing Regulator – Tenant Satisfaction Measures** - Report of the Director of Housing

Summary

This report provides the Board with information about the Social Housing Regulator's requirement for the Council to provide an annual return for performance measures specified in the Social Housing (Regulation) Act 2023.

The Contact Officer for this report is Angela Coates (719369).

- 13 **Exclusion of the Public and Press**

To consider, in accordance with Section 100A(4) of the Local Government Act 1972, whether it is in the public interest that the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

- 14 **Garage Site** – Report of the Director of Housing – **TO FOLLOW**

The Contact Officer for this report is Angela Coates (719369).

- 15 **Vacant Property Repairs** - Report of the Director of Housing

The Contact Officer for this report is Angela Coates (719369).

- 16 **Property Adaptation** - Report of the Director of Housing

The Contact Officer for this report is Angela Coates (719369).

- 17 **Update on Council Tax and Business Rates Recovery** - Report of the Interim Corporate Director – Resources (Section 151 Officer)

The Contact Officer for this report is Katie Hines (719234).

- 18 **Land Austrey - Options** – Report of the Interim Corporate Director – Streetscape – **TO FOLLOW**

The Contact Officer for this report is Cath James (719295).

- 19 **Exempt Extract of the minutes of the Resources Board held on 11 March 2024** – copy herewith to be approved as a correct record and signed by the Chairman.

STEVE MAXEY
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE RESOURCES BOARD

11 March 2024

Present: Councillor Symonds in the Chair

Councillors Barnett, Chapman, Clews, Davey, Hayfield
Humphreys, Parsons, O Phillips, Ririe Simpson and Stuart

Apologies for absence were received from Councillors Taylor
(Substitute Councillor Ririe) and Watson (Substitute Councillor
Hayfield)

35 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

36 **Minutes of the Resources Board held on 29 January 2024.**

The minutes of the Resources Board held on 29 January 2024, copies having
been previously circulated, were approved as a correct record and signed by
the Chairman.

37 **Internal Audit Plan 2024/25**

The Interim Corporate Director – Resources (Section 151 Officer) set out the
proposed Internal Audit Plan for 2024/25.

Resolved:

**That the Internal Audit Plan for 2024/25, attached at Appendix A to
the report of the Interim Corporate Director – Resources (Section
151 Officer), be approved.**

38 **Irrecoverable Debts**

The Interim Corporate Director – Resources (Section 151 Officer) gave detail
of debts to Members which were considered to be irrecoverable.

Resolved:

**a That the debts detailed in Appendix A to the report of the
Interim Corporate Director – Resources (Section 151 Officer)
be approved for write off;**

**b That the total Irrecoverable non-Domestic Rates Debts
totalling £213,844.36 be approved for write off; and**

- c That a report on the Recovery process and debts outstanding is presented to members at a future meeting**

39 Treasury Management

The Interim Corporate Director – Resources (Section 151 Officer) outlined the Treasury Management Strategy, Minimum Revenue Provision Policy Statement and Investment Strategy for 2024/25.

Resolved:

- a That the clauses set out in Paragraph 3.5 of the report of the Interim Corporate Director – Resources (Section 151 Officer) be adopted; and**
- b That the proposed strategies for 2024/25 be approved.**

40 Exclusion of the Public and Press

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

41 Request to Purchase Land

The interim Corporate Director - Streetscape detailed a request to purchase land.

Resolved:

That recommendations a, b and c as set out in the report of the Corporate Director - Streetscape be approved.

42 Land Sale

The Interim Corporate Director – Streetscape requested the Board to consider the future usage of a plot of land.

Resolved:

That recommendation a as set out in the report of the interim Corporate Director (Streetscape) be approved.

43 Confidential Extracts of the minutes of the Resources Board held on 29 January 2024.

The confidential extract of the minutes of the Resources Board held on 29 January 2024, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

Councillor Symonds
Chair

Agenda Item No 6

Resources Board

3 June 2024

Report of the Director of
Leisure and Community Development

Haunchwood Sports Junior
Football Club and Ansley
Workshops Sports Ground

1 Summary

- 1.1 This report seeks the Board's approval to enter into a long-term lease with Haunchwood Sports Junior Football Club, through which it could assume responsibility for the management and maintenance of Ansley Workshops Sports Ground and secure its engagement in the national Home Advantage Programme, through which a 100% grant of up to £250,000 is available to help improve the site. This matter has already received the consideration and in principle approval of the Community and Environment Board at its meetings held in August 2023 and May 2024.

Recommendation to the Board

That the proposal to enter into a long-term lease with Haunchwood Sports Junior Football Club, through which it could assume responsibility for the management and maintenance of Ansley Workshops Sports Ground, be approved, and that the terms of the draft lease, as attached at Appendix B to the report, be used as the basis for negotiation of the final agreement with the Junior Football Club.

2 Consultation

- 2.1 Consultation has taken place with relevant Councillors, including Ward Members, and any comments received will be reported at the meeting.

3 Draft Lease with Haunchwood Sports Junior Football Club

- 3.1 Further to its receipt of a corresponding report at its meeting held in August 2023, the Community and Environment Board, in October 2023, was informed of the Borough Council and Haunchwood Sports Junior Football Club's successful application for inclusion within the national Home Advantage Programme, through which the Football Association and the Football Foundation are supporting a small number of local football clubs to take on long-term leases on the sites at which they play. Through the Programme, 100% grants of up to £250,000 are potentially available to help clubs improve their "home" grounds. For ease of reference, a copy of the August 2023 report is attached at Appendix A.

...

3.2 Further to learning of the outcome of the application, Officers have been meeting regularly with representatives from all stakeholders and agreement has recently been reached on the content of a Project Plan that will support the development of the scheme at Ansley Workshops Sports Ground. The Project Plan includes the need to progress the development of a set of Heads of Terms, to establish and agree the associated project development costs and the need to agree the terms of the required 25 year lease before November 2024. An initial draft of the lease, a copy of which is attached at Appendix B, was considered and approved, in principle, by the Community and Environment Board at its meeting held in May 2024. Whilst the Community and Environment Board is responsible for the development and implementation of the Playing Pitch Strategy, however, it is for the Resources Board to determine whether or not to grant a long-term lease to Haunchwood Sports Junior Football Club.

3.3 In its consideration of whether or not to grant a long-term lease to the Junior Football Club, the Board is reminded that the Home Advantage Programme represents one of very few genuine opportunities through which a step change enhancement could be made to an Authority-owned sports pitch asset. Haunchwood Sports Junior Football Club is a very progressive community sector sports organisation, which has been working hard to develop its capacity and sustainability, which will be necessary to ensure the successful local delivery of the Home Advantage undertaking. In this regard, the Community and Environment Board will be kept informed of related developments, which are consistent with the priorities of the recently adopted North Warwickshire Playing Pitch Strategy.

4 Report Implications

4.1 Finance and Value for Money Implications

4.1.1 There are no immediate financial implications arising from the content of this report. The Home Advantage Programme will offer successful projects 100% grants of up to £250,000 to help clubs improve their “home” grounds. There will, therefore, be no direct cost to the Borough Council. The Programme is additionally supporting the Authority with its indirect Legal costs.

4.2 Safer Communities Implications

4.2.1 Projects advanced through the Playing Pitch Strategy, including any engagement with the Home Advantage Programme, contribute to community safety by providing well-managed open space and recreation areas that afford opportunities for positive activity.

4.3 Legal, Data Protection and Human Rights Implications

4.3.1 The Borough Council has wide ranging powers in the Local Government (Miscellaneous Provisions) Act 1976 to provide leisure facilities, including playing pitches. This includes allowing such facilities to be available for such

persons and on payment of such charges as the Authority considers fit. The Borough Council also has power to do anything that is ancillary or conducive to the exercise of its functions. Taken together, these powers allow the Borough Council to enter into the proposed arrangement for a lease to Haunchwood Sports Junior Football Club for a period of 25 years.

4.3.2 It this Board was to approve the proposal, Legal Services will ensure that any lease has appropriate terms to protect the Authority's position and additionally ensure that the Club meets the requirements for the funding concerned.

4.3.3 There are no specific data protection or human rights implications arising directly out of this report.

4.4 Environment, Climate Change and Health Implications

4.4.1 Robust Playing Pitch Strategies are essential for the provision, protection and appropriate management of green space and outdoor recreation provision, which have a positive impact on the health and wellbeing of individuals and communities by providing opportunities for leisure and recreation activities and by contributing to an improved quality of life. A project to enhance the quality of service provision at Ansley Workshops Sports Ground would positively contribute to the attainment of priorities identified in the Playing Pitch Strategy.

4.4.2 Funding for equipment through the Home Advantage Programme could result in a slight increase of operational emissions for sites through the funding of income generator items such as catering cabins and grounds maintenance machinery. This will not impact the Council's target of reaching net-zero carbon emissions by 2030, but could increase regional emissions, depending on the specific elements funded.

4.5 Human Resources Implications

4.5.1 There are no human resource implications arising directly out of this report.

4.6 Risk Management Implications

4.6.1 There are no risks additional to those previously reported to the Community and Environment Board consequent upon the proposal to enhance Haunchwood Sports Junior Football Club's security of tenure at, and potential development of, Ansley Workshops Sports Ground. Any approved lease arrangement will protect the Authority's position and the interests of the local community. The Borough Council will not need to formally enter into a long-term lease arrangement with the Junior Football Club until it is confident that support will be forthcoming through the Home Advantage Programme.

4.6.2 The Community and Environment Board has been informed that an inability for the Junior Football Club to develop its activity in accordance with the provisions of its (Home Advantage) Development Plan, including in respect of its proposed enhancement of Ansley Workshops Sports Ground, will

adversely impact on its growth potential and, therefore, its ability to meet local demand for opportunities to participate in pitch sports. It would also have a negative impact on the Authority's ability to deliver on related priorities in the Playing Pitch Strategy.

4.7 Equalities Implications

4.7.1 There are no adverse equalities implications arising from this report. The Authority's playing pitches are provided for the benefit of the whole community and no group or individual defined by the protected characteristics under the Equality Act will be excluded therefrom. As previously reported to the Community and Environment Board, Haunchwood Sports Junior Football Club has an excellent track record in the development of opportunities for girls and boys to play football.

4.8 Links to Council's Priorities

4.8.1 The North Warwickshire Playing Pitch Strategy and the Home Advantage Programme have direct and positive links to the following corporate priorities:

- Safe, liveable, locally focused communities
- Prosperous and healthy
- Sustainable growth and protected rurality
- Efficient organisation

4.8.2 Additionally, implementation of the provisions of the Playing Pitch Strategy contributes directly to the attainment of the priorities of the Sustainable Community Strategy to:

- Raise aspirations, education attainment and skill levels
- Develop healthier communities
- Improve access to services

The Contact Officers for this report are Simon Powell (719352) and Stephanie Wagstaff (719353).

Background Papers

Local Government Act 1972 Section 100D

Background Paper No	Author	Nature of Background Paper	Date
1	Director of Leisure and Community Development	C&E Board Report: Haunchwood Sports Junior Football Club and Ansley Workshops Sports Ground	May 2024
2	North Warwickshire Borough Council	North Warwickshire Playing Pitch Strategy (2024 to 2033)	January 2024

3	Director of Leisure and Community Development	C&E Board Report: Haunchwood Sports Junior Football Club and Ansley Workshops Sports Ground	August 2023
4	Director of Leisure and Community Development	C&E Board Report: Ansley Workshops Sports Ground	May 2022

Equality Impact Assessment Summary Sheet

Please complete the following table summarised from the equality impact assessment form. This should be completed and attached to relevant Board reports.

Name of Policy Procedure / Service	Haunchwood Sports Junior Football Club and Ansley Workshops Sports Ground
Officer Responsible for Assessment	Communities Officer (SW)

Does this policy / procedure / service have any differential impact on the following equality groups / people

- (a) Is there a positive impact on any of the equality target groups or contribution to promoting equal opportunities and improve relations or:
- (b) Could there be a negative impact on any of the equality target groups i.e. disadvantage them in any way?

Equality Group	Positive Impact	Negative Impact	Reasons / Comments
Racial			
Gender	X		Haunchwood Sports Junior Football Club has reported an intention to encourage more participation by women and girls, who are under-represented in pitch sports. Realisation of its Development Plan would support this commitment
Disabled People	X		
Gay, Lesbian and Bisexual People			
Older / Younger People	X		Haunchwood Sports Junior Football Club is committed to encouraging greater levels of participation by young people. Realisation of its Development Plan would support this commitment
Religion and Beliefs			

People Having Dependents Caring Responsibilities			
People Having an Offending Past			
Transgender People			
Armed Forces Covenant			

If you have answered **No** to any of the above please give your reasons below

Please indicate if you believe that this document should proceed to a further Impact Assessment

Needs no further action.

Agenda Item No 10**Community and Environment
Board****8 August 2023****Report of the Director of
Leisure and Community Development****Ansley Workshops Sports Ground
and the Home Advantage
Programme****1 Summary**

- 1.1 This report draws the Board's attention to a new initiative of the Premier League, The Football Association and the Football Foundation, the Home Advantage Programme, which aims to support local authorities and grassroots football clubs to get the most out of the nation's grass pitches. It also asks Members to consider the submission of an Expression of Interest in seeking financial support from the Programme through which to enhance Haunchwood Sports Junior Football Club's security of tenure at, and engagement in the development of, Ansley Workshops Sports Ground.

Recommendation to the Board

That the Board approves the principle of granting a long-term lease to Haunchwood Sports Junior Football Club, in respect of its security of tenure at Ansley Workshop Sports Ground, and also approves the submission of an Expression of Interest (EOI) in seeking financial support from the Home Advantage Programme through which to support the Club's development of the site.

2 Consultation

- 2.1 Consultation has taken place with relevant Members and any comments received will be reported at the meeting.

3 Introduction – The Home Advantage Programme

- 3.1 The significant majority of grassroots football is played on local authority-owned grass pitches. Unfortunately, due to budgetary pressures, many of these pitches are not maintained to what the football authorities would consider to be a high standard. In an effort to improve this situation, the Premier League, The Football Association and the Football Foundation have launched the Home Advantage Programme, which aims to support local football clubs to take on long-term leases on the sites at which they play. Through the Programme, 100% grants of up to £250,000 are potentially available to help clubs improve their "home" grounds.

- 3.2 Local clubs looking to be part of the Programme will need the support of their local authority and the relevant County FA. Clubs will not be able to submit an application for support in isolation. Local authorities and County FAs will lead on the submission of applications during the Expression of Interest (EOI) stage.
- 3.3 Clubs seeking Programme support must be willing to take on a long-term (minimum 25 year) lease at the site at which they play their home matches, which must also have been the subject of a PitchPower assessment (a Football Foundation initiative to assess and thereafter improve the quality of grass pitches). Additionally, they must be an “England Accredited Grassroots Club” in order to be eligible for support. Applications cannot be made by individuals, sole traders or commercial / “for profit” entities.
- 3.4 The Home Advantage Programme will fund the following:
- Income generator items, such as catering cabins, to help clubs to become sustainable at their “home” ground
 - Six years of revenue support for grounds maintenance activity
 - Grounds maintenance machinery
 - Storage
 - Groundskeeper training and qualifications
 - Site security fencing
 - Organisational training and support
 - Goalposts
 - Legal fees and insurances
- 3.5 The Programme will not support:
- Routine maintenance work, such as grass cutting, hedge cutting, line marking, etc.
 - The purchase of capital items not listed above
 - Any general costs associated with running the club
- 3.6 As part of the Home Advantage Programme application process, the Premier League, The Football Association and the Football Foundation have launched an Expression of Interest (EOI) stage, which runs until the end of August 2023. This is intended to identify sites suitable for lease transfer to eligible grassroots clubs. The EOI phase will be managed by local authorities and County FAs. Collaboration between the two parties is seen as being key to a successful application. EOI forms have been made available to local authorities, with which “one to one” advisory sessions have been held by the Football Foundation. EOI forms need to be submitted by 31 August.
- 3.7 From October 2023, projects selected from the EOI phase will be supported by the County FA and the Football Foundation, including through webinars, workshops and learning tools. The selected clubs will also be put on the FA Club Programme and be provided with direct tailored support. This support will be ongoing throughout the lease process, which will need to be agreed

before a formal application for Home Advantage funding can be submitted. Up to £20,000 of funding will be available to local authorities to support them with the resource needed to complete the lease transfer.

4 Ansley Workshops and Haunchwood Sports Junior Football Club

4.1 Ansley Workshops Sports Ground is a designated playing field located between Ansley Common and Ansley Village. The current facilities provide grass football pitches for Haunchwood Sports Junior Football Club and grass and artificial cricket pitches for Ansley Cricket Club.

4.2 Currently, Ansley Cricket Club, which has a long tradition of being involved in the maintenance of the cricket pitches, only supports one adult team and its diminishing volunteer resource has placed an extra burden on the few remaining committee members to maintain the on-site facilities. Additionally, the Club also prepares pitches for Corley Cricket Club, which uses the site to support its adult third team fixtures.

4.3 In contrast, Haunchwood Sports Junior Football Club is a thriving voluntary sector sports organisation. For many years, it has located a number of its teams at Arley Recreation Ground. Recently, however, the Club has considerably increased playing capacity and the number of teams within its structure, most particularly in support of the growth in girls' football. This growth was such that since the 2020 / 21 season, those teams needing an 11-a-side pitch were relocated to Ansley Workshops Sports Ground.

4.4 In order to support its growth, the Board, at its meeting held in May 2022, approved the granting of an initial two-year Service Level Agreement (SLA) to the Junior Football Club, through which it relocated the majority of its activity to Ansley Workshops.

4.5 Relocating the Junior Football Club to Ansley Workshops Sports Ground has enabled its immediate growth needs to be met. Further, and in order to appropriately accommodate the increased activity at the site, it has provided the Club with an opportunity to undertake a small number of improvement works at the Sports Ground. Haunchwood Sports has created a significant stone-based car parking area, made minor cosmetic enhancements to the ancillary accommodation and, most importantly, commenced a programme of improvements to the grass sports pitches. Helpfully, this last piece of work has benefited from a PitchPower assessment and financial support through the Football Foundation.

5 Home Advantage Programme - Expression of Interest

5.1 In view of the qualifying criteria for entry to the Programme (see paragraph 3.3 above), Officers met with representatives from the Football Association to discuss the potential for the Borough Council to submit an Expression of Interest. This discussion concluded that only an EOI relating to Haunchwood Sports Junior Football Club's location at, and development of, Ansley Workshops Sports Ground was likely to be acceptable to the Programme

sponsors. Even in this case, it would be necessary for the Borough Council to agree to allow the Club to hold a 25-year lease on the site. This represents a significant change from the two-year Service Level Agreement currently held between the two parties.

- 5.2 The Home Advantage Programme, however, represents one of very few genuine opportunities through which a step change enhancement could be made to an Authority-owned sports pitch asset. Haunchwood Sports is a very progressive community sector sports organisation, which has, in recent months, been exploring the option of seeking long-term security of tenure at Ansley Workshops. The Junior Football Club also has a positive relationship with the resident Cricket Club, whose activity would continue to be supported at the site.
- 5.3 Through its relationships with voluntary sector sports clubs such as Hurley Kings Football Club, Grendon Football Club and Atherstone Sports Club, the Borough Council, in appropriate cases, has adopted a progressive attitude towards providing community organisations with long-term security of tenure on its public sites. A minimum 25-year lease is a requirement if financial support is to be secured through the Home Advantage Programme. The Board, therefore, is asked if it is mindful to support, in principle, the granting of a long-term lease to Haunchwood Sports Junior Football Club in respect of its tenure at Ansley Workshops, and for Officers to submit a related Expression of Interest in the Home Advantage programme. The terms of any lease agreement would ultimately require the approval of the Resources Board, which is responsible for the Borough Council's assets.
- 5.4 Whilst it is currently subject to external review, any agreement to enhance Haunchwood Sports Junior Football Club's security of tenure at, and engagement in the development of, Ansley Workshops Sports Ground is likely to be consistent with the priorities of the North Warwickshire Playing Pitch Strategy.

6 Report Implications

6.1 Finance and Value for Money Implications

- 6.1.1 There are no immediate financial implications arising from the content of this report. The Home Advantage Programme will offer successful projects 100% grants of up to £250,000 to help clubs improve their "home" grounds. Should an application in respect of Ansley Workshops be successful, therefore, there would be no direct cost to the Borough Council.

6.2 Safer Communities Implications

- 6.2.1 Projects advanced through the Playing Pitch Strategy, including any engagement within the Home Advantage Programme, contribute to community safety by providing well-managed open space and recreation areas that afford opportunities for positive activity.

6.3 Legal, Data Protection and Human Rights Implications

6.3.1 The Borough Council has wide ranging powers in the Local Government (Miscellaneous Provisions) Act 1976 to provide leisure facilities, including playing pitches. This includes allowing such facilities to be available for such persons and on payment of such charges as the Authority considers fit. The Borough Council also has power to do anything that is ancillary or conducive to the exercise of its functions. Taken together, these powers allow the Borough Council to enter the proposed arrangement for a lease to the Club for a period of 25 years.

6.3.2 If this Board and Resources Board were to approve the proposal then Legal Services will advise further on the legal implications to the Borough Council of entering into a long-term lease and ensure that any lease has appropriate terms to protect the Authority's position and ensure that the Club meets the requirements for the funding concerned.

6.3.3 There are no specific data protection or human rights implications arising directly out of this report.

6.4 Environment, Climate Change and Health Implications

6.4.1 Robust Playing Pitch Strategies are essential for the provision, protection and appropriate management of green space and outdoor recreation provision, which have a positive impact on the health and wellbeing of individuals and communities by providing opportunities for leisure and recreation activities and by contributing to an improved quality of life. A project to enhance the quality of service provision at Ansley Workshops Sports Ground would positively contribute to the attainment of priorities identified in the Playing Pitch Strategy.

6.5 Human Resources Implications

6.5.1 There are no human resource implications arising directly out of this report.

6.6 Risk Management Implications

6.6.1 There are no direct risks consequent upon the proposal to advance a Home Advantage Programme EOI in respect of Haunchwood Sports Junior Football Club's security of tenure at, and potential development of, Ansley Workshops Sports Ground. The Borough Council would not need to formally enter into a long-term lease arrangement with the Junior Football Club until it was confident that support would be forthcoming through the Home Advantage Programme.

6.7 Equalities Implications

6.7.1 There are no adverse equalities implications arising from this report. The Authority's playing pitches are provided for the benefit of the whole community and no group or individual defined by the protected characteristics under the

Equality Act will be excluded therefrom. As identified in the main body of the report, Haunchwood Sports Junior Football Club has an excellent track record in the development of opportunities for girls and boys to play football.

6.8 Links to Council's Priorities

6.8.1 The North Warwickshire Playing Pitch Strategy and the Home Advantage Programme have direct and positive links to the following corporate priorities:

- Safe, liveable, locally focused communities
- Prosperous and healthy
- Sustainable growth and protected rurality
- Efficient organisation

6.8.2 Additionally, implementation of the provisions of the Playing Pitch Strategy contributes directly to the attainment of the priorities of the Sustainable Community Strategy to:

- Raise aspirations, education attainment and skill levels
- Develop healthier communities
- Improve access to services

The Contact Officers for this report are Simon Powell (719352) and Stephanie Wagstaff (719353).

Background Papers

Local Government Act 1972 Section 100D

Background Paper No	Author	Nature of Background Paper	Date
1	North Warwickshire Borough Council	North Warwickshire Playing Pitch Strategy (2018 to 2033)	2018
2	Director of Leisure and Community Development	C&E Board Report: Ansley Workshops Sports Ground	May 2022

DATED _____ 2024

NORTH WARWICKSHIRE BOROUGH COUNCIL

-to-

HAUNCHWOOD SPORTS JUNIOR FC

Draft L E A S E

of

Land at Coleshill Road, Ansley Common

NUNEATON

LR1. Date of Lease:	The day of Two Thousand and Twenty Four
LR2. Title Number	LR2.1 Landlord's Title Number WK329698
LR3. Parties to this Lease	Landlord North Warwickshire Borough Council, The Council House, South Street, Atherstone CV9 1DE Tenant Haunchwood Sports Junior FC, Coleshill Road, Ansley Common, Nuneaton CV10 0QG
LR4. Property:	In the case of a conflict between this clause and the Remainder of this lease then, for the purposes of Registration, this clause shall prevail. Land, Pavilion and car park at, Coleshill Road, Ansley Common, Nuneaton Warwickshire as shown edged red on the Plan annexed hereto
LR5. Prescribed Statements etc:	LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003. Not applicable LR5.2 This lease is made under, or by reference to, provisions of: Not applicable
LR6. Term for which the Property is Leased:	The term is as follows: 25 years from the day of
LR7. Premium	N/A
LR8. Prohibitions or Restrictions On Disposing of this Lease	This Lease contains a provision that prohibits or restricts dispositions
LR9. Rights of Acquisition:	LR9.1 Tenant's contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land

Not applicable

LR9.2 Tenant's covenant to (or offer to) surrender this lease

Not applicable

LR9.3 Landlord's contractual rights to acquire this lease

Not applicable

LR10. Restrictive covenants given in respect of land other than the Property

None

LR11. Easements

LR11.1 Easements granted by this Lease for the Benefit of the Property

See Schedule 2

LR11.2 Easements granted or reserved by this Lease over the property for the benefit of other property

See Schedule 3

LR12. Estate rentcharge burdening the Property

Not applicable

LR13. Application for standard form of Restriction

None

LR14. Declaration of Trust where there is More than one person comprising The Tenant

Not applicable

THIS LEASE made the day of Two Thousand and Twenty Four
BETWEEN NORTH WARWICKSHIRE BOROUGH COUNCIL of the Council House, South
Street Atherstone, CV9 1DE ("The Landlord") and
HAUNCHWOOD SPORTS JUNIOR FC of Coleshill Road, Ansley Common, Nuneaton,
Warwickshire, CV10 0QG ("The Tenant")

NOW THIS DEED WITNESSETH as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 "The Property" means all that part of the land at Coleshill Road, Ansley Common,
Nuneaton, Warwickshire as shown edged red on the annexed plan

1.2 "the Term" means 25 years from and including the date of this lease

1.3 The expression "Permitted Use" means use as a sports and recreation club to include the
playing of Cricket between March and September and the playing of football from September
onwards

1.4 "VAT" means value added tax or any other tax of a similar nature and unless otherwise
expressly stated all references to rents or other sums payable by the Tenant are exclusive of
VAT.

1.5 "the Landlord" includes the successors in title of the Landlord to the Property and any other
person who is at any time entitled to the reversion immediately expectant on the Term

1.6 "the Tenant" includes the Tenants successors in title

1.7 "the Club" means Haunchwood Sports Junior FC of Coleshill Road, Ansley Common,
Nuneaton CV10 0QG

1.8 "the Rent" means the initial rent of a peppercorn if demanded

1.9 words importing one gender shall be construed as importing any other gender

1.10 words importing the singular shall be construed as importing the plural and vice versa

1.11 references to persons shall include unincorporated associations

1.12 the clause headings do not form part of this Lease and shall not be taken into account in its construction or interpretation

1.13 any undertaking by the Tenant not to do an act or thing shall be deemed to include an obligation not to knowingly permit or suffer such act or thing to be done by another person

1.14 "the Development Plan" means the plan for the development of the Club and is attached to the Lease

2. DEMISE

The Landlord lets the Property to the Tenant with full title guarantee together with the rights specified in schedule 1 but excepting and reserving to the Landlord the rights specified in schedule 2 to hold the Property to the Tenant for the Term subject to yielding and paying to the Landlord:

2.1 A peppercorn if demanded

3. **Tenant's Covenants**

The Tenant covenants with the Landlord to observe and perform the requirements of this clause

3.1 Rent

To pay the rent in accordance with clause 2 of this Lease

3.2 Outgoings

To pay and indemnify the landlord against all rates taxes assessments duties charges impositions and outgoings of an annual or other periodically recurring nature which are now or during the Term shall be charged assessed or imposed upon the Property except any which relate to the Landlord's receipt of rent.

3.3 Repair and cleaning

3.3.1 To keep in good repair and condition and clean and tidy and free from deposits and waste rubbish or refuse the Property and the hedges, fences and gates in and around the Property and the hard surfaces and to keep any gates for vehicular access always locked when the Property is not in use for organised sports activities.

3.3.3 to provide all grounds maintenance and line marking in respect of the Property, including provision of equipment, materials and consumables

3.4 User

3.4.1 To use the Property purely for the Permitted Use of the Club and not for any purpose other than as a sports club and for recreational purposes, to include the playing of cricket between March and September, and not to use the Property for any illegal or immoral purpose and not to carry on any trade or business except where this is ancillary to the operation of the Club.

3.4.2 The Tenant must comply with all reasonable regulations made by the Landlord, in consultation with the Tenant, from time to time for the management of the Property provided that nothing in the regulations may purport to amend the terms of this Lease or the operation of the Club or restrict any use of the club for organised sporting activities and, in the event of any inconsistency between the terms of this Lease and the regulations, the terms of this Lease are to prevail.

3.4.3 The Tenant must not do anything on the Property or allow anything to remain on it that may be or become a nuisance, injury or damage to the Landlord or his tenants or any other adjacent or neighbouring premises save that use for the Permitted Use of a Sports Club shall not be considered a breach of this provision and further provided that the Tenant shall not be responsible to the Landlord or his tenants or any other adjacent or neighbouring premises for any recreational use of the Property by members of the public causing such nuisance.

3.5 Indemnity and insurance

3.5.1 To indemnify the Landlord against all actions costs claims demands and liability whatsoever in respect of any damage to any property or the death of or injury to any person arising out of the use by the Tenant (but not members of the public) of the Property.

3.5.2 The Tenant shall be responsible for the costs of insuring the Property against the Insured Risks and Public Liability insurance in respect of the Property and sports activities held there

3.5.3 to produce to the Landlord on demand every policy of such insurance and the receipt for the then current year's premium

3.5.4 to comply with the Development Plan attached to the Lease.

3.5.4 The Tenant shall not erect any signage other than sponsorship signage around the pitches and statutory notices without the consent of the Landlord, such consent not to be unreasonably withheld or delayed.

3.8 Disposals

3.8.1 The Tenant shall not assign, charge, underlet or part with possession or share the occupation of, or permit any person to occupy, or create any trust in respect of the Tenant's interest in the whole or any part of the Property, other than with Ansley Cricket Club with whom the Landlord consents to sharing the use of the Property, without the Landlord's consent, such consent not to be unreasonably withheld or delayed and provided that the Landlord shall consent to the registration of a charge by any funder of the Club

3.9 Entry by Landlord or public

3.9.1 The Tenant shall allow a suitably-authorized and security-cleared representative of the Landlord nominated by the Landlord's Director of Leisure and Community Development to

enter the Property annually to view their condition by prior written agreement with the Tenant at a time where it would not adversely affect the use by the Tenant for the Permitted Use.

3.9.2 The Tenant acknowledges and agrees that the general public shall have the right to access parts of the Property in order to carry out lawful recreational activities on any public right of way routes but not so as to interfere with the use for organised sport.

3.10 Yielding up the Premises

3.10.1 At the end of the Term, the Tenant shall yield up the Land to the Landlord in line with the Tenant's obligations in this Lease

3.11 Costs

Within 30 days of written demand, the Tenant shall pay all costs and expenses reasonably and properly incurred by the Landlord;

3.11.1 in the reasonable contemplation of, and the preparation and service of, a notice under Section 146 of the Law of Property Act 1925 or any proceedings under Section 146 or Section 147 of that Act (whether or not any right of re-entry or forfeiture has been waived by the Landlord or a notice served under Section 146 is complied with by the Tenant or the Tenant has been relieved under the provisions of that Act and even though forfeiture may be avoided otherwise than by relief granted by the Court)

3.11.2 in remedying any breach of covenant by the Tenant;

3.11.3 in respect of any application for consent under this Lease whether or not it is granted (except in cases where the Landlord is obliged not to withhold its consent unreasonably) or the application is withdrawn

3.13 Interest

3.13.1 If the Rent is not paid within 30 days of written demand the Tenant shall pay interest calculated on a daily basis on the unpaid sum at 3% above the base interest rate of Lloyds Bank PLC from the due date of payment to the actual date of payment, both dates inclusive.

3.14 Statutory and Safety Obligations

3.14.1 The Tenant must comply in all respects with the requirements of any statutes, and any other obligations imposed by law or by any byelaws, applicable to the Property or the activities for the time being carried on there.

3.14.2 The Tenant must give full particulars to the Landlord of any notice, direction, order or proposal relating to the Property made, given or issued to the Tenant by any government department or local, public, regulatory or other authority or court within 14 day of receipt, and if so reasonably requested by the Landlord must produce it to the Landlord. The Tenant must without delay take all necessary steps to comply with the notice direction or order. At the request and cost of the Landlord, the Tenant must make or join with the Landlord in making any objection or representation the Landlord deems expedient against or in respect of any notice, direction, order or proposal.

3.14.3 The Tenant shall act at all times in a reasonable and responsible manner. The safety certification systems by Local Authorities were established by the Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sport Act . The Tenant shall undertake risk management assessments at the Property and provide a copy of the Risk management report to the Landlord annually.

3.14.4 The Tenant shall maintain the Property in a safe condition in compliance with all Health and Safety legislation and regulations covering (but not limited to)

The Safety at Sports Grounds Act 1975 and The Fire Safety and Safety of Places of Sport Act 1987

The Health and Safety at Work etc. Act 1974 (HSWA) (this includes The Approved Code of Practice: Legionnaires' disease: The Control of Legionella Bacteria in water systems (L8)

The Control of Asbestos Regulations 2012

The Control of Substances Hazardous to Health Regulations 2002 (as amended)

Provision and Use of Work Equipment Regulations 1998

Electrical Equipment (Safety) Regulations 1994

The Tenant shall provide evidence that it has the appropriate safety certifications where applicable and has undertaken the necessary inspections and carried out any maintenance works to comply with this clause for the term of the Lease.

3.14.5 In the event of the Tenant carrying out any structural works such as 3G pitches, floodlights, services or dug out structures, during the Term of the Lease, it will be the responsibility of the Tenant to obtain and comply with all necessary consents, permissions or certificates connected to the works.

4. Landlord's covenants

4.1.1 That the Tenant paying the rents hereby reserved and performing and observing the covenants on the part of the Tenant and the conditions herein contained shall peaceably hold and enjoy the Property during the said term without any interruption by the Council or any person rightfully claiming under or in trust for the Council

4.2 PROVIDED always and it is hereby agreed and declared as follows:

4.2.1 That the Council shall have power at all times without obtaining any consent from or making any compensation to the Tenant to deal as to the Council may think fit with any other property belonging to the Council and to erect or suffer to be erected on such neighbouring property any buildings whatsoever whether such buildings shall or shall not affect or diminish the light or air which may now or at any time during the term hereby granted be enjoyed by

the Tenant or any Tenants or occupiers of the Property or any part thereof provided that any accesses to the Property are retained.

4.2.2 If the rent hereby reserved or any part thereof shall remain unpaid for 30 days after becoming payable (whether formally demanded or not) or if any of the covenants on the part of the Tenant hereinbefore contained shall not be performed or observed, after notification of such breach has been given to the Tenant and after a reasonable period has not been rectified then and in any such case it shall be lawful for the Landlord at any time thereafter to re-enter upon the Property or upon any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to any right of action of the Landlord in respect of any antecedent breach or non-observance of the covenants on the part of the Tenant hereinbefore contained

4.3 PROVIDED THAT before exercising any right of re-entry under this clause the Landlord shall give 60 days written notice to The Football Foundation or any other mortgagee of this lease for which notice has been given to the Landlord (together "the Mortgagee") and if within 60 days of the expiry of such notice the Mortgagee indicates in writing to the Landlord that it wishes to remedy such breach the Landlord shall allow the Mortgagee a period of three months or such longer time as may be reasonable (in view of the nature and extent of the breach) to remedy such breach or to procure that it is remedied.

4.4 That in the event of the service of any statutory notice requiring the execution of works at the Property the following provision shall (notwithstanding anything hereinbefore contained) have effect

- (a) if such notice is to be served upon the Tenant the Tenant shall forthwith forward the same to the Landlord and shall (unless a certificate of exemption be obtained from the authority serving the notice) forthwith at his expense execute to the satisfaction of the Landlord such works as the Landlord may approve in order to comply with the requirements of the said notice

(b) if such notice is served upon the Landlord the Landlord shall immediately notify the Tenant and thereupon the Tenant shall at his own expense forthwith execute to the satisfaction of the Landlord such works as the Landlord may require in order to comply with such notice or as such notice may require to be executed by the Tenant

Provided that in either case the Landlord may if it so desires itself execute such works and the Tenant shall afford to the Landlord all necessary access to the Property and other facilities for this purpose and shall on demand refund to the Landlord all costs and expenses thereby incurred and any sums payable by virtue of this proviso shall be recoverable from the Tenant as rent in arrear

4.5 The expression "the Director of Leisure and Community Development" in this Lease shall mean the Director of Leisure and Community Development for the time being of the Landlord or such other person as shall be nominated for that purpose by the Landlord

4.6 Any consent, approval, determination, authority or notice required to be given by the Landlord shall be in writing and shall (except where the context otherwise provides or requires) be given under the hand of the Chief Executive for the time being of the Landlord and any notice to the Landlord shall be in writing and shall be deemed to be sufficiently served if sent by prepaid post and addressed to the Chief Executive at the Council House, Atherstone aforesaid and any notice to the Tenant shall be deemed to be sufficiently served if left or sent by prepaid post to him at his registered address.

4.7 That in cases of dispute or difference arising out of or touching upon the rights, duties or liabilities of the parties under this Lease the dispute shall be referred to the determination of a single arbitrator to be agreed upon by the parties or failing agreement to a person nominated by the President of the Royal Institution of Chartered Surveyors in the manner provided by the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force

4.8 The Landlord shall arrange and attend a minimum of 3 meetings each year with the Tenant during the term of the Lease to support the Tenant in respect of implementation of the Club Development Plan which is attached to the Lease. In addition, the Tenant will work towards achieving and thereafter maintaining accreditation from the appropriate governing bodies of the sports carried on at the Property.

4.9 The Landlord shall arrange for a formal review of the Club Development Plan every 5 years during the term of the Lease.

5. Except as expressly provided for in clause 4.3 a person who is not a party to the lease shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the lease. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act

IN WITNESS whereof the Landlord has caused its Common Seal to be hereunto affixed and the Tenant has to a Counterpart executed as a Deed the day and year first before written

FIRST SCHEDULE

The Property

All that land situated at Coleshill Road, Ansley Common, Nuneaton, Warwickshire as shown edged red on the annexed plan ("the Plan")

SECOND SCHEDULE

Rights Granted

1. A right of way on foot and by vehicle over the land providing access between the Property and Coleshill Road coloured brown on the Plan for obtaining access to the Premises for the purpose of use as a sports club
2. The free and uninterrupted passage and running of water soil gas electricity and other services to the land hereby demised over through and along the sewers drains pipes wires and cables which now are or may hereafter during the term hereby granted be in under or upon the adjoining or neighbouring land of the Landlord or its tenants for the time being and the right to connect into these services and install new services to serve the Property and the right to enter upon the Landlord's neighbouring property for the purposes of installing repairing cleansing maintaining and renewing any services subject to the Tenant making good any damage caused to the reasonable satisfaction of the Landlord.

THE THIRD SCHEDULE

Matters Excepted and Reserved from the Demise

1. The free and uninterrupted passage and running of water soil gas electricity and other services to and from adjoining or neighbouring property or units of the Landlord over through and along the sewers drains pipes wires and cables which now are or may hereafter during the term hereby granted be in under or upon the demised land with the right for the Landlord to enter upon the demised land at any time for the purpose of repairing cleansing maintaining and renewing the said sewers drains pipes wires and cables subject to the Landlord making good all damage caused by such entry except in so far as such entry may be necessitated by any act or default of the Tenant

IN WITNESS whereof the Landlord has caused its Common Seal to be hereunto affixed and the Tenant has executed as a deed the day and year first before written

EXECUTED AS A DEED by affixing THE COMMON SEAL)
of NORTH WARWICKSHIRE BOROUGH COUNCIL)
hereto in the presence of:)

Designated Officer:

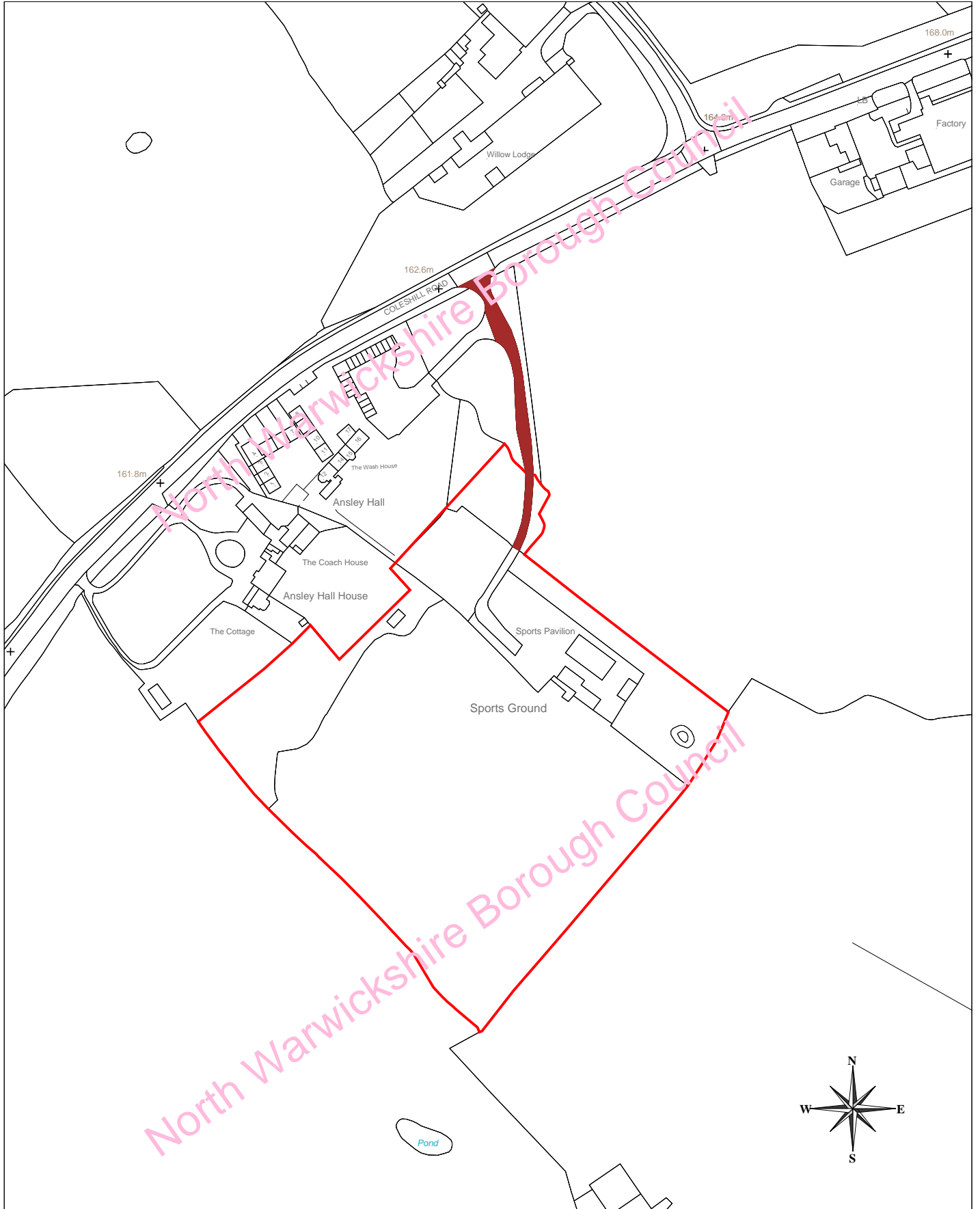
EXECUTED AS A DEED by)
HAUNCHWOOD SPORTS JUNIOR FC)
Acting by)

Director

In the presence of:

Witness Signature:

Witness Name:
Witness Address:



Date: 24/04/24
Scale: 1:2500

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North Warwickshire
Borough Council



Ordnance Survey
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Agenda Item No 7

Resources Board

3 June 2024

Report of the Interim Corporate Director – Resources (Section 151 Officer) Council Tax - Discretionary Reduction in Liability S13A Policy

1 Summary

1.1 The purpose of this report is to present the Council Tax – Discretionary Reduction in Liability S13A policy detailed in Appendix A for members approval.

<p>Recommendation to the Board</p> <p>To approve the Council Tax – Discretionary Reduction in Liability S13A policy in Appendix A along with a budget of £10,000 funded from the New Burdens specific earmarked reserve fund.</p>

2 Background

2.1 North Warwickshire BC currently does not have an approved Council Tax-Discretionary Reduction in Liability S13A policy. This is a policy to provide the Council with additional discretionary powers to enable it to reduce the council tax liability where statutory discounts, exemptions and reductions do not apply. All Local Authorities should have a S13A policy in place as anyone can claim against it and if you don't have one it can be challenged at the Valuation Tribunal and they will ask for the policy document. Where a policy doesn't exist the tribunal could grant a reduction outside of what the LA would have awarded.

2.2 It would only be required where the circumstances do not meet the criteria for discounts and reductions already in place. A budget of £10,000 is requested for this scheme and this could be funded from the New Burdens specific earmarked reserve fund.

3 The Policy

... 3.1 The detail of the policy is included in Appendix A

3.2 The discretionary awards can be given to:

- Individual Council Taxpayers;
- Groups of Council Taxpayers defined by a common set of circumstances;
- Council Taxpayers within a defined area: or
- To all Council Taxpayers within the Council's area.

3.3 The Policy is divided into the following areas:

- The Flood Recovery Framework – this part of the policy covers situations outlined by Central Government where any parts of the Council's area were to be designated as a flood area;
- Granting of Reductions in Council Tax Liability where there is exceptional hardship – this part of the policy applies to circumstances where the applicant experiences exceptional hardship;
- Crisis – this part of the policy deals with all cases where a reduction in liability is claimed where the taxpayer experiences a crisis (other than mentioned in flood or exceptional hardship); and
- Other Circumstances – this part applies where the application is made other than for the above reasons.

3.4 The Policy presented in Appendix A covers the criteria, duties of the applicant, payment, appeals etc.

4 Report Implications

4.1 Finance and Value for money Implications

4.1.1 The budget requested is £10,000 which can be funded from the new Burdens earmarked reserve fund.

4.2 Legal Implications

4.2.1 The Council has a statutory duty to recover Council Tax and non-domestic rates and a general fiduciary duty to the inhabitants of its area to safeguard the public funds entrusted to it.

4.2.2 The Council has the power within subsection 13A(1)(c) of the Local Government Finance Act 1992 to reduce the Council Tax liability by way of a discretionary discount to the charge payer in exceptional circumstances. This power is additional to statutory exemptions and other discounts such as the single person discount and Council Tax Reduction which must be exhausted beforehand. It may be exercised in relation to individual cases or by determining classes of case where the Council can reduce Council Tax liability by whatever amount it considers appropriate, including reducing liability to nil.

4.2.3 Anyone who tries to claim a discretionary discount under this policy by falsely declaring their circumstance or providing a false statement or evidence may have committed an offence under the Theft Act 1968 or the Fraud Act 2006.

The Contact Officer for this report is Katie Hines (719234).



**North Warwickshire Borough Council
Council Tax - Discretionary Reduction in
Liability
S13A (1)(c) Local Government Finance Act
1992**

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1 Introduction and Legislation

- 1.1 Section 13A (1)(c) of the Local Government Finance Act 1992, provides the Council with additional discretionary powers to enable it to reduce the council tax liability where statutory discounts, exemptions and reductions do not apply.
- 1.2 These discretionary awards can be given to:
- Individual Council Taxpayers;
 - Groups of Council Taxpayers defined by a common set of circumstances;
 - Council Taxpayers within a defined area: or
 - To all Council Taxpayers within the Council's area.
- 1.3 This policy is basically divided into the following areas namely:
- (a) **The Flood Recovery Framework** – this part of the policy covers situations outlined by Central Government where any parts of the Council's area were to be designated as a designated flood area;
 - (b) **Granting of reductions in Council Tax liability where there is exceptional hardship** - this part of the policy applies to circumstances where the applicant experiences exceptional hardship;
 - (c) **Crisis** – this part of the policy deals with all cases where a reduction in liability is claimed where there the taxpayer experiences a crisis (other than mentioned in (a) to (c); and
 - (d) **Other circumstances** – this part applies where the application is made other than for (a) to (d) above.
- 1.4 The relevant legislation (S13 (1) (c) of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012), states the following:

Reductions by billing authority

(1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13);

- (a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme;
- (b) (not applicable)
- (c) **in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.**

1.5 The provisions stated in (c) above, allows the Council to reduce the Council Tax liability for any taxpayer in addition to any application for Council Tax Reduction under the Council's scheme. This is a general power that has always been available to the Council.

1.6 When deciding on whether to grant a reduction in liability, the Council will consider each

application on its merits. Principles of reasonableness will apply in all cases with the authority deciding each case on relevant merits.

- 1.7 Any decision made will be without reference to any budgetary considerations notwithstanding the fact that any awards must be balanced against the needs of local taxpayers who will ultimately pay for any reduction in Council Tax income. However, where Central Government provides funding directly to the Council to compensate for specific events such as the cost of living crisis and in the case of severe flooding, the Council will look to use **all** funding provided.
- 1.8 The period of any reduced liability will be considered in conjunction with the circumstances of the Council Taxpayer except where specified by Central Government.

2. The Flood Recovery Framework

- 2.1 In a severe weather event with significant wide area impacts, local authorities may need central support to help their communities and businesses return to normal. Building on these principles, a core package of business and community recovery support has been developed by Central Government to serve as a framework for flood recovery funding when needed.
- 2.2 It will be for Government Ministers to determine when this support will be made available. Weather incidents with localised impacts will not usually trigger a recovery support package.
- 2.3 In relation to Council Tax, Central Government have developed a Council Tax discount package that is available under S13A (1) (c).

Who is eligible for a council tax discount?

- 2.4 Where the Council Tax Discount Scheme is activated following severe weather, MHCLG will refund eligible local authorities for granting discounts in the following circumstances:
- (a) 100% discount for a minimum of 3 months, or while anyone is unable to return home if longer, for **primary residences** whereas a result of the relevant weather event:
- Flood water entered into the habitable areas; or,
 - Flood water did not enter into the habitable areas, but the local authority regards that the residence was otherwise considered **unliveable** for any period of time.
- AND**
- (b) 100% council tax discount on temporary accommodation for anyone unable to return to their home, in parallel with the discount on their primary residence where applicable.
- 2.5 Second homes and empty homes will **not** be eligible.
- 2.6 Instances where households might be considered **unliveable** could include:

- where access to the property is severely restricted (e.g. upper floor flats with no access);
- key services such as sewerage, draining, and electricity are severely affected;
- the adverse weather has resulted in other significant damage to the property such that it would be, or would have been, advisable for residents to vacate the premises for any period of time, regardless of whether they do vacate or not;
- flooded gardens or garages will **not** usually render a household eligible but there may be exceptions where it could be demonstrated that such instances mean effectively that the property is unliveable.

2.7 It will be for the Council to determine eligibility under the scheme.

Properties affected by multiple instances of flooding

- 2.8 Residences impacted in multiple flood events will not be precluded from repeat support where this is made available by Government in respect of separate weather events.
- 2.9 Where the scheme is activated for two separate instances of flooding within 3 months of each other, the two discount periods will run concurrently. For example, if the second flood event occurred after 2 months, flooded properties already receiving support could be eligible for another 3 months' discount, making the total period of reimbursement 5 months.

Funding

2.10 In such cases, Central Government will make payment to the Council via a Section 31 grant.

The Council's Policy in respect of the Flood Recovery Framework

2.11 The Council shall operate the scheme strictly in accordance with Central Government guidelines.

3 Exceptional Financial Hardship

- 3.1 In accordance with **Section 13A (1) (a)** of the Local Government Finance Act 1992, the Council has a Council Tax Reduction Scheme which provides support, through a discount, to those deemed to be within financial need. The Scheme has been designed to take into account the financial and specific circumstances of individuals through the use of applicable amounts, premiums and income disregards.
- 3.2 Applications will be accepted under this part of the policy for people who have qualified for support under the Council Tax Reduction Scheme **but** who are still experiencing severe financial hardship. Other taxpayers may also apply; however, the Council would normally expect the taxpayer to apply for Council Tax Reduction in any case.
- 3.3 As part of the process of applying for additional support, all applicants must be willing to undertake **all** of the following:
- (a) Make a separate application for assistance;
 - (b) Provide full details of their income and expenditure;
 - (c) The taxpayer is able to satisfy the Council that they are not able to meet their full Council Tax liability or part of their liability;

- (d) Accept assistance from either the Council or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non-essential expenditure;
- (e) Identify potential changes in payment methods and arrangements to assist the applicant;
- (f) Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted;
- (g) The taxpayer is able to demonstrate that all reasonable steps have been taken to meet their full Council Tax liability including applications for employment or additional employment, alternative lines of credit;
- (h) The taxpayer has no access to assets that could be realised and used to pay the Council Tax
- (i) and benefits, Council Tax Support, discounts and exemptions
- (j) Maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.

- 3.4 The Council will be responsible for assessing applications against this policy and an officer will consider the following factors when applying this policy:
- a. Current household composition and specific circumstances including disability or caring responsibilities;
 - b. Current financial circumstances;
 - c. Determine what action(s) the applicant has taken to alleviate the situation;
 - d. Consider alternative means of support that may be available to the applicant by:
 - i. re-profiling council tax debts or other debts;
 - ii. applying for a Discretionary Housing Payment for Housing Benefit (where applicable);
 - iii. maximising other benefits;
 - iv. determining whether in the opinion of the decision maker the spending priorities of the applicant should be re-arranged.

4 Crisis

- 4.1 The Council will consider requests for assistance from Council Taxpayers who, through no fault of their own, have experienced a crisis or event that has made their property uninhabitable, where they remain liable to pay council tax and for which they have no recourse for compensation nor have recourse to any statutory exemptions or discounts.
- 4.2 All such requests must be made in writing detailing the **exact** circumstances of why reduction in the liability is required and specifying when the situation is expected to be resolved.
- 4.3 The Council will consider applications on a case-by-case basis in consultation with other organisations as appropriate. Any reduction will be applied where they remain liable to pay council tax and for which they have no recourse for compensation nor to any statutory exemptions or discounts or where the crisis or event is not covered by any insurance policy.

5 Other Circumstances

- 5.1 The Council will consider requests from Council Taxpayers for a reduction in their liability based on other circumstances, not specifically mentioned within this document. However, the Council must be of the opinion that the circumstances relating to the application warrant further reduction in their liability for Council Tax having regard to the effect on other Council Taxpayers.
- 5.2 No reduction in liability will be granted where any statutory exemption or discount could be granted.
- 5.3 No reduction in liability will be granted where it would conflict with any resolution, core priority or objective of the Council.

6 Changes in circumstances

- 6.1 The Council may revise any discretionary reduction in liability where the applicant's circumstances or situation has changed.
- 6.2 The taxpayer agrees that he/she must inform the Council immediately either by phone or in writing about any changes in their circumstances which might affect the claim for under this policy. Failure to do so may result in the withdrawal of the reduction granted for the year and the requirement to repay any outstanding amount to the Council.

7 Duties of the applicant and the applicant's household

- 7.1 A person claiming any reduction in liability must:
- Provide the Council with such information as it may require to make a decision;
 - Tell the Council of any changes in circumstances that may be relevant to their ongoing claim; and
 - Provide the Council with such other information as it may require in connection with their claim.

8 The award and duration of a reduction in liability

- 8.1 Both the amount and the duration of the award are determined at the discretion of the Council and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 8.2 The start date of such a payment and the duration of any payment will be determined by the Council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.
- 8.3 In the case of Government funded reductions, the Council shall bear in mind Central Government guidance when considering the period to grant a reduction.
- 8.4 In all other cases the duration and level of any Council Tax discretionary reduction will be determined individually. In determining the period of award, examples are given below of

the types of factors that may be appropriate for consideration:

- If the need is likely to be short-term; or
- If the customer is able to take steps to reduce their financial hardship.

8.5 The awards are only intended to be short term awards due to the limited fund available. It is not intended that the reduction will be a long-term solution.

9 Payment

9.1 In line with legislation, any award shall be granted as a reduction in the liability of the Council Taxpayer thereby reducing the amount of Council Tax payable.

10 Reductions in Council Tax liability granted in error or incorrectly.

10.1 Where a reduction in liability has been granted incorrectly or in error either due to a failure to provide the correct or accurate information to the Council or some other circumstances, the Council Taxpayers account will be adjusted and billed in the normal way.

11 Notification of a reduction in liability

11.1 The Council will notify the outcome of each application in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

11.2 If a Council Taxpayer is aggrieved by the council's decision a written request for a review of its decision can be submitted if it is made within 2 months of the original decision. If the original decision is upheld and the council taxpayer remains aggrieved, there is a further right of appeal to the valuation tribunal.

12 Delegated Powers

12.1 This S13A (1) (c) policy has been approved by the Council. However, the Head of Revenues and Benefits (Shared Services) is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and, for certain defined schemes, Central Government guidance.

13 Appeals

14.1 Appeals against the Council's decision may be made in accordance with Section 16 of the Local Government Finance Act 1992.

13.2 The Council Taxpayer must in the first instance write to the Council outlining the reason for their appeal. Once received the council will then consider whether any additional information has been received which would justify a change to the original decision and notify the Council Taxpayer accordingly.

13.3 Where the Council Taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of

the Council not to grant any reductions. Full details can be obtained from the Councils website or from the Valuation Tribunal www.valuationtribunal.gov.uk

14 Fraud

- 14.1 The Council is committed to protecting public funds and ensuring funds are awarded to the people who are rightfully eligible to them.
- 14.2 An applicant who tries to fraudulently claim a reduction in liability by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 14.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

15 Complaints

- 15.1 The Council's Complaints Procedure (available on the Councils website) will be applied in the event of any complaint received about this policy.

16 Policy Review

- 16.1 This policy will be reviewed annually and updated as appropriate to ensure it remains fit for purpose. However, a review may take place sooner should there be any significant changes in legislation.

1 Summary

1.1 The purpose of this report is to present the Head of Internal Audit’s Annual Opinion Report (Head of Central Midlands Audit Partnership CMAP), which includes:

- A statement on conformance with the Public Sector Internal Audit Standards (PSIAS);
- The Head of Internal Audit’s opinion on the overall adequacy and effectiveness of NWBC’s framework of governance, risk management and control; and
- A summary of the work that supports that opinion.

Recommendations to the Board

- a To note the findings of an assessment of the internal audit function against the PSIAS and quality assurance programme;
- b To consider the summary of internal audit work in the attached report Appendix A, which supports the Head of Internal Audit’s opinion; and
- c To note the Head of Internal Audit’s overall opinion on the control environment detailed in Appendix A.

2 Background

2.1 An assessment of the overall effectiveness of the governance, and risk and control framework of the organisation, and its conclusions on whether the organisation’s risk appetite is being adhered to, together with an analysis of themes and trends emerging from internal audit work and their impact on the organisation’s risk profile, should be carried out at least annually. This has been provided for 2023/24 by Richard Boneham, Head of the Central Midlands Audit Partnership (CMAP) who took on the role of Chief Audit Executive for North Warwickshire BC from November 2023.

2.2 The internal audit capacity had reduced below the PSIA standards since the shared audit arrangement ended December 2022. To address this risk on 17th July 2023, the Council's Special Sub-Group agreed for CMAP to provide internal audit services to supplement our inhouse audit function for a period of 6 months; since that agreement members have agreed for the 2024/25 audit plan to be delivered under this agreement and a review in terms of the future arrangement will be considered in the autumn.

2.3 The Interim Corporate Director of Resources (Section 151 Officer) met with CMAP's Head of Audit Partnership to agree a new audit plan that was fit for purpose together with a health check around the key areas of governance, risk management, the counter fraud framework and information technology were required. An audit around income collection at Leisure Centres was also requested. The report attached at Appendix A includes a summary of this activity.

3 Requirements of the PSIAS

3.1 The Public Sector Requirement in PSIAS 2450 requires that the Chief Audit Executive must provide an annual report to the board timed to support the annual governance statement. This must include:

- an annual internal audit opinion on the overall adequacy and effectiveness of the organisation's governance, risk and control framework – i.e. the control environment
- a summary of the audit work from which the opinion is derived (including reliance placed on work by other assurance providers)
- a statement on conformance with the PSIAS and the results of the Quality Assurance and Improvement Programme.

3.2 In the context of the PSIAS, 'opinion' means that internal audit will have done sufficient, evidenced work to form a supportable conclusion about the activity that it has examined. Internal audit will word its opinion appropriately if it cannot give reasonable assurance (e.g. because of limitations to the scope of, or adverse findings arising from, its work).

3.3 Standards refer to the Chief Audit Executive (CAE), which at North Warwickshire Borough Council from November 2023 is Head of CMAP; all references to the board refer to the Resources Board. The Standards require the CAE to present an annual report to the board which incorporates a statement on conformance with the PSIAS, an opinion on the Council's overall control environment and a summary of the work that has been completed to support that opinion. This is all detailed in Appendix A.

4 Opinion on the adequacy of the Council's control environment and a summary of the work supporting that opinion

4.1 Based on the internal audit work undertaken during the year, the overall opinion at North Warwickshire Borough Council, **is Limited Assurance for the 2023/24 year that the Council's framework for governance, risk management and internal control is sound and working effectively.** In forming this opinion,

the Head of Internal Audit was satisfied that no conflicts of interest have occurred which would have any bearing on my independence or objectivity. Also, his organisational independence and objectivity has not been subject to any impairment in fact or appearance; nor has the scope of our work been restricted in any way.

The opinion has had regard to the following:

- The level of coverage provided by Internal Audit work since 1 April 2023 is sufficient to provide me with evidence to form an opinion on how well the Council's control environment is operating.
- Insight gained from my interactions with the interim s151 Officer on the overall governance, risk and control frameworks.
- CMAP's organisational independence and objectivity has not been subject to any impairment in fact or appearance; nor has the scope of our work been restricted in any way.

5 Report Implications

5.1 Risk Management Implications

5.1.1 Failure to provide an effective Internal Audit Service may adversely affect the level of internal control operating within the Council.

5.1.2 Non-conformance with the PSIAS, which is a mandatory requirement, will attract criticism from external assessors.

5.2 Links to Council's Priorities

5.2.1 The audit programme agreed and delivered are aligned to both the priorities of the Council and the requirements of external assessors.

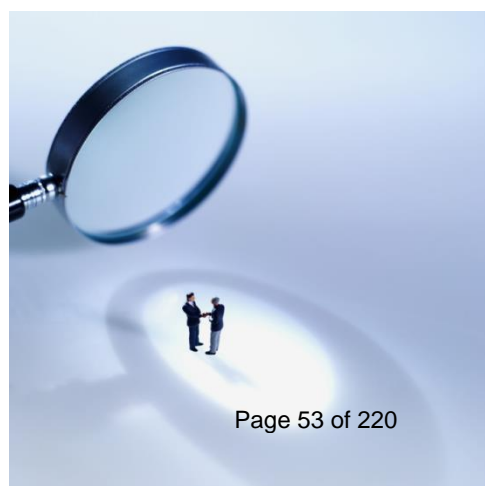
The Contact Officers for this report are Alison Turner/Richard Boneham (719374).



North Warwickshire BC – Internal Audit Annual Report and Audit Opinion 2023/24

Resources Board – 3rd June 2024

Report Produced: 17th May 2024



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Our Vision

To bring about improvements in the control, governance and risk management arrangements of our Partners by providing cost effective, high quality internal audit services.

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Introduction

The Council's Internal Audit Function in 2023-24

The Council's internal audit resource on 1st April 2023 was one Senior Auditor with no dedicated audit management function to oversee the internal audit work. Line management and oversight had been through a shared arrangement with Nuneaton and Bedworth BC of a 0.4 FTE resource but on 22 December 2022 that agreement had ended. This meant that for the start of the 2023-24 year, North Warwickshire BC's internal audit function was under budget by 1.5 FTE and was not conforming with the Public Sector Internal Audit Standards. In June 2023, the then Corporate Director of Resources and Section 151 Officer made initial contact with the Central Midlands Audit Partnership (CMAP) to discuss how the Partnership could help supplement the Council's internal audit function going forward. On 17th July 2023, the Council's Special Sub-Group agreed the following recommendations:

1. That Central Midlands Audit Partnership be approached to provide internal audit services to supplement our inhouse audit function for a period of 6 months;
2. That during that pilot period we address the issues around structure, transfer of staff and performance indicators to the satisfaction of the Council;
3. That pending a satisfactory pilot period and contract negotiation we move to join the Central Midlands Audit Partnership.

Following the departure of the Corporate Director of Resources, the new Interim Corporate Director of Resources (Section 151 Officer) met with CMAP's Head of Audit Partnership on 30 August 2023 to formulate a way forward on the Council's internal audit service. It was decided that a new audit plan that was fit for purpose together with a health check around the key areas of governance, risk management, the counter fraud framework and information technology were required. An audit around income collection at Leisure Centres was also requested.

The formal agreement for CMAP to assist with the provision of an internal audit service commenced on 1st November 2023.

Why is the Chief Audit Executive's opinion important?

Where an organisation has an Internal audit function, its role is to provide opinions as part of each individual audit report as well as on the overall adequacy of governance, risk management, and control within the organisation. These may be for an assurance or opinion at a broad level for the organisation as a whole (macro-level opinion) or on individual components of the organisation's operations (micro-level opinion).

The mission of internal audit is 'to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight.' The Chief Audit Executive's opinion is a key reporting component of internal audit's role within an organisation's governance framework.

The standard setter in the UK for Internal Audit, the Chartered Institute of Internal Auditors, published its Internal Audit Code of Practice in January 2020, which is aimed

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at internal audit in the private and third sectors. One of the recommendations (within recommendation 13) is that internal audit's reporting to the board and / or audit committee should include:

“at least annually, an assessment of the overall effectiveness of the governance, and risk and control framework of the organisation, and its conclusions on whether the organisation's risk appetite is being adhered to, together with an analysis of themes and trends emerging from internal audit work and their impact on the organisation's risk profile.”

CMAP as a Public Sector Internal Service is required to conform with the Public Sector Internal Audit Standards (PSIAS). These states that:

Public sector requirement

The chief audit executive must deliver an annual internal audit opinion and report that can be used by the organisation to inform its governance statement.

The annual internal audit opinion must conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.

The annual report must also include a statement on conformance with the Public Sector Internal Audit Standards and the results of the quality assurance and improvement programme.

Extracted from Public Sector Internal Audit Standards Updated March 2017 - 2450 Overall Opinions

In this instance, the role of Chief Audit Executive for North Warwickshire BC is provided by Richard Boneham, Head of the Central Midlands Audit Partnership.

With regard to overall opinions, CIPFA's Local Government Application Note for the United Kingdom Public Sector Internal Audit Standards 2019 Edition (issued February 2019) also states:

“The Public Sector Requirement in PSIAS 2450 requires that the Chief Audit Executive must provide an annual report to the board timed to support the annual governance statement. This must include:

- *an annual internal audit opinion on the overall adequacy and effectiveness of the organisation's governance, risk and control framework – i.e. the control environment*
- *a summary of the audit work from which the opinion is derived (including reliance placed on work by other assurance providers)*
- *a statement on conformance with the PSIAS and the results of the Quality Assurance and Improvement Programme.*

The Application Note also states that:

In the context of the PSIAS, 'opinion' means that internal audit will have done sufficient, evidenced work to form a supportable conclusion about the activity that it has examined. Internal audit will word its opinion appropriately if it cannot give reasonable assurance (e.g. because of limitations to the scope of, or adverse findings arising from, its work).”

How an Audit Opinion is Formed

Internal Audit's risk-based plan must take into account the requirement to produce an annual internal audit opinion. Accordingly, the Audit Plan must incorporate sufficient work to enable the Head of Internal Audit to give an opinion on the overall

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adequacy and effectiveness of the organisation's framework of governance, risk management and control. Internal Audit must therefore have sufficient resources to deliver the Audit Plan.



Possible Overall Opinions

Because CMAP has only provided a five-month period of internal audit and over half of the finalised internal audit work has followed CMAP's internal audit approach, nor gone through our quality assurance process, I have chosen not to adopt the CMAP Annual Audit Opinion criteria to the 2023/24 Annual Internal Audit Opinion for North Warwickshire BC. Instead, it would seem logical to closely mirror the individual assignment opinions used by North Warwickshire BC when providing my annual internal audit assurance opinion. Therefore, the Chief Audit Executive's opinion relative to North Warwickshire Borough Council could fall into one of the following four categories:

Significant Assurance	A sound system of governance, risk management and control exists across the organisation, with internal controls operating effectively and being consistently applied to support the achievement of strategic and operational objectives.
Satisfactory Assurance	There are generally sound systems of governance, risk management and control in place across the organisation. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of some of the strategic and operational objectives.
Limited Assurance	Significant gaps, weaknesses or non-compliance were identified across the organisation. Improvement is required to the system of governance, risk management and control to effectively manage risks and ensure that strategic and operational objectives can be achieved.
No Assurance	Immediate action is required to address fundamental control gaps, weaknesses or issues of non-compliance identified across the organisation. The system of governance, risk management and control is

inadequate to effectively manage risks to the achievement of strategic and operational objectives.

Audit Opinion 2023/24

Based on the internal audit work undertaken during the year, I have reached the overall opinion that, at North Warwickshire Borough Council, **I can provide Limited Assurance for the 2023/24 year that the Council's framework for governance, risk management and internal control is sound and working effectively.**

In forming this opinion, I am satisfied that no conflicts of interest have occurred which would have any bearing on my independence or objectivity. Also, my organisational independence and objectivity has not been subject to any impairment in fact or appearance; nor has the scope of our work been restricted in any way.

I have arrived at this opinion having regard to the following:

- I consider that the level of coverage provided by Internal Audit work since 1st April 2023 is sufficient to provide me with evidence to form an opinion on how well the Council's control environment is operating.
- My insight gained from my interactions with the interim s151 Officer on the overall governance, risk and control frameworks.
- CMAP's organisational independence and objectivity has not been subject to any impairment in fact or appearance; nor has the scope of our work been restricted in any way.

Factors influencing the opinion.

- An under resources internal audit function for the first seven months of the financial year.
- There has been a significant turnover of key staff at the Council in the last 12 to 18 months.
- The role of an Audit Committee is not vested into one single body.
- Although policies, strategies and other relevant documents exist, in many cases they are out of date and not fit for purpose.
- A dependency on senior officers to provide operational input into key systems/frameworks e.g. risk management which is the sole responsibility of a of the Council's s151 Officer. Such officers do not have the capacity to fulfil the role.

My opinion is provided with the following caveats:

- The opinion does not imply that Internal Audit has reviewed all risks, controls and governance arrangements relating to the organisation.
- No system of control can provide absolute assurance against material misstatement or loss, nor can Internal Audit give absolute assurance.

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- Full implementation of all agreed actions is essential if the benefits of the control improvements detailed in each individual audit report are to be realised.
- CMAP only became involved in providing an internal service to North Warwickshire Borough Council from November 2023. We have worked closely with the Council's Senior Auditor and have placed reliance on his work for the period from 1st April 2023 to 31st October 2023.

Audit Coverage in 2023-24

The 2023/24 original Internal Audit Plan was approved by the Resources Board on 13th March 2023.

The original internal audit plan for 2023/24 consisted of the following 10 system reviews:

- Democratic Services
- Housing Repairs (excluding voids)
- Commercial Properties and Industrial Units
- Emergency Planning
- Civil Parking Enforcement
- Amenity cleaning
- Grounds Maintenance
- Hackney Carriages
- UK SPF – nothing to audit

The plan also included follow up reviews of:

- Equalities (Limited – Oct 20) – not followed up
- Procurement (Satisfactory - Oct 22) – nothing to do until new legislation
- Contaminated Land (Satisfactory - Nov 22)
- Environmental Protection – Food Hygiene & Inspection (Satisfactory - Feb 23)
- Leaseholder Management (Significant – Mar 23)
- Cesspool Emptying (Satisfactory - Mar 22)- Director left
- Civic Silver & Security (Satisfactory - Mar 22) – S151 officer left

The Head of the Central Midlands Audit Partnership produced an internal audit plan to cover the period 1st November 2023 to 31st March 2024 to enable him to provide an opinion on the key areas of governance and risk. The additional audits were:

- Corporate Governance – overview
- Risk Management - overview
- Key Financial Controls
- Counter Fraud Framework
- IT Health Check
- Income Collection – Leisure Centres
- Homelessness

An internal audit plan has to be flexible to respond to changes in the risk environment and other factors that can affect the governance of North Warwickshire BC. This means that the audit plan is kept under review to enable both North Warwickshire BC

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and Internal Audit/CMAP to propose changes to the planned areas for audit review. Audit reviews that were added and/or removed from the plan following discussions with the Council's s151 Officer were:

Added to 2023-24 Plan:

- Health & Safety – Waste & Transport Services

Removed from the original 2023-24 Plan:

- Amenity cleaning (to accommodate the changes to the plan)
- Grounds Maintenance (to accommodate the changes to the plan)
- Hackney Carriages (to accommodate the changes to the plan)
- UK SPF (it was deemed there was nothing in place for internal audit to review)

The follow up audits detailed in the original plan were also not undertaken for a number of reasons:

- New legislation coming into force in 2024 (Procurement);
- Officers implementing recommendations had left the Council (Cesspool Emptying and Civic Silver & Security);
- Amendments to the original plan.

Original Internal Audit Plan 2023-24 – Summary of Status/Assurance Rating

The following tables summarise the original 2023-24 Internal Audit Plan assignments and their outcomes.

Original 2023-24 Jobs	Status	% Complete	Assurance Rating
Electoral Registration & Elections	Final Report Issued	100%	Significant
Commercial Properties	Final Report Issued	100%	Satisfactory
Civil Parking Enforcement – Off Street Parking	Final Report Issued	100%	Significant
Emergency Planning	Final Report Issued	100%	Satisfactory
Housing Repairs – Annual Gas Safety Inspections	Final Report Issued	100%	Significant
Health & Safety – Waste & Transport Services	Final Report Issued	100%	No Assurance

NWBC Assurance Ratings Explained

Overall Assurance Rating	Description
Significant	There is a sound system of internal controls that are being consistently applied.
Satisfactory	There is basically a sound system of internal controls although there are some minor weaknesses and/or there is evidence that the level of non-compliance may put some minor systems objectives at risk.
Limited	There are some weaknesses in the adequacy of the internal control system and/or the level of non-compliance puts some of the systems objectives at risk.
No Assurance	Control is weak leaving the system open to significant error or abuse and/or there is significant non-compliance with basic controls.

Summary of Audit Work/Findings – Original Internal Audit Plan

Progress on Internal Audit work during 2023/24 has not been reported to Resources Board. This section provides an overview on each audit assignment undertaken by

the Council's Senior Auditor including the main findings/recommendations for each review.

Electoral Registration & Elections

This audit reviewed the adequacy of arrangements for the preparatory work for the staging of local Borough elections in May 2023 (which for the first time introduced a new requirement for voter-ID). The review also assessed the Council's back-up and disaster recovery arrangements for the Xpress Register of Electors system (a 'business critical' system) for adequacy. Finally, it sought evidence of the publishing of results from the local Borough elections which took place on 4th May 2023.

This review resulted in an overall 'significant' Assurance rating. The key findings were that key expected controls were being applied in a consistent and sound manner. Recommendations were made to:

- produce a 'Data Sharing Agreement' for the sharing of electoral registration data internally within the Council
- strengthen best practice with regards to 'Third Party Organisation Requests for Disclosure of Personal Electoral Registration Data' under the provisions set out in the Data Protection Act 2018

Commercial Properties

This review sought to establish if the Council was clear about its role in, and the importance of, property management of its commercial properties' portfolio, by reviewing operating effectiveness of certain key expected controls, to help mitigate key potential risks in relation to its commercial property arrangements. It excluded coverage of the management and control of the Council's Housing Revenue Account Landlord stock of social housing.

The review resulted in an overall 'satisfactory' Assurance rating. The key findings/recommendations were to:

- compile a documented Corporate Asset Management Plan / Strategy, to provide a corporate integrated framework and strategic governance regime to management and control over the Council's Commercial Property portfolio.
- review the 'Property Management Plans' for each of the Council General fund building assets to provide up to date management information about their physical condition.
- carry out periodic market rentals reviews for the Council's CP asset portfolio being determined by a suitably accredited Royal Institute of Chartered Surveyors valuer.
- carry out credit worthiness vetting of all new prospective leaseholders.

- undertake cyclical stock condition surveys of the Council's General Fund and HRA commercial property assets.
- determine legal responsibilities for important aspects of Health & Safety at the Council's leasehold commercial property buildings.
- give due consideration to the importance of obtaining tenancy turnover photographic schedules to provide comparison as to the state of condition of property between the commencement and termination of tenancy, to facilitate the evidence gathering and ability to bill any tenants for the cost of any untoward damage or disrepair to the fabric and structure of properties, in accordance with leaseholder terms and conditions.

Civil Parking Enforcement – Off Street Parking

This audit reviewed the operating effectiveness of certain key expected controls, to help mitigate key potential risks to the Council in relation to its Civil Parking Enforcement – Off-street parking arrangements.

This review resulted in an overall 'significant' Assurance rating. Recommendations were made to safeguard service provision and formalise relevant terms and conditions, to agree and put in place:

- a formal contract / Service Level Agreement with Euro Car Parks Ltd for the role of Civil Enforcement Officer to the Council.
- a formal Service Level Agreement with Wychavon District Council, for the processing by WDC of the 'Chipside' payment enforcement system, on behalf of NWBC.

Emergency Planning

To review the operating effectiveness of certain key expected controls, to help mitigate key potential risks to the Council in relation to its:

- Emergency Planning [EP] arrangements / preparedness
- Cyber security [CS] preparedness, restricted to non-technical aspects only. (A more in-depth review would necessitate audit by a suitably experienced IT specialist which was not available to the Council at the time of the audit).

Due to the replacement of certain Council's systems, this audit excluded review of the Council's Corporate Business Continuity & Disaster Recovery arrangements, which will be the subject of a separate review in 2024/25.

This audit review resulted in an overall 'satisfactory' Assurance rating. Recommendations to strengthen control included:

- to update the current public facing Community Risk information on the NWBC website.

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- review and update the Council's MEP to fulfil its duties under the Civil Contingencies Act 2004 as a Category 1 responder.
- a 'monthly leavers process' be put in place to inform the Council's Emergency Planning Officer (or equivalent officer) of leavers, so that their MEP roles and responsibilities can be reassigned to replacement officers, and that the Emergency Plan Call Out Cascade List be updated accordingly, followed up with roll out of MEP awareness training to those replacement officers, and refresher training to existing officers.
- an annual exercise to verify the contact details of all key officers / staff included on the Emergency Plan Call Out Cascade List.
- consider taking expert advice from the CSWRT Joint Emergency Planning Officer on staging a rehearsal, to test and validate the Council's MEP provision and procedures for setting-up an Emergency Control Centre, as a category 1 responder.
- review and update of the Council's section on 'cyber security' incorporated within its Information Services Major Incident Procedure, seeking the latest best practice guidance from the WLRF and/or other specialist / accredited bodies in the field of cyber security.
- in any review / update of the Council's Information Services Major Incident Procedure [ISMIP], to consider incorporating best practice outlined in the 'Government Cyber Security Strategy – Building a Cyber Resilient Public Sector 2022 to 2030', and the 'National Cyber Security Centre's [NCSC] dedicated webpage guide for the public sector'.
- consider seeking an up-to-date independent assessment of the Council's cyber security protection measures, via striving for attainment of the Cyber Essentials Plus accreditation (a government-backed scheme), once any of the Council's on premises systems and applications that are beyond their end-of-life, have been replaced.
- continue to monitor uptake by relevant Council officers / staff of the cyber security e-learning interactive training course.

Housing Repairs – Annual Gas Safety Inspections

This audit reviewed the operating effectiveness of certain key expected controls, to help mitigate key potential risks to the Council, as a social landlord, in relation to its statutory 'annual gas safety checks / servicing' of gas appliances it (or its contractor) has installed in its social housing rental properties (domestic). The relevant statutory duties include the:

- 'Gas Safety (Installation and Use) Regulations 1998', (which require the mandatory deployment of 'Gas Safe Registered' engineers to carry out installations and annual gas safety checks); and

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- 'The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022' with regards to installation and checking of smoke & carbon monoxide detectors fitted in social housing properties with gas installations, ensuring that the detectors conform to relevant British Standards.

This review resulted in an overall 'significant' Assurance rating. Recommendations were made to:

- complement the Council's webpage and Tenants Handbook on "keeping your home safe", with more extensive gas safety guidance displayed on the website of Hinckley & Bosworth Borough Council and provide a link to Cadent's (formally National Grid - who operate the 'National Gas Emergency Service'), webpage - "What to do if you smell gas" | Cadent (cadentgas.com)".
- retaining a signed and dated contract with Sure Maintenance Ltd (the Council's external gas safety contractor) in Legal Services, in case any disputes arise about agreed terms and conditions of contract.
- to continue to monitor that Sure Maintenance Ltd gas engineers issue a signed and dated copy of the 'Landlord Gas Safety Record' to the tenants concerned, within 28 days of the annual gas safety check / service being completed at Council social housing rental properties, as is legally required under the under the Gas Safety (Installation and Use) Regulations 1998.

Since the audit was completed, it is understood that the Director of Housing is considering whether to continue to use an external contractor to meet its statutory obligations with regards to gas safety in the Council's social housing properties, or to switch to an in-house arrangement.

Health & Safety – Waste & Transport Services

This audit was undertaken at the specific request of the Interim Corporate Director (Streetscape) and was not part of the original approved audit plan for 2023/24. The Interim Corporate Director (Streetscape) sought an independent review by the Council's Senior Auditor, due to having multiple concerns around health and safety provision, specifically with regards to the Council's refuse & recycling collection crews not adhering to safe systems of working practices [SSoWP] and the apparent lack of adequate relevant line manager / supervisory checks over such practices.

The audit sought to review the operating effectiveness of health and safety [H&S] arrangements, including risk assessment, Safe Systems of Working Practices [SSOWPs] and associated training / guidance provided to employees within the Council's Waste Management & Transport service and to also review whether suitable arrangements were in place for document retention and retrieval, pertaining to H&S matters such as vehicles' defects reporting, compliance with the Council's 'Accident, Near Miss, Dangerous Occurrence & Occupational Disease Reporting & Investigation Policy & Procedure' and periodic vehicle safety inspections in compliance with 'Operator' ['O'] Licence requirements.

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The Interim Corporate Director (Streetscape) also requested the audit examine and review the 'disciplinary hearing pack' resulting from an incident which took place in December 2022 involving a refuse and recycling crew member riding on the side and rear of a refuse vehicle whilst the vehicle was travelling, contrary to SSoWPs. The consequences of this action could have been severe, with major consequences for the Council. The recommendations from this area of the audit were reported separately in Appendix A to the main report but were reflected in the overall assurance rating.

Given the potential ramifications of this incident, together with an overall weakness in control and risk management in this area and a lack of compliance with legislation, this review resulted in an overall 'No Assurance' rating.

The audit resulted in multiple recommendations being made to strengthen control over the procedures / processes and protocols and line management / supervisory control with regards to:

- compliance with Health & Safety legislative requirements.
- relevant managers / supervisors adhering to duties and responsibilities set out in their job descriptions.
- risk assessments.
- SSoWP documentation and associated training & refresher training of relevant staff.
- health & safety documentation circulation and retention / retrieval.
- training records retention / retrieval.
- new employee induction.
- daily refuse & recycling vehicle checks and associated checklists and procedures conforming to industry best practice format.
- recording and reporting of vehicle faults / defects and safety equipment / on-board camera equipment malfunctions.
- compliance with the terms and conditions of the 'Operators Licence' issued to the Council's Waste & Transport Manager by the Office of the Traffic Commissioner.
- the utilisation of the newly adopted BIFFA Audit Process (an impressive and powerful, independent management / supervisory tool, operated through the BIFFA Control Centre monitoring CCTV footage of the Council's refuse and recycling vehicles and crews during actual waste collection rounds).
- planned preventative maintenance / safety inspections of the Council's Waste Services fleet vehicles and associated paperwork.

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- adherence to the Council's approved 'Accident, Near Miss, Dangerous Occurrence & Occupational Disease Reporting & Investigation Policy & Procedure'.
- Statistical Analysis of the Level of Waste Services Insurance Claims.
- monitoring of staff absences relating to occupational / workplace incidents in Waste Services.
- employer check of HGV vehicle driver certificates of professional competence – periodic training hours.

The audit also made recommendations to implement the health & safety aspects of the action plan agreed as part of the Transport Audit Final Audit report issued in July 2021 (but not fully implemented partly due to disruption from the Covid-19 restrictions) by the former Corporate Director – Streetscape.

Recommendations Made in 2023/24 Audit Assignments

The table below provides details of the priority ratings assigned to recommendations for each audit review.

Audit Assignments Undertaken in Period	Assurance Rating	Recommendations Made				
		Priority 1	Priority 2	Priority 3	Priority 4	Priority 5
Electoral Registration & Elections	Significant			2		
Commercial Properties	Satisfactory		1	6	1	
Civil Parking Enforcement – Off Street Parking	Significant		2			
Emergency Planning	Satisfactory		3	7	3	
Housing Repairs – Annual Gas Safety Inspections	Significant			2	1	
Health & Safety – Waste & Transport Services*	No Assurance		2	7	1	
TOTALS		0	8	23	7	0

* Figures for this audit do not include the 32 recommendations made in the Appendix to the report.

Definition of NWBC Priority ratings for Recommendations:

Priority	Definition
1	Priority 1: Serious weakness in the design of controls or consistent non-compliance with controls that could lead to a significant loss or damage to the Authority's assets, information or reputation that requires immediate action.
2	Priority 2: Fundamental weakness in the design of controls or consistent non-compliance with controls that could lead to a significant loss or damage to the Authority's assets, information or reputation.
3	Priority 3: Weakness in the design of controls or inconsistency in compliance with controls that could cause limited loss of assets or information or adverse publicity or embarrassment.
4	Priority 4: Minor weakness in the design of controls or inconsistency in compliance with controls that could result in inefficiencies.
5	Priority 5: Recommended best practice only.

Revised Internal Audit Plan 2023-24 – Summary of Status/Assurance Rating

The additional 2023-24 Internal Audit Plan assignments which commenced from November 2023 onwards are shown in the table below.

Original 2023-24 Jobs	Status	% Complete	Assurance Rating
Governance Framework	Awaiting Review	80%	Limited
Risk Management Framework	Draft Report Reviewed	90%	No Assurance
Key Financial Controls	Draft Report Issued	95%	Reasonable
Counter Fraud Framework	Fieldwork Complete	75%	No Assurance
IT Health Check	Fieldwork Complete	75%	Reasonable
Income Collection – Leisure Centres	Fieldwork Complete	70%	Limited
Homelessness	Fieldwork Ongoing	40%	

CMAAP Assurance Ratings Explained

Overall Assurance Rating	Description
Substantial	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
No Assurance	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

CMAAP's assurance ratings are determined using our bespoke modelling technique which takes into account the number of control weaknesses identified in relation to those examined, weighted by the significance of the risks.

We have issued one report (Key Financial Controls) in draft. This report was given a reasonable assurance rating. There are five audit assignments where we have completed sufficient work (minimum of all fieldwork completed) to arrive at an indicative assurance rating. One has been given an assurance rating of "Reasonable", two have been rated as "Limited Assurance" and two, the Risk Management Framework and the Counter Fraud Framework, we have not been able to provide any assurance, therefore they have been rated as "No Assurance".

There is one audit review where we have not been able to perform sufficient work to arrive at a provisional assurance rating.

Summary of Audit Work/Findings – Revised Internal Audit Plan 2023-24

Key Financial Controls

This audit focused on the processes in place for key control account reconciliations, suspense accounts, budget monitoring and journals to ensure they are well documented and adequately monitored and controlled. The audit was given a “Reasonable Assurance” rating.

The findings from the audit review were:

- Reconciliations had not been completed for Council Tax and NDR and the Finance Team did not have a central list or control log of the Council's Balance Sheet control accounts which should be subject to regular reconciliation.
- There was no established process for escalating non-completion of Balance Sheet control account reconciliations to Senior Officers.
- Information in support of the values used in reconciliation calculations had not been attached in all the cases we reviewed.
- Not all reconciliations had been signed and dated by the preparer and reviewer.
- Collection Fund suspense account contained transactions dating back to April 2022.
- A check to review the Council's general suspense account was not being evidenced to confirm it had taken place.
- The Council's Financial Regulations had not been updated since 2018.
- No training had been provided on the use of the Council's financial management system and, more specifically, budget monitoring.
- Documents to support journal transfers were not available in all cases subject to our review.

IT Health Check

This audit focused on key areas of cyber security that are required to effectively defend the Council's business critical information assets from unauthorised access, misuse and compromise. An interim memo, containing a priority recommendation, was issued during the audit as we had identified a serious security risk that required management's attention prior to the conclusion of the full audit review. Indications are that this audit will provide a “Reasonable Assurance” rating.

The main findings are:

- The latest cumulative security updates had not been applied to either file server reviewed. On one file server, no updates had been applied since November 2023, on the other file server reviewed, no updates had been applied since February 2024. Best practice is to apply updates within 14 days of release. Both servers were flagged on a 'reboot required' network inventory report.
- A former employee's domain admin account had not been promptly disabled upon leaving the Council.
- All user accessible shares on a Council file server may be revealing sensitive information (corporate desktop build images), that could expose software licence keys to unauthorised access and compromise.

- Employees were inappropriately leaving highly personal and sensitive data files on an all-user accessible directory, exposing the Council to serious data breaches. Other confidential data was also vulnerable to all user access on other vulnerable directories.
- A data matching exercise, comparing the access control lists protecting a sample of sensitive directories to HR reports, found not all current access permissions granted were appropriate.
- The Council did not have a formal vulnerability scanning process in place to identify known vulnerabilities in their network environment.
- The current Active Directory default domain password policy settings did not enforce all of the expected password standards defined in the Council's Information Security Policy (2022), specific to minimum length and complexity enabled status.
- The National Cyber Security Centres (NCSC) Mailcheck assessment tool identified some Anti-Spoofing (DMARC), and Email Privacy (MTA-STS) settings that did not align with cyber security best practices.

Corporate Governance Framework

This audit focused on reviewing the policies and protocols in place that underpin the Council's governance framework. The main purpose of this audit was to assess the extent to which the Council maintained its key governance documents and also how it adhered to its established governance principles, guidelines, and regulations.

The indications are that this audit will provide a "limited assurance" rating. The main findings were:

- The Local Code of Corporate Governance was out of date.
- The Annual Governance Statement for 2022/23 was not presented to the Executive Board for approval until 18th March 2024
- The latest version of the Council's constitution posted on the NWBC is therefore out of date and contains a number of errors.
- Both the employee and Member Codes of Conduct was out of date and did not contain key information required.
- Register of member declarations was not up to date with 12 out of 35 elected members disclosable pecuniary interests' forms were dated prior to the May 2023 local Borough elections.
- The Council's Whistleblowing Policy is out of date and contains obsolete information concerning contact details.
- Gifts & Hospitality declarations are not made publicly available.
- The Gifts & Hospitality – A Code of Conduct for Councillors was out of date and lacked information agreed in a previous audit.
- There was no evidence of formal training having been provided to the Council's elected members' sitting on the Council's Resources and Executive Boards on the key governance areas.

Risk Management Framework

This audit focused on reviewing the Council's Risk Management Strategy, Policy and the roles of Elected Members and Officers within the risk management framework, as well as the risk reporting processes in place.

From the work done, this audit will not be able to provide any assurance that the risk management framework is working as intended. Therefore, it is attracting a “ No Assurance” rating.

The main findings are:

- No current Risk Management policy and strategy available.
- The Risk Management Manual is not clear on what it intends to achieve or how you could define if it had been achieved.
- The Council's Risk Management Manual has not been updated since 2021.
- Several departmental Annual Statement of Assurances were missing.
- The risk register template lacked fields needed to demonstrate appropriate management and review were in place.
- The Partnership Risk Register was not subject to an annual review.
- Annual risk management update reports are not sufficient in frequency for the Resources Board to properly fulfil its oversight and monitoring obligations.
- Overall responsibility for Corporate Risk Management not defined.
- There are no reporting lines setting out officer accountabilities within the Risk Management Manual.
- Managers roles and responsibilities are not clearly defined within the Risk Management Manual.
- There does not appear to be any chart setting out the relationship between the Cabinet (“the Full Council”) and the officers, groups and committees with risk management responsibilities.
- Key staff and their responsibilities with regard to risk management have not been identified.
- A risk appetite was not defined within the Risk Management Manual.
- No formal governance training had been provided to the members’ sitting on the Resources Board and Executive Board.
- The framework contains insufficient guidance on risk identification techniques.
- Risk and Control owners are not clearly identified on the risk register.
- The controls appear to be over overestimating as to how they would affect the risk.

Counter Fraud Framework

The audit focused on reviewing:

- the Council's counter fraud and corruption strategy policies in place,
- the arrangements for reporting and investigating fraud and corruption,
- that officers are aware of their responsibilities.

The indications are that this audit will provide a “No Assurance” rating. The main findings were:

- The following documents were out of date and contained obsolete information:
 - Anti-Fraud Bribery and Corruption Policy
 - Anti-Money Laundering Policy
 - The Constitution
 - NWBC Financial Regulations
 - Contract Standing Order Policy
 - Confidential Reporting policy
 - Disciplinary Policy
- There was no Counter Fraud Work Plan in place.
- The fraud risk assessment was solely externally focused. Although the Council had a bought in resource for counter fraud work, this was again focussing on external fraud.
- The resources were insufficient to meet the processes as set out in policy with current processes rely on a staffing structure not in place.
- No substantive training provided in recent years to elected members.

Leisure Centres

The audit involved a visit to each leisure centre to examine relevant financial documentation, to check that the leisure centres are safe and secure and to provide assurance, or otherwise, that cash and any other credits on hand agreed to each establishment's records and was kept secure with access restricted. As one of the leisure centres is cashless, that audit focused on whether invoices were accurate and authorised appropriately with payment monitoring undertaken.

From the work done, it is expected that this audit will provide a limited assurance rating.

The main findings from the review are:

- There was a lack of separation of duties regarding the cash up and there was a lack of physical signatures as initials were used on a spreadsheet.
- There were no process notes for reconciling income from the leisure centres to the bank with the reconciliation not signed or dated. Only one officer was able to undertake the reconciliation.
- The safe insurance limit was not clear to officers and there had been no communication/declaration to the insurers over the number of safe keys and where the keys were kept overnight. There was also no key transfer log.
- At some of the centres, there was no visitor's log. At all centres, contractors were required to complete a separate form and did not sign the visitor log.
- There were no regular reports regarding unpaid invoices and officers at the leisure centre could not tell if an invoice had been paid and instead had to enquire with the finance team for each invoice. Also, as a result, services could still be supplied to customers before payment.
- There were no procedures notes regarding the creation of invoices on the finance system and only one officer could undertake the task.

- Refunds could be undertaken by any officer and there was no evidence retained of authorisation for the refunds. Additionally, the discrepancies between Gladstone (the leisure system) and the bank were due to refunds.
- Documents were not kept in line with the document retention policy.

Quality Assurance and Improvement Programme

A quality assurance and improvement programme (QAIP) is designed to enable an evaluation of the internal audit activity's conformance with the Definition of Internal Auditing and the Standards and an evaluation of whether internal auditors apply the Code of Ethics. The programme also assesses the efficiency and effectiveness of the internal audit activity and identifies opportunities for improvement.

Public Sector Internal Audit Standards state:

Public sector requirement

The results of the quality and assurance programme and progress against any improvement plans must be reported in the annual report.

Extracted from Public Sector Internal Audit Standards Updated March 2017 - 1320 Reporting on the Quality Assurance and Improvement Programme

Public Sector Internal Audit Standard 1312 also requires that:

"External assessments must be conducted at least once every five years by a qualified, independent assessor or assessment team from outside the organisation."

Assessments are based on the following 3 ratings:

- **Generally Conforms** - means that an internal audit activity has a charter, policies, and processes that are judged to be in conformance with the Standards.
- **Partially Conforms** - means deficiencies in practice are noted that are judged to deviate from the Standards, but these deficiencies did not preclude the internal audit activity from performing its responsibilities in an acceptable manner.
- **Does Not Conform** - means deficiencies in practice are judged to be so significant as to seriously impair or preclude the internal audit activity from performing adequately in all or in significant areas of its responsibilities.

North Warwickshire's last external assessment was carried out in November 2017. To comply with Standard 1312 and the once every five years criteria, an external assessment should have been undertaken by November 2022. However, the absence of the Head of Internal Audit on long term sick leave meant that an external assessment did not take place. With no external assessment, the Council is not able to demonstrate that it conforms to the Public Sector Internal Audit Standards for the 2023-24 audit year. In respect of the QAIP, it is my understanding that the quality assurance processes/procedures for the period from 1st April 2023 have not been possible.

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However, engaging CMAP to oversee and supplement the internal audit service from November 2023, means that North Warwickshire BC will be covered by CMAP's external assessment and our quality assurance processes.

CMAP's last external quality assessment on our overall conformance with the Standards was undertaken in September 2022 and it was determined that we generally conformed with each standard.

'Generally Conforms' means the evaluator has concluded that the relevant structures, policies, and procedures of the activity, as well as the processes by which they are applied, comply with the requirements of the individual *Standard* or element of the Code of Ethics in all material respects. For the sections and major categories, this means that there is general conformance to a majority of the individual *Standards* or elements of the Code of Ethics, and at least partial conformance to the others, within the section/category. There may be significant opportunities for improvement, but these must not represent situations where the activity has not implemented the *Standards* or the Code of Ethics, has not applied them effectively, or has not achieved their stated objectives. As indicated above, general conformance does not require complete/perfect conformance, the ideal situation, successful practice, etc.

One of the outcomes of the CMAP Quality Assurance and Improvement Programme is that it enables an assessment of the efficiency and effectiveness of the Internal Audit activity and identifies opportunities for improvement.

The CMAP Leadership team revise the QAIP on an annual basis, with regular reviews of the progress on actions throughout the year. The QAIP is a standing item on all CMAP team meeting agendas, on the Operational Group meeting agendas and is reported to Partner Audit Committees on a regular basis. The Improvement Plan that was in place during 2023/24 is shown below.

Actions	Current Position
<p>1. We should ask staff to complete a Personal Development Plan as part of our overall Training & Development Plan for the Team.</p>	<p>Currently we only have individual development plans. We are looking at how best to convert this into a CMAP Training & Development Plan. No progress due to other higher priorities.</p>
<p>2. We should formally develop our approach around the use of data analytics and other CAATs and identify the benefits it could bring to the audit processes.</p>	<p>Strategy for the use of data analytics within CMAP needs to be produced.</p>
<p>3. We should continue to develop the process for incorporating other assurance information into our overall risk assessment process and our overall opinion and how the other assurance provider information we gather can be used to demonstrate an audit assurance framework for each partner organisation. We also need to get</p>	<p>This approach may need to vary for each partner. All are at different stages in relation to what they are doing on assurance mapping and what CMAP can use in its process. A consultancy piece of work on assurance mapping has been assigned at Derby CC but is on hold due to lack of engagement.</p>

Actions	Current Position
all Partners interested in producing their own Assurance Maps.	
<p>4. To support the improvement of the organisation's governance framework, we should undertake consultancy work to facilitate the self-assessment of the effectiveness of the Audit Committee at all partner organisations. This will be particularly important given the proposed changes to the composition of Audit Committees with the addition of co-opted/ independent members.</p>	Support is currently provided at four partners to help them assess the effectiveness of their audit committees.
<p>5. We should consider how we could systematically evaluate the potential for the occurrence of fraud at each partner organisation and how each organisation manages fraud risk.</p>	No progress made on a formalised approach. However, other work and audit work informs our knowledge on this.
<p>6. To review all CMAP reports that are to be published to assess compliance with the Web Content Accessibility Guidelines (WCAG).</p>	We will progress with this once we have implemented the new Audit Management System and assessed the reporting templates that are available.
<p>7. To implement the new Audit Management System ready for go live on 1st April 2024. Further development will be required throughout 2024/25.</p>	The system is now live, although there are still developments required e.g. report templates. The original Audit Management System is still in use for those audits that commenced in 2023/24 and also parallel running for time recording until the report templates are finalised. 2024/25 audits will use the new system.

Agenda Item No 9

Resources Board

3 June 2024

Report of the Interim Corporate Director - Resources (Section 151 Officer) - Members' Allowances 2023/24

1 Summary

- 1.1 The purpose of this report is to advise Members of the allowances paid for 2023/24. The Council also has a duty to publish the amounts paid to Members under the Members' Allowance Scheme.

Recommendation to the Board

That the report be noted.

2 Report

2.1 Out-turn for 2023/24

- 2.1.1 The cost of Members' Allowances and other payments made under the Members' Allowance Scheme in 2023/24 was £261,259.02. A breakdown of these costs is shown at Appendix A. There were no claims in respect of Dependents'/ Carers' Allowance.

3 Report Implications

3.1 Finance and Value for Money Implications

- 3.1.1 Provision was made in the Cost of Democratic Processes budget.

3.2 Legal, Data Protection and Human Rights Implications

- 3.2.1 Under the Local Authorities (Members' Allowances) (England) Regulations 2003 the Council must publish details of its Members Allowances scheme in a local newspaper annually. In summary, this information must state that a scheme has been made, its main features, any special responsibility allowances, confirming the Council consulted and took account of the recommendations of the Independent Remuneration Panel in preparing the scheme, and that the scheme and records of the payments referred to below for that year can be inspected at the Council's offices.

3.2.2 It is a specific requirement that the Council keeps a record of the names of recipients of payments, the amount that each receives under the scheme and the nature of those payments and makes it available for inspection at the Council's offices. As soon as possible after the end of each year the Council must arrange for publication in its area of the total sum paid to each Member in respect of each of the following:

Basic Allowance.
Special Responsibility Allowance.
Dependents'/Carers' Allowance.
Travel and Subsistence; and
Co-optees' Allowance.

3.2.3 The Council will be discharging the above duties by publishing a record in the Atherstone Herald.

The Contact Officer for this report is Nigel Lane (719371).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

PAYMENTS TO MEMBERS 2023/24

Name	Initials	Basic Allowance £	Special Responsibility £	Duty	Travel (Mileage) £	Total £
Barnett	M	5,238.51				5,238.51
Bates	D	5,238.51				5,238.51
Bell	M	5,852.04	5,859.00	Deputy Leader and Chairman of Community & Environment Board		11,711.04
Chambers	J	605.70				605.70
Chapman	N	5,238.51				5,238.51
Clews	D	5,852.04	2,052.97	Chairman of Special Sub-Committee		7,905.01
Clews	T	605.70			142.30	748.00
Davey	B	5,852.04	2,052.97	Vice Chairman of Resources Board		7,905.01
Dirveiks	N	5,852.04				5,852.04
Farrow	J	5,852.04				5,852.04
Fowler	P	5,238.51			228.15	5,466.66
Gosling	J	5,852.04	5,332.34	Leader of the Main Opposition Group		11,184.38
Hancocks	D	605.70				605.70
Hayfield	CC	5,852.04				5,852.04
Hobley	K	5,238.51				5,238.51
Humphreys	DJ	5,852.04	247.16			6,099.20
Humphreys	M	605.70	212.48	Health and Wellbeing Working Party		818.18
Jackson	M	5,238.51				5,238.51
Jarvis	RJ	5,852.04	1,788.06	Chairman of Safer Communities Sub-Committee	38.70	7,678.80
Jenns	A	5,852.04	2,052.97	Chairman of Licensing Sub-Committee	289.80	8,194.81
Jordon	M	605.70				605.70
MacDonald	J	605.70				605.70
McClauchlan	A	605.70				605.70
Melia	B	5,238.51				5,238.51
Morson	PF	605.70				605.70
Moss	BP	605.70				605.70
Osbourne	M	5,852.04				5,852.04
Parker	K	605.70				605.70
Parker	M	605.70				605.70
Parsons	D	5,852.04			39.60	5,891.64
Phillips	H	5,852.04	2,052.97	Deputy Leader of the Main Opposition Group	621.90	8,526.91
Phillips	O	5,852.04				5,852.04
Reilly	D	5,852.04	4,259.43	Vice Chairman of Executive Board	822.15	10,933.62
Ridley	D	5,238.51			203.40	5,441.91
Ririe	B	5,238.51				5,238.51
Rose	S	605.70				605.70
Simpson	M	5,852.04	5,859.00	Deputy Leader and Chairman of the Planning & Development Board		11,711.04
Singh	M	5,852.04				5,852.04
Smith	LJ	605.70				605.70
Smith	S	5,852.04	1,788.06	Health and Wellbeing Working Party	234.90	7,875.00
Stuart	S	5,238.51				5,238.51
Symonds	C	5,852.04	5,859.00	Deputy Leader and Chairman of the Resources Board		11,711.04
Taylor	R	5,238.51				5,238.51
Turley	N	5,238.51				5,238.51
Watson	M	5,238.51			54.45	5,292.96
Whapples	E	5,238.51				5,238.51
Wright	A	5,852.04	2,052.97	Vice Chairman of Community & Environment Board	88.65	7,993.66
Wright	DA	5,852.04	12,915.96	Leader of the Council and Chairman of the Executive Board	3.60	18,771.60
TOTAL		204,106.08	54,385.34		677.60	261,259.02

Agenda Item No 10

Resources Board

3 June 2024

Report of the Director of Housing

Environmental Health and Private Sector Housing Enforcement Policy

1 Summary

- 1.1 This report introduces an updated Environmental Health and Private Sector Housing Enforcement Policy, together with associated policies, to enable robust and fair regulation of matters relating to Environmental Health and Private sector housing.

Recommendation to the Resources Board

- ...
- a That the board approves for consultation the draft Environmental Health and Private Sector Housing Enforcement Policy as set out in Appendix A; and
 - b That the board gives instruction for a 4-week period of consultation and to bring the draft Environmental Health and Private Sector Housing Enforcement Policy back to board for either:
 - i) approval without modification subject to no relevant objections being received; or
 - ii) approval after modification subject to relevant objections being considered.

2 Consultation

- 2.1 The policy is subject to public consultation with a copy of the draft Environmental Health and Private Sector Housing Enforcement Policy (“the policy”) being made available to all stakeholders.

3 Introduction

- 3.1 Environmental Health functions are delegated to the Community and Environment Board and Chief Executive with the Private Sector Housing functions delegated to the Resources Board and Director of Housing. The policy will cover both Environmental Health and Private Sector Housing as both teams have regulatory functions which are delivered by a mix of informal

action, advice and formal enforcement actions. The report will be submitted to the Executive Board as well as the Resources Board.

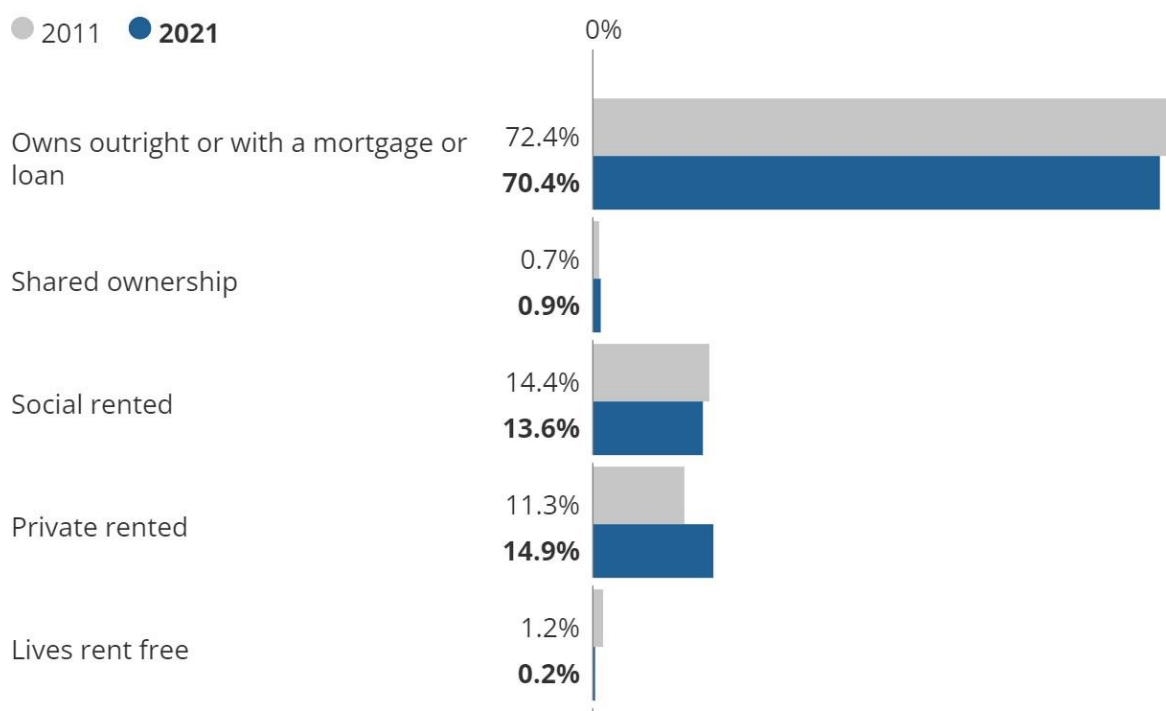
3.2 The policy, which will act as an overarching document covering all areas of the Environmental Health and Private Sector Housing Service's work where enforcement of legislation may be involved, including:-

- Licensing (taxi / private hire, alcohol, street trading, gambling etc.);
- Private Sector Housing (conditions in rented properties, including multi-occupied houses, and mobile homes);
- Food hygiene in shops, restaurants, pubs, schools, hospitals and care homes;
- Environmental protection (dog fouling, littering, fly tipping, contaminated land, air and noise pollution);
- Public health (filthy properties, accumulations of rubbish, pest infestations etc.);
- Health and safety at work in some commercial workplaces;
- Smoke-free laws.

3.3 The Private Sector Housing functions from 2019 to April 2024 were delivered by a shared service led by Nuneaton and Bedworth Borough Council. To ensure the service offered to private sector tenants and owner occupiers within North Warwickshire is improved and our residents protected, it was considered appropriate to bring this service back in house. During the first month of operation, enforcement action relating to private rented accommodation has already been taken which supports the justification for this decision.

3.4 The Council's previous private sector housing enforcement policy was introduced in 2014. Since then, the size of the private rented sector has increased significantly, overtaking the size of the social housing sector in the area and absorbing some of the housing stock that was previously owner-occupied.

Percentage of households by housing tenure, North Warwickshire



Source: Office for National Statistics – 2011 Census and Census 2021

3.5 In relation to private sector housing, it is recognised that the majority of landlords within North Warwickshire offer good quality, safe accommodation. The private rented sector plays an increasing vital role in meeting the needs of residents. The Environmental Health and Private Sector Housing Enforcement Policy and its associated policies are aimed at supporting good landlords who should not be unfairly disadvantaged by allowing poor landlords to cut corners on safety standards.

3.6 The Government has more recently introduced powers available to help protect tenants. The new policy allows these to be utilised effectively and improve the quality of private rented accommodation in North Warwickshire and to act against landlords, letting agents and property managers who knowingly rent out unsafe and substandard accommodation.

A Building Research Establishment report from March 2020 estimated that 17% of privately rented properties have a category 1 hazards presenting a serious risk to health and safety. This shows work to improve the sector remains an important issue.

4 Supplementary Policies

4.1 The Policy will be complemented by the following policies (specific to private sector housing) which will allow the full remit of enforcement options to be utilised:

- ...
- a) Civil Penalty Policy (Appendix B)
 - b) Financial Penalty Policy (Appendix C)
 - c) Enforcement Policy for Electrical Safety in the Private Rented Sector (Appendix D)
 - d) Mobile Home Fit and Proper Person Determination Policy (Appendix E)

4.2 Full details of the powers now available to the Council and the fine levels proposed for each are contained in the appendices outlined in 4.1 however a summary is outlined below. Once adopted the council will be able to:

- a) Impose a civil penalty of up to £30,000 as an alternative to prosecution.
- b) Impose a civil penalty of up to £5,000 for failing to provide a smoke and carbon monoxide alarms in rented properties.
- c) Impose penalties of up to £30,000 for failing to ensure electrical safety in rented properties.
- d) Issue civil penalties of up to £5,000 for failing to comply with energy efficiency requirements.
- e) introduce a fine of up to £5,000 where a lettings agent or property manager who should have joined a scheme has not done so.

4.3 Existing policies delivered by Environmental Health relating to the work areas listed in 3.2 such as the Gambling and Taxi Statement of Enforcement Policies will remain unchanged and will be supplemented by this overarching enforcement policy document.

5 Report Implications

5.1 Finance and Value for Money Implications

5.1.1 The service has been brought back in house and has a budget provision agreed by the Resources Board at its meeting in January 2024.

5.1.2 This policy does not introduce any new charges other than housing civil and financial penalties discussed in Appendices B and C.

5.1.3 Housing civil penalties may be up to £30,000. There can be no detailed expectation as to the income level which may be obtained from enforcing the policy and it should not be used as a driver to deliver income. However, costs received will be used to support service delivery.

5.1.4 Any income from civil penalties will be retained by the Council and used in relation to enforcement activity covering the private rented sector only.

5.2 Safer Communities Implications

There are numerous community Safety improvements achieved by this policy such as environmental protection, consumer safety, anti-social behaviour controls, limiting impact on residents and protecting tenants.

5.3 Legal, Data Protection and Human Rights Implications

5.3.1 There are no data protection or human rights implications arising directly from this report.

5.3.2 Through conducting an open and transparent public consultation to seek views and making the policies publicly available will reduce the risk of challenge to the council's enforcement related decisions, and ensure resources are appropriately utilised when taking enforcement action.

5.4 Environment, Climate Change and Health Implications

The introduction of the policy will have positive impacts on the environment and energy efficiency by the fair and proportionate enforcement of relevant legislation such as the control of pollution, air quality, energy efficiency food safety etc.

5.5 Human Resources Implications

There are no human resources implications arising directly from this report.

5.6 Equalities Implications

There are no new equalities implications arising directly from this report. An Equality Impact Needs Assessment has been carried out - Appendix F.

5.7 Links to Council's Priorities

- Efficient and sustainable organisation
- Safe, Liveable, Locally Focussed communities
- Prosperous, active and healthy
- Sustainable growth, protected rurality

The Contact Officer for this report is Angela Coates (719369).

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date



North Warwickshire
Borough Council

Environmental Health and Private Sector Housing Enforcement Policy

June 2024

Contents

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1.0 Introduction

- 1.1 Local Authority Regulatory Services, including Environmental Health and Private Sector Housing, play a key role in supporting local economic prosperity and community health and wellbeing. These services ensure that well-run, legally compliant businesses are supported and that consumers, workers and the environment are protected from harm.
- 1.2 This enforcement policy provides guidance to all stakeholders* (Members, officers, proprietors, licence holders, employers, employees, statutory and voluntary agencies, partner agencies and members of the general public) on the range of options that are available to achieve compliance with legislation enforced by North Warwickshire Borough Council services.

* The term “stakeholder” is used in this document to refer to all persons or organisations who may be affected by, or have an interest in, this Policy.

- 1.3 The policy covers all areas of the Environmental Health and Private Sector Housing Service’s work where enforcement of legislation may be involved, including:-

- Licensing (taxi / private hire, alcohol, street trading, gambling etc.);
- Private Sector Housing (conditions in rented properties, including multi-occupied houses, and mobile homes);
- Food hygiene in shops, restaurants, pubs, schools, hospitals and care homes;
- Environmental protection (dog fouling, littering, fly tipping, land, air and noise pollution);
- Public health (filthy properties, accumulations of rubbish, pest infestations etc.);
- Health and safety at work in a wide range of commercial workplaces;
- Smoke-free laws.

- 1.4 The primary objective is to achieve regulatory compliance and we do this mainly through advice and information. Where it becomes necessary to take formal action this will be done. There is a wide range of tools available, and this Policy aims to ensure that a sanction that is relevant and proportionate to the offence or contravention will always be chosen.
- 1.5 The policy explains the objectives and methods for achieving compliance and the criteria considered when deciding what the most appropriate response is to a breach of legislation.
- 1.6 All decisions will have regard to current statutory guidance and codes of practice, particularly the [Regulators’ Code](#) the [Code for Crown Prosecutors](#) and the Human Rights Act.

1.7 Stakeholders will be notified of this policy through the Council's website.

2.0 Legal Status of the Enforcement Policy

2.1 North Warwickshire Borough Council approved consultation of this Policy in June 2024.

2.2 This policy is intended to provide guidance for all stakeholders as identified in paragraph 1.1 above. It does not affect or fetter the discretion of the Council, or Officers, to take legal proceedings, or any other course of action, where this is considered to be in the public interest.

3.0 Scope and Meaning of 'Enforcement'

3.1 This Policy applies to all legislation enforced by the Environmental Health and Private Sector Housing Services.

3.2 'Enforcement' includes all actions taken by officers aimed at ensuring legal compliance. This is not limited to formal enforcement action such as prosecution, but includes spoken and written requests to comply with legislation.

3.3 In certain circumstances we will seek to raise awareness and increase compliance levels by publicising unlawful trade practices or criminal activity. Where appropriate the results of specific court cases may also be published.

4.0 How to get a copy of the Policy, make comments or complaints

4.1 This Policy is available on the Council's website or via the link below:
[The Council's complaints procedure | Compliments and or Complaints | North Warwickshire Borough Council \(northwarks.gov.uk\)](#)

If you would like a paper copy of the Policy and/or you would like to comment on the Policy, or if you have a complaint about the way in which the Policy has been applied please contact us at the following address:

North Warwickshire Borough Council
South Street
Atherstone
Warwickshire
CV9 1DE

Tel: 01827 715341

E-mail: environmentalhealth@northwarks.gov.uk
privatesectorhousing@northwarks.gov.uk

5.0 General Principles

- 5.1 Prevention is better than cure and our role therefore involves actively working with individuals and businesses to advise on, and assist with, compliance. We will always use education and encouragement to achieve compliance where it is possible, and appropriate, to do so.
- 5.2 Where we do consider that formal action is necessary each case will be considered on its own merits. However, there are general principles that apply to the way each case must be approached. These are set out in this Policy, the [HSE Enforcement Policy](#) and in the [Regulators' Code](#)
- 5.3 Enforcement decisions will be fair, proportionate, transparent, independent and objective and will not be influenced by issues such as ethnicity or national origin, gender, disability, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender.
- 5.4 Where the subject of the enforcement action is either a juvenile, or a person with special needs, a learning disability, or is otherwise vulnerable, contact will be made with, and advice sought from, appropriate agencies as necessary. In accordance with Council Policy, and for a first offence of littering, an alternative sanction will be offered to Juveniles.
- 5.5 North Warwickshire Council is a public authority for the purposes of the Human Rights Act 1998. We will, therefore, apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- 5.6 This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens.
- 5.7 We will have regard to the Regulators' Code and in particular we will:
- Carry out our regulatory activities in a way that supports those we regulate to comply and grow;
 - Provide simple and straightforward ways to engage with those we regulate;
 - Base our regulatory activities on risk;
 - Share information about compliance and risk;
 - Ensure clear information, guidance and advice is available to help those we regulate meet their responsibilities to comply;
 - Ensure our approach to regulatory activities is transparent
- 5.8 We will ensure that any decision to depart from the Regulators' Code, or this Policy, will be properly reasoned, based on material evidence and documented.

6.0 Notifying Alleged Offenders

- 6.1 If we receive information that may lead to enforcement action against a business or individual we will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public (for example the need for immediate action to close a food business, or prevent the use of a dangerous process / piece of machinery).
- 6.2 During the progress of enforcement investigations/actions, all stakeholders (businesses, licence holders, employees, complainants etc.) will, as appropriate, be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a Court when required and/or in accordance with the Data Protection Act 2018 and GDPR legislation.

7.0 Deciding what level of enforcement action is appropriate

A number of factors are considered when determining what enforcement action to take:

7.1 Levels of enforcement action:

7.1.1 There are a large number of potential enforcement options. The option chosen varies from no action through to proceedings in Court.

Examples of the main types of action that can be considered are shown below (not all will apply in all circumstances):

- No action;
- Informal Action and Advice (for example a written warning);
- Fixed Penalty Notices
- Formal Notice;
- Forfeiture Proceedings;
- Seizure of goods/equipment;
- Residential Property Closure or Emergency Remedial Action;
- Rent repayment order applications
- Banning order applications
- Rogue landlord database entry applications
- Management Orders
- Injunctive Actions;
- Refusal/suspension/revocation of a licence;
- Simple Caution;
- Prosecution;
- Civil/Financial Penalty Notices
- Publication Penalties
- Proceeds of Crime Applications.

Note: Availability of the above options is determined by the legislation applicable and the particular circumstances of each case; not all options will be available on all occasions.

7.1.2 In assessing what enforcement action is necessary and proportionate, consideration will be given to:

- The seriousness of compliance failure;
- Past performance and current practice;
- The risks being controlled;
- Legal, official or professional guidance;
- Local priorities of the Council.

7.1.3 Where the law has been contravened, enforcement actions / options will normally be commenced at a low level and escalated until compliance is reached. Exceptions would be where there is a serious risk to public safety or the environment or the offences have been committed deliberately, repeatedly or negligently and / or involve deception.

7.2 No Action

7.2.1 In certain circumstances, contraventions of the law may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of *no action* may also be taken where formal enforcement is inappropriate in the circumstances, such as may (*but not always*) be the case where a trader has ceased to trade. In such cases we will advise the offender of the reasons for taking no action.

7.3 Informal Action and Advice

7.3.1 For minor breaches of the law we may give verbal or written advice. We will clearly identify any contraventions of the law and give advice on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.

7.3.2 Sometimes we will give recommendations or advice on 'good practice', but we will clearly distinguish between what *must be done* to comply with the law and what is *advice only*.

7.3.3 Failure to comply could result in an escalation of enforcement action.

7.4 Fixed Penalty Notices

7.4.1 Certain offences may be dealt with by Fixed Penalty Notices (FPNs) where permitted in legislation. FPNs are recognised as a low-level enforcement tool and avoid a criminal record for the defendant. Where legislation permits an offence to be dealt with by way of a FPN, for example littering, dog fouling, or smoking in a smoke free place, we may choose to administer a FPN on a first occasion, without issuing a warning. Second and subsequent offences are unlikely to be dealt with by FPN and will normally result in prosecution.

7.5 Formal Notice

7.5.1 Certain legislation allows notices to be served requiring offenders to take specific actions or cease certain activities. Notices may require activities to cease immediately where the circumstances relating to food hygiene, health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.

7.5.2 In some cases, a charge will be made where a notice is served.

7.5.2 All notices issued will include details of any applicable *Appeals Procedures*.

7.5.3 Some notices allow works to be carried out in default. This means that if a notice is not complied with [a breach of the notice] the Council may carry out any necessary works. Where the law allows, we may then recover our costs from the person/business served with the notice, through the Courts if necessary.

7.6 Seizure

7.6.1 Some legislation enables authorised officers to seize goods, equipment or documents, for example unsafe food, sound equipment that is being used to cause a statutory noise nuisance, or any goods that may be required as evidence for possible future court proceedings. When goods are seized a receipt is given to the person from whom the goods are taken.

7.7 Injunctive Actions

7.7.1 In certain circumstances, for example, where offenders are repeatedly found guilty of similar offences, or where it is considered that injunctive action is the most appropriate course of enforcement, then injunctive actions through the Courts may be used to deal with repeat offenders or dangerous circumstances.

7.8 Refusal, Suspension and Revocation of Licences

7.8.1 Grounds for Refusal, Suspension or Revocation of Hackney Carriage or Private Hire Drivers' Licences

The grounds for refusing to renew a licence, or for suspending or revoking a licence, are based on whether the driver has:-

- (a) been convicted of an offence involving dishonesty, indecency or violence;
- (b) been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976;
- (c) failed to comply with a requirement of the Local Government (Miscellaneous Provisions) Act 1976, or
- (d) any other reasonable cause.

Licences may be suspended or revoked with immediate effect if such a decision is deemed necessary in the interests of public safety.

Where a Licence is refused or revoked, the Council will lodge these details with the National Register of Refusals and Revocations, NR3.

7.8.2 Under the Licensing Act 2003, where a Review of a Premises Licence is sought, the options available to the Licensing Committee are:-

- To modify the conditions of Licence
- To exclude a Licensable activity from the scope of the Licence
- To remove the Designated Premises Supervisor
- Suspend the Licence for a period not exceeding three months
- Revoke the Licence
- Issue a warning letter
- No action

7.8.3 Under the Gambling Act 2005, where a Review of a Premises Licence is sought, the options available to the Committee are:-

- Revocation of the Licence
- Suspend the Licence for a specified period not exceeding three months;
- Exclude a condition attached to the Licence, or remove or amend an exclusion;
- Add, remove or amend a condition;
- Issue a warning letter
- No action

7.9 Simple Caution

7.9.1 A Simple Caution is a means by which the Council deals quickly and simply with less serious offences, both reducing burdens on the Court system and reducing the chance of repeat offences. A Simple Caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction, though a record may be made of the Caution.

7.9.2 For a Simple Caution to be issued a number of criteria must be satisfied:

- Sufficient evidence must be available to prove the case;
- The offender must admit the offence;
- It must be in the public interest to use a Simple Caution;
- The offender must be 18 years or over

Ministry of Justice Guidance on simple cautions is accessible by visiting:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/708595/cautions-guidance-2015.pdf

7.9.3 We will also take into account the following when making our decision:

- The offender should not have received a simple caution for a similar offence within the last 3 years.

7.9.4 The final decision on whether or not to issue a Simple Caution will be made by the Head of Environmental Health, or other suitably authorised officer, after receiving appropriate legal advice.

7.9.5 A record of the Caution will be kept on file for 3 years. If the offender commits a further offence, the Caution may influence a decision to take a prosecution. If during the time the Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in court, and this may influence the severity of the sentence that the court imposes.

7.10 Prosecution

7.10.1 A prosecution will normally follow where the individual or organisation concerned has done one or more of the following:

- Deliberately, negligently or persistently breached legal obligations, which were likely to cause material loss or harm to others;

- Deliberately or persistently ignored written warnings or formal notices;
- Risked or endangered, to a serious degree, the health, safety or well being of people (or animals as the case may be) or the environment ;
- Assaulted or obstructed an Officer in the course of their duties.

7.11 Civil/Financial Penalty Notices

7.11.1 Certain Housing offences can be dealt with by issuing a Civil Penalty Notice for offences to owners and or agents of residential premises as an alternative to prosecution. The burden of proof needed to issue a civil penalty is the same as is necessary for a prosecution.

7.11.2 The decision as to whether a prosecution is taken rather than issuing a Civil Penalty depends on factors such as the seriousness of the offence, historical offences, culpability, likelihood of continuing, repeated or escalating offences taking place, vulnerability of the tenant and the potential impact on the wider community.

Council officers will maintain their discretion, in conjunction with advice from the legal team on which option is pursued.

7.11.3 The maximum charge per offence is £30,000, but the level of charge in the Civil Penalty Notice will be determined by reference to the Council's adopted Civil Penalty Policy. Where a Financial Penalty is to be administered, the level will be determined in accordance with the Financial Penalty Policy.

7.11.4 A decision by the Service Manager in consultation with the Head of Service/Director, with the advice of Legal Services, is necessary to determine the most appropriate course of action. In making a decision, consideration will be given to relevant government guidance, this Policy and the Council's adopted Civil Penalty and Financial Penalty Policies.

7.12 Rent repayment orders, banning orders and rogue landlord database for Housing offences

7.12.1 The Local Authority may seek to make an application for a rent repayment order for a range of housing offences and will provide information to tenants where possible to allow them to make their own applications.

7.12.2 The Local Authority may seek banning orders where landlords or property agents have been convicted of a banning order offence. Where a breach of a Banning Order occurs the Council may seek to issue a Civil Penalty - the amount would be no less than £10,000 to reflect the seriousness of the offender having

received a Banning Order in the first place and be reserved for the worst offenders.

7.12.3 The Local Authority must make an entry on the national Rogue Landlord database where a banning order has been issued and must revoke any licence held by a person subject to such as order

8.0 Determining whether a Prosecution or Simple Caution is viable and appropriate

8.1 We apply the 'Full Code Test' to determine whether a Prosecution or Caution is viable and appropriate. This Test, described in the Code for Crown prosecutors (2018), consists of two stages:
(i) the evidential stage; followed by (ii) the public interest stage

For more information about the 'Code for Crown Prosecutors' visit:
[The Code for Crown Prosecutors | The Crown Prosecution Service](#)

8.2 A Caution or Prosecution proceedings will only be progressed when the case has passed both the evidential test and the public interest test.

8.3 Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

8.4 In every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether a prosecution is required in the public interest. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In some cases the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution.

9.0 Who decides what enforcement action is taken

9.1 Decisions about the most appropriate enforcement action to be taken are based upon professional judgment, legal guidelines, statutory codes of practice and priorities set by the Council and/or Central Government.

9.2 Where appropriate, decisions about enforcement will involve consultation between and / or approval from:

- Investigating Officer(s);
- Head of Service or Director / Service Manager;
- Council Solicitors;

9.3 The decision about enforcement will be documented and signed off by at least two officers.

9.4 Where enforcement decisions relate to licensing matters, these will be taken under delegated authority by Officers or by a Licensing Committee, as detailed in paragraphs 7.8.1 – 7.8.3 inclusive.

10.0 Liaison with other regulatory bodies and enforcement agencies

10.1 Where appropriate, enforcement activities within Environmental Health will be coordinated with those of other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.

10.2 Where an enforcement matter affects a wide geographical area beyond the Council's boundaries, or involves enforcement by one or more other local authorities or organisations all relevant parties will, where appropriate, be informed of the matter as soon as practicable and all enforcement activity coordinated with them.

10.3 The Environmental Health Service will share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies, including:

- Government Agencies (for example, HSE, Environment Agency, UKVI (former Border Agency), HMRC, Benefits Agency);
- Police Forces;
- Fire Authorities;
- Statutory undertakers;
- Other Local Authorities and Public Health Agencies;

11.0 Considering the views of those affected by offences

11.1 The Environmental Health Service undertakes enforcement on behalf of the public at large and not just in the interests of any particular individual or group. However, when considering the public interest test, the consequences for those affected by the offence, and any views expressed by those affected will, where appropriate, be taken into account when making an enforcement decision. .

12.0 Protection of Human Rights

12.1 This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the following:

- Right to a fair trial;
- Right to respect for private and family life, home and correspondence;

13.0 Review of the Enforcement Policy

This Policy will be reviewed every 5 years or following significant changes to relevant legislation or Government guidance.

Signed

.....
Chief Executive



North Warwickshire
Borough Council

Civil Penalties Enforcement Policy & Guidance

Housing and Planning Act 2016

Author/ Responsible Officer: Director (Housing)

Date: June 2024

Version: 1.1

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Section 1

Introduction & Overview

1.1 Introduction

This document contains both policy and guidance: Section 2 is policy and should be read as such but all other sections are guidance only. Section 2 was created in accordance with Section 3.5 of the 'Civil Penalties under the Housing and Planning Act 2016: Guidance for Local Authorities' ("the MHCLG Guidance"), published by the Ministry for Housing, Communities and Local Government.

This document is intended to work in accordance with the North Warwickshire Borough Council Private Sector Housing Enforcement Policy.

In this document, the term "landlord" will be used to refer to the "owner", "person having control", "person managing" or "licence holder", as defined under the Housing Act 2004 ("the 2004 Act"). The term "Landlord" will also be used to refer to tenants of houses in multiple occupation who have committed offences under section 234 of the Housing Act 2004. The term "the Council" will be used to refer to North Warwickshire Borough Council in its capacity as a Local Housing Authority.

1.2 What is a civil penalty?

A civil penalty is a financial penalty of up to £30,000 which can be imposed on a landlord as an alternative to prosecution for specific offences. Section 2 sets out how the council will determine the appropriate level of civil penalty in each case.

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 where it is deemed appropriate.

1.3 What offences can civil penalties be imposed for?

A civil penalty can be considered as an alternative to prosecution for any of the following offences under the Housing Act 2004 and the Housing and Planning Act 2016:

- Failure to comply with an Improvement Notice (Housing Act 2004, section 30),
- Offences in relation to licensing of houses in multiple occupancy (HMOs) (Housing Act 2004, section 72),
- Offences in relation to licensing of houses under Part 3 of the Act (Housing Act 2004, section 95),
- Offences of contravention of an overcrowding notice (Housing Act 2004, section 139), and
- Failure to comply with management regulations in respect of HMOs (Housing Act 2004, section 234).
- Breach of banning order (Housing and Planning Act 2016, section 21)

- Failure to comply with duties of private landlords in relation to electrical installations in accordance with the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (Housing and Planning Act 2016, section 123).

1.4 What is the legal basis for imposing a civil penalty?

Section 126 and Schedule 9 of the Housing and Planning Act 2016 (“the 2016 Act”) enables the council to impose a civil penalty as an alternative to prosecution for specific offences under the 2004 Act. The procedure for imposing a civil penalty is set out in Schedule 13A of the Housing Act 2004.

1.5 What is the burden of proof for a civil penalty?

The same criminal standard of proof is required for a civil penalty as for a criminal prosecution. This means that before a civil penalty can be imposed, the council must be satisfied beyond reasonable doubt that the landlord committed the offence(s) and that if the matter were to be prosecuted in the magistrates’ court, there would be a realistic prospect of conviction.

In determining whether there is sufficient evidence to secure a conviction, the council will have regard to the North Warwickshire Private Sector Housing Enforcement Policy and the Crown Prosecution Service Code for Crown Prosecutors, published by the Director of Public Prosecutions. The finding that there is a realistic prospect of conviction is based on an objective assessment of the evidence, including whether the evidence is admissible, reliable and credible and the impact of any defence.

1.6 What must be done before a Civil Penalty can be considered?

The council must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the landlord and that the public interest will be properly served by imposing a civil penalty. The following questions should be considered:

- Does the council have sufficient evidence to prove beyond reasonable doubt that the offence was committed by the landlord in question?
- Is the public interest properly served by imposing a Civil Penalty on the landlord in respect of the offence?
- Has the evidence been reviewed by the appropriate senior colleague at the council?
- Has the evidence been reviewed by the council’s legal services?
- Are there any reasons why a prosecution may be more appropriate than a civil penalty? I.e. the offence is particularly serious and the landlord has committed similar offences in the past and/or a banning order should be considered.

1.7 When will the council consider civil penalties an enforcement option?

The council will consider Civil Penalties for all landlords that are in breach of one or more of the sections of the 2004 Act listed in section 1.3 and for breach of a banning order under section 21 of the Housing and Planning Act 2016. Enforcement action will be considered on a case-by-case basis in line with the North Warwickshire Private Sector Housing Enforcement Policy, the North Warwickshire Civil Penalty Policy & Enforcement Guidance and MHCLG guidance.

1.8 The Totality Principle

Where a landlord has committed multiple offences, and a civil penalty could be imposed for each one, consideration should be given to whether it is just and proportionate to impose a penalty for each offence.

When calculating the penalty amounts for multiple offences, there will inevitably be a cumulative effect and care should be taken to ensure that the total amount being imposed is just and proportionate to the offences involved.

The landlord may also have committed multiple similar offences or offences which arose from the same incident. In these cases, consideration should be given to whether it would be more appropriate to only impose penalties for the more serious offences being considered and to prevent any double-counting.

Having regard to the above considerations, a decision should be made about whether a civil penalty should be imposed for each offence and, if not, which offences should be pursued. Where a single more serious offence can be considered to encompass several other less serious offences, this is the offence that will normally be considered for the civil penalty. Deciding not to impose a civil penalty for some of the offences does not mean that other enforcement options, such as issuing a simple caution, cannot be pursued for those offences.

Section 2

Determining the Civil Penalty Amount

2.1 Overview

The council has the power to impose a civil penalty of up to £30,000; this section sets out how the council will determine the appropriate level of civil penalty in each particular case. The actual amount levied in each case should reflect the severity of the offence and take into account the landlord's income and track record.

The civil penalty will be made up of two distinct components. The first is the penalty calculation; this is where the severity of the offence, the landlord's track record and the landlord's income are considered. The second considers the amount of financial benefit, if any, which the landlord obtained from committing the offence. These two components are added together to determine the final penalty amount that will be imposed on the landlord.

This process is broken down into four main stages:

- **Stage 1** determines the penalty band for the offence. Each penalty band has a starting amount and a maximum amount.
- **Stage 2** determines how much will be added to the penalty amount as a result of the landlord's income and track record.
- **Stage 3** is where the figures from stage 2 are added to the penalty band from stage 1. The total amount at this stage cannot go above the maximum amount for the particular penalty band.
- **Stage 4** considers any financial benefit that the landlord may have obtained from committing the offence. This amount will be added to the figure from stage 3.

Stage 1 Determining the Penalty Band

2.2 Stage 1 Overview

This stage considers the landlord’s culpability for the offence and the seriousness of harm risked to the tenants or visitors to the property.

A higher penalty will be appropriate where the landlord has a history of failing to comply with their obligations and/or their actions were deliberate. Landlords are running a business and are expected to be aware of their legal obligations. There are four steps to this process and each step is set out below.

2.3 Step 1: Culpability

Table 1 sets out the four levels of culpability that will be considered: each level has accompanying examples of the behaviours that could constitute that particular level. The behaviour of the landlord should be compared to this table to determine the appropriate level of culpability. This exercise will be repeated for each offence that is being considered as the landlord’s culpability may vary between offences.

Table 1 - Levels of Culpability

Very high	<ul style="list-style-type: none"> • Deliberate breach of or flagrant disregard for the law
High	<ul style="list-style-type: none"> • Offender fell far short of their legal duties; for example, by: <ul style="list-style-type: none"> - failing to put in place measures that are recognised legal requirements or regulations; - ignoring warnings raised by the local council, tenants or others; - failing to make appropriate changes after being made aware of risks, breaches or offences; - allowing risks, breaches or offences to continue over a long period of time. • Serious and/or systemic failure by the person or organisation to comply with legal duties.
Medium	<ul style="list-style-type: none"> • Offender fell short of their legal duties in a manner that falls between descriptions in ‘high’ and ‘low’ culpability categories. • Systems were in place to manage risk or comply with legal duties but these were not sufficiently adhered to or implemented.
Low	<ul style="list-style-type: none"> • Offender did not fall far short of their legal duties; for example, because: <ul style="list-style-type: none"> - significant efforts were made to address the risk, breaches or offences, although they were inadequate on this occasion; - they have offered a reasonable defence for why they were unaware of the risk, breach or offence. • Failings were minor and occurred as an isolated incident

2.4 Assessing a landlord's culpability

When assessing culpability, consider all of the evidence gathered as part of the investigation into the offence and identify any aggravating or mitigating factors which may be relevant to the assessment of culpability.

Aggravating factors could include:

- Previous convictions for similar offence/s, having regard to the time elapsed since the conviction
- Motivated by financial gain
- Obstruction of the investigation
- Deliberate concealment of the activity/evidence
- Number of items of non-compliance – greater the number the greater the potential aggravating factor
- Record of letting substandard accommodation i.e. record of having to take enforcement action previously whether complied with or not
- Record of poor management/ inadequate management provision
- Lack of a tenancy agreement/rent paid in cash
- Evidence of threatening behaviour/harassment of the tenant.

Section 2.12 below provides further guidance regarding when it is appropriate to consider past enforcement action taken against the landlord.

Mitigating factors could include:

- Cooperation with the investigation e.g. turns up for the PACE interview
- Voluntary steps taken to address issues e.g. submits a prompt licence application
- Willingness to undertake training
- Level of tenant culpability
- Willingness to join recognised landlord accreditation scheme
- Evidence of health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns
- Vulnerable individual(s) (owners not tenants) where there vulnerability is linked to the commission of the offence
- Good character i.e. no previous convictions and/or exemplary conduct

Using these factors, consider each category of culpability in the table 1 and identify the one that the landlord's behaviour falls within; where a landlord's behaviour could meet more than one of the categories, choose the highest one of those met.

2.5 Step 2: Seriousness of Harm Risked

Table 2 separates the seriousness of harm risked into three levels and each one has an accompanying description to illustrate what would constitute that level of harm risked.

The harm risked by the offence should be compared to the table to determine the appropriate level. This exercise will be repeated for each offence that is being considered as the seriousness of harm risked can vary between offences.

When using the table to determine the appropriate level, consideration should be given to the worst possible harm outcomes that could reasonably occur as a result of the landlord committing the offence. This means that even if some harm has already come to tenants or visitors to the property, consideration should still be given to whether there was the potential for even greater harm to have occurred.

Table 2 - Seriousness of Harm Risked

Level A	The seriousness of harm risked would meet the guidance for Class I and Class II harm outcomes in the Housing Health and Safety Rating System ¹ .
Level B	The seriousness of harm risked would meet the guidance for Class III and Class IV harm outcomes in the 'Housing Health and Safety Rating System' ³ .
Level C	All other cases not falling within Level A or Level B (e.g. where an offence occurred but the level of harm to the tenants or visitors does not meet the descriptions for Level A or Level B).

Further information about the classes of harm under the Housing Health and Safety Rating System can be found in appendix I.

2.6 Step 3: Penalty Levels

Using the already determined level of culpability and the seriousness of harm risked, find the appropriate penalty level (1 – 5+) in Table 3.

Table 3 - Penalty Levels

Seriousness of Harm Risked	Culpability			
	Very high	High	Medium	Low
Level A	5+	5	4	3
Level B	5	4	3	2
Level C	4	3	2	1

2.7 Step 4: Penalty Bands

Table 4 - Penalty Bands

Penalty Level	Penalty Band
1	£600 - £1200
2	£1200 - £3000
3	£3000 - £6000
4	£6000 - £15,000
5 / 5+	£15,000 - £30,000

Compare the penalty level from Step 3 to table 4 and this will give the penalty band for the offence. This penalty band determines both the starting amount and the upper limit for the penalty calculation.

¹ Office of the Deputy Prime Minister: London (2006), *Housing Health and Safety Rating System Operating Guidance*, page 47

Stage 2

Considering the landlord's income and track record

2.8 Stage 2 Overview

There are two elements to consider in stage 2: the landlord's income and the landlord's track record. Each of these will affect the penalty calculation and further details are set out below.

2.9 The Landlord's Finances

Although the council is permitted to consider all of a landlord's income and assets when calculating a civil penalty, full financial investigations will normally only be considered for the more serious offences.

For penalties that fall within bands 5 and 5+, a financial investigation of the landlord will be usually carried out and all sources of income received by the landlord can be considered as 'relevant income' for the purpose calculating the civil penalty. Specifically, the average weekly income of the landlord for the 12 months preceding the date of the offence will be used.

For penalties that fall within bands 1 to 4, the landlord's income will still be considered but the 'relevant income' will normally be limited to the income that the landlord received in relation to the property where the offence occurred.

For property owners, this will be the weekly rental income, as declared on the tenancy agreements, for the property where offence occurred and at the time the offence occurred.

For property agents, the relevant income will be any fees they received for the management of the property, as stated on the management contract between the agent and the other parties to the contract. Where the fees include VAT or any other charges, the gross amount of the fees will be used.

IMPORTANT: although the council will not normally consider carrying out a full financial investigation where the offence falls within penalty bands 1 to 4, the council does reserve the right to do so where it considers it reasonable and proportionate to the circumstances.

2.10 How is the increase as a result of the landlord's income calculated?

This is a two-step process with step 1 determining what counts as relevant weekly income and step 2 determining what percentage of this relevant weekly income should be added to the penalty amount. These steps are set out in more detail below.

Table 5 - Defining relevant weekly income

Penalty Level	Relevant Weekly Income
1	Gross rental income or management fees for the property where the offence occurred
2	
3	
4	
5 / 5+	All income for the offender (carry out a financial assessment)

Step 1 - take the penalty band, as determined in Stage 1, and compare it to Table 5: this will state what can be considered as relevant weekly income for the offence.

Table 6 - % of relevant weekly income

Penalty Level	% of Relevant Weekly Income
1	50% of relevant weekly income
2	100% of relevant weekly income
3	150% of relevant weekly income
4	250% of relevant weekly income
5	400% of relevant weekly income
5+	600% of relevant weekly income

Step 2 - take the penalty band, as determined in Stage 1, and compare it to Table 6. This will give the percentage of the landlord's relevant weekly income will be added to the civil penalty.

2.11 What if tenancy agreements or management contracts are not available?

Tenancy agreements and property management contracts can be requested using the council's existing powers and this should be done where copies are not already available.

In cases where the landlord is not forthcoming with this information or documentation, an estimate of the average weekly income will be used instead and it will be for the landlord to make representations against this estimated figure if they deem it to be too high.

Representations against estimated incomes will only be accepted where sufficient evidence of the landlord's income is provided to support these claims. Estimates of average weekly income will be calculated on a case by case basis but they will generally be based on an assessment of similar sized rental properties in the same area as the property to which the offence relates.

IMPORTANT – the council will not normally consider a landlord's assets but does reserve the right to consider assets in any cases where the council considers it reasonable and proportionate to do so. Each of these cases will be dealt with on a case by case basis.

2.12 The Landlord's track record

A higher penalty will be appropriate where the landlord has a history of failing to comply with their obligations; as such, the track record of the landlord will be an important factor in determining the final amount of the civil penalty that is imposed. Below are questions that must be asked for each landlord that will receive a civil penalty.

- 1) *Has the landlord had any relevant¹ notices, under Part 1 of the Housing Act 2004, served on them in the last 2 years? If so, how many times have they been subject to such enforcement action in that timeframe?*
- 2) *Has the landlord had any civil penalties imposed on them in the last 2 years? If so, how many civil penalties have been imposed on them in that timeframe?*
- 3) *Has the landlord accepted any cautions for relevant¹ offences in the last 2 years? If so, how many cautions for relevant offences¹ have they accepted in that timeframe?*
- 4) *Has the landlord been sent a letter, in the last 2 years, which informed them that they are now subject to a 'straight to enforcement action' approach?*
- 5) *Has the landlord owned or managed a property where the term of an existing licence for the property, under the Housing Act 2004, was reduced due to enforcement action or significant concerns, in the last 2 years?*
- 6) *Has the landlord breached any relevant² notices, which resulted in works in default being carried out, in the last 2 years? If so, how many times have works in default been carried out under such circumstances in that timeframe?*
- 7) *Has the landlord owned or managed a property where a licence for the property, under the Housing Act 2004, was revoked due to enforcement action or significant concerns, in the last 2 years?*
- 8) *Has the landlord been prosecuted for any relevant³ offences in the last 2 years? If so, how many times have such prosecutions taken place in that timeframe?*
- 9) *Has the landlord owned or managed a property which was subject to an interim or final management order under the Housing Act 2004 in the last 2 years?*
- 10) *Has the Landlord been the subject of a banning order under the Housing and Planning Act 2016 in the last 2 years?*

¹ any action under Part 1 other than a 'hazard awareness' notice or a 'clearance area'.

² any notices served under any legislation relating to housing, public health or environmental health.

³ any unspent convictions relating to any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against the offender.

IMPORTANT – question 1 refers to all relevant notices served during the two years: this means that where the offence is failure to comply with an improvement notice, that notice should also be included in the answer to the question.

2.13 How is the increase as a result of the Landlord’s track record calculated?

Table 7 - Weightings

Category	Weighting
Category 1 (<i>Least serious</i>)	1
Category 2 (<i>Moderately Serious</i>)	5
Category 3 (<i>Very Serious</i>)	10
Category 4 (<i>Most serious</i>)	20

Each of the questions will be placed into one of four categories, based on the seriousness of the offence or enforcement action to which the question refers. Each category of question is given a weighting that increases with the seriousness of the

category. Table 7 shows the four categories and the weighting which is applied to each one.

Any questions where the answer is ‘no’ will have a weighting of zero but ‘yes’ answers will accrue the weighting for that particular question. E.g. the weighting for a question is 10 and the answer to that question is ‘yes’ so the score for that particular question will be 10.

For those questions where the number of occasions is relevant, the total weighting for a ‘yes’ answer will be the weighting for that question multiplied by the number of occasions. E.g. if a question has a weighting of 5 and the landlord has committed the offence 3 times, this will give a total score of 15 for the question. Table 8 shows the category which each of the questions falls within and the subsequent weighting that is applied as a result.

Table 8 - Questions & Weightings

Questions	Weighting for a ‘Yes’ answer	Multiplied by the number of occasions?
Has the landlord had any relevant ¹ notices, under Part 1 of the Housing Act 2004, served on them in the last 2 years?	1	Yes
Has the landlord had any civil penalties imposed on them in the last 2 years?	5	Yes
Has the landlord accepted any cautions for relevant ¹ offences in the last 2 years?	10	Yes
Has the landlord been sent a letter, in the last 2 years, which informed them that they are now subject to a ‘straight to enforcement action’ approach?	5	No
Has the landlord owned or managed a property where the term of an existing licence for the property, under the Housing Act 2004, was	5	No

reduced due to enforcement action or significant concerns, in the last 2 years?		
Has the landlord breached any relevant ² notices, which resulted in works in default being carried out, in the last 2 years?	10	Yes
Has the landlord owned or managed a property where a licence for the property, under the Housing Act 2004, was revoked due to enforcement action or significant concerns, in the last 2 years?	10	No
Has the landlord been prosecuted for any relevant ³ offences in the last 2 years?	20	Yes
Has the landlord owned or managed a property which was subject to an interim or final management order under the Housing Act 2004 in the last 2 years?	20	No
Has the landlord been the subject of a banning order under the Housing and Planning Act 2016 in the last 2 years?	20	No

¹ any action under Part 1 other than a 'hazard awareness' notice or a 'clearance area'.

² any notices served under any legislation relating to housing, public health or environmental health.

³ any unspent convictions relating to any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against the offender.

Table 9 - % Increase

Score	%	Score	%
0	0%	21	55%
1	5%	23	60%
3	10%	25	65%
5	15%	27	70%
7	20%	29	75%
9	25%	31	80%
11	30%	33	85%
13	35%	35	90%
15	40%	37	95%
17	45%	39+	100%

Once all the questions have been answered, the weighting for each is totalled and compared to Table 9: this gives the percentage increase that will be applied to the penalty amount. The increase will be a percentage of the starting amount for the penalty band that the offence falls within. E.g. the total score for the questions is 23 and so the corresponding percentage increase in Table 9 will be 60%.

IMPORTANT - the penalty calculation will never be increased past the upper limit of the penalty band: however, where the landlord has a history of non-compliance, it is appropriate to factor this into your assessment of their overall culpability. This could affect your initial assessment of the appropriate penalty level and lead to a higher penalty band being used as the starting point.

Stage 3

Adding Income and Track Records Amounts to the Penalty Band

2.14 Stage 3 Overview

Stage 1 gives the penalty band for the offence and this determines the starting amount and the upper limit for the penalty calculation. Stage 2 gives the amount that should

be added as a result of the landlord's income and the amount that should be added as a result of the landlord's track record.

2.15 How are the figures from stage 1 and stage 2 combined?

To get the amount of the penalty calculation, the two figures from Stage 2 should be added to the starting amount for the penalty band. E.g. if the increase for income is £500 and the increase due to the landlord's track record is £1000, these two figures are added to the starting amount for the penalty to get the penalty calculation amount.

If the amount calculated, by adding the figures for the landlord's income and track record, is less than the upper limit for the penalty band, then this is the amount that will be used. However, if the amount calculated is greater than the upper limit for the penalty band, then the upper limit will be used instead.

Stage 4

Financial benefit obtained from committing the offence

2.16 Stage 4 Overview

A guiding principle of civil penalties is that they should remove any financial benefit that the landlord may have obtained as a result of committing the offence. This means that the amount of the civil penalty imposed should never be less than it would have reasonably cost the landlord to comply in the first place.

2.17 How is the financial benefit determined?

Calculating the amount of financial benefit obtained will need to be done on a case by case basis but the table below gives some examples of potential financial benefit for each of the offences.

Offence	Examples of potential financial benefit
Failure to comply with an Improvement Notice (section 30)	The cost of any works that were required to comply with the improvement notice but which have not been removed by works in default.
Offences in relation to licensing of HMOs (section 72)	Rental income whilst the HMO was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence; the cost of complying with any works conditions on the licence; the cost of the licence application fee.
Offences in relation to licensing of houses under Part 3 of the Act (section 95)	Rental income whilst the property was operating unlicensed or where it was occupied by more than the number of persons authorised by the licence; the cost of complying with any works conditions on the licence; the cost of the licence application fee.
Offence of contravention of an overcrowding notice (section 139)	Rental income whilst the property is being occupied in contravention of the overcrowding notice.

Failure to comply with management regulations in respect of HMOs (section 234)

The cost of any works that are required to avoid breaching the regulations.

2.18 How is financial benefit added to the penalty amount?

The Council will need to be able to prove that financial benefit was obtained before it can be included in the civil penalty calculation. However, where it can be proven, the amount obtained should be added to the penalty calculation amount from Stage 3 and this will give the final civil penalty amount that will be imposed on the landlord.

IMPORTANT – where the landlord has obtained financial benefit in the form of rental income and this full amount has been added to the total penalty, it will be appropriate to take this into consideration when deciding whether or not to pursue a Rent Repayment Order.

Section 3 Imposing a Civil Penalty

3.1 Where is the process for civil penalties set out?

Schedule 9 of the Housing and Planning Act 2016 sets out the process which must be followed when imposing a civil penalty.

3.2 Notice of Intent

Before imposing a civil penalty on a landlord, the council must serve a 'notice of intent' on the landlord in question. This notice must be served within 6 months of the last day on which the council has evidence of the offence occurring. This notice must contain the following information:

- The amount of the proposed civil penalty;
- The reasons for proposing to impose a civil penalty, and;
- Information about the Landlord's right to make representations to the council.

3.3 Representations

Any landlord who is in receipt of a notice of intent has the right to make representations against that notice within 28 days of the date on which the notice was given. Representations can be against any part of the proposed course of action. Landlords may make written representations to the Council within 28 days by post or by email to privatesectorhousing@northwarks.gov.uk. These representations will be considered

by a Review Panel which will include an independent officer, senior or management position in addition to the case officer.

Where a landlord challenges the amount of the civil penalty, it will be for the landlord to provide documentary evidence (e.g. tenancy agreements etc.) to show that the calculation of the penalty amount is incorrect. Where no such supporting evidence is provided, the representation against the amount will not be accepted.

Written responses will be provided to all representations made by the recipients of a notice of intent. No other parties have an automatic right to make representations but if any are received, they will be considered on a case by case basis and responded to where the council considers it necessary.

3.4 Final Notice

Once the representation period has ended, the council must decide, taking into consideration any representations that were made, whether to impose a civil penalty and the final amount of the civil penalty. The final amount of a civil penalty can be a lower amount than was proposed in the notice of intent but it cannot be a greater amount.

The imposing of a civil penalty involves serving a final notice and this notice must contain the following information:

- The amount of the financial penalty;
- The reasons for imposing the penalty;
- Information about how to pay the penalty;
- The period for payment of the penalty;
- Information about rights of appeal, and;
- The consequences of failure to comply with the notice.

The period of payment for the civil penalty must be 28 days beginning with the day after that on which the notice was given.

3.5 Withdrawing or Amending Notices

At any time, the council may withdraw a notice of intent or a final notice or reduce the amount of a civil penalty. This is done by giving notice in writing to the person on whom the notice was served.

Where a civil penalty has been withdrawn, and there is a public interest in doing so, the council can still pursue a prosecution against the landlord for the conduct for which the penalty was originally imposed. Each case will be considered on a case by case basis.

3.6 Appeals to the Tribunal

If a civil penalty is imposed on a landlord, that landlord can appeal to the First-tier Tribunal (“the Tribunal”) against the decision to impose a penalty or the amount of the penalty. The Tribunal has the power to confirm, vary (increase or reduce) the size of the civil penalty imposed by the council, or to cancel the civil penalty. Where an appeal has been made, this suspends the civil penalty until the appeal is determined or withdrawn.

3.7 Payment of a Civil Penalty

A civil penalty must be paid within 28 days, beginning with the day after that on which the final notice was given (“the 28 day payment period”), unless that notice is suspended due to an appeal. Details of how to pay the penalty will be provided on the final notice.

3.8 Other consequences of having a Civil Penalty imposed

Where a civil penalty has been imposed on a landlord, this will form a part of our consideration when reviewing licence applications for properties in which they have some involvement. This includes licences under Part 2 or Part 3 of the Housing Act 2004.

Whilst a civil penalty will not automatically preclude us from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person’s involvement in the property will be considered.

Where a landlord has two civil penalties imposed on them in a 12 month period, each for a banning order offence, the Council will include their details on the Database of Rogue Landlords and Property Agents.

“Banning order offence” means an offence of a description specified in regulations made by the Secretary of State under Section 14(3) of the Housing and Planning Act 2016.

3.9 Recovering an unpaid Civil Penalty

It is the policy of the council to consider all legal options available for the collection of unpaid civil penalties and to pursue unpaid penalties in all cases through the county courts. Some of the orders available to the council through the county courts are as follows:

- A Warrant of Control for amounts up to £5000;
- A Third Party Debt Order;
- A Charging Order, and;
- Bankruptcy or insolvency.

A certificate, signed by the Chief Finance Officer for the council and stating that the amount due has not been received by the date of the certificate, will be accepted by the courts as conclusive evidence of the payment due.

Where a Charging Order has been made, and the amount of the order is over £1000, the council can consider applying for an Order for Sale against the property or asset in question. When considering which properties to apply for a Charging Order against, the council can consider all properties owned by the Landlord and not just the property to which the offence relates.

Where the civil penalty was appealed and the council has a tribunal decision, confirming or varying the penalty, the decision will be automatically registered on the Register of Judgments, Orders and Fines, once accepted by the county court. Inclusion on this Register may make it more difficult for the Landlord to get financial credit.

3.10 Income from Civil Penalties

Any income from Civil Penalties is retained by the council. The council must spend any income from Civil Penalties on its enforcement functions in relation to the private rented sector. Further details can be found in Statutory Instrument 367 (2017).

Section 4

Worked Examples

4.1 Worked Example 1

Landlord A owns and operates an unlicensed HMO. Landlord A has been made aware of the need to apply for an HMO licence but has failed to do so and has continued to operate unlicensed for the past 6 months. The rental income received by Landlord A during this 6 month period is £7500. This is not the first time that Landlord A has been the subject of enforcement action, having previously been cautioned for operating another unlicensed HMO a year ago and being served improvement notices on two separate occasions in the last 12 months. Both notices were complied with.

Offence: Operating an unlicensed HMO

Culpability: 'Very High' (*Deliberate breach of or flagrant disregard for the law*)

Justification: Landlord A is aware of requirement to licence the property and the consequences of not doing so but has chosen not to comply anyway.

Seriousness of harm risked: 'Level C'

(*All other cases not falling within Level A or Level B*)

Justification: the specific offence of operating an unlicensed HMO does not implicitly mean that there are any defects or deficiencies in the property. As such, the seriousness of harm risked would not meet the descriptions of 'Level A' or 'Level B'.

Penalty band: 4 - £6000 to £15,000 (*'Very High' culpability and 'Level C' harm*)

Increase due to the landlord's track record: £1800

(*30% of the starting point for the penalty*)

Justification: in the last two years, Landlord A has accepted 1 caution for a relevant offence and has been served 2 relevant notices, under Part 1 of the Housing Act 2004. This gives us a score of 12 and an increase of 30% of the penalty amount. This is an increase of £1800.

Increase due to the landlord's income: £721.15

(*250% of weekly rental income from the property where the offence occurred*)

Justification: the penalty band is 4 and Landlord A is the owner of the property where the offence occurred. As such, the relevant income for consideration is the weekly rental income for the property and 250% of this will be added to the penalty amount. In this case, the relevant weekly income is £288.46 and so £721.15 will be added.

Penalty calculation amount: £8521.15 (£6000 + £1800 + £721.15 = £8521.15)

Financial benefit obtained from committing the offence: £7500

Justification: Landlord A has received £7500 in rental income from the property during the time that it has been unlicensed and so this can be considered the financial benefit received from committing the offence.

Final amount of the civil penalty: £16021.15 (£8521.15 + £7500 = £16021.15)

4.2 Worked Example 2

Landlord B owns and manages a single family dwelling. During an inspection, a category 1 hazard (falls on stairs) and multiple category 2 hazards were identified at the property. The stairs were in an extremely dangerous condition but could be made safe fairly easily. An improvement notice was served on Landlord B and some of the works to reduce the category 2 hazards were carried out but the remainder of the works on the notice were not. Works in default were carried out at the property with a total cost of £2000. Landlord B was also prosecuted 18 months ago for failing to comply with an improvement notice. A financial investigation into Landlord B found that they have received an annual income of £50,000.

Offence: Failing to comply with an improvement notice.

Culpability: 'Very High' (*Deliberate breach of or flagrant disregard for the law*)

Justification: Landlord B was aware of the need to comply with the Improvement Notice as some of the works were completed. Landlord B is also aware of the consequences of failing to comply with the notice as previous enforcement action has been taken against them for this reason.

Seriousness of harm risked: 'Level A'

Justification: The condition of the staircase creates a Category 1 hazard and if someone were to trip or fall on the stairs, they could reasonably end up with harm outcomes that meet the descriptions of Class 1 and Class 2 harm outcomes under the Housing Health & Safety Rating System. This means that the seriousness of harm risked meets the description of 'Level A'.

Penalty band: 5+ - £15,000 to £30,000 (*'Very High' culpability and 'Level A' harm*)

Increase due to the landlord's track record: £12,000

(*80% of the starting point for the penalty*)

Justification: in the last two years, Landlord B has been prosecuted for a relevant offence, has been served 1 relevant notice under Part 1 of the Housing Act 2004, and

has been subject to works in default. This gives us a score of 31 for his track record and an increase of 80% of the penalty amount. This is an increase of £12,000.

Increase due to the landlord's income: £5769.23

(600% of the Landlord's average weekly income)

Justification: the penalty band is 5+ and so a financial investigation was carried out to identify all of Landlord B's income. The investigation found they received a total annual income of £50,000 and 600% of their average weekly income will be added to the penalty amount. In this case, the average weekly income is £961.54 and so £5769.23 will be added.

Penalty calculation amount: £30,000 ($£15000 + £12000 + £5769.23 = £32,769.23$)

Financial benefit obtained from committing the offence: None

Justification: works in default were carried out at the property and the cost of these works, plus an administration fee, were charged to Landlord B. As such, it cannot be said that Landlord B obtained financial benefit from committing the offence.

Final amount of the civil penalty: £30,000

(£15000 + £12000 + £5769.23 = £32,769.23 - civil penalties are capped at £30,000)

4.3 Worked Example 3

Landlord C is the appointed manager of a three bedroom licenced HMO. The company is paid £90 per month to manage the property on behalf of the owner. During a compliance inspection, it was found that they had neglected to display any of the manager's details anywhere in the property. They were warned about this one year ago and stated that they were aware of the requirement but an oversight meant that they missed this property when displaying details. They have not been the subject of any formal enforcement action in the last 2 years and the property was otherwise in a satisfactory condition.

Offence: Failure to comply with management regulations in respect of Houses in Multiple Occupation.

Culpability: 'Low' (*Failings were minor and occurred as an isolated incident*)

Justification: the company does not have a history of non-compliance and the breach was fairly minor and easily rectified.

Seriousness of harm risked: 'Level C'

(All other cases not falling within Level A or Level B)

Justification: The seriousness of harm risked to the tenants was low and so it would not meet the descriptions of harm found in 'Level A' or 'Level B'.

Penalty band: 1 - £600 to £1200 (*'Low' culpability and 'Level C' harm*)

Increase due to the landlord's track record: None

Justification: in the last two years, Landlord C has not been the subject of any formal enforcement action and so there is no increase in the penalty amount due to their track record.

Increase due to the landlord's income: £10.39 (*50% of weekly rental income from the property where the offence occurred*)

Justification: the penalty band is 1 and Landlord C is the manager of the property where the offence occurred. As such, the relevant income for consideration is the weekly management fees received for the property and 50% of this will be added to the penalty amount. In this case, the relevant weekly income is £20.77 and so £10.39 will be added.

Initial penalty calculation amount: £610.39 ($£600 + £10.39 = £610.39$)

Financial benefit obtained from committing the offence: None

Justification: the cost of displaying Landlord C's management details would be negligible and so it would not be reasonable to claim that financial benefit was obtained from committing the offence.

Final amount of the civil penalty: £610.39 ($£600.00 + £10.39 = £610.39$)

Appendix I – Classes of Harm (HHSRS)

The following is an extract from the Housing Health and Safety Rating System Operating Guidance (page 47 - 48), published by the Office of the Deputy Prime Minister (2006).

“Examples for the Four HHSRS Classes of Harm

- C1 *The Classes of Harm used for the HHSRS are based on the top four Classes of Harm as identified in A Risk Assessment Procedure for Health and Safety in Buildings (2000) BRE. While this work identified seven Classes of Harm, only the top four are used for the purposes of the HHSRS as these are harms of sufficient severity that they will either prove fatal or require medical attention and, therefore, are likely to be recorded in hospital admissions or GP records.*
- C2 *Work on developing and refining the Statistical Evidence supporting the Rating System involved classifying a more comprehensive list of harm outcomes.*
- C3 *The examples given below are intended for guidance only. It should be noted that some of the harm outcomes may appear in more than one Class depending on the severity of the condition. For example, respiratory disease will be in Class II or III depending on the severity and duration.*

Class I

This Class covers the most extreme harm outcomes including: Death from any cause; Lung cancer; Mesothelioma and other malignant lung tumours; Permanent paralysis below the neck; Regular severe pneumonia; Permanent loss of consciousness; 80% burn injuries.

Class II

This Class covers severe harm outcomes, including: Cardio-respiratory disease; Asthma; Non-malignant respiratory diseases; Lead poisoning; Anaphylactic shock; Cryptosporidiosis; Legionnaires disease; Myocardial infarction; Mild stroke; Chronic confusion; Regular severe fever; Loss of a hand or foot; Serious fractures; Serious burns; Loss of consciousness for days.

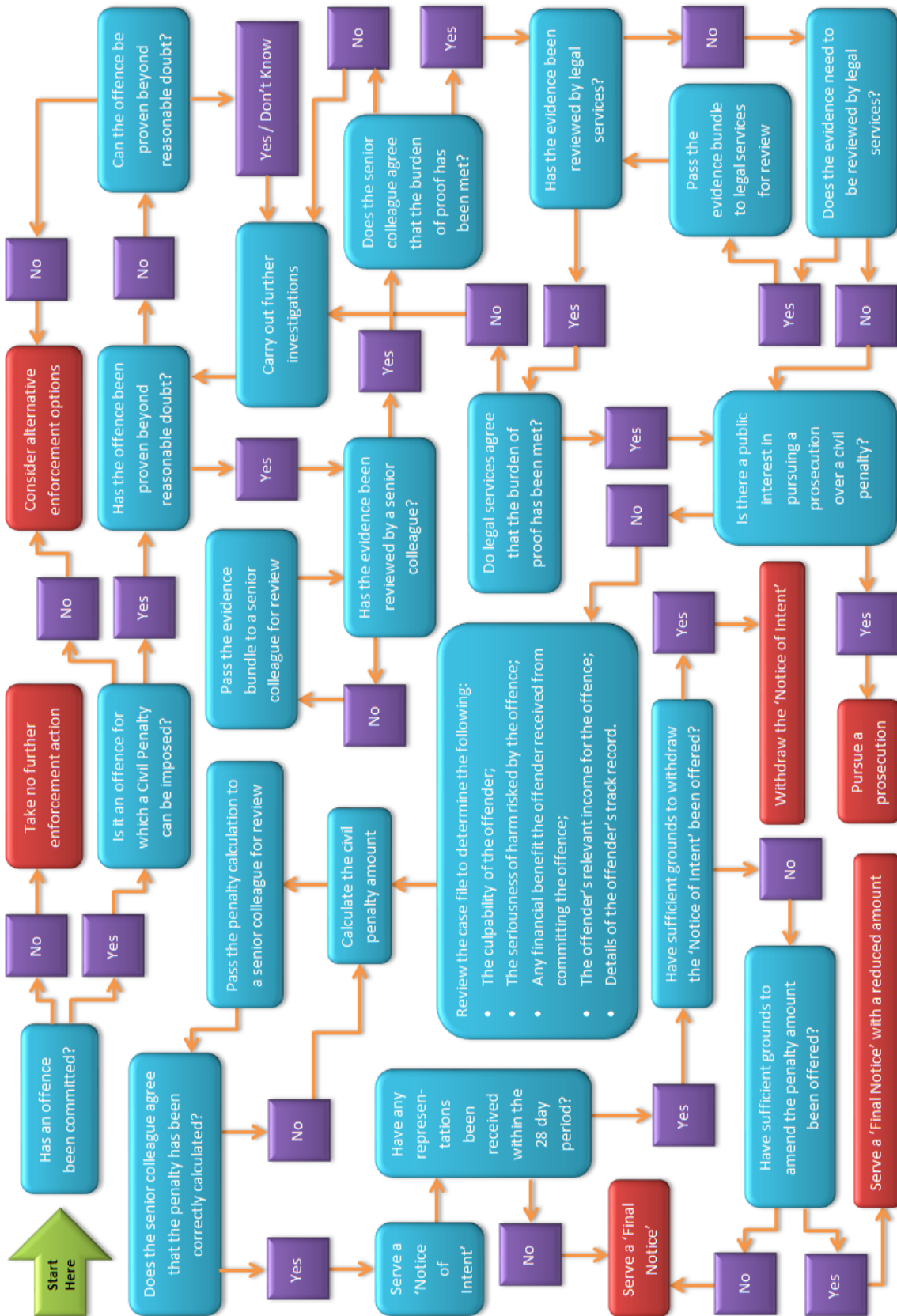
Class III

This Class covers serious harm outcomes, including: Eye disorders; Rhinitis; Hypertension; Sleep disturbance; Neuro-psychological impairment; Sick building syndrome; Regular and persistent dermatitis, including contact dermatitis; Allergy; Gastro-enteritis; Diarrhoea; Vomiting; Chronic severe stress; Mild heart attack; Malignant but treatable skin cancer; Loss of a finger; Fractured skull and severe concussion; Serious puncture wounds to head or body; Severe burns to hands; Serious strain or sprain injuries; Regular and severe migraine.

Class IV

This Class includes moderate harm outcomes which are still significant enough to warrant medical attention. Examples are: I Pleural plaques; Occasional severe discomfort; Benign tumours; Occasional mild pneumonia; Broken finger; Slight concussion; Moderate cuts to face or body; Severe bruising to body; Regular serious coughs or colds.”

Appendix II – Process flow chart





North Warwickshire
Borough Council

Financial Penalty Enforcement Policy & Guidance

Author/ Responsible Officer: Director (Housing)

Date: June 2024

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Section 1

Introduction & Overview

1.1 Introduction

This financial policy has been written to ensure compliance with Regulations made that are enforced by the Council in respect of property redress schemes, fire safety precautions and energy efficiency measures where a financial penalty can be issued to landlords. The Council's approach ensures that the financial penalty should be proportionate and reflect the severity of the breach, and should be set high enough to help ensure that it has a real economic impact on the landlord and demonstrate the consequences of not complying with their responsibilities. The landlord's track record will be taken into account in each case.

This document is intended to work in accordance with the North Warwickshire Borough Council Private Sector Housing Enforcement Policy.

In this document, the term "landlord" will be used to refer to the "owner", "person having control" or "person managing" as defined under the Housing Act 2004 ("the 2004 Act"). The term "the Council" will be used to refer to North Warwickshire Borough Council in its capacity as a Local Housing Authority.

1.2 What is a financial penalty?

A financial penalty is a monetary sanction of up to £5,000 which can be imposed on a landlord for specific offences made under the regulations appertaining to section 45 of the Energy Act 2011, section 150 of the Energy Act 2013 and section 85 of the Enterprise and Regulatory Reform Act 2013. The amount of penalty is determined by the Council in each case; section 2 sets out how the Council will determine the appropriate level of financial penalty. The Council considers that the recipients of financial penalty notices will be those persons who are involved in the owning or managing of private rented properties.

A financial penalty must not be confused with a civil penalty that can be imposed under the Housing and Planning Act 2016. A financial penalty in terms of this policy can only be imposed following the service of a penalty notice under the regulations listed in section 1.3.

1.3 What offences can financial penalties be imposed for?

A financial penalty can be made for any of the following offences under the legislation above and the regulations as follows:

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

- Failure to register with a redress scheme under article 3 (requirement to belong to a redress scheme: lettings agency work) or article 5 (requirement to belong to a redress scheme: property management work)
- The amount of the monetary penalty must not exceed £5,000

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- Failure to provide a working smoke alarm on each storey of a residential premises let under the terms of a tenancy.
- Failure to provide a working carbon monoxide alarm in any room of a residential premises let under the terms of a tenancy that contains a solid fuel burning combustion appliance.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

- A landlord, on or after 1st April 2018, grants a new tenancy or lets the property on such a tenancy as a result of an extension or renewal of an existing tenancy without undertaking such works as required to increase a 'F' or 'G' rated property in accordance with the EPC for the property.
- A landlord, on or after 1st April 2020, continues to let the property that is rated 'F' or 'G' in accordance with the EPC for the property.

1.4 What is the legal basis for imposing a financial penalty?

Where the Council is satisfied that the regulations have not been complied with and an offence has been identified.

1.5 What is the burden of proof for a financial penalty?

Where the Council is satisfied on the balance of probabilities that a person has failed to comply with the requirements of the above regulations a financial penalty can be imposed upto a maximum of £5,000.

In determining whether there is sufficient evidence to serve a penalty notice, the council will have regard to the North Warwickshire Private Sector Housing Enforcement Policy and the Crown Prosecution Service Code for Crown Prosecutors, published by the Director of Public Prosecutions.

1.6 What must be done before a Financial Penalty can be considered?

The Council must be satisfied that there is sufficient evidence of an offence under the regulations listed in section 1.3. The following questions should be considered:

- Does the Council have sufficient evidence to prove on the balance of probabilities that the offence was committed by the landlord in question?

- Has the officer assessed the penalty appropriately using the calculation provided in section 5.
- Has a notice of intent been issued under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014?
- Has the evidence been reviewed by the appropriate senior officer at the Council?

1.7 When will the Council consider Financial Penalties an enforcement option?

The Council will consider financial penalties for all landlords that are in breach of one or more of the regulations listed in section 1.3. Enforcement action will be considered on a case-by-case basis in line with the North Warwickshire Private Sector Housing Enforcement Policy, the North Warwickshire Financial Penalty Policy and MHCLG guidance.

Section 2

The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

2.1 The legal framework

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 makes it a legal requirement for all lettings agents and property managers in England to join a Government approved redress scheme.

The Council is the enforcing authority for this Order within the Borough. The Council can impose a fine of up to £5,000 where it is satisfied, on the balance of probability that someone is engaged in letting or management work and is required to be a member of a redress scheme, but has not joined.

2.2 Notice of Intent

The procedure for issuing a fine will be to serve a Notice of Intent within 6 months of the date on which the Council has gathered sufficient evidence and is satisfied that a person has failed to comply with the Order. The Notice of Intent will give written notice of their intention to impose a penalty and will set out:

- the reasons for the penalty;
- the amount of the penalty;
- that there is a 28 day period to make written representations or objections, starting from the day after the date on which the notice of intent was sent.

The amount of the penalty will be assessed using the criteria for determining the amount of a financial penalty outlined in Section 5.

The Council may at any time withdraw the notice of intent or reduce the amount specified in the notice at any time by giving notice in writing.

2.3 Monetary Penalty

After the end of the period for making representations and objections, the Council will decide whether to impose a monetary penalty, with or without modifications. If the decision is to impose a financial penalty the Council will serve on that person a final notice imposing that penalty. The final notice will include the following:

- the reasons for imposing the monetary penalty;
- information about the amount to be paid;

- information about how payment may be paid;
- information about the period in which the payment must be made, which must not be less than 28 days;
- information about rights of appeal; and
- information about the consequences of failing to comply with the notice.

The Council may at any time withdraw a final notice or reduce the amount specified in the notice at any time by giving notice in writing.

2.4 Appeals against a monetary penalty

A landlord served with a notice imposing a monetary penalty may appeal to the First-Tier Tribunal against the notice. For further information regarding appeals and reviews refer to section 6 of this policy.

Section 3

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

This statement sets out the principles that NWBC will apply in exercising its powers to require a relevant landlord to pay a financial penalty.

3.1 Purpose of this Statement of Principles

The Council is required under these Regulations to prepare and publish a statement of principles and it must follow this guide when deciding on the amount of a penalty charge.

The Council may revise its statement principles at any time, but where it does so, it must publish a revised statement.

When deciding on the amount for the penalty charge, the Council will have regard to the statement of principles published at the time when the breach in question occurred.

3.2 The legal framework

The powers come from the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations), being a Statutory Instrument (2015 No 1693) which came into force on 1 October 2015.

The Regulations place a duty on landlords, which include freeholders or leaseholders who have created a tenancy, lease, licence, sub-lease or sub-licence. The Regulations exclude registered providers of social housing.

The duty requires that landlords ensure that:

- a smoke alarm is installed on each storey of premises where there is living accommodation
- a carbon monoxide alarm is installed in any room of premises used as living accommodation, which contained a solid fuel burning appliance.

AND for tenancies starting from 1 October 2015

- checks are made by the landlord or someone acting on his behalf that the alarm(s) is/are in proper working order on the day the tenancy starts.

3.3 Remedial Notices

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

A remedial notice will specify the following:

- the premises to which the notice relates;
- the duty or duties that the Council considers the landlord is failing or has failed to comply with;
- the remedial action the Council considers should be taken;
- require the landlord to take that action within 28 days beginning with the day on which the notice is served;
- explain that the landlord is entitled to make written representations against the notice within 28 days beginning with the day on which the notice is served;
- the person to whom, and the address (including if appropriate any email address) at which, any representations may be sent; and
- explain the effect of regulations 6, 7 and 8, including the maximum penalty charge which the Council may impose.

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. This can be done by making written representations to the Council within 28 days of when the remedial notice is served.

Where the Council is satisfied that a landlord has not complied with a specification described in the remedial notice in the required timescale and consent is given by the occupier, the Council will arrange for remedial works to be undertaken in default of the landlord. This work in default will be undertaken within 28 days of the Council being satisfied of the breach. In these circumstances, battery operated alarms will be installed as a quick and immediate response.

A failure to comply with the requirements of a remedial notice within the specified timescale, the Council to require a landlord to pay a penalty charge not exceeding £5,000 under Regulation 8. The criteria for determining the amount of a financial penalty can be found in Section 5.

3.4 Penalty Notices

A penalty charge notice will state the following:

- the reasons for imposing the penalty charge;
- the premises to which the penalty charge relates;
- the number and type of prescribed alarms (if any) which an authorised person has installed at the premises;
- the amount of the penalty charge;

- that the landlord is required, within a period specified in the notice—
 - to pay the penalty charge, or
 - to give written notice to the Council that the landlord wishes the authority to review the penalty charge notice;
- how payment of the penalty charge must be made; and
- the person to whom, and the address (including if appropriate any email address) at which, a notice requesting a review may be sent and to which any representations relating to the review may be addressed

3.5 Appeals against a Penalty Notice

A landlord served with a penalty notice imposing a monetary penalty may appeal to the First-Tier Tribunal against the notice. For further information regarding appeals and reviews refer to section 6 of this policy.

Section 4

The Energy Efficiency (Private Rented Property (England and Wales) Regulations 2015

4.1 The Minimum Energy Efficiency Standard (MEES)

The Energy Efficiency (Private Rented Property) Regulations 2015 and Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2019 known as MEES require a domestic private rented property to have a minimum Energy Performance Certificate (EPC) rating of 'E'. The regulations are designed to tackle the least energy-efficient properties in England and Wales – those rated 'F' or 'G' on their Energy Performance Certificate (EPC). The main principles of the regulations are:

- From the 1st April 2018 landlords are prohibited from granting new tenancies for a property with an EPC rating of below E, nor can they renew or extend any existing tenancies.
- From 1st April 2020 the legislation further restricts landlords letting out below E-rated properties to all existing tenancies.

In addition to the EPC rating requirements, the legislation also enables a tenant to request their landlord's consent for energy efficiency improvements to be made to the property and placed a duty on the landlord to not unreasonably refuse such works. This enables a tenant to serve a 'tenants request' on the landlord and if the landlord fails in their duty the tenant may apply to the First Tier Tribunal for its consent for the improvements to be made.

4.2 Enforcement of the MEES Regulations

Local Authorities are required to enforce compliance of the MEES regulations. NWBC can access the national EPC register when dealing with any housing complaint to ensure that an EPC is in place. Non-compliant landlords can be issued with a financial penalty of up to £5,000, for offences including failure to comply with a Compliance Notice requiring information, failure to register a property on the PRS Exemption Register, or registering false information.

4.3 Compliance Notices

Where the Council believe that a landlord is in breach of one or more of the above duties, the Council may serve a compliance notice on a landlord who appears to be,

or to have been at any time within the 12 months preceding the date of service of the compliance notice of a sub-standard property. A compliance notice will contain the following information:

- the name and address of the person to whom the documents or other information required must be provided, and
- the date by which they must be provided which must be no less than one month from the date on which the compliance notice is served.

A compliance notice may in particular request the landlord to produce for inspection originals, or copies, of the following:

- the energy performance certificate for the property which was valid at the time the property was let,
- any other energy performance certificate for the property in landlords possession,
- any current tenancy agreement under which the property is let,
- any qualifying assessment in relation to the property,
- any other document which the enforcement authority considers necessary to enable it to carry out its functions under this Part, and
- may request the landlord to register copies of any of them on the PRS Exemptions Register

Where the Council is satisfied that a compliance notice has been complied with the notice will be revoked. Where the Council is satisfied that a landlord has not complied with a compliance notice a penalty notice will be served.

4.4 Failure to comply with a Compliance Notice

A failure to comply with the requirements of a the regulations where has property has been let in breach of the regulations, a compliance notice has not been complied with, or a failure to register an exemption of giving false or misleading information the Council will serve a penalty notice with a charge not exceeding £5,000. The criteria for determining the amount of a financial penalty can be found in Section 5.

4.5 Penalty Notices

Where the Council decides to impose a penalty charge on the landlord the penalty notice will contain the following:

- specify the provision of these Regulations which the Council believes the landlord has breached,
- give such particulars as the enforcement authority considers necessary to identify the matters constituting the breach,
- specify any action the Council requires the landlord to take to remedy the breach,

- specify the period within which such action must be taken,
- specify the amount of any financial penalty imposed and, where applicable, how it has been calculated,
- specify whether the publication penalty has been imposed,
- require the landlord to pay any financial penalty within a period specified in the notice,
- specify the name and address of the person to whom any financial penalty must be paid and the method by which payment may be made,
- state the effect of regulations 42 to 45, and
- specify the name and address of the person to whom a notice requesting a review in accordance with regulation 42 may be sent (and to whom any representations relating to the review must be addressed), and
- the period within which such a notice may be sent.

4.6 Publication Penalty

A Publication Penalty may also be imposed on its own, or in addition to a financial penalty under Regulation 38.

This publication penalty is defined in Regulation 39, as being publication on the PRS Exemptions Register and the information that can be published on the register is as follows:

1. Where the landlord is not an individual - the landlord's name
2. Details of the breach for which a penalty notice has been issued
3. The address of the property to which the breach occurred
4. The amount of the financial penalty notice imposed.

This information must be published for a minimum period of 12 months and may be longer should the Council decide.

Publication will not take effect until the expiry or any review period or determination of an appeal whichever is the case.

4.7 Appeals against a Penalty Notice

A landlord served with a Penalty Notice may appeal to the First-Tier Tribunal against the notice. For further information regarding appeals and reviews refer to section 6 of this policy.

Section 5

Determining the Financial Penalty Amount

5.1 Overview

The council has the power to impose a financial penalty of up to £5,000 under all three regulations; this section sets out how the council will determine the appropriate level of financial penalty in each particular case. The actual amount levied in each case should reflect the severity of the offence and take into account the landlord's track record and harm caused to the occupants where the offence took place.

The financial penalty will be made up of two distinct components. The first is the penalty calculation in respect of the landlord's culpability. Aggravating factors such as if the landlord is a portfolio landlord and the length of time they have been operating as a landlord will be considered. The second considers the seriousness of the harm caused to the health and safety of the occupants where the offence took place. These two components are added together to determine the final penalty amount that will be imposed on the landlord.

5.2 Determining the penalty band

Stage 1

This stage considers the landlord's culpability for the offence and the seriousness of harm risked to the tenants or visitors to the property.

A higher penalty will be appropriate where the landlord has a history of failing to comply with their obligations and/or their actions were deliberate. Landlords are running a business and are expected to be aware of their legal obligations. There are two steps to this process as set out below.

5.3 Step 1: Culpability

Table 1 sets out the two levels of culpability that will be considered: each level has accompanying examples of the behaviours that could constitute that particular level. The behaviour of the landlord should be compared to this table to determine the appropriate level of culpability. This exercise will be repeated for each offence that is being considered as the landlord's culpability may vary between offences.

Table 1 - Levels of Culpability

High	<ul style="list-style-type: none">• Deliberate breach of or flagrant disregard for the law• Offender fell far short of their legal duties; for example, by:<ul style="list-style-type: none">- failing to put in place measures that are recognised legal requirements or regulations;- ignoring warnings raised by the local council, tenants or others;- failing to make appropriate changes after being made aware of risks, breaches or offences;- allowing risks, breaches or offences to continue over a long period of time.- The offender is a large, portfolio landlord renting property as their main business• Serious and/or systemic failure by the person or organisation to comply with legal duties.
Low	<ul style="list-style-type: none">• Offender did not fall far short of their legal duties; for example, because:<ul style="list-style-type: none">- significant efforts were made to address the risk, breaches or offences, although they were inadequate on this occasion;- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.- The landlord is a small landlord• Failings were minor and occurred as an isolated incident

5.4 Assessing a landlord's culpability

When assessing culpability, consider all of the evidence gathered as part of the investigation into the offence and identify any aggravating or mitigating factors which may be relevant to the assessment of culpability.

Aggravating factors could include:

- Previous convictions for similar offence/s, having regard to the time elapsed since the conviction
- Motivated by financial gain
- Obstruction of the investigation
- Deliberate concealment of the activity/evidence
- Number of items of non-compliance – greater the number the greater the potential aggravating factor
- Record of letting substandard accommodation i.e. record of having to take enforcement action previously whether complied with or not
- Record of poor management/ inadequate management provision
- Lack of a tenancy agreement/rent paid in cash
- Evidence of threatening behaviour/harassment of the tenant.

Further guidance regarding when it is appropriate to consider past enforcement action taken against the landlord and mitigating factors could include:

- Cooperation with the Council's investigation
- Voluntary steps taken to address issues e.g. submits a prompt licence application
- Willingness to undertake training
- Level of tenant culpability
- Willingness to join recognised landlord accreditation scheme
- Evidence of health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns
- Vulnerable individual(s) (owners not tenants) where there vulnerability is linked to the commission of the offence
- Good character i.e. no previous convictions and/or exemplary conduct

Low - first breach under these regulations, no previous history of non-compliance of with housing related regulatory requirements. Complex issues partially out of control of the landlord have led to non-compliance.

High - landlord has failed to comply with requests to comply with these regulations. Previous history of non-compliance with housing related legislation. Knowingly or recklessly providing incorrect information in relation to exemptions to these regulations. Experienced, professional landlords operating a portfolio of rented properties.

Using these factors, consider each category of culpability in the table 1 and identify the one that the landlord's behaviour falls within to assess culpability

5.5 Step 2: Seriousness of Harm Risked

Table 2 separates the seriousness of harm risked into two levels and each one has an accompanying description to illustrate what would constitute that level of harm risked.

The harm risked by the offence should be compared to the table to determine the appropriate level. This exercise will be repeated for each offence that is being considered as the seriousness of harm risked can vary between offences.

When using the table to determine the appropriate level, consideration should be given to the worst possible harm outcomes that could reasonably occur as a result of the landlord committing the offence. This means that even if some harm has already come to tenants or visitors to the property, consideration should still be given to whether there was the potential for even greater harm to have occurred.

Table 2 - Seriousness of Harm Risked

High	The seriousness of harm risked would meet the guidance for Class I and Class II harm outcomes in the Housing Health and Safety Rating System ¹ .
Low	The seriousness of harm risked would meet the guidance for Class III and Class IV harm outcomes in the 'Housing Health and Safety Rating System ³ .

Further information about the classes of harm under the Housing Health and Safety Rating System can be found in appendix I.

When assessing the risk of harm and determining the appropriate level, consideration should be given to the worst possible harm outcomes that could reasonably occur as a result of the landlord committing the offence. This means that even if some harm has already come to tenants or visitors to the property, consideration should still be given to whether there was the potential for even greater harm to have occurred. Consideration can be given to size and layout of house without smoke alarms or carbon monoxide detector, fuel poverty as a result of an inefficient house and the physical harm to occupants of living without heating/insulation etc.

Low – single storey premises without smoke alarm, EPC score close to minimum acceptable EPC rating (E), no vulnerable tenants and / or short period of non-compliance.

High – 2/3 storey premises with no direct external escape route and no alternative escape from windows, low EPC rating, for example 'G' or low 'F' rating, vulnerable tenants occupying property, extended period since non-compliance and lack of appropriate cooperation from landlord to resolve the situation and make improvements to remove risk to occupants.

5.5 Stage 3: Assessment of penalty

	Low culpability	High culpability
Low harm	25%	50%
High harm	50%	100%

¹ Office of the Deputy Prime Minister: London (2006), *Housing Health and Safety Rating System Operating Guidance*, page 47

5.6 Stage 4: Financial Penalties to be applied following the assessment above in relation to each regulation involved:

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014:

	Low culpability	High culpability
Low harm	£1250	£2500
High harm	£2500	£5000

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015:

	Low culpability	High culpability
Low harm	£1250	£2500
High harm	£2500	£5000

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015:

1. Where the landlord has let a sub-standard property for less than 3 months (maximum of £2,000)

	Low culpability	High culpability
Low harm	£500	£1000
High harm	£1000	£2000

2. Where the landlord has let a sub-standard property for more than 3 months (maximum of £4000)

	Low culpability	High culpability
Low harm	£1000	£2000
High harm	£2000	£4000

3. Providing false or misleading information (maximum of £1,000)

	Low culpability	High culpability
Low harm	£250	£500
High harm	£500	£1000

4. Failing to comply with a compliance notice (maximum of £2,000)

	Low culpability	High culpability
Low harm	£500	£1000
High harm	£1000	£2000

The maximum amount that the Council can impose for a financial penalty under these regulations is £5,000.

5.7 Early Repayment Reduction

1. A 25% reduction in the penalty will be applied across all the regulations where the amount is received within 14 days. This only applies where it is the first offence committed under the Regulations by the company/individual.
2. The maximum penalty amounts apply **per property**, and **per breach** of the Regulations.

Section 6

Reviews, modifications and appeals

6.1 Representations

Any landlord who is in receipt of a notice of intent under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 or a penalty notice under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 or the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 has the right to make representations against that notice within 28 days of the date on which the notice was given to request a review of the notice to the Council. Representations can be against any part of the proposed course of action. All representations from landlords will be considered by an appropriate senior colleague such as the Private Sector Housing Manager.

Any representation against a penalty notice must be in writing and provide sufficient evidence from the landlord explaining the reason for the challenge and provide supporting documentation as necessary. A representation can be made in respect of any matter relating the intent or penalty notice.

Written responses will be provided to all representations made by the recipients of a notice of intent or penalty notice. The council will carefully review any written representations received during the 28-day period before taking any further action. There is no statutory timeframe for the review process, but the council will seek to make a decision as to its proposed course of action as soon as possible.

The council will take one of the following courses of action:

- Withdraw the intent or penalty notice;
- Impose a financial penalty of an amount lower than that proposed in the notice of intent or penalty notice;
- Impose the financial penalty proposed in the Notice of Intent or penalty notice;
- Propose to impose a financial penalty of an amount higher than that specified in the Notice of Intent or penalty notice.

6.2 Appeals to the First-Tier Tribunal

If a financial penalty notice is imposed on a landlord, that landlord can appeal to the First-tier Tribunal of the General Regulatory Chamber (GRC) against the decision to impose a penalty or the amount of the penalty. The Tribunal has the power to confirm, vary (increase or reduce) or quash the penalty notice. Where an appeal has been made, this suspends the financial penalty notice until the appeal is determined or withdrawn. The appeal can be made in writing to The General Regulatory Chamber, HM Courts and Tribunals Service, P.O. Box 9300, Leicester, LE1 8DJ.

You can obtain an appeal form from that address or from the tribunal website at http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2799.

6.3 Payment of a Financial Penalty

A financial penalty must be paid within 28 days, beginning with the day after that on which the final notice was given (“the 28 day payment period”), unless that notice is suspended due to an appeal. Details of how to pay the penalty will be provided on the penalty notice.

6.4 Recovering an unpaid Financial Penalty

It is the policy of the council to consider the collection of unpaid financial penalties and to pursue unpaid penalties in all cases through the county courts as if payable under a court order.

A certificate, signed by the Chief Finance Officer for the council and stating that the amount due has not been received by the date of the certificate, will be accepted by the courts as conclusive evidence of the payment due.

Where the civil penalty was appealed and the council has a tribunal decision, confirming or varying the penalty, the decision will be automatically registered on the Register of Judgments, Orders and Fines, once accepted by the county court. Inclusion on this Register may make it more difficult for the Landlord to get financial credit.

6.5 Income from Financial Penalties

Any income from Financial Penalties is retained by the Council. The Council must spend any income from Financial Penalties on its enforcement functions in relation to the private rented sector. Further details can be found in Statutory Instrument 367 (2017).

Appendices

Appendix I – Classes of Harm (HHSRS)

The following is an extract from the Housing Health and Safety Rating System Operating Guidance (page 47 - 48), published by the Office of the Deputy Prime Minister (2006).

“Examples for the Four HHSRS Classes of Harm

- C1 *The Classes of Harm used for the HHSRS are based on the top four Classes of Harm as identified in A Risk Assessment Procedure for Health and Safety in Buildings (2000) BRE. While this work identified seven Classes of Harm, only the top four are used for the purposes of the HHSRS as these are harms of sufficient severity that they will either prove fatal or require medical attention and, therefore, are likely to be recorded in hospital admissions or GP records.*
- C2 *Work on developing and refining the Statistical Evidence supporting the Rating System involved classifying a more comprehensive list of harm outcomes.*
- C3 *The examples given below are intended for guidance only. It should be noted that some of the harm outcomes may appear in more than one Class depending on the severity of the condition. For example, respiratory disease will be in Class II or III depending on the severity and duration.*

Class I

This Class covers the most extreme harm outcomes including: Death from any cause; Lung cancer; Mesothelioma and other malignant lung tumours; Permanent paralysis below the neck; Regular severe pneumonia; Permanent loss of consciousness; 80% burn injuries.

Class II

This Class covers severe harm outcomes, including: Cardio-respiratory disease; Asthma; Non-malignant respiratory diseases; Lead poisoning; Anaphylactic shock; Cryptosporidiosis; Legionnaires disease; Myocardial infarction; Mild stroke; Chronic confusion; Regular severe fever; Loss of a hand or foot; Serious fractures; Serious burns; Loss of consciousness for days.

Class III

This Class covers serious harm outcomes, including: Eye disorders; Rhinitis; Hypertension; Sleep disturbance; Neuro-psychological impairment; Sick building syndrome; Regular and persistent dermatitis, including contact dermatitis; Allergy; Gastro-enteritis; Diarrhoea; Vomiting; Chronic severe stress; Mild heart attack; Malignant but treatable skin cancer; Loss of a finger; Fractured skull and severe concussion; Serious puncture wounds to head or body; Severe burns to hands; Serious strain or sprain injuries; Regular and severe migraine.

Class IV

This Class includes moderate harm outcomes which are still significant enough to warrant medical attention. Examples are: 1 Pleural plaques; Occasional severe discomfort; Benign tumours; Occasional mild pneumonia; Broken finger; Slight concussion; Moderate cuts to face or body; Severe bruising to body; Regular serious coughs or colds.”



North Warwickshire
Borough Council

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Enforcement Policy for Electrical Safety in the Private Rented Sector

Author/ Responsible Officer: Director (Housing)

Date: June 2024

Version: 1.1

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1. Introduction

All tenants have a right to expect safe accommodation and for their rented property to promote good health and wellbeing. The Council are committed to improving standards in the private rented sector within North Warwickshire. We aim to achieve this by supporting the majority of landlords that provide good quality accommodation and by taking appropriate action against those landlords who breach legal requirements.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (“Regulations”) introduced new legal requirements for rented properties to cover new tenancies from 1 June 2020 and existing tenancies from 1 April 2021.

The electrical installation includes the fuse box, wiring and cables, socket outlets for connecting a range of appliances such as fridges or mobile phones and switches and light fittings within the home. It does not include portable electrical appliances. An electrical safety test will include these elements to ensure the installation is safe for residents and visitors. Landlords should also carry out visual inspections of the installations as part of their regular inspections of the property to ensure no damage has occurred and the installation is not being misused, including the overloading of sockets.

This policy outlines out how North Warwickshire Borough Council will impose civil penalties under the Regulations in accordance with Government Guidance and the Council’s Civil Penalties Enforcement Policy & Guidance. These documents outline what Officers shall have regard to when enforcing housing related legislation to ensure a fair and consistent approach is applied.

2. Requirements of the Regulations

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 provide duties for landlords of certain rented domestic properties in relation to managing risks associated with the electrical installation. Without prejudice to the wording of the regulations these include:

- Ensure national standards for electrical safety are met. These are set out in the 18th edition of the ‘Wiring Regulations’, which are published as British Standard 7671.
- Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years.
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test.

- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supply the local housing authority with a copy of this report within 7 days of receiving a written request for a copy.
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
- Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.

The inspection report will show that the installation is one of the following:

- Safe and no further action is required;
- Danger is present and there is a risk of injury (Code 1 (C1)). In this situation the cause of the danger would be rectified by the competent person before leaving the property;
- The installation poses a potential danger (Code 2 (C2));
- Further investigation is required without delay (FI);
- Improvement to the installation is recommended (Code 3 (C3)). Advisory and therefore works do not have to be completed.

Where the inspection report shows a C1, C2 or FI outcome, the landlord must ensure that suitable remedial works or investigations are undertaken. A C3 outcome is advisory and therefore works do not have to be completed.

3. What tenancies does it apply to?

The regulations apply to new specified tenancies from the 1st July 2020 and for existing specified tenancies from the 1st April 2021. A specified tenancy allows one or more persons the right to occupy all or part of the premises as their only or main residence and provides for payment of rent (whether or not a market rent); and is not:

- A tenancy where the occupier shares any accommodation with the landlord or a member of the landlord's family;
- A tenancy that is a long lease; or grants a right of occupation for a term of 7 years or more. A tenancy does not grant a right of occupation for a term of 7 years or more if the agreement can be terminated at the option of a party before the end of 7 years from the commencement of the term.

- A tenancy for student halls of residents, hostels, refuges, care homes, hospitals or hospices and other accommodation relating to the health care provision.

At the time of writing this policy it will be in force for all specified tenancies. The Council will therefore seek to ensure compliance with these Regulations and will request a copy of an electrical installation condition or electrical safety report for every service request dealt with regarding property standards.

4. Enforcement

If the Council are satisfied that the landlord is in breach of the requirements and the report doesn't indicate urgent remedial action is required, they have a duty to serve a remedial notice under the Regulations. Breaching the remedial notice may result in the Council serving a financial penalty.

Remedial Action

If the Council have reasonable grounds showing that the landlord has breached the regulations the Council **must** serve a remedial notice on the landlord within 21 days of deciding that it has reasonable grounds for service. The notice includes:

- The remedial action that is required to be undertaken within 28 days of service
- Details of how to make representations to the Council
- Explanation of the penalties (including the potential maximum penalty) that may result from non-compliance.

The landlord may make written representations against such a notice within 21 days, if made the notice is suspended until the representations have been considered. The Council must consider any representations and confirm that outcome of those considerations, in writing, within 7 days of the end of the representation period.

A landlord must comply with a remedial notice where either no representations are made, or the notice is confirmed (after consideration of the representations) unless they are able to claim that they have taken all reasonable steps e.g. Providing evidence that the tenant has prevented access.

If the landlord fails to comply with a remedial notice the Council **may** undertake the required remedial work themselves if the tenants agree. Before doing so, the Council must be satisfied on the balance of probability that there has been a breach of the remedial notice. Before work starts the Council must serve a notice of intention to take remedial action on the landlord. The notice includes:

- The nature of the proposed remedial work
- The date when the work will be undertaken
- Information on the right of appeal against the decision to do the work

The Council must arrange for an authorised person to undertake the remedial work within 28 days of the end of the intention to take remedial action notice expiry date (or within 28 days after confirmation of notice, if appealed). The tenants must be given at least 48 hours' notice before the remedial works starts.

A landlord may not be in breach of the Remedial Notice if they can evidence that they have taken all reasonable steps to comply with that duty.

Where the landlord is prevented from entering property for the purposes of the Remedial Notice by the tenant or tenants of that property, the landlord will not be considered to have failed to have taken all reasonable steps to comply with the Remedial Notice. To support this defence evidence of attempted appointments and refused access will be required covering a reasonable period. It will not be sufficient to provide only evidence of a single missed appointment and only pre-arranged visits will not be considered.

Urgent Remedial Action

Where an electrical report indicates that urgent action is required and the Council is satisfied that the landlord is not undertaking the necessary work, they may arrange (with the consent of the tenants) for an electrician to undertake the urgent work. The tenants must be given at least 48 hours' notice of the date to carry out the work. The Council must issue an urgent remedial action notice to the private landlord and every occupier either prior to or up to 7 days from the date when the remedial action commences. The urgent remedial action notice must include:

- The nature of the urgent remedial action required
- The date when the urgent work is or has been started
- Information on the right of appeal against the decision to do the work

5. Recovery of the Costs of Remedial Work

The Council may issue a demand to recover costs from the private landlord relating to remedial works undertaken which becomes payable after 21 days from the day of issue unless an appeal is submitted.

6. Civil Penalties

The Council will impose civil penalties under this legislation in accordance with the Council's Civil Penalties Enforcement Policy & Guidance. Landlords may make written representations to the Council within 28 days by post or by email to privatesectorhousing@northwarks.gov.uk. These representations will be considered by a Review Panel which will include an independent officer, senior or management position in addition to the case officer.

7. Houses in Multiple Occupation (HMO) Licensing

The Regulations introduced a new mandatory condition for HMO licenses stating that a licence holder must ensure that every electrical installation in the house is in proper working order and safe for continued use; and to supply the authority, on demand, with a declaration by him/her as to the safety of such installations.

As part of the licensing application process the Council requests an Electrical Installation Condition report.

8. Review of the Policy

The Council will keep the policy under review the effectiveness of the policy and may make amendments accordingly.

If you would like further advice please call 01827 715341 or email privatesectorhousing@northwarks.gov.uk

Alternatively, you can write to us at:

Private Sector Housing
North Warwickshire Borough Council
South Street
Atherstone
Warwickshire
CV9 1DE



North Warwickshire
Borough Council

MOBILE HOMES ACT 2013 FIT AND PROPER PERSON DETERMINATION POLICY

Introduction

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the manager of a site to be a Fit and Proper Person (“the Regulations”). North Warwickshire Borough Council (“the Council”) are required to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations¹.

The Regulations, allow local authorities to receive applications from site owners, or the person appointed to manage the site, from 1 July 2021 up to and including 30 September 2021.

The Council must be satisfied that the site owner “*is a fit and proper person to manage the site*” or, if the owner does not manage the site, “*that a person appointed*” to do so by the site owner “*is a fit and proper person to do so*” or has, with the site owner’s consent, “*appointed a person to manage the site.*”

Where a site owner or their manager fails the fit and proper person test, and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, the Council can instead appoint a person to manage the site, but only with the consent of the site owner.

Principally, the fit and proper person test applies to a “relevant protected site”. A relevant protected site is a site, which requires a licence and which is not solely for holiday purposes or is otherwise not capable of being used all year round. The fit and proper person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park home owners.

The Evidence

When conducting the fit and proper person assessment, The Council will consider:

¹ *i.e. it is a non-commercial, family occupied site under Regulation 3

1. **Is the individual able to conduct effective management of the site.** This includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site. It follows that, the Council must have regard to:

- (i) whether the person has a sufficient level of competence to manage the site;
- (ii) the management structure and funding arrangements for the site or
- (iii) the proposed management structure and funding arrangements.

(a) Competence to manage the site

This includes reviewing the competency of the appointed individual. The individual must have sufficient experience in site management, or have received sufficient training, and be fully aware of the relevant law as well as health and safety requirements.

The management structure and funding arrangements for the site

Whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. The Council should try and ensure that the applicant has a robust management plan, this should also be reviewed to ensure it addresses the following issues: the pitch fee payment, proximity of the manager to the site, manager's contact details for residents (including out of office and emergency contact details), the complaints procedure, maintenance, staffing, and refuse removal.

It is advisable that the site is managed by an applicant based in the UK and a management structure would be unlikely to be suitable if the applicant is an individual, or a company (including its directors), which does not reside or have a permanent UK address. This is because there may complex issues as a result of this, such as needing the court's permission to serve a claim in a foreign country. The applicant's interest in the land will also have an important impact, as would their financial standing, management structures and competence, all of which could contribute to the overall assessment of their suitability to manage the site effectively.

(c) The proposed management structure and funding arrangements in place for managing the site

Whether the applicant has sufficient funds (or has access to sufficient funds) to manage the site and comply with licence obligations. Evidence of these funds should be made available on request by the Council if required.

Another consideration is if funding is through a third party (including an associated company), the Council should be wary if this is not disclosed as this will impact on the Council's ability to deem whether the application is financially viable.

2. **Personal information relating to the applicant concerned.** This would include a self-declaration and basic Criminal Records Certificate check to evidence that the applicant:

- (a) has not committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- (b) has not contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
- (c) has not contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- (d) has not harassed any person in, or in connection with, the carrying on of any business;
- (e) is not or has not been within the past 10 years, personally insolvent;
- (f) is not or has not been within the past 10 years, disqualified from acting as a company director;
- (g) has the right to work in the United Kingdom and,
- (h) is a member of any redress scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place).

The Council have a duty to investigate any conduct which could amount to harassment and any evidence obtained should be reviewed to determine whether it is sufficient to be used to prosecute a site owner. Rely on convictions by the courts as evidence of harassing behaviour which would reduce the risk of the Council being successfully challenged on any refusal to approve an applicant on this basis.

The Council may have records of previous harassment complaints made against a site owner or their manager. Even if no action was taken on these complaints it is still advisable that these be taken into consideration in the fit and proper person determination.

These complaints may identify further potential risks and can also provide an indication of potential underlying problems with the management of the site or the site owner's lack of experience/skills in dealing with customers. The Council may address this by attaching conditions to the individual's entry on the register.

3. Upon rejection of a person's application this should be centrally recorded and include the details of the person involved and the reasons for the rejection.

Items to take into consideration

4. "The applicant" is defined at paragraph 2 of the Regulations as "the person who makes an application under regulation 6".
5. The "relevant person" is also defined at paragraph 2 of the Regulations to mean "the subject of the fit and proper person assessment under Regulation 7".

6. The conduct of any person associated or formerly associated with the relevant person (whether on a personal, work, or other basis) is also an important factor to be considered in the fit and proper person assessment.
7. Site owners may be required to provide details of any current or former associates of the relevant person in the application form. Those associates will not include other current joint owners as that information would have already needed to have been provided in their own application forms.
8. It is not routinely required to provide information of all current or past associates of the site owner. However, it is advisable that, prior to making any final decisions, the Council considers the conduct of past and current associates relevant to that individual's application. The site owner can be asked to provide additional information during the application process.
9. The Council need to establish whether an individual is considered to be an associate of the relevant person and then whether their conduct is relevant to the application. A relevant associate could be defined as any individual who may have played a part, directly or indirectly, in a decision or action, which has had an impact on residents' rights, or the quiet enjoyment of their homes.
10. The Regulations are drafted widely giving the opportunity to take into consideration other relevant matters. However, the Council should be cognisant that poor management practices do not affect a person's conduct, unless they are also a breach of the criminal or civil law.

A person cannot be deemed unfit due to conduct, simply because of poor management, although that factor is highly relevant to determining any question of suitability or competence. However, all conduct is relevant in relation to the person's fitness to hold a licence and/or manage the particular mobile home site.

11. The Council are able to decide the specific matters they deem relevant to the fit and proper person application. These matters could be in relation to current or previous issues, or events, that have occurred in relation to the park site or any other park site owned or managed by the site owner or site manager in another local authority area.

Additionally, the site owner's conduct regarding other business, outside of the park homes sector, can also have implications on the financial and management arrangements of the site in question. Any matters which the Council believe to be of relevance to the application should primarily focus on the relevant person's conduct, competence, and their suitability to manage the site.

12. Allegations which have not been investigated or documented may be difficult to use as evidence to support an authority's decision. Therefore, evidence must be obtained to support any additional matters taken into consideration for the application. This is to mitigate any risks should they face being challenged at a tribunal because of their final decision. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions.

Applications

The Regulations use various terms in the application process, and these are outlined below:

As mentioned earlier “Relevant person” is defined in paragraph 2 of the Regulations and is “the subject of the fit and proper person assessment under Regulation 7”. Please note that this could be the site owner or person appointed to manage the site by the site owner.

“Relevant officer” is defined in paragraph 1 of Schedule 2 of the Regulations, where the applicant is a company, a relevant officer will be a director or other officer of the company; or, where the applicant is a partnership, a partner; or, where the applicant is a body corporate, a member of the management committee of that body.

“Required Information” is defined in paragraph 14 of Schedule 2 of the Regulations (even though the Regulations incorrectly state that this information is contained in paragraph 13) as: the person’s name and business contact details; details of the person’s role or proposed role in relation to the management of the site; where the person has not yet been appointed, the address, telephone number and email address (if any) at which the person may be contacted in respect of the application; details of each relevant protected site (other than that to which the registration application relates) — for which the person holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960, or in which the person has a legal estate or equitable interest, or which the person manages.

The application for inclusion in the fit and proper register, must therefore include the following:

The applicant and site details required

13. Details of the site and the applicant:

- (1) The applicant’s name and business contact details.
- (2) Where the applicant is not an individual, the following information in relation to the individual completing the application on behalf of the applicant and each relevant officer:
 - (i) the person’s name;
 - (ii) details of the person’s role (if any) in relation to the management of the site.
- (3) The name and address of the site.
- (4) Evidence of the applicant’s legal estate or equitable interest in the site.
- (5) Confirmation that the applicant is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.
- (6) The name and business contact details of any other person that has a legal estate or equitable interest in the site.

14. The name and address of each other relevant protected sites:

- (1) for which the applicant holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;
- (2) in which the applicant has a legal estate or equitable interest; or
- (3) that the applicant manages.

15. The applicant must clearly specify whether their application is made in respect of either the applicant, or site owner, or the person that the applicant or site owner has appointed to manage the site.

Information relating to the site manager

16. In circumstances where a “site manager” has been appointed to manage a site more information is needed. The person who is applying for the site manager to be registered as a fit and proper person (the relevant person) must provide the following information: the site manager’s name and details of that person’s role (if any) in relation to the management of the site.

If the site manager has appointed or intends to appoint a further individual (“A”), ‘Required Information’ would also be needed from A. And where A is not a relevant officer of the site manager, the relevant officer to whom A is accountable for the day-to-day management of the site, should be the one to provide the Required Information.

Additional information when the applicant is the relevant person and an individual

17. When the applicant is the relevant person, and is an individual, and the applicant has appointed, or intends to appoint, someone else (“B”) to be responsible for the day-to-day management of the site, ‘Required Information’ would be needed from B. If B is not an individual but is, instead, for example, a company, and B has appointed an individual (“C”) to do the day-to-day management, ‘Required Information’ would be needed from C. Where C is not a Relevant officer of a company, the relevant officer to whom C is accountable for the day-to-day management of the site would also need to provide the Required information.

Additional information where applicant is relevant person and not an individual

18. When the applicant is the relevant person but is not an individual and the applicant has appointed or intends to appoint someone else (“B”) to be responsible for the day-to-day management of the site, Required information would be needed from this person. If B is not a Relevant officer of the applicant, the person to whom B is accountable for the day-to-day management of the site (“C”) would also need to provide the Required Information. Where B itself is not an individual, the individual (“D”) that B has appointed or intends to appoint to be responsible for the day-to-day management of the site would also need to provide the Required Information. Where D is not a Relevant officer of B, the relevant Officer to whom D is accountable for the day-to-day management of the site would also need to provide the Required Information.

19. It can be seen from the above that the Regulations prohibit the operation of a relevant protected site unless the site owner or its site manager (whatever the

management structure might be) has been assessed by the Council as a fit and proper person to do so. This has been included to ensure that consistent standards are applied to companies and other organisations that are not individuals.

Criminal record certificates/Self-certification

20. The Council will seek a basic Criminal Records Certificate and self-declaration from applicant's to demonstrate compliance with paragraph 2 (a)-(h) as part of the application by both the licence holder and any manager.

Declaration

A declaration made and signed by the "appropriate person", which means:

- (a) where the applicant is a company, a director or other officer of the company;
- (b) where the applicant is a partnership, one of the partners;
- (c) where the applicant is a body corporate and the conduct of the management of the body is vested in its members, a member;
- (d) where the applicant is not a body falling within (a) to (c) above, a member of the management committee;
- (e) where the applicant is an individual, that individual.

21. Where the applicant is not the relevant person, the declaration must confirm that the applicant has made all reasonable enquires into the matters mentioned in paragraph 9 of the Regulations and considerations relevant to the fit and proper person assessment as set out below.

22. The declaration should also state that the information provided in the application is correct and complete to the best of the applicant's knowledge and belief.

Considerations relevant to fit and proper person assessment

23. Proper management of the site includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site.

24. To be able to secure the proper management of the site, the Council must (amongst other things) have regard to whether the relevant person has a sufficient level of competence to manage the site and the management structure or proposed management structure and funding arrangements.

Decisions, notification and rights of appeal

25. The Council must decide on the application in a timely and practicable manner and either:

- (a) where the decision is to grant the application unconditionally and include the relevant person on the register for 5 years, serve a final decision notice on the applicant; or
- (b) otherwise, serve a preliminary decision notice on the applicant.

26. On receipt of an application the Council may:
- (a) grant the application unconditionally;
 - (b) grant the application subject to conditions; or
 - (c) reject the application.

Granting the application unconditionally

27. Where the Council is satisfied that the applicant meets the fit and proper person test unconditionally, they must include the applicant on the register for 5 years. The authority must issue a final decision notice to the applicant to inform them of its decision.

28. The final decision notice must clearly state:
- (a) the date the final decision notice is served;
 - (b) the final decision;
 - (c) the reasons for the decision;
 - (d) when the decision is to take effect;
 - (e) information about:
 - (i) the right of appeal to the First Tier Tribunal; and
 - (ii) the period within which an appeal may be made.

To include the applicant on the register subject to certain condition(s)

29. In some circumstances, the Council can specify that the individual for the fit and proper person test will only be successful if certain conditions are met. If these conditions are satisfied, the Council can grant an application subject to those condition(s). The Council can also grant an application for less than 5 years.

30. It may be the case that the Council decides to include the person on a register subject to condition(s), if it would only be satisfied that the person would meet the fit and proper requirement if the condition(s) were complied with. An applicant will be able to appeal against the decision to attach (or vary) any condition to an entry on the register. It is therefore imperative that the reasons are clear and justifiable for attaching any condition(s) and that any conditions imposed can be enforced.

What can a condition relate to?

31. The fit and proper person test is aimed at ensuring that the person managing the site is competent and the conditions should relate directly to the person's ability to secure the proper management of the site.

32. Where a person has contravened legislation, or committed offences set out in paragraph 2 above, it is not recommended that conditions are set in relation to those matters. For example, if a person has committed fraud or violence, that specific incident cannot be reversed by requiring the person to perform a specific task.

33. Where the person has committed those listed offences or contravened legislation, these breaches will be considered, together with all the other information available, when reaching a preliminary decision.
34. Conditions can relate to any factors which are relevant to the person's competence to manage the site, the management structure, or funding arrangements for the site, an associated person's influence, and any other relevant factors.

Example Conditions (not exhaustive List)

35. **Example 1** - The Council has evidence of a site owner's failure over a certain period of time to address residents' complaints. This is an example of poor management which could be resolved by the site owner implementing an adequate complaints procedure. A condition could be attached requiring the site owner to *"implement an effective and accessible three stage complaints process for residents by xx date and provide the LA with quarterly reports of complaints and outcomes, from that date and for the first year"*.

If the condition is met within the specified time frame, the Council can record this in the register. If, at a future date, it is found that the site owner failed to implement a complaints procedure, a further opportunity to comply may be given and this could include a new condition of the site owner providing quarterly reports of complaints and outcomes for each year. The site owner could also be expected to complete a relevant "CPD customer service/Dealing with complaints" course by a certain period. However, should the Council consider the actions as unlikely to achieve the desired outcome, the site owner could be removed from the register.

36. **Example 2** – If, when considering an application, certain documents or information are unavailable to the applicant, because of delays from third parties, the Council may wish to attach a condition to the entry on the register that the site owner "is to provide the authority by registered post, with the original xx document by xx date".
37. **Example 3** - An associated person has been visiting the park and, through their action 'X', has caused distress to the residents impacting their well-being and security. A condition could be attached to the register requiring the site owner to put measure(s) in place by xxx date preventing the associated person, or any other person, from carrying out action X on the site.

Decisions not to include the applicant on the register

38. Should the Council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, the Council can refuse to grant the application.
39. Where the Council makes a decision to include the applicant on the register, subject to conditions, or not to include the applicant on the register, a preliminary decision notice to the applicant must be issued.
40. The preliminary decision notice must clearly state:

Date: June 2024

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- (a) the date the preliminary decision notice is served;
- (b) the preliminary decision;
- (c) the reasons for it;
- (d) the date it is proposed that the final decision will have effect;
- (e) information about the right to make written representations
- (f) where the preliminary decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
- (g) where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any conditions.

Right to make a representation

- 41. An applicant who receives a preliminary decision notice will have 28 days in which to make representations to the Council. The 28-day period begins with the day after the day on which the notice was served.
- 42. The Council is obliged to consider and take any representations it receives into account before making a final decision.

Final decision notice

- 43. The Council must, as soon as reasonably practicable, after the end of the period allowed for making representations, make a final decision and serve the decision notice on the applicant.
- 44. The final decision notice must set out:
 - (a) the date the final decision notice is served;
 - (b) the final decision;
 - (c) the reasons for it;
 - (d) when the decision is to take effect;
 - (e) information about the right of appeal and the period within which an appeal may be made;
 - (f) where the decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
 - (g) where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.

Appeals

- 45. The applicant can decide to appeal the decision by making an application to the First-tier Tribunal (Property Chamber) (“the tribunal”) within specific timeframes set by the tribunal. The applicant is permitted to appeal against any decisions served by the Council. These could include:
 - (a) including the relevant person on the register for an effective period of less than 5 years;
 - (b) including the relevant person on the register subject to conditions; and

(c) rejecting the application.

46. Where an applicant accepts the Council's decision not to include the person originally stated in the application on the register, they will be required to seek alternative management arrangements to comply with the fit and proper person requirement. If they fail to do so they will be committing an offence.

47. An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal.

Withdrawal or amendment of notice

48. The Council may decide not to continue or to withdraw a previously agreed action such as after serving:

(a) a preliminary decision notice but before service of the final decision notice;

(b) a final decision notice but before the decision to which it relates takes effect; or

(c) a notice of proposed action but before the proposed action is taken.

49. To withdraw or amend a notice, the Council must serve notice to the person on whom the original notice was served.

50. There are no requirements for notices to contain specific information, however a withdrawal or amendment notice should state:

(a) That it is withdrawing/amending the original notice (a copy of the original notice should be attached for reference);

(b) the reasons for withdrawing the notice;

(c) the date it takes effect; and,

(d) the implications of the decisions in relation to the person's entry on the register.

Removal from the register

51. If, after a person is included in the register, and new evidence relevant to the person's inclusion becomes available, the Council may decide to:

(a) remove the person from the register;

(b) impose a condition on the inclusion of the person in the register (whether or not there are conditions already imposed);

(c) vary a condition; or

(d) remove a condition.

52. The Council will use their judgement when determining whether to review an entry and consider if any subsequent actions are required. It is recommended that any such decision should be related to the person being a fit and proper person rather than, for example, site licensing issues which are governed separately. If the Council decides to take any of the actions listed in paragraph 51 (a) to (c) above, the Council must serve a notice of any proposed action on the occupier.

53. The notice of proposed action must clearly state:

- (a) the date the notice of proposed action is served;
- (b) the action the Council proposes to take;
- (c) the reasons for it;
- (d) the date it is proposed that the Council will take the action;
- (e) information about the right to make written representations;
- (f) where the proposed action requires the removal of a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
- (g) where the proposed action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with said conditions.

54. A notice of proposed action is not required if the Council decides to remove a condition attached to an entry. The Council will make the site owner or their manager aware of the decision in writing and ensure the register is updated.

Notice of action taken

55. Where a notice of proposed action is given, the occupier will have 28 days, starting from the day after the notice is served, in which to make representations.

56. The Council must, as soon as reasonably practicable after the end of the 28-day period, decide whether to carry out the proposed action.

57. Where the Council decides to take the action, the Council must serve a further notice on the occupier, indicating the action that has been taken, within the period of 5 working days beginning with the day after the day on which the action was taken.

58. The notice of action must set out—

- (a) the date the notice of action is served;
- (b) the fact that they have taken the action;
- (c) the reasons for doing so;
- (d) the date the action was taken;
- (e) information about the right of appeal and the period within which an appeal may be made;
- (f) where the action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulations; and
- (g) where the action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition.

Offences

59. There are 3 offences which can occur within the Regulations. They are as follows:

- Operating a site in contravention of the fit and proper person regulations - The site owner will have certain defences under the Regulations in any proceedings brought against them.
- Withholding information or including false or misleading information in the registration application - The site owner will not have any defences under the Regulations in any proceedings brought against them for this offence.
- Failing to comply with a specified condition - The site owner will have certain defences under the Regulations in any proceedings brought against them.

60. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

Defences

61. One defence is available to a site owner who has inherited a site and would be found to have a reasonable excuse for failing to make an application within the relevant periods as set out below.

Relevant periods in specific circumstances

Row	Circumstance	Relevant period for making an application in the circumstance
1	the occupier held a site licence immediately before the day on which regulation 4 (operating a site without being a fit and proper person) came into force on 1 October 2021.	From 1 st July 2021 before 1 October 2021, the day on which regulation 4 came into force
2	the period of a person's inclusion in the register in relation to the site has come to an end other than as a result of action by the Council under regulation 8(1)(a) (removal from the fit and proper register after new relevant evidence becomes available).	not less than two months before the end of the period of the person's inclusion in the register
3	at the time that the occupier became entitled to within the period of 3 months possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant local authority of its intention to make an application under regulation 6 (application for inclusion in the register)	beginning with the day after the day on which the person became the occupier of the land
4	at the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and the occupier does not give the notification referred to in row 3 above	within the period of 28 days beginning with the day after the day on which the person became the occupier of the land
5	a person appointed to manage the site no longer does so; and within the period of 28 days beginning with the day after the relevant day the occupier notifies the relevant local authority that the person no longer does so	within the period of 3 months beginning with the day after the relevant day

6	a person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row 5 above	within the period of 28 days beginning with the day after the relevant day
7	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the Council has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the Council's decision the occupier notifies the relevant local authority of its intention to make a new application under regulation 6 (application for inclusion in the register) in relation to the site	within the period of 3 months beginning with the relevant day
8	the breach of regulation 4(1) arises because the Council has removed a person from the register; and the occupier does not give the notification referred to in row 7 above	within the period of 28 days beginning with the relevant day
9	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the Council has rejected an in-time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the occupier notifies the relevant local authority of its intention to make a new application under regulation 6	within the period of 3 months beginning with the relevant day
10	the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the Council has rejected an in-time application; and the occupier does not give the notification referred to in row 9 above	within the period of 28 days beginning with the relevant day

The Fit and Proper Persons Register

62. This register must be open to inspection by the public during normal office hours. This register will also be published online.

63. The register will provide a record of the outcome of the fit and proper person tests the Council have carried out for sites. The register must include the following:

- (a) the name and business contact details of the person;
- (b) the name and address of the relevant protected site to which the application relates;
- (c) the status of the person (site owner or manager of the site);
- (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
- (e) whether any condition is attached to the person's inclusion in the register; and
- (f) where any condition is attached to the person's inclusion in the register—
 - (i) the number of any such conditions;
 - (ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - (iii) the date any condition is varied or satisfied (if applicable).

64. Where a person has met the fit and proper person test, the register will give details of that person and of the site, including decisions made on how long a person's inclusion is for, up to a maximum of 5 years.
65. In order to comply with the fit and proper person requirement a site owner must at least two months before the period (e.g. 5 years) comes to an end submit a new application for the person (or alternative) to be included in the register.
66. Where there are rejected applications, the following information must be included in the register:
- (a) the name and address of the site to which the application relates;
 - (b) that an application in respect of the site has been rejected; and
 - (c) the date on which the application was rejected.

Details of the rejected application will remain on the register until a successful fit and proper person application is made in respect of the owner or manager of the site.

It must be noted that the name of the rejected applicant will not be included on the register. The Council will however be able to consider requests for further information about the entry on the register, for example, the details of the specific conditions attached and any additional information, on a case by case basis and in accordance with data protection legislation.

67. Where the Council has, with the site owner's consent, appointed a person to manage the site, the Council must include the following information:
- (a) the name and business contact details of the person;
 - (b) the name and address of the site which the person has been appointed to manage;
 - (c) the status of the person;
 - (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
 - (e) whether any condition is attached to the person's inclusion in the register; and
 - (f) where any condition is attached to the person's inclusion in the register—
 - (i) the number of any such conditions;
 - (ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - (iii) the date any condition is varied or satisfied (if applicable).

Initial Equality Impact Assessment Pro Forma

Section	Housing	Officer responsible for the assessment	Robert Watson			
Name of Policy to be assessed	Environmental Health and Private Sector Housing Enforcement Policy	Date of Assessment	7 May 2024	Is this a new or existing policy ?	new	
1	Briefly describe the aims, objectives and purpose of the policy.	To provide guidance on the options available to achieve compliance with legislation enforced by North Warwickshire Borough Council services and how this will be delivered, by who and the principles to be followed.				
2	Are there any associated objectives of the policy? Please explain.	<ul style="list-style-type: none"> • Provide guidance on options to achieve regulatory compliance • Outline what is considered relevant • Outline standards used and evidence required 				
3	Who is intended to benefit from this policy, and in what way?	Residents, landlords, business by ensuring the council operate in a open and transparent fashion. Council officers and internal departments by giving clear guidelines on the options available.				
4	What outcomes are wanted from this policy?	Provide clear advice on education and enforcement as far as reasonably practicable.				
5	What factors/forces could contribute/detract from the outcomes?	That failing to take action in a clear, adopted and proportionate way be open to legal challenge.				
6	Who are the main stakeholders in relation to the policy?	Residents, businesses, tenants and landlords.	7	Who implements the policy, and who is responsible for the policy?	Env Health and Private Sector Housing	
8	Are there concerns that the policy could have a differential impact on racial groups?	Y	N	Please explain. Open to all users of the service and council officers on the same terms.		
What existing evidence (either presumed or otherwise) do you have for this ?						

9	Are there concerns that the policy could have a differential impact due to gender?	Y	N	Open to all users of the service and council officers on the same terms.
What existing evidence (either presumed or otherwise) do you have for this?				
10	Are there concerns that the policy could have a differential impact due to disability?	Y	N	Open to all users of the service and council officers on the same terms. Where any person who may be subject to enforcement action is deemed vulnerable, national guidance such as the Code for Crown Prosecutors will be followed.
What existing evidence (either presumed or otherwise) do you have for this?				
11	Are there concerns that the policy could have a differential impact due to sexual orientation?	Y	N	Open to all users of the service and council officers on the same terms.
What existing evidence (either presumed or otherwise) do you have for this?				
12	Are there concerns that the policy could have a differential impact due to their age?	Y	N	Open to all users of the service and council officers on the same terms.
What existing evidence (either presumed or otherwise) do you have for this?				
13	Are there concerns that the policy could have a differential impact due to their religious belief?	Y	N	Open to all users of the service and council officers on the same terms.
What existing evidence (either presumed or otherwise) do you have for this?				

14	Are there concerns that the policy could have a differential impact due to them having dependants/ Caring responsibilities?	Y	N	Open to all users of the service and council officers on the same terms.
What existing evidence (either presumed or otherwise) do you have for this?				
15	Are there concerns that the policy could have a differential impact due to them having an offending past?	Y	N	Open to all users of the service and council officers on the same terms.
What existing evidence (either presumed or otherwise) do you have for this?				
16	Are there concerns that the policy could have a differential impact due to them being trans-gendered or transsexual?	Y	N	Open to all users of the service and council officers on the same terms.
What existing evidence (either presumed or otherwise) do you have for this?				
17	Could the differential impact identified in 8 – 16 amount to there being the potential for adverse impact in this policy?	Y	N	Please explain.
18	Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or any other reason?	Y	N	Please explain for each equality heading (questions 8-16 on a separate piece of paper).
19	Should the policy proceed to a partial impact assessment?	Y	N	

20 If Yes, is there enough to a full EIA?	Y	N	NA
21 If no please detail the steps taken to minimise the adverse impact?			
22 Date on which Partial or Full assessment to be completed by.	Y	N	NA
<p>Comments</p> <p>This policy has not been considered to impact negatively on any of the protected characteristics. Further impact assessment is therefore not considered to be necessary. Public consultation will take place by a variety of means and should any consideration be identified the assessment will be revisited.</p>			
<p>Signed (Completing Officer) :Robert Watson.....</p> <p style="text-align: center;">Date :7 May 2024.....</p>			
<p>Signed (Head of Section):Angela Coates.....</p> <p style="text-align: center;">Date:</p>			

Agenda Item No 11

Resources Board

3 June 2024

Report of the Director of Housing

Housing Ombudsman Service – Statutory Complaints Handling Code

1 Summary

- 1.1 This report asks the Board to consider the revised complaints policy for its domestic stock and to comment on how the Housing Division is handling complaints received about the service.

Recommendation to the Resources Board

- a That the revised complaints handling policy for the Council's services to its tenants be agreed and adopted;
- b That the report about the complaints received during 2023-2024 be considered; and
- c That the completed self assessment against the Code requirements be considered.

2 Consultation

- 2.1 The Housing Task and Finish Group have considered the new policy and recommend it to the Board.
- 2.2 The Borough Wide Tenants Forum have considered and commented on the new policy.

3 Statutory Code Requirements

- 3.1 The Housing Ombudsman Complaint Handling Code became a statutory requirement from 1 April 2024 for all social housing landlords.
- 3.2 The foreword to the Code says "The heartbeat of this code is enabling a positive complaints culture across the social housing sector."
- 3.3 The Ombudsman says "Landlords must embrace complaints through increased transparency, accessibility and complaint handling governance, demonstrating that residents are core its service delivery and good complaint handling is central to that."

3.4 The Ombudsman will monitor compliance in three ways. This will involve ensuring the landlord:

- has scrutinised and challenged its compliance with the Code, complaints handling performance and learning from complaints at its governing body and published the outcome on its website;
- complies with the code in policy, and that any deviations are explained and are reasonable;

3.5 Complaints must be acknowledged within 5 working days. Landlords must respond to a complaint at Stage 1 in 10 working days. Responses at Stage 2 must be within 20 working days.

3.6 Landlords must:

- have a person or team assigned to take responsibility for complaint handling. This role may be in addition to other duties.
- appoint a suitably senior lead person as accountable for their complaint handling. This person must assess any themes or trends to identify potential systemic issues, serious risks, or policies and procedures that require revision
- appoint a member of the governing body to have a lead responsibility for complaints to support a positive complaint handling culture. This person is referred to as the Member Responsible for Complaints (the MRC)

3.7 At the Full Council meeting on 21 February 2024 Councillor Denise Clews will be appointed as the Member Responsible for Complaints.

4 **Complaints Policy**

4.1 The revised complaints policy, which meets the requirements of the Complaint Handling Code is attached at Appendix A for the Board to consider and offer comments.

4.2 A short report which provides information about the complaints which were responded to during 2023/2024 is attached at Appendix B.

4.3 The assessment against the code is attached at Appendix C.

5 **Report Implications**

5.1 **Finance and Value for Money**

5.1.1 Social Landlords pay a fee to fund the Housing Ombudsman Service. We have been notified that the fee will increase this year. North Warwickshire currently paid £14,915 last year. Sometimes it is appropriate to offer compensation as well as offering an apology to a customer and this is paid from the budget of the service which was the subject of the complaint.

5.2 Legal Implications

5.2.1 The Housing Ombudsman Complaints Handling Code is a statutory requirement aligned to the Social Housing Regulator's Consumer Standards. Both became a legal requirement on 1 April 2024 for all providers of social housing.

The Contact Officer for this report is Angela Coates (719369).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
Social Housing (Regulation) Act 2023	Government	Legislation	2023
Regulator of Social Housing – Consumer Standards & Code of Practice	Regulator of Social Housing	Statutory Regulations	21 April 2024
Housing Ombudsman Service – Statutory Code of Practice	Housing Ombudsman Service	Statutory Regulations	1 April 2024
Decent Homes Standards	Government	Statutory Guidance	2006

North Warwickshire Borough Council

Housing Landlord Services

Complaints Policy and Procedure – DRAFT – March 2024

We want to hear from you

The Council is committed to providing positive housing services that meet our published standards and deliver good customer care. To do this we need to know what is working well and what we need to do to improve.

If you have not contacted us before to tell us about the issue(s), please do this first. For example, if you have not reported a repair to us, or need to tell us about a problem on your estate, please contact us and allow us to try and put things right. However, if you have previously contacted us and are not happy with the outcome then you may wish to make a formal complaint.

This policy and summary information will be published on our website.

Feedback

Our teams want to provide a good service. We are committed to improving our services to meet our customer's needs.

If we do something well it is great to have your feedback so that we know that we are on track and working to your expectations. It is also helpful for staff to know that their efforts are appreciated. We share compliments with our staff and contractors.

If you receive a poor service please tell us so that we can put it right. It also helps us learn from it to improve our services for all of our tenants.

Contact us by

- Using a form on our website
- By e-mail to complaintsandcompliments@northwarks.gov.uk
- By phone to 01827 715341
- In writing to The Council House, South Street, Atherstone, CV9 1DE
- Using the form included below

Request for Service and Complaints

Sometimes tenants contact us to tell us that something has gone wrong and they need us to put it right (for example a missed appointment or returning to do a repair). These are service requests and we will act promptly to deal with them.

Generally the following are not dealt with as complaints:

- An initial or follow up request for service
- An information request
- An insurance claim or a matter which is subject to legal proceedings

A complaint is an expression of dissatisfaction, however made, about the standard of service actions or lack of action by the Council, its own staff, or those acting on its behalf, affecting a resident or group of residents.

Our complaints procedure reflects the Housing Ombudsman's Complaint Handling Code. We will acknowledge a complaint when a resident expresses dissatisfaction with the response to their service request. When the action or lack of action has resulted in service failure a complaint arises. This includes:

- Services delivered directly by the Council or its contractor
- The standard or quality of the service
- Failure to follow policy or procedure
- The behaviour of staff or contractors

We will act fairly when investigating a complaint. Investigating officers will seek to carefully consider all of the available information, act independently with an open mind and keep the matter confidential.

We will use information from complaints to improve our services and we will consider trends to inform changes which may be required to our systems of work.

We will follow our published procedure to endeavour to resolve a complaint. We recognise that effective complaint handling should be a customer friendly process that enables residents to be heard, listened to and understood. The starting point for this is a mutual understanding of what constitutes a complaint.

A resident does not have to use the word 'complaint' for it to be treated as such. We recognise the difference between a service request, survey feedback and a complaint and take appropriate steps to resolve the issue for residents as early as possible. We classify each complaint we receive under one of the two stages of complaint:

Stage 1 Formal Complaint Investigation

A complaint will be investigated by an officer that has not previously been involved in the case.

We will note and acknowledge the complaint in five working days. We will say who is dealing with the complaint and keep you informed. We will provide the expected response date.

Our aim is to investigate and make a decision within 10 working days from receipt of complaint. If this is not possible an explanation will be provided and an alternative date not longer than 20 working days.

Our intention will be to apologise, explain what happened and make it right. We will act quickly and keep you up to date.

The Housing Services Manager and Maintenance Manager lead on complaint resolution and response. They are assisted by the Performance and Quality Officer. One of these Managers will investigate the complaint and respond or appoint an officer of appropriate seniority to do so. The process will be overseen and recorded by the Chief Executive's Team.

If we need to seek further information from you in order to fully understand your complaint we will contact you.

Stage 2 Review of Decision

If a complainant is not satisfied with the explanation and resolution of their complaint they can ask for the matter to be reviewed. Residents are not required to explain their reasons for requesting a stage 2 consideration however we will endeavour to find out why you are not happy with our response.

Our aim is to make a decision within 20 working days from the request to escalate the complaint. If this is not possible an explanation will be provided and an alternative date not longer than a further 10 working days will be proposed. We will send an acknowledgement and provide the expected response date.

The Director of Housing or other nominated senior officer will investigate the complaint and respond or appoint an officer of appropriate seniority to do so. The process will be overseen and recorded by the Chief Executive's Team. We will keep you informed during the investigation.

Response

A response to a complaint will address all the points raised by the complainant and provide clear reasons for any decisions, referencing the relevant policy, service standard, law and good practice where appropriate.

In our communications we will clearly state the stage at which the complaint is being dealt with, the outcome of the complaint, the reasons for any decisions made, details of any remedy offered, outstanding actions and information about how to escalate the matter if dissatisfied.

Our intention will be to apologise, explain what happened and make it right. We will act quickly and keep you up to date.

At any stage we will confirm in writing at the completion of our response to each complaint made;

- The complaint stage.
- The complaint definition.
- The decision on the complaint.
- The reasons for any decision made.
- The details of any remedy offered to put things right.
- Details of any outstanding actions.
- If a Stage One response, details of how to escalate the matter to Stage Two if the resident is not satisfied.
- If a Stage Two response, details of how to escalate the matter to the Housing Ombudsman Service if the resident remains dissatisfied.

Remedy

When responding to a complaint we will act to put in place remedial action. This will be decided on a case by case basis and careful consideration will be given to what is fair in the circumstances. Where appropriate we will look beyond a particular case and seek to improve our systems of work, procedures or policies to ensure it does not happen again.

Apology

Sometimes the only resolution required to a complaint is an apology. If we apologise we will also acknowledge the service failure, accept responsibility, give an explanation for the service failure and express regret for the failure.

Specific Action

The complaint handler will consider whether there is any specific action required to rectify the complaint. This can include reconsidering or changing a decision.

Financial Compensation

Any decision to make an award of financial compensation will be based on what is decided is fair given the circumstances of the case. The amount of compensation paid will consider actual financial loss sustained as a direct result of the service failure and avoidable inconvenience, distress, detriment or unfair impact as a direct result of the service failure.

Policies and systems of work

Sometimes the feedback we receive may result in a change to a system of work, policy, procedure or practice.

Equalities

We recognise that sometimes this policy will have to be adapted to meet a tenant's particular circumstances. We will make reasonable adjustments as required by the Equalities Act 2010. We will ensure that people with disabilities are not disadvantaged by this policy.

Examples are to provide documents and information in a variety of formats and if needed provide documents in larger print. Where it may be difficult for an individual to make a complaint formally in writing we will accept complaints verbally, in a meeting or from a third party that can act in the best interests of the complainant.

Housing Ombudsman

We will endeavour to resolve your complaint to your satisfaction. If you decide that we are not doing so you can contact the Housing Ombudsman at any stage to seek advice and assistance.

The Ombudsman will investigate the complaint and make recommendations for the Council to resolve it – this may include a compensation payment.

Full details of the Housing Ombudsman service can be found on their website - www.housing-ombudsman.org.uk

Their e-mail is info@housing-ombudsman.org.uk

Their telephone number is 0300 111 3000

Address – PO Box 152 Liverpool L33 7W

Some housing related complaints can be considered by the Local Government and Social Care Ombudsman. More information about this can be found on their website.

www.lgo.org.uk

Telephone 0300 061 0614

PO Box 4771 CV4 0EH

Learning from Complaints

We will use information from complaints to consider our systems of work and how we behave towards our customers. In doing so we will encourage teams to use them to understand how our service is received.

The Housing Division provides summary reports and trend assessments for Councillors and tenants to consider. There is a designated person – the Member Responsible for Complaints – who is responsible for ensuring that the Council's Executive Board receives regular information on complaints and our complaint handling performance.

A report will be provided annually about complaints performance and a service improvement report. This will be submitted to the Council's Resources Board and to the Borough Wide Tenants Forum to invite scrutiny and challenge.

Information about complaints and compliments will be provided in our Annual Report.

Name	
Address	
Please tell us if you making a Compliment, complaint or comment	Compliment
	Complaint
	Comment
Contact telephone number	
e-mail address	
Preferred method of contact: Telephone/ e-mail/ letter	
Brief details of your compliment, complaint, comment	
How would you like your complaint to be resolved?	

Example of Requests for Service and Complaints

Case study A – Resident calls to report contractor has not arrived at the agreed time

Ms B calls her landlord to report that the contractor that was due to attend her property that morning has not arrived. Ms B is not happy as she had taken the morning off work for the appointment. The call handler checks the system but is unable to explain to Ms B why the contractor did not arrive. The call handler asks Ms B if they can try and contact the contractor and call her back within the next hour. Ms B agrees. The call handler speaks to the contractor who explains they were held up at another job that took longer than expected. The call handler calls Ms B, explains the situation, and apologises. The call handler offers Ms B another appointment at a time that suits Ms B, and Ms B is satisfied with the explanation and resolution.

This is an example of a 'there and then' situation where the resident may be dissatisfied with the service provided on that morning, but the landlord is able to quickly resolve the issue to the resident's satisfaction with minimal further enquiries. Whilst this does not need logging as a complaint, the landlord should keep a record of the call and should consider if there is any learning (i.e. should the landlord have been informed the contractor was delayed so it could alert Ms B and any other affected residents)

Alternative scenario

Ms B calls her landlord to report that the contractor that was due to attend her property that morning has not arrived. Ms B is not happy as she had taken the morning off work for the appointment. The call handler checks the system but cannot see an appointment for Ms B that day. Ms B is adamant she had an appointment that morning and explains she received a text message from the landlord with the date and timeframe. The call handler is unable to explain to Ms B why there was no appointment on the system and offers its apologies. The call handler also arranges another appointment and advises Ms B that it has opened a complaint on her behalf.

Whilst the landlord can offer Ms B another appointment, it is unable to adequately explain why Ms B was told a contractor would attend that morning when there is no appointment on its systems. The landlord will need to investigate why this has happened, which could involve interrogating the system and speaking with other departments. Whilst Ms B may have been satisfied with a further appointment, a positive complaints handling culture would explore why this has happened to try to put it right for the resident and to learn from any mistakes.

Case study B – Resident calls to report a repair

Mr D calls the landlord to report a leak from one of his radiators. Mr D says the radiator has been leaking for a few months, but it has recently got worse. Although it has been leaking for a few months, this is the first time Mr D has contacted his landlord about it.

This is a service request and should be handled in accordance with the landlord's repairs policy.

Alternative scenario A

Mr D calls the landlord regarding a leak from one of his radiators. Mr D says the radiator has been leaking for a few months and has recently got worse. Mr D tells the call handler that he has reported the leak several times and he was told each time that someone would come out to inspect the radiator, but he has never had an appointment, and no one has been out so far. He explains that his carpet underneath the radiator is starting to smell damp because of the leak. The call handler can see that Mr D has reported the issue several times but is unable to explain why it was never followed up. The call handler arranges an appointment for Mr D and opens a complaint case for Mr D.

Whilst this is a service request, it is also clear from the information that this repair has been reported several times before and the landlord has not acted on the report, which is potentially a breach of its repairs policy. Although Mr D has not specifically said he wants to make a complaint, there has been a failure in the landlord's service that should be investigated and put right. The landlord should also explore any learning opportunities.

Alternative scenario B

Mr D calls the landlord regarding a leak from one of his radiators. Mr D says the radiator has been leaking for a few months and has recently got worse. Mr D tells the call handler that he has reported the leak several times and each time someone comes out they tell him they will do a temporary repair but that he needs a new radiator. Mr D tells the call handler he has been repeatedly told that the contractor will raise a job for a new radiator to be fitted but he has never heard anything. Mr D says he feels like he is going round in circles and that he thinks the landlord is trying to save money by not fitting a new radiator. The call handler checks the repair notes and can see that previous contractors have recommended a new radiator is fitted. The call handler raises a job for a new radiator and opens a complaint case for Mr D.

Although the resident has not asked to make a complaint, it is clear from the conversation that he is dissatisfied with the level of service he has received from the landlord. It is also clear that something is not working as it should do within the landlord's process, which should be investigated as part of the complaint.

Case Study C – Resident calls to report noise nuisance/ASB

Mr A calls his landlord to report that his neighbour has been playing music at an excessive volume late into the night, which has stopped him and his family from being able to sleep. Mr A says this has been affecting his work and his children's school. He tells the landlord that he has tried speaking to his neighbour about it, but the neighbour was aggressive and abusive to him. Mr A would like the landlord to do something about the noise.

This is a report of noise nuisance / ASB. The landlord should explain the ASB procedure to Mr A and clearly outline what the next steps are. The landlord should follow its ASB policy in responding to this allegation.

Two months later Mr A calls his landlord again. He explains that the loud music has continued, and the neighbour has escalated to being abusive and aggressive whenever they see each other. Mr A tells his landlord that this is impacting on his mental health, and he is worried that it could escalate further. Mr A tells his landlord that he has reported some instances to the police, and he has filled in the diary sheets as the landlord has asked. The landlord confirms it will add this new information to Mr A's case file. The landlord contacts Mr A and provides an update on the ASB case, confirming it has spoken with the neighbour and is engaging with the police in relation to Mr A's reports. Mr A agrees to continue reporting issues as per the landlord's request.

Although the neighbour's behaviour is escalating, the landlord continues to work with Mr A and to investigate the allegations in accordance with its policy. It is providing updates to Mr A and is working with other local agencies (i.e. the police) to resolve the matter.

Alternative scenario

Two months after his initial report, Mr A calls his landlord. He explains that the loud music has continued, and the neighbour has escalated to being abusive and aggressive whenever they see each other. Mr A tells his landlord that he has reported some instances to the police, and he has filled in the diary sheets as the landlord has asked but he has not heard anything from the landlord since his initial report. Mr A tells the landlord that he has done everything asked of him, but the landlord has not done anything and has left him and his family to live in fear of his neighbour. Mr A tells his landlord that this is impacting on his mental health, and he is worried that it could escalate further.

The landlord has not responded to Mr A's initial report of ASB, therefore as well as following up on the reports of ASB as per the ASB policy, the landlord should also open a complaint case to look at its handling of Mr A's reports of ASB.

Report on Complaints Received during 2023-2024

Housing Division – Complaint Handling – 1st April 2023 – 31 March 2024

1 Introduction

- 1.1 The policy and procedure is published on the Council’s website. The Chief Executive’s Service receives complaints, acknowledges them, tracks them and provides summary reports.
- 1.2 The published information tells customers that the Council is committed to providing positive housing services that meet our published standards and deliver good customer care. It encourages them to give feedback so that we know what is working well and what we need to do to improve.
- 1.3 The service is acting to encourage feedback and complaints to promote learning.

2 Quantity

- 1.4 During 2023/2024 the Housing Division responded to 27 complaints at Stage 1 of its complaints procedure. 3 complaints were made at Stage 2. Two complaints were referred to Ombudsman services. During the same period the Housing Division received 90 compliments. 36 were for Housing Management and 53 were for Housing Maintenance.
- 1.5 15 of the Stage 1 complaints were about the maintenance service.
12 of the Stage 1 complaints were about the management service.
1 of the Stage 2 complaints was about the maintenance service
2 of the Stage 2 complaints were about the management service – 1 was withdrawn before a response was given.
1 complaint was considered by the Housing Ombudsman Service.
1 complaint was considered by the Ombudsman for Social Care.

3 Content of Complaints

- 3.1 There were some commonalities in the complaints that were received about the maintenance service. Nine were concerned with the time it took for a

requested to repair to be completed. Three were about the customer care offered at the time the service was being delivered. One was about the level of service we offered out of normal working hours. One was about the condition of the property when it was re-let. One tenant objected to a request for compliance with housekeeping linked to fire safety.

- 3.2 The complaints received about the management service were more individual. One was about the time taken to respond to a Right to Buy. One was about the lack of consistency in requiring residents to have a dropped kerb – this was directed to Warwickshire County Council. One was about the recharge that was raised because of the condition of the property at the end of the tenancy. One was from an owner occupier who complained about where our tenant positioned their bins. One was about fly tipping on a neighbouring garage site. One was from a tenant who objected to how we had challenged them to observe their tenancy conditions. Two were about how their housing register application was considered. Two were about parking facilities. Two were concerned with how the Division addressed neighbour disputes.
- 3.3 In both of the Stage 2 complaints that required a response the reviewer upheld the findings of the officer responding at Stage 1. One was about our response to repair a garage door out of working hours. One was about the condition of the property when the tenant moved out – photographs were used to confirm matters.
- 3.4 The Housing Ombudsman service upheld the complaint referred to them. It was concerned with how the Housing Management Service had handled complaints of anti-social behaviour. They found maladministration in how we had responded to the complaint in accordance with our complaints policy because they said we had not responded at stage 2 within published timescales. They also found maladministration in how we had responded to the complaint of antisocial behaviour in accordance with our Anti Social Behaviour Policy and Procedure.
- 3.5 The Social Care Ombudsman did not uphold the complaint referred to them about how the Housing Management Service had assessed an application to join the housing register. They found that the Housing Options Service had assessed the application in accordance with the Lettings Scheme.

4 Learning from Complaints

- 4.1 Whilst we can acknowledge and respond to complaints in a positive manner it is important that we learn from them so that we can improve our services. We can consider whether there are systemic issues in the way we deliver our services and also whether we can change our approach to service delivery.
- 4.2 There are some specific considerations in our learning and some which are more general.

4.3 There are some key areas of consideration for 2024-2025 based on complaints received:

- We must actively seek feedback from tenants and respond positively to what they tell us about our service.
- All services should be delivered with good customer care.
- We should have clear policies and procedures and ensure we act in accordance with what we have stated.
- If a customer raises a concern with the service we should act promptly to address it and provide clear timescales for responding
- We need to deliver reported repairs in the timescales agreed and when we cannot do so keep the tenant informed.

4.4 Our learning actions will include:

4.4.1 We seek feedback for improvement works. We will extend this during 2024-2025 and re-instate routine transactional surveys, including telephone surveys, to actively seek out the views of tenants who have received a service.

4.4.2 The Council expects the Housing Division to provide good customer service. In doing so we want to be consistent in our approach. To support staff with this requirement. training has been delivered about how we respond to customer dissatisfaction and complaints and will be provided about equalities, diversity and inclusion. A policy statement about how we meet tenants needs and tailor our services will be developed. This will be informed by the training received about the Housing Ombudsman's call to social housing landlords to consider the issue of 'silent voices' amongst their tenants, to find out why some do not feedback or complain when they have a concern and to seek ways of addressing this.

4.4.3 The Council has agreed to change the structure of the Maintenance Service so that it has better capacity to meet the needs of both the stock and its tenants. When the changes are embedded there is an expectation that tenants will have less cause to 'chase' the repairs they have requested because of delays. The Borough Wide Tenants Forum have agreed to undertake a scrutiny exercise about how easy it is to report a repair. This will help inform the service about improvements we can make.

4.4.4 The Housing Services Manager is reviewing the anti social behaviour policy and procedure. This is aimed at improving how we communicate with tenants when they have a neighbour complaint and be clear about what actions can and will be taken. In addition training is being offered to relevant staff about dealing with reports to neighbour disputes and anti social behaviour in a positive manner. The Borough Wide Tenants Forum have agreed to undertake a scrutiny exercise about tenants' experience of our service to resolve complaints of nuisance. This will help inform the service about improvements we can make.

4.4.5 We will act to learn from complaints individually and also address commonalities in complaints that indicate a system or policy needs to be improved.

Self-assessment form

This self-assessment form should be completed by the complaints officer and it must be reviewed and approved by the landlord's governing body at least annually.

Once approved, landlords must publish the self-assessment as part of the annual complaints performance and service improvement report on their website. The governing body's response to the report must be published alongside this.

Landlords are required to complete the self-assessment in full and support all statements with evidence, with additional commentary as necessary.

We recognise that there may be a small number of circumstances where landlords are unable to meet the requirements, for example, if they do not have a website. In these circumstances, we expect landlords to deliver the intentions of the Code in an alternative way, for example by publishing information in a public area so that it is easily accessible.

Section 1: Definition of a complaint

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
1.2	A complaint must be defined as: <i>'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the landlord, its own staff, or those acting on its behalf, affecting a resident or group of residents.'</i>	Yes	This is stated in our policy and procedure	
1.3	A resident does not have to use the word 'complaint' for it to be treated as such. Whenever a resident expresses dissatisfaction landlords must give them the choice to make complaint. A complaint that is submitted via a third party or representative must be handled in line with the landlord's complaints policy.	Yes	This is stated in our policy and procedure	
1.4	Landlords must recognise the difference between a service request and a complaint. This must be set out in their complaints policy. A service request is a request from a resident to the landlord requiring action to be taken to put something right. Service requests are not complaints, but must be recorded, monitored and reviewed regularly.	Yes	Requests for service are logged, acknowledged, tracked and reviewed	

1.5	A complaint must be raised when the resident expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. Landlords must not stop their efforts to address the service request if the resident complains.	Yes	We continue to try to resolve the issue at the same time as responding formally to a complaint.	
1.6	An expression of dissatisfaction with services made through a survey is not defined as a complaint, though wherever possible, the person completing the survey should be made aware of how they can pursue a complaint if they wish to. Where landlords ask for wider feedback about their services, they also must provide details of how residents can complain.	Yes	As part of our annual survey we did inform tenants that we could deal with their concerns as a complaint.	

Section 2: Exclusions

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
2.1	Landlords must accept a complaint unless there is a valid reason not to do so. If landlords decide not to accept a complaint they must be able to evidence their reasoning. Each complaint must be considered on its own merits	Yes	We deal with a complaint as requested – for example we responded to one recently which could have been addressed as a Lettings Scheme review	
2.2	<p>A complaints policy must set out the circumstances in which a matter will not be considered as a complaint or escalated, and these circumstances must be fair and reasonable to residents. Acceptable exclusions include:</p> <ul style="list-style-type: none"> • The issue giving rise to the complaint occurred over twelve months ago. • Legal proceedings have started. This is defined as details of the claim, such as the Claim Form and Particulars of Claim, having been filed at court. • Matters that have previously been considered under the complaints policy. 	Yes	This is set out in our Policy.	

2.3	Landlords must accept complaints referred to them within 12 months of the issue occurring or the resident becoming aware of the issue, unless they are excluded on other grounds. Landlords must consider whether to apply discretion to accept complaints made outside this time limit where there are good reasons to do so.	Yes	We don't refuse to respond to a complaint	
2.4	If a landlord decides not to accept a complaint, an explanation must be provided to the resident setting out the reasons why the matter is not suitable for the complaints process and the right to take that decision to the Ombudsman. If the Ombudsman does not agree that the exclusion has been fairly applied, the Ombudsman may tell the landlord to take on the complaint.	Yes	We have a recent example of directing a complaint to a different Council but we made the complaint on the tenant's behalf in order to assist.	
2.5	Landlords must not take a blanket approach to excluding complaints; they must consider the individual circumstances of each complaint.	Yes	Our responses show that each complaint is addressed individually.	

Section 3: Accessibility and Awareness

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
3.1	Landlords must make it easy for residents to complain by providing different channels through which they can make a complaint. Landlords must consider their duties under the Equality Act 2010 and anticipate the needs and reasonable adjustments of residents who may need to access the complaints process.	Yes	We respond to complaints in writing, by e-mail, telephone to our contact centre, from our web form and from third parties. We will be providing a statement on Equalities that will support our approach to make reasonable adjustments.	
3.2	Residents must be able to raise their complaints in any way and with any member of staff. All staff must be aware of the complaints process and be able to pass details of the complaint to the appropriate person within the landlord.	Yes	There has been training about complaints handling & briefings at team meetings.	
3.3	High volumes of complaints must not be seen as a negative, as they can be indicative of a well-publicised and accessible complaints process. Low complaint volumes are potentially a sign that residents are unable to complain.	Yes	We are promoting the benefit of tenants complaining in our newsletters and on our information materials.	
3.4	Landlords must make their complaint policy available in a clear and accessible format for all residents. This	Yes	The policy complies and is published on our website	

	will detail the two stage process, what will happen at each stage, and the timeframes for responding. The policy must also be published on the landlord's website.			
3.5	The policy must explain how the landlord will publicise details of the complaints policy, including information about the Ombudsman and this Code.	Yes	The policy is published on our website.	
3.6	Landlords must give residents the opportunity to have a representative deal with their complaint on their behalf, and to be represented or accompanied at any meeting with the landlord.	Yes	We had a complainant recently who was supported by a third party.	
3.7	Landlords must provide residents with information on their right to access the Ombudsman service and how the individual can engage with the Ombudsman about their complaint.	Yes	Information is on our website.	

Section 4: Complaint Handling Staff

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
4.1	Landlords must have a person or team assigned to take responsibility for complaint handling, including liaison with the Ombudsman and ensuring complaints are reported to the governing body (or equivalent). This Code will refer to that person or team as the 'complaints officer'. This role may be in addition to other duties.	Yes	The Housing Maintenance Manager and Housing Services Manager are responsible for complaints handling.	
4.2	The complaints officer must have access to staff at all levels to facilitate the prompt resolution of complaints. They must also have the authority and autonomy to act to resolve disputes promptly and fairly.	Yes	Both the Maintenance and Management Managers have the authority to act.	
4.3	Landlords are expected to prioritise complaint handling and a culture of learning from complaints. All relevant staff must be suitably trained in the importance of complaint handling. It is important that complaints are seen as a core service and must be resourced to handle complaints effectively	Yes	Training has been delivered and further training will be offered.	

Section 5: The Complaint Handling Process

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
5.1	Landlords must have a single policy in place for dealing with complaints covered by this Code. Residents must not be treated differently if they complain.	Yes	We only have one published policy	
5.2	The early and local resolution of issues between landlords and residents is key to effective complaint handling. It is not appropriate to have extra named stages (such as 'stage 0' or 'informal complaint') as this causes unnecessary confusion.	Yes	We only have two stages	
5.3	A process with more than two stages is not acceptable under any circumstances as this will make the complaint process unduly long and delay access to the Ombudsman.	Yes	We only have two stages	
5.4	Where a landlord's complaint response is handled by a third party (e.g. a contractor or independent adjudicator) at any stage, it must form part of the two stage complaints process set out in this Code. Residents must not be expected to go through two complaints processes.	Yes	We don't ask third parties to respond to our complaints	

5.5	Landlords are responsible for ensuring that any third parties handle complaints in line with the Code.	Yes	We don't ask third parties to respond to our complaints	
5.6	When a complaint is logged at Stage 1 or escalated to Stage 2, landlords must set out their understanding of the complaint and the outcomes the resident is seeking. The Code will refer to this as "the complaint definition". If any aspect of the complaint is unclear, the resident must be asked for clarification.	Yes	Our responses are comprehensive.	
5.7	When a complaint is acknowledged at either stage, landlords must be clear which aspects of the complaint they are, and are not, responsible for and clarify any areas where this is not clear.	Yes	Our responses are comprehensive.	
5.8	At each stage of the complaints process, complaint handlers must: <ul style="list-style-type: none"> a. deal with complaints on their merits, act independently, and have an open mind; b. give the resident a fair chance to set out their position; c. take measures to address any actual or perceived conflict of interest; and d. consider all relevant information and evidence carefully. 	Yes	Complaint handlers respond in this manner.	

5.9	Where a response to a complaint will fall outside the timescales set out in this Code, the landlord must agree with the resident suitable intervals for keeping them informed about their complaint.	Yes	The Chief Executive's Service keeps tenants informed	
5.10	Landlords must make reasonable adjustments for residents where appropriate under the Equality Act 2010. Landlords must keep a record of any reasonable adjustments agreed, as well as a record of any disabilities a resident has disclosed. Any agreed reasonable adjustments must be kept under active review.	No	To date we have not kept a record. This will be undertaken from 1 st April 2024.	
5.11	Landlords must not refuse to escalate a complaint through all stages of the complaints procedure unless it has valid reasons to do so. Landlords must clearly set out these reasons, and they must comply with the provisions set out in section 2 of this Code.	Yes	We don't have any cases where we have refused to escalate the complaint.	
5.12	A full record must be kept of the complaint, and the outcomes at each stage. This must include the original complaint and the date received, all correspondence with the resident, correspondence with other parties, and any relevant supporting documentation such as reports or surveys.	Yes	All records are kept by the Chief Executive's Service.	

5.13	Landlords must have processes in place to ensure a complaint can be remedied at any stage of its complaints process. Landlords must ensure appropriate remedies can be provided at any stage of the complaints process without the need for escalation.	Yes	We can show cases which were addressed and resolved during the complaints process.	
5.14	Landlords must have policies and procedures in place for managing unacceptable behaviour from residents and/or their representatives. Landlords must be able to evidence reasons for putting any restrictions in place and must keep restrictions under regular review.	Yes	We have a Vexatious Complaints Policy	
5.15	Any restrictions placed on contact due to unacceptable behaviour must be proportionate and demonstrate regard for the provisions of the Equality Act 2010.	Yes	This is set out in our Vexatious Complaints Policy	

Section 6: Complaints Stages

Stage 1

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
6.1	Landlords must have processes in place to consider which complaints can be responded to as early as possible, and which require further investigation. Landlords must consider factors such as the complexity of the complaint and whether the resident is vulnerable or at risk. Most stage 1 complaints can be resolved promptly, and an explanation, apology or resolution provided to the resident.	Yes	We try to resolve complaints at an early stage. We can evidence cases where this has happened.	
6.2	Complaints must be acknowledged, defined and logged at stage 1 of the complaints procedure <u>within five working days of the complaint being received.</u>	Yes	The Chief Executive's Service logs and acknowledges complaints	
6.3	Landlords must issue a full response to stage 1 complaints <u>within 10 working days</u> of the complaint being acknowledged.	Yes	We have evidence of responding in 10 working days. This is on the tracker log.	
6.4	Landlords must decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform the resident	Yes	This is on the tracker log.	

	of the expected timescale for response. Any extension must be no more than 10 working days without good reason, and the reason(s) must be clearly explained to the resident.			
6.5	When an organisation informs a resident about an extension to these timescales, they must be provided with the contact details of the Ombudsman.	Yes	We will ensure this is done from 1 st April 2024.	
6.6	A complaint response must be provided to the resident when the answer to the complaint is known, not when the outstanding actions required to address the issue are completed. Outstanding actions must still be tracked and actioned promptly with appropriate updates provided to the resident.	Yes	Our case file shows this is how we manage complaints.	
6.7	Landlords must address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.	Yes	Our case file shows this is how we manage complaints	
6.8	Where residents raise additional complaints during the investigation, these must be incorporated into the stage 1 response if they are related and the stage 1 response has not been issued. Where the stage 1 response has been issued, the new issues are unrelated to the issues already being	Yes	We can accord with this as cases require.	

	investigated or it would unreasonably delay the response, the new issues must be logged as a new complaint.			
6.9	Landlords must confirm the following in writing to the resident at the completion of stage 1 in clear, plain language: <ul style="list-style-type: none"> a. the complaint stage; b. the complaint definition; c. the decision on the complaint; d. the reasons for any decisions made; e. the details of any remedy offered to put things right; f. details of any outstanding actions; and g. details of how to escalate the matter to stage 2 if the individual is not satisfied with the response. 	Yes	Our file of cases can be reviewed to show this.	

Stage 2

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
6.10	If all or part of the complaint is not resolved to the resident's satisfaction at stage 1, it must be progressed to stage 2 of the landlord's procedure. Stage 2 is the landlord's final response.	Yes	We tell every complainant about escalation to Stage 2.	
6.11	Requests for stage 2 must be acknowledged, defined and logged at stage 2 of the complaints procedure	Yes	The Chief Executive's Service logs and acknowledges complaints	

	within five working days of the escalation request being received.			
6.12	Residents must not be required to explain their reasons for requesting a stage 2 consideration. Landlords are expected to make reasonable efforts to understand why a resident remains unhappy as part of its stage 2 response.	Yes	This is stated in our policy	
6.13	The person considering the complaint at stage 2 must not be the same person that considered the complaint at stage 1.	Yes	We can show that for the three Stage 2 cases in 2023 a different officer reviewed the complaint	
6.14	Landlords must issue a final response to the stage 2 within 20 working days of the complaint being acknowledged.	Yes	This is stated in our policy.	
6.15	Landlords must decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform the resident of the expected timescale for response. Any extension must be no more than 20 working days without good reason, and the reason(s) must be clearly explained to the resident.	Yes	We will accord with this from 1 st April 2024	
6.16	When an organisation informs a resident about an extension to these timescales, they must be provided with the contact details of the Ombudsman.	Yes	We will accord with this from 1 st April 2024	
6.17	A complaint response must be provided to the resident when the answer to the complaint is known, not when the outstanding actions required to address	Yes	We will accord with this from 1 st April 2024	

	the issue are completed. Outstanding actions must still be tracked and actioned promptly with appropriate updates provided to the resident.			
6.18	Landlords must address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.	Yes	Complaint handlers will accord with this requirement	
6.19	Landlords must confirm the following in writing to the resident at the completion of stage 2 in clear, plain language: <ul style="list-style-type: none"> a. the complaint stage; b. the complaint definition; c. the decision on the complaint; d. the reasons for any decisions made; e. the details of any remedy offered to put things right; f. details of any outstanding actions; and g. details of how to escalate the matter to the Ombudsman Service if the individual remains dissatisfied. 	Yes	Complaint handlers will accord with this requirement	
6.20	Stage 2 is the landlord's final response and must involve all suitable staff members needed to issue such a response.	Yes	We will accord with this from 1 st April 2024	

Section 7: Putting things right

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
7.1	<p>Where something has gone wrong a landlord must acknowledge this and set out the actions it has already taken, or intends to take, to put things right. These can include:</p> <ul style="list-style-type: none"> • Apologising; • Acknowledging where things have gone wrong; • Providing an explanation, assistance or reasons; • Taking action if there has been delay; • Reconsidering or changing a decision; • Amending a record or adding a correction or addendum; • Providing a financial remedy; • Changing policies, procedures or practices. 	Yes	Complaint handlers will accord with this requirement	
7.2	Any remedy offered must reflect the impact on the resident as a result of any fault identified.	Yes	Complaint handlers will accord with this requirement	
7.3	The remedy offer must clearly set out what will happen and by when, in agreement with the resident where appropriate. Any remedy proposed must be followed through to completion.	Yes	Complaint handlers will accord with this requirement	

7.4	Landlords must take account of the guidance issued by the Ombudsman when deciding on appropriate remedies.	Yes	Our policy reflects the Code	
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Section 8: Putting things right

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
8.1	<p>Landlords must produce an annual complaints performance and service improvement report for scrutiny and challenge, which must include:</p> <ul style="list-style-type: none"> a. the annual self-assessment against this Code to ensure their complaint handling policy remains in line with its requirements. b. a qualitative and quantitative analysis of the landlord's complaint handling performance. This must also include a summary of the types of complaints the landlord has refused to accept; c. any findings of non-compliance with this Code by the Ombudsman; d. the service improvements made as a result of the learning from complaints; e. any annual report about the landlord's performance from the Ombudsman; and f. any other relevant reports or publications produced by the Ombudsman in relation to the work of the landlord. 	Yes	<p>An annual report has been submitted to the Resources Board at its meeting on 3rd June 2024.</p>	

8.2	The annual complaints performance and service improvement report must be reported to the landlord's governing body (or equivalent) and published on the on the section of its website relating to complaints. The governing body's response to the report must be published alongside this.	Yes	An annual report has been submitted to the Resources Board at its meeting on 3 rd June 2024. It will be published on our website in June.	
8.3	Landlords must also carry out a self-assessment following a significant restructure, merger and/or change in procedures.	Noted	We will accord with this requirement	
8.4	Landlords may be asked to review and update the self-assessment following an Ombudsman investigation.	Noted		
8.5	If a landlord is unable to comply with the Code due to exceptional circumstances, such as a cyber incident, they must inform the Ombudsman, provide information to residents who may be affected, and publish this on their website Landlords must provide a timescale for returning to compliance with the Code.	Noted		

Section 9: Scrutiny & oversight: continuous learning and improvement

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
9.1	Landlords must look beyond the circumstances of the individual complaint and consider whether service improvements can be made as a result of any learning from the complaint.	Yes	We endeavour to learn from complaints – including making service improvements	
9.2	A positive complaint handling culture is integral to the effectiveness with which landlords resolve disputes. Landlords must use complaints as a source of intelligence to identify issues and introduce positive changes in service delivery.	Yes	One of our learning actions is to promote positive responses to complaints through training and briefings.	
9.3	Accountability and transparency are also integral to a positive complaint handling culture. Landlords must report back on wider learning and improvements from complaints to stakeholders, such as residents' panels, staff and relevant committees.	Yes	We will act on this from 1 st April 2024. Our Borough Wide Tenants Forum is undertaking scrutiny exercises which we will learn from.	
9.4	Landlords must appoint a suitably senior lead person as accountable for their complaint handling. This person must assess any themes or trends to identify potential systemic issues, serious risks, or policies and procedures that require revision.	Yes	This is the Director of Housing	

9.5	In addition to this a member of the governing body (or equivalent) must be appointed to have lead responsibility for complaints to support a positive complaint handling culture. This person is referred to as the Member Responsible for Complaints ('the MRC').	Yes	This is Councillor Clews	
9.6	The MRC will be responsible for ensuring the governing body receives regular information on complaints that provides insight on the landlord's complaint handling performance. This person must have access to suitable information and staff to perform this role and report on their findings.	Yes	Councillor Clews will inform the Housing Task and Finish Group and report to the Resources Board	
9.7	As a minimum, the MRC and the governing body (or equivalent) must receive: a. regular updates on the volume, categories and outcomes of complaints, alongside complaint handling performance; b. regular reviews of issues and trends arising from complaint handling; c. regular updates on the outcomes of the Ombudsman's investigations and progress made in complying with orders related to severe maladministration findings; and d. annual complaints performance and service improvement report.	Yes	Councillor Clews will inform the Housing Task and Finish Group and report to the Resources Board	

9.8	<p>Landlords must have a standard objective in relation to complaint handling for all relevant employees or third parties that reflects the need to:</p> <ul style="list-style-type: none"> a. have a collaborative and co-operative approach towards resolving complaints, working with colleagues across teams and departments; b. take collective responsibility for any shortfalls identified through complaints, rather than blaming others; and c. act within the professional standards for engaging with complaints as set by any relevant professional body. 	Yes	This is in our policy and will be promoted from 1 st April 2024	
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Agenda Item No 12

Resources Board

3 June 2024

**Report of the
Director of Housing**

**Social Housing Regulator – Tenant
Satisfaction Measures**

1 Summary

- 1.1 This report provides the Board with information about the Social Housing Regulator's requirement for the Council to provide an annual return for performance measures specified in the Social Housing (Regulation) Act 2023.

Recommendation to the Resources Board

That the contents of the report are noted and that the Tenant Satisfaction Measures are published on the Council's website.

2 Consultation

- 2.1 The Housing Task and Finish Group and Borough Wide Tenants Forum engaged in a joint meeting to discuss the requirements and the Measures which will be published.

3 Introduction

- 3.1 Following Royal assent of the Social Housing (Regulation) Act the Regulator for Social Housing has issued its consumer standards and code of practice for the social housing sector.
- 3.2 All Registered Providers must deliver their services in accordance with the standards and code of practice from 1 April 2024.
- 3.3 As a high level indicator of service provision the Regulator requires all Registered Providers to submit their Tenant Satisfaction Measures by June 2024. These will be published (in league tables) in September 2024.
- 3.4 The Regulator will have close scrutiny of Register Providers when the undertake an on site audit of service deliver against the published standards every 4 years.

3.5 To compliment the oversight of the Regulator the Housing Ombudsman Service will implement a statutory code for complaints handling from 1 April. This is reported in a separate report to this Board.

3.6 From 1 April 2024 the Regulator will oversee the service delivery provided by Registered Providers and the Housing Ombudsman Service will respond to individual complaints from tenants. The two services will compliment each other. This report gives an overview the Council's delivery against the standards, provides information about Tenant Satisfaction Measures and summarises the Housing Ombudsman Service statutory code.

4 Consumer Standards

4.1 There are four standards with proposed sub elements. These are:

- Safety and Quality Standard
- Transparency, Influence and Accountability Standard
- Neighbourhood & Community Standard
- Tenancy Standard

4.2 Registered Providers are expected to meet to the code requirements when assessing their compliance against the standards.

4.3 This section sets out specific matters where improvements will be made to meet the standards required. An action tracker has been drafted to enable the Housing Task and Finish Group to track the improvements.

4.4 Safety and Quality Standard

- The review of the housing maintenance service structure which has been implemented from 6 May 2024 will better align it with the consumer standards in this section. This will include a clear focus on customer care and ongoing assessments of stock condition. It provides for a designated resource to lead on reports of damp and mould.
- New systems of work from June 2024 should ensure that tenants are kept informed about repairs, maintenance and planned improvements.
- A designated Tenancy Services Officer has been appointed to deal with compliance issues sensitively but firmly.
- The results of the stock condition survey will be analysed during June and July 2024. The information will allow the Council to align its capital programme works to ensure the Decent Homes Standard is met.
- We have included a policy statement in the Lettings Scheme about how we allocate adapted properties
- The service has reviewed its asbestos register and Fire Risk Assessments
- The Borough Wide Tenants Forum is undertaking a scrutiny intervention to discover whether tenants are able to report repairs easily

4.5 Transparency, Influence and Accountability Standard

- Training on customer service and complaints handling was provided to senior staff on 21 February 2024. Further training will follow for front line staff.

- We have a range of leaflets for tenants about our service provision which have been reviewed recently. To compliment this we can use the new website to provide current information on programmes of work and initiatives.
- The Council's new website will help the service provide accessible information for tenants.
- We need to review the data we have available about tenants and how best to use that data to deliver and monitor our services.
- A policy and procedure reflecting how the Council acts in accordance with the Equalities Act 2010 and meets this Standard would provide improved clarity for tenants. A clear statement about how we tailor our services will be proposed.
- The Borough Wide Tenants Forum provides a focus to enable tenants to influence the delivery of housing services. Feedback from local meetings stretches also feeds into the information available.
- The Forum has established a Scrutiny Panel.
- The influence of tenants is formally captured in the Tenant Partnership Agreement. We produce an annual Tenants Outcome report.
- We will work with the Forum to consider how best to provide performance information for tenants in addition to the Annual Report.
- We have reviewed our approach to complaints handling, have introduced a satisfaction questionnaire and will continue to focus on improving customer's experience when they make a complaint.

4.6 Neighbourhood & Community Standard

- We are reviewing our Anti Social Behaviour Policy and Procedure.
- Training has been provided for the Tenancy Services Team about developing best practice in handling complaints about anti social behaviour.
- The Forum have offered to provide a scrutiny intervention to seek information on tenants' experience of our Anti Social Behaviour policies and procedures.
- We need to develop a policy and procedure about how we respond to domestic abuse.

4.7 Tenancy Standard

- The revised Lettings Scheme enables us to meet the requirements to support tenants to move.
- During 2024 the Housing Division will start to review its conditions of tenancy to ensure it meets current requirements.

5 Tenant Satisfaction Measures

- 5.1 The following table shows the results from the satisfaction survey which provided by the independent researchers in December 2023. In addition to the satisfaction feedback information is provided about the other Satisfaction Measures which must be reported to the Regulator in June 2024.

- 5.2 The Council is signed up to the Housemark Benchmarking service which supports performance management systems.
- 5.3 An informal (& confidential) comparison of the perception survey results with other Local Authority landlords in Warwickshire indicates that the feedback from North Warwickshire’s tenants is similar to their results and in some areas slightly better.

Question	Satisfaction Outcome
Overall Satisfaction with service	79%
Overall Satisfaction with Repairs	84%
Time Taken for Most Recent Repair	80%
Home Well Maintained	79%
Home is Safe	81%
Landlord Listens and Acts	68%
Keeps Tenants Informed	71%
Treats tenants fairly and with respect	77%
Approach to handling complaints	40%
Common areas clean & well maintained	74%
Positive contribution to the neighbourhood	64%
Satisfaction with handling of complaint	47%

- 5.4 Early indications are that the feedback on the repairs service compared to others is positive. The satisfaction levels with complaint handling is low but are an improvement on 2021 feedback and comparable to satisfaction expressed with other landlords services. Satisfaction with complaints was 38% in 2021 and is 42% in 2023. Satisfaction with handling anti social behaviour cases is 73% whilst satisfaction with the outcome is 39% compared to 35% in 2021.
- 5.5 The comments that tenants added to their feedback on specific questions they were asked in the satisfaction survey is being analysed so that service improvements can be proposed and will be provided to the Task Group and Forum at future meetings. In summary:

In feedback on ‘last repair completed’ tenants said that the in house service was quick to respond, efficient in completing the repair, tradesmen were friendly and respected the property. The less positive feedback stated concerns about the time taken to provide the repair, having to chase the service for information about when a job would be done with some commentary linking to delays in planned improvement works – including windows, kitchens and bathrooms.

In feedback about ‘the last complaint made’ tenants feedback that our response to address the concern was prompt. The less positive feedback about complaints handling specifically indicated that some tenants found it

difficult to get the resolution they wanted. Many of the comments in this section related back to the repairs service rather than the process of making a complaint specifically.

In feedback about a complaint about anti social behaviour tenants said that the service they received was prompt and informative. Others said that after the complaint was made they did not receive an update, others said it took too long to resolve and for some they were unhappy with the resolution.

5.6 Performance information submitted will be based on outcomes a the 31 March 2024. We are waiting for the finalised definitions. The following shows performance at the end of January 2024.

Response Repair Delivered in Target Timescale (28 days)	83%
Asbestos safety checks	The Asbestos Register is up to date.
Gas safety checks	There were no outstanding gas safety visits at 31 March 2024
Water safety checks	We have risk assessments in place and a specialist company does monthly checks.
Fire Risk Assessments	All Fire Risk Assessments are complete for 2023/2024.
Anti Social Behaviour cases relative to the size of the landlord	96 per 1000 homes
Complaints relative to the size of the landlord	30 complaints recieved
Complaints responded to within Ombudsman code	30 complaints received to date. 5 responded to outside of the code.

6 Report Implications

6.1 Finance and Value for Money Implications

6.1.1 Achieving value for money for tenants dictates that we need to deliver services which receive good satisfaction feedback, are cost effective and are comparatively good performing when benchmarked with other social landlords.

6.2 Legal Implications

- 6.2.1 As a social housing provider the Council is expected to meet all requirements of the Social Housing (Regulation) Act 2023 and the Housing Ombudsman Statutory Code.
- 6.2.2 The Council has legal obligations to inspect and maintain gas and electrical installations. Other duties are set out in health and safety legislation, building regulations and the Right to Repair under the Housing Act 1985.
- 6.2.3 Building safety issues have become more high profile following the Grenfell Tower fire and there is considerable legislation imposing requirements that must be adhered to. Recent and pending changes to legislation tighten these duties. Dealing with damp and mould conditions proactively and effectively is also a focus for Government and the Housing Regulator who expect social landlords to act in a zero-tolerance manner regarding these issues.
- 6.2.4 The Council has a legal duty under the Landlord and Tenant Act 1985 to ensure its buildings are not in disrepair and to consult with leaseholders about proposed repairs which are deemed qualifying works. If a tenant suffers disrepair because of the Council's failure to repair the Council may be liable to pay damages for any harm suffered. Further, if because of the Council's failure to maintain the structure of buildings a leaseholder's property is damaged, the Council can be liable to pay damages for their losses.
- 6.2.5 Systems of work in the Response Repairs team are expected to adhere to the 'Right to Repair' legislation. The 1985 Act requires the Council to proactively address the condition of properties. This has been enhanced recently by the Homes (Fitness for Habitation) Act 2018 and amends the 1985 Act. It provides for a new implied covenant that the premises are fit for habitation at time of letting and during the term of the tenancy. Crucially it allows tenants to challenge their landlord directly in Court. The 2018 Act provides that a property could be deemed unfit (if it is defective and not reasonably suited for occupation) due to issues such as disrepair, stability, damp & mould growth, excess cold, crowding and spacing, lighting and noise. There is an exception if the tenant has caused the issue by not acting in a tenant like manner.

6.3 Human Resources Implications

- 6.3.1 To continue to deliver against the Government's agenda for social housing the Council will have to continue to consider the structure and capacity of both the maintenance and management teams.

6.4 Risk Management Implications

6.4.1 The age of its stock and health and safety requirements mean that it is important to be able to take a more proactive approach to managing the Council's assets.

The Contact Officer for this report is Angela Coates (719369).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
Decent Homes Standards	Government	Regulation of housing standards for social housing	2006
Social Housing (Regulation) Act 2023	Government	Legislation	2023

Agenda Item No 13

Resources Board

3 June 2024

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

To consider, in accordance with Section 100A(4) of the Local Government Act 1972, whether it is in the public interest that the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

Agenda Item No 14

Garage Site – Report of the Director of Housing

Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Agenda Item No 15

Vacant Property Repairs – Report of the Director of Housing

Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Agenda Item No 16

Property Adaptation - Report of the Director of Housing

Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Agenda Item No 17

Update on Council Tax and Business Rates Recovery - Report of the Interim Corporate Director – Resources (Section 151 Officer)

Paragraph 1 - Information relating to an individual.

Agenda Item No 18

Land Austrey - Options - Report of the Interim Corporate Director – Streetscape

Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Agenda Item No 19

Exempt Resources Board Minutes – 11 March 2024

Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

In relation to the item listed above members should only exclude the public if the public interest in doing so outweighs the public interest in disclosing the information, giving their reasons as to why that is the case.

The Contact Officer for this report is Julie Holland (719237).