



# **South Oxfordshire and Vale of White Horse District Councils**

## **Housing Enforcement Policy**

**April 2024**

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## **Introduction**

The Housing Enforcement policy provides guidance to council officers, property owners, landlords, managing agents and tenants of residential properties to help ensure a clear and consistent approach to all aspects of housing regulation and enforcement.

The policy is set out in three parts.

Part one describes how South Oxfordshire and Vale of White Horse District Councils (the councils) intend to ensure compliance with the Housing Act 2004 and other relevant housing standards legislation. It covers housing enforcement in all residential dwellings including privately rented, socially rented, owner occupied properties and Houses in Multiple Occupation (HMOs) and explains the circumstances where enforcement action will be pursued.

Part two explains the circumstances in which the councils may impose civil penalties for housing offences and how the level of penalty will be determined.

Part three sets out the minimum standards for Houses in Multiple Occupation (HMOs) and the councils' approach to mandatory licensing of HMOs in accordance with Part 2 of the Housing Act 2004.

## Part One: HOUSING ENFORCEMENT

### Approach to enforcement

The councils recognise that most landlords provide good quality and well-managed accommodation. There are however a small number of landlords and property agents who fail to fulfil their legal obligations and rent out sub-standard accommodation, sometimes to vulnerable tenants.

The councils will aim to ensure compliance with the law and acceptable housing standards through advice, education and informal action. When however an informal approach fails to achieve the desired result, or a failure to comply is of a serious nature, the councils will consider the full range of enforcement options available to achieve compliance and protect residents at risk. We will target resources to ensure the most serious cases are tackled as a priority and in the most serious contraventions, the councils will look to prosecute or impose financial penalties.

In the case of homeowners, enforcement is unlikely to be the appropriate course of action. Where vulnerable homeowners are unable to carry out essential repairs to their homes, the councils will provide support as set out in the "Housing Assistance Grants and Loans Policy."

### Principles of enforcement

In line with the principles outlined in *The Regulators' Code* and *section 21 of The Legislative and Regulatory Reform Act 2006*, the councils will carry out our enforcement activities in a way that is transparent, accountable, proportionate, consistent and targeted.

**Proportionate:** We will ensure that enforcement action is proportionate to the risk to the public and any enforcement action taken is appropriate for the nature and seriousness of the offence.

**Consistent:** We will treat all service users fairly and ensure that our approach to enforcement is consistent. Where circumstances are similar, we will endeavour to act in proportion to other local authorities. We will have regard to guidance and best practice to inform our decision making. We will provide details on how to appeal against decisions and be open and fair in this approach.

**Targeted:** We will prioritise and direct our regulatory efforts where it is most needed. As resources allow, the councils will prioritise the reduction and removal of significant health and safety hazards and assisting vulnerable people.

**Transparent:** We aim to deliver our enforcement and regulatory activities in an open and consistent way. We will explain our decisions and publish our policies on our websites to ensure that service users, those we regulate, and our officers have clear guidelines for and expectations of our service.

**Accountable:** Our activities will be guided by clear, fair and accessible policies and supported by an efficient complaint procedure. We will be clear when we can and cannot provide assistance in line with the relevant legislation, and where appropriate signpost customers to other agencies who may be able to assist.

The councils will have regard to any relevant guidance in place at the time when carrying out enforcement action.

### Sharing information and joint working:

The councils share responsibilities for enforcing housing standards with other council teams and external agencies, for example the Fire Service. Where responsibility for enforcement is shared with other teams or agencies, the Private Sector Housing team will work with these teams and agencies

to ensure the full range of powers available to the councils are used in the most efficient way and will have regard to any agreed procedures and memorandums of understanding.

In situations where enforcement powers rest with another agency, we will act to ensure that the case is transferred to the relevant agency promptly and in accordance with any agreed procedure.

## **Expectations and responding to service requests**

### **Tenants:**

Tenants are expected to report disrepair to their landlord or agent as soon as possible and before approaching the council for assistance. Tenants should try to report disrepair in writing as the council may ask to see proof that a landlord or agent has been notified of a problem before taking action.

Where landlords or agents are taking action in a reasonable time frame the council will not intervene with the process. Tenants are responsible for keeping officers informed of any contact they have with their landlord or agent which may affect the actions taken by the council.

### **Landlords and managing agents:**

We will work with landlords and managing/letting agents to help them comply with their legal obligations. The council expect landlords to carry out repairs within a reasonable time frame once they've been notified of the problem and without the need for the council to instigate formal action.

We will consider each case on its own merits and only take enforcement action when it is appropriate and proportionate. If enforcement action is taken, we will explain why.

In deciding whether to serve notices or to prosecute or issue a financial penalty, the council will have regard to the seriousness of the offence, the risk posed to the public, the benefit of the sanction and whether another course of action would be appropriate. Where prosecution is pursued, we will seek to recover costs.

### **The council:**

When officers become aware of a hazard in a property, we will instigate the following procedure:

- The council will respond to service requests from tenants in line with the council's customer service standards and will prioritise cases based on risk and severity.
- Within a maximum of 10 days of receiving the service request, we will contact the complainant to discuss the nature of the issue and confirm what contact has been made with the landlord or agent.
- Where necessary we will carry out an informal inspection of the property.
- We will contact the landlord or agent within a maximum of 10 days of the informal inspection outlining the nature of the problem and ask what remedial action will be taken to remedy the hazard or defect.
- The landlord or agent will normally be given 14 days to outline their intentions to remedy the hazard or defect.
- The timescales for responses will be accelerated for high risk or high severity cases.

Where a landlord or agent confirms they intend to take remedial action we will monitor this work to ensure it is carried out satisfactorily. However, if works do not progress satisfactorily, or the landlord does not engage with the council, the case will be reviewed for formal action and a formal inspection will be arranged. In the most severe cases, or where the landlord does not engage with

the councils or has a track record of non-compliance, the councils may proceed to take formal action straight away.

## **Legislation**

The Housing Act 2004 is the principle legislation to regulate housing standards. Other legislation and regulations enforced by the Private Sector Housing team includes, but are not limited to:

- Housing Act 1985 (overcrowding)
- Housing and Planning Act 2016
- Protection from Eviction Act 1977 (harassment and illegal eviction)
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- Energy Efficiency (Domestic Property) (England and Wales) Regulations 2015
- Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to belong to a Scheme etc) (England) Order 2014
- Human Rights Act 1988
- The Regulation of Investigatory Powers Act 2000
- Police and Criminal Evidence Act 1984

When taking action using regulatory powers, officers will consider which course of action is the most appropriate in the circumstances of a particular case.

## **Assessing housing conditions**

Officers will use the Housing Health and Safety Rating System (HHSRS) to assess housing conditions. The HHSRS uses a risk assessment to assess the effect of 29 potential hazards on the health and safety of occupiers.

If a hazard is assessed as a category one hazard (the more serious of the two types) the councils have a duty to take action. If relatively less serious category two hazards are found, the councils have a discretionary power to act.

## **Inspections and powers of entry**

Unless there are exceptional circumstances (i.e. imminent risk of harm), officers will not usually inspect a property at the request of a tenant unless the tenant has first been in contact with their landlord or agent to try to resolve the matter.

Where the council receives a service request about a hazard and the tenant has tried to resolve the matter with their landlord, officers will normally in the first instance carry out an informal inspection with the complainant to assess the case.

In accordance with section 239 of the Housing Act 2004; where an officer deems a formal inspection of a premises is required they will provide the owner and occupier with a minimum of 24 hours' notice. Officers are not required to give 24 hours' notice of entry for the purpose of ascertaining whether an offence has been committed in relation to licensing of houses in multiple occupation (HMOs) and management regulations in respect of HMOs<sup>1</sup>.

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<sup>1</sup> Sections 72, 95 or 234(3) of the Housing Act 2004

Any findings and conclusions from inspections will be confirmed in writing at the earliest opportunity in a clear and straightforward manner.

Where there is reason to believe a hazard may exist, but access is denied, the councils can apply for a warrant of entry to the property under section 240 of the Housing Act 2004 without prior notice and using force if necessary.

## **Powers to require information**

Authorised officers have the power to require:

- Documents be provided under section 235 of the Housing Act 2004 to enable them to carry out their powers and duties.
- Gas appliance test certificates for HMOs be provided under section 234 of the Housing Act 2004.
- Electrical inspection and test reports for private rented properties to be provided under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
- Any person with an interest in a property to provide details about its ownership or occupation under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- Specified information for the purpose of deciding whether to apply for a banning order against the person under section 19 of the Housing and Planning Act 2016.
- Specified information for the purpose of deciding whether to make an entry in the database of rogue landlords and property agents or to complete an entry or keep it up to date under section 35 of the Housing and Planning Act 2016.

It is an offence not to produce the required information as requested or to provide false or misleading information.

For specific housing purposes the councils also have the power to:

- Obtain and use Housing Benefit and Council Tax information under section 237 of the Housing Act 2004.
- Request and use tenancy deposit information under section 212A of the Housing Act 2004.
- Access and use information contained within the database of rogue landlords and property agents under section 39 of the Housing and Planning Act 2016

## **Identifying the need for action: Informal action**

Where the councils are confident that remedial action will be taken to address the hazard within a reasonable time frame and it is appropriate to the circumstances of the case, an informal approach will be taken in the first instance.

An informal approach will normally only be possible in cases where non-compliance is minor, hazards are less serious, and where the landlord or agent has established a good track-record or has demonstrated a willingness and ability to comply and put matters right promptly.

An informal approach can include the following:

**No action:** In certain circumstances where the detrimental impact on the tenant or community is small or a reported breach is unsubstantiated, we may not take any action.

**Advisory or warning letters:** The councils can provide advice and information as a first response where we are notified of a minor housing hazard or defect. Advice, sometimes provided in the form of a warning letter, can assist landlords and agents to rectify breaches as quickly and efficiently as possible and avoid the need for further enforcement action.

**Referral to another agency:** Where appropriate the councils will refer cases to other council departments or external agencies for further action, e.g. Oxfordshire Fire and Rescue Service, or the councils' Environmental Protection team.

## Identifying the need for action: Formal action

Where an informal approach fails to result in a satisfactory resolution, or where a failure to comply is of a serious nature, the councils will consider formal action.

Where a landlord or agent has a history of non-compliance with housing standards, is not co-operative, or the risk is serious, the councils may proceed immediately to formal action.

Urgent action without consultation can be taken where health and safety hazards pose an imminent risk to the occupants of premises or other members of the public.

The options available for formal action to remedy a hazard under Part 1 of the Housing Act 2004 are:

- An Improvement Notice (including Suspended Notice) to require improvements.
- A Prohibition Order (including Suspended and Emergency Orders) to prohibit use of a dwelling or part of a dwelling.
- Emergency Remedial Action to remove an imminent risk of serious harm without the need for prior notice.
- A Hazard Awareness Notice to formally notify the owner of a hazard.
- A Demolition Order to require demolition of the property.
- A Clearance Area Declaration to clear the area of the property.

There is a right of appeal against formal notices and orders. Details of how to appeal will be included when formal notices or orders are served.

## Enforcement charges

The Housing Act 2004 allows councils to charge for serving statutory notices and orders. A charge will normally be made based on the cost of administration at the current rate for officer's time, and other expenses involved. The councils will not seek to recover costs associated with serving Hazard Awareness Notices. Details of charges will be published on the councils' websites.

In exceptional cases, charges can be varied or withdrawn at the discretion of the Private Sector Housing Team Leader where payment of the charge would cause exceptional hardship. Formal requests should be submitted via email [PSH@southandvale.gov.uk](mailto:PSH@southandvale.gov.uk). Charges may be waived where notices or orders are served on Registered Charities or Registered Providers.

## Enforcing non-compliance

The councils can take the following actions against a person who has committed an offence. The most suitable option will be decided on a case-by-case basis in line with this policy.

**Simple caution:** The councils can issue simple cautions as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, we are likely to consider prosecution. A simple caution will be recorded and be used to inform future decisions on prosecution and may be cited in any subsequent court proceedings.

**Civil penalty:** In certain cases, we will consider the use of civil penalties as an alternative to prosecution where it is appropriate to do so. Financial penalties can be imposed under various acts



and regulations. Part Two of this policy, **Civil Penalties and other Penalty Charges**, provides full details on how the councils will apply civil penalties. If a civil penalty is not paid, we can enforce the penalty.

**Prosecution:** We may decide to prosecute in respect of serious or recurrent breaches, or where other enforcement action, such as statutory notices, have failed to achieve compliance. Officers will consult and seek advice from the councils' Legal team when considering prosecution.

Where the investigating officer believes that formal legal action may be required, evidence will be properly collected and stored, and the case will be reviewed by a senior officer or team leader before a decision to proceed is taken by the Head of Housing and Environment or in the case of prosecutions, the Head of Legal.

Any person subject to potential prosecution can be interviewed under caution, in accordance with the Police and Criminal Evidence Act (PACE) 1984 provisions, prior to any final decision being made. Where those under investigation do not take up this offer; decisions will be made on the available evidence.

Prosecution will only be considered where we are satisfied that we have sufficient evidence to provide a realistic prospect of conviction, namely beyond reasonable doubt. When deciding whether to prosecute we will have regard to the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors.

## Legal interventions

**Works in default:** The council will consider carrying out works to a property where the person responsible has failed to comply with a relevant notice and where there is an imminent risk to health and safety. Works in default can be carried out either instead of or in addition to a prosecution or civil penalty.

In such cases, the council may organise and carry out the work or appoint an agent to complete the work on our behalf and recover the cost of the works plus reasonable expenses and interest. The costs will be charged to the property owner or placed as a charge on the property.

**Action by agreement:** Remedial works are completed by agreement whereby the council arranges for the works to be carried out and the responsible person agrees to be recharged the full cost. The councils must be confident that the cost of the works will be repaid in full on completion. If the costs are not repaid they are likely to be placed as a charge against the property.

**Database of rogue landlords and property agents:** The council will follow the statutory guidance for Local Housing Authorities produced by the Ministry of Housing, Communities and Local Government in relation to the database of rogue landlords and property agents under the Housing and Planning Act 2016. The database has been designed to help Local Housing Authorities keep track of rogue landlords and property agents operating across council boundaries.

The councils must make an entry on the database for a landlord or property agent who has received a banning order. The landlord or property agent will remain on the database for the period that the banning order has effect.

The council also have the discretion to make entries in respect of a person who has been convicted of a banning order offence and the offence was committed at a time when the person was a residential landlord or a property agent; or the person has received two or more civil penalties within a 12-month period.

## Rent Repayment Orders

A rent repayment order (RRO) can require a landlord to repay up to 12 months' rent, housing benefit, or Universal Credit. Rent repayment orders can be granted to either a local housing authority or a tenant.

The council has a duty to consider making an application for an RRO when it becomes aware that a landlord has been convicted of a relevant offence. In deciding whether to apply for an RRO the councils will have regard to the RRO guidance in place at the time. The relevant offences are specified by the Housing Act 2004 or the Housing and Planning Act 2016.

The council may apply for an RRO where we believe we can prove the landlord is guilty of one of the qualifying offences specified by the Housing Act 2004 or the Housing and Planning Act 2016 and where the rent has been paid through Housing Benefit or through the housing element of Universal Credit.

The councils may offer advice to assist tenants to apply for an RRO if the tenant has paid the rent themselves. A decision on how and if to provide support will be made on a case-by-case basis. The council will consider the vulnerability of the tenant, the likelihood of success and the financial implications to the council.

Local Housing Authorities are expected to apply their own policy on when to apply for a rent repayment order and should decide each case independently. In deciding whether to apply for an RRO the councils will have regard to the RRO guidance in place at the time.

Decisions to apply for an RRO will be recommended by officers and approved by the Head of Housing and Environment.

### **In the event of a conviction:**

The council will consider applying for an RRO in all cases where they become aware that a person has been convicted of one or more relevant offence in our districts.

We will consider each case individually and will take into account the following factors when deciding to apply for an RRO:

- The severity of the offence.
- The culpability and track record of the offender.
- The harm caused to the tenant.
- If it is in the public interest – has housing benefit/Universal Credit been paid to the landlord.
- If the tenant is intending to apply for a RRO.
- Any mitigating circumstances – would an RRO cause substantial hardship to the offender.

### **Amount of rent to be repaid:**

Where a landlord has been convicted of the offence to which the rent repayment order relates, the First-tier Tribunal (FtT) must order that the maximum amount of rent is repaid (capped at a maximum of 12 months).

Where a landlord has not been convicted of the offence to which the RRO application relates, the councils will take the following factors into account when considering how much rent to seek to recover:

- **Punishment of the offender:** The RRO should have a meaningful economic impact on the offender (subject to the 12 months maximum amount) and demonstrate consequences of non-compliance with their responsibilities. The conduct of landlord and tenant, the financial

circumstances of landlord and whether the landlord has previous similar convictions will be considered.

- **Deter the offender from repeating the offence:** The level of the RRO should be set at a high enough level to deter the offender from repeating the offence.
- **Dissuade others from committing similar offences:** Details of RROs imposed are in the public domain (published by First Tier Tribunal) so robust and proportionate use of RROs may encourage others to comply with their responsibilities.
- **Remove any financial benefit the offender may have obtained as a result of committing the offence:** The landlord should lose much, if not all, of the benefit they accrued by not complying with their responsibilities.

## Banning orders

Under the Housing and Planning Act 2016 the councils may apply to the First-tier Tribunal (FtT) for banning orders against residential landlords or property agents who have been convicted of banning order offences. A Banning Order prohibits a person from renting out residential accommodation, engaging in letting agency or property management work, or holding an HMO licence. The Order can be issued to persons who have been convicted of 'Banning Order offences' as specified by the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017. When considering applying for Banning Orders the councils will have regard to the relevant Government guidance.

A banning order bans a landlord or property agent from letting houses or engaging in letting agency or property management work in England for a minimum of 12 months.

In order to make use of banning order powers the councils are required to have in place a policy on when they will pursue a banning order. This policy takes account of the non-statutory guidance issued by the Government<sup>2</sup>.

Banning orders are reserved for the most serious offenders who flout their legal obligations and rent out sub-standard accommodation.

In deciding whether to apply for a banning order and when recommending the length of any banning order we will consider:

- the seriousness of the offence and the sentence imposed by the Court; and
- the previous history of the offender especially in relation to other banning order offences.

The councils will also take into account the likely effect of the ban on the person and anyone else who may be affected, including:

- the harm or potential harm to the tenant, specifically in relation to vulnerable people (banning order offences more directly related to health and safety of tenants will be considered more harmful).
- punishment of the offender, ensuring any ban is proportionate and also reflects the severity of the offence; and
- deterring the offender and others from committing similar offences by recommending a sufficiently long ban.

The decision to apply for a banning order, including the recommended duration of the ban, will be taken by the Head of Housing and Environment.

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<sup>2</sup> Banning Order Offences under the Housing and Planning Act 2016 Guidance for Local Housing Authorities

Where a banning order is made, the individual will be determined not to be a 'fit and proper' person to hold a licence under Part 2 or 3 of the Housing Act 2004 and any licences in force under those parts will be revoked.

The council will consider publishing details of successful banning orders including the names of individual landlords subject to legal advice and guidance provided by the Ministry of Justice on whether to publish sentencing outcomes.

The council will also consider making information on banned landlords available to tenants on request.

**Notices, representations and appeals:**

If the council decides to apply for a banning order, we will first issue the landlord or property agent a notice of intent giving notice of our proposal to apply for a banning order. A notice of intent must be served within six months of the date of conviction.

The notice of intent will inform the landlord:

- of our intention to apply for a banning order and the reasons for this.
- the length of each proposed ban; and
- the right of the landlord to make representations during the notice period (minimum 28 days).

Representations in response to a notice of intent must be made within 28 days from the date the notice was given. Properly made representations will be considered by the Head of Housing and Environment.

Once a decision has been made we will advise the landlord/property agent whether we intend to apply for a banning order or not. The FtT will set the duration of any banning order but the councils are required to recommend a period as part of an application. Only the FtT can make, vary or revoke a banning order.

Once a decision is made by the FtT, any appeals must be made to the Upper-tier Tribunal (UtT).

**Enforcement:**

Breach of a banning order is a criminal offence subject to either prosecution in the Magistrate's Court (See Part One: Housing Enforcement) or civil penalty (See Part Two: Civil Penalties and other penalties). The councils will consider prosecuting or issuing a civil penalty to any landlord or property agent found to be breaching a banning order in the districts.

## Other types of enforcement

**Protection from Eviction Act 1977:** The council will consider taking action under the Protection from Eviction Act 1977 where we have reason to believe that an illegal eviction or harassment has taken place. We will act to investigate the potential offence to determine whether an offence has been committed and can be established to the required standard.

**The Smoke and Carbon Monoxide Alarm (England) Regulations 2015:** The regulations require that all rented properties are fitted with a working smoke alarm on each level of the premises from the start of every tenancy, and that a carbon monoxide alarm is fitted in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers). Landlords must repair or replace any alarms that are found to be faulty when they have been informed. This is the minimum standard for private rented sector properties and the councils may require additional fire safety measures where a hazard relating to fire safety is identified.

Where the councils have reasonable grounds to believe a landlord has not complied with one or more of these requirements we are legally required to serve a remedial notice on the landlord. If a landlord does not comply with a notice, the councils are required to carry out works in default (with consent from the occupier) to ensure the requirements in the regulations are met and may also levy a penalty charge. Part Two of this policy sets out the council's statement of principles to determine the level of a penalty charge.

**Energy Efficiency (Domestic Property) (England and Wales) Regulations 2015:** The regulations established a minimum standard of energy efficiency for domestic privately rented properties, subject to certain requirements and exemptions.

Where a valid exemption from the regulations applies the landlord must register the exemption on the national Private Rented Sector (PRS) Exemptions Register.

From 1 April 2023, under the Minimum Energy Efficiency Standards (MEES), a landlord cannot rent a property with an Energy Performance Certificate (EPC) rating lower than "E" without a legitimate reason.

The council may check whether a property meets the minimum level of energy efficiency and may issue a compliance notice requesting information where it appears that a property has been let in breach of the regulations (or an invalid exemption has been registered in respect of it). Where the councils are satisfied that a property has been let in breach of the regulations, we may serve a notice on the landlord imposing financial penalties. The council may also publish details of the breach on the PRS Exemptions Register.

A local authority may also serve a penalty notice for the lodging of false information on the PRS Exemptions Register.

The maximum penalties applicable per breach, and the considerations which will be taken into account in setting the level of penalty are set out in Part Two of this policy.

**Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020:** The regulations require landlords to have the electrical installations in their properties inspected and tested by a person who is qualified and competent, at least every five years.

Landlords must provide a copy of the electrical safety report to their tenants, and to the councils if requested.

Where the councils believe that a landlord has breached their duties under the Regulations, we may take one, or a combination of, the following actions:

- Serve a remedial notice on the landlord, requiring them to take action in respect of the breach.
- Carry out urgent remedial action where a report indicates it is required.
- Carry out remedial action where a landlord is in breach of a remedial notice.
- Issue a financial penalty of up to £30,000 in respect of a breach of the Regulations.

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

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to belong to a Scheme etc) (England) Order 2014 introduced a requirement for letting agents and property managers to belong to an approved redress scheme. The redress scheme must be approved by Government or designated as a government administered redress scheme.

Where the council becomes aware that a letting agent or property management organisation does not belong to an approved redress scheme it has a duty to take enforcement action. Enforcement action will be taken in line with the process prescribed by the order. The council may serve a notice on the offender that requires the payment of a penalty of an amount determined by the council.

Government guidance suggest a penalty of £5,000 should be considered reasonable and should not be exceeded. A lower penalty should only be charged if the council is satisfied there are extenuating circumstances.

Where a notice is served requiring a monetary penalty, there is a right to appeal at the First-tier Tribunal, and the notice is suspended until the appeal is determined or withdrawn.

### **Additional enforcement options for HMOs**

**Interim Management Orders (IMOs) and Final Management Orders (FMOs):** These powers will only be used where other attempts to ensure the health, safety or welfare of occupiers has failed. IMOs can be made where there is no realistic prospect of a property licence being granted. By making an IMO the management and rental income from a property is removed from the landlord for up to one year. The income is used to carry out necessary works to reduce any significant hazards in the property, to maintain the property, and to pay any relevant management expenses. Following the granting of an IMO, the councils can apply for a Final Management Order (FMO) that can be in place for up to seven years. The councils may engage a private company to manage the property.

**Overcrowding notices (section 139 of the Housing Act 2004):** Section 139 of the Housing Act 2004 allows the council to serve an Overcrowding Notice in respect of Houses in Multiple Occupation that falls outside of the scope of HMO licensing. The notice specifies, on a room-by-room basis, the maximum number of persons allowed to occupy each room as sleeping accommodation or that the room is not considered suitable for that purpose.

The council will use the HMO bedroom space standards set out in this document (Appendix 1: Houses in Multiple Occupation Standards) as the standard for overcrowding enforcement in all HMOs.

## Part Two: CIVIL PENALTIES AND OTHER PENALTY CHARGES

### Introduction

Part Two of this policy sets out the circumstances in which South Oxfordshire and Vale of White Horse District Councils (the councils) may impose a civil penalty and the factors we will consider when setting the level of the penalty. The councils will have regard to statutory guidance when exercising our powers in respect of civil penalties.

### Offences

Civil penalties can be imposed under the following acts and regulations:

Legislation and regulations	Maximum fine
Failure to comply with an Improvement Notice (section 30, Housing Act 2004)	£30,000
Offences in relation to licensing of Houses in Multiple Occupation (section 72, Housing Act 2004)	
Offences in relation to licensing of houses under Part 3 of the Act (section 95, Housing Act 2004)	
Offences of contravention of an overcrowding notice (section 139(7), Housing Act 2004)	
Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234, Housing Act 2004)	
Breach of a banning order (section 21, Housing and Planning Act 2016)	
Offences in relation to the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020	£5,000
Offences in relations to the Smoke and Carbon Monoxide Alarm (England) Regulations 2015	
Offences in relation to the Energy Efficiency (Domestic Property) (England and Wales) Regulations 2015	

The income received from a civil penalty can be retained by the councils, provided it is used to further statutory functions in relation to housing enforcement activities.

### Decision making

A local authority cannot issue a civil penalty and prosecute for the same offence. Prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past. However, civil penalties can be used in cases where serious offences have been committed and a significant financial penalty, rather than prosecution, is judged to be the most appropriate and effective course of action.

The same criminal standard of proof is required for a civil penalty as for a prosecution, namely that the standard of proof is beyond all reasonable doubt. Before proceeding with a civil penalty, we will satisfy ourselves that, were the case to be prosecuted in court, there would be a realistic prospect of conviction.

The courts will have maximum sentences that can be imposed under legislation where a prosecution is deemed the appropriate course of action. For civil penalties the councils will set penalties we believe are reasonable and could be successfully defended in the event of an appeal. The decision-making process for setting reasonable and defensible penalties is set out below.

Decisions to issue a civil penalty will be taken by the Head of Housing and Environment in discussion with Private Sector Housing officers and Legal officers. Justifications for the decision to issue a civil penalty (rather than prosecute) and the level of penalty will be recorded. This approach

will help ensure transparency, aid consistency, and assist in defending appeals against decisions to impose civil penalties and/or the penalty amount.

## Considerations when deciding the level of civil penalty

To ensure that a civil penalty is set at an appropriate level, the councils will consider the following relevant factors as set out in the statutory guidance:

**The severity of the offence:** the more serious the offence the higher the penalty should be.

**The culpability and track record of the offender:** a history of non-compliance or deliberate action should increase the penalty amount.

**The harm caused to the tenant:** the greater the harm or potential for harm, the higher the penalty should be.

**The punishment of the offender:** the penalty should be set at a level to reflect that offence could be dealt with in a court of law and should have an impact upon the recipient.

**Whether it will deter the offender from repeating the offence:** the level of the penalty should be set to deter the offender from re-offending.

**Whether it will deter others from committing the offence:** the civil penalty will not be in the public domain, however there is a likelihood there will be an awareness of penalties through informal channels. The level of the penalty should seek to demonstrate the impact of non-compliance.

**Whether it will remove any financial benefit the offender may have obtained as a result of committing the offence:** the offender should not benefit as a result of committing an offence i.e. it should not be cheaper to offend than to properly manage and maintain a property.

## Multiple offences

Where the council is satisfied that more than one offence has been committed simultaneously at the same property, we may issue multiple civil penalty notices, for instance where there has been more than one breach of HMO management regulations.

However, if the council considers that issuing multiple penalties at the same time would result in an excessive cumulative penalty, we may take action in respect of one (or some) of the offences and warn the offender that future action in respect of the remaining offences will be taken if they continue.

## Notices, representations and appeals

The offender will be invited to attend an interview under caution for an explanation to enable a decision to be made as to whether a civil penalty or prosecution is the most appropriate way forward.

Representations in response to a civil penalty “notice of intent” must be made within 28 days from the date the notice was given. Properly made representations will be considered by the Head of Housing and Environment to determine whether to impose a penalty and, if so, the amount of the penalty.

If the councils decide to impose a financial penalty, we will issue a civil penalty “final notice” requiring that the penalty is paid within 28 days. The final notice will include details of the amount to be paid, the reasons for issuing a civil penalty, how to pay, and the consequences of not paying.



Offenders can appeal a final notice at the First Tier Tribunal and details of how to appeal will be included in the notice. The appeal must be made within the timescales as set out in the notice.

## Payment

The council will issue an invoice for the amount specified on the final notice. The offender must pay the penalty within 28 days from the date the final notice is served. The council may consider offering a payment plan in exceptional circumstances. If payment is not made, or if a payment plan is not adhered to, the council will seek to recover the amount owed and costs through the County Court. If an appeal is made, the requirement to pay will be suspended until the outcome of the appeal.

## Determining the level of the civil penalty

The level of civil penalties relate to offences committed under the following acts:

- The Housing Act 2004
- The Housing and Planning Act 2016
- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

In line with the statutory guidance, when determining the level of civil penalty to be imposed under the acts and regulations listed above, officers will have regard to the following factors:

- Severity of the offence
- Culpability and track record
- Harm caused to the tenant(s)
- Punishment of the offender
- Deter offender from repeating the offence
- Deter others from committing similar offences
- Remove financial benefit the offender may have obtained by committing the offence.

The process which officers will follow to determine the level of civil penalty to be imposed is set out below.

### Step one: Severity

Officers will consider three levels of severity based on the extent of non-compliance and/or breaches and the number of tenants affected. A score will be awarded depending on the level of severity.

Level of severity	Description	Score
Low	Up to three items on Improvement Notice schedule of works not complied with.	1
	Category two hazard(s).	
	HMOs of up to five tenants.	
	Failed to comply with up to three HMO licence conditions.	
	Failed to comply with up to three HMO management regulations.	
	Reports (e.g. EICR) not supplied within required timescales.	
Medium	Up to five items on Improvement Notice schedule of works not complied with	2
	Combination of category one and two hazards	
	HMOs of up to seven tenants	

	Failed to comply with up to five licence conditions	
	Failed to comply with up to five HMO management regulations	
	Electrical installation inspection and testing not completed at intervals of no more than five years.	
<b>High</b>	More than five items on Improvement Notice schedule of works not complied with	3
	Category one hazard(s)	
	HMOs of more than 7 tenants	
	Failed to comply with more than five licence conditions	
	Failed to comply with more than five HMO management regulations	
	Electrical safety standards not met; failure to carry out remedial work required by EICR; failure to comply with Remedial Notice under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.	

### Step two: Culpability

Officers will consider three levels of culpability based on the offender’s awareness of the offence, ability to influence and intentions. A score will be awarded depending on the level of culpability.

Level of culpability	Description	Score
<b>Low</b>	Little fault of the offender.	1
	Offender let down by contractor or managing agent with full management agreement in place.	
	Landlord not a member of an accreditation scheme	
<b>Medium</b>	Offender failed to take reasonable care to avoid serious offence, e.g. failed to carry out essential maintenance and repairs.	2
	Offender failed to make themselves aware of their legal responsibilities, e.g. requirements of HMO management regulations.	
<b>High</b>	Intentional breach by offender	3
	Disregard of law	
	Offender failed to take action to correct problem or hazard they are aware of.	
	Landlord is a member of an accreditation scheme	

### Step three: Track record

Officers will have regard to three levels based on the offender’s history of offences, breaches and/or non-compliance and the scale of each. A score will be awarded depending on the offender’s track record.

Track record	Description	Score
<b>Low</b>	No history of previous offences, breaches and/or non-compliance.	1
<b>Medium</b>	History of previous minor offences, breaches and/or non-compliance.	2
<b>High</b>	History of previous major offences, breaches and/or non-compliance.	3

**Step four: Harm**

Officers will have regard to three levels of harm based on the seriousness of the harm caused. Where no actual harm has been caused officers will consider the relative danger the tenant was exposed to as a result of the offence, i.e. the likelihood of harm occurring and the seriousness of the harm that could have occurred. A score will be awarded depending on the level of harm.

Level of harm	Description	Score
Low	Defect giving rise to moderate (class four) harm outcomes to occupants and visitors.	1
	Property fully compliant with management regulations/licensing standards but no licence in place.	
	EICR not supplied or code further investigation (FI) items identified on EICR.	
Medium	Defect gives rise to serious (class three) harm outcomes to occupants and visitors.	2
	Code two (C2) items identified on EICR.	
High	Defect gives rise to possibility of extreme or severe (class two or one) harm outcomes to occupants and visitors.	3
	Overcrowding (risk to occupants and high impact on community from issues with overcrowding, e.g. noise, car parking).	
	Vulnerable occupants or visitors to property.	
	Code three (C1) items identified on EICR.	

**Step five: Determining the penalty band**

The penalty band will be determined by combining the four scores for the levels of severity, culpability, track record and harm. An example of a penalty band score calculation is shown below.

Factor level	Score	Factor	Score
Low	Score 1	Severity	2
Medium	Score 2	Culpability	1
High	Score 3	Track record	1
		Harm	3
		<b>Total score</b>	<b>7</b>
		<b>Penalty band:</b>	<b>2</b>

The level of penalty is divided into five bands corresponding to the five potential scores shown in the matrix above.

Penalty band	Score	Penalty range <sup>1</sup>	Average starting point
Band 1	4 - 5	Up to £5,999	£3,000
Band 2	6 - 7	£6,000 - £11,999	£9,000

Band 3	8	£12,000 - £17,999	£15,000
Band 4	9 - 10	£18,000 - £23,999	£21,000
Band 5	11 - 12	£24,000 - £30,000	£27,000
<b>Notes:</b>			
1: Penalty will be adjusted from average starting point within band range by aggravating and mitigating factors			

**Step six: Aggravating and mitigating factors**

Aggravating factors will increase the level of civil penalty, while mitigating factors will decrease it. Examples of aggravating and mitigating factors are set out in the table below. This is not an exhaustive list and other factors such as those given in the Magistrates Court Sentencing Guidelines may be considered depending on the circumstances of the case.

When considering aggravating or mitigating factors, officers will seek to ensure that the level of civil penalty imposed remains proportionate to the offence.

Aggravating and mitigating factors	
<b>Aggravating Factors:</b>	Previous convictions (having regard to nature of offences and time elapsed)
	Motivated by financial gain
	Obstruction of the investigation
	Deliberate concealment of the activity/evidence
	Number of items of non-compliance
	Record of non-compliance
	Record of letting sub-standard accommodation
	Record of poor management/inadequate management provision
	Lack of a tenancy agreement/rent paid in cash
	Member of an accreditation scheme (should know better)
<b>Mitigating Factors:</b>	Co-operation with the investigation
	Voluntary steps taken to address issues
	Willingness to undertake training or join accreditation scheme
	Evidence of health reasons preventing reasonable compliance
	No previous convictions
	Vulnerable individual (where the vulnerability is linked to the commission of the offence)
	Good character and/or exemplary conduct

**Step seven: Punishment, deterrence and financial benefit**

It is important that any penalty issued is set at a high enough level to ensure that it has a real economic impact on the offender. Officers will use existing powers to, as far as possible, make an assessment of the offender’s assets and income received to ensure the level of civil penalty imposed will act as a punishment, deter the offender from offending again and ensure the offender does not profit from the offence.

In most cases the following factors will be taken into consideration:

- the rental income from the property where the offence has occurred
- the value of the property where the offence has occurred

- whether the property is owned outright or is mortgaged
- the rental income from other properties owned by the offender
- the value of other properties owned by the offender
- any other income (e.g. salary)

**Step eight: Deterrence of other offenders**

Unlike a successful prosecution, details of civil penalties issued by the councils will not be in the public domain unless a penalty is appealed.

The council may publish details of the number and value of civil penalties recovered and work with the Communications team to promote this information so that it may act as a deterrent to other landlords in the local area.

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

### **Introduction:**

Under the Smoke and Carbon Monoxide (England) Regulations 2015 and the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 a landlord must ensure that:

- a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation.
- a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers).
- checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy; and
- following a report that an alarm is found not to be in proper working order, the alarm is repaired or replaced as soon as reasonably practicable.

### **Remedial notice:**

Where the council has reasonable grounds to believe that a landlord is in breach of their duties under these regulations we must serve a remedial notice requiring the landlord to take action to comply with the regulations within 28 days, beginning the day on which the notice is served.

### **Penalty charge notice:**

Where the council is satisfied, on the balance of probabilities, that a landlord has not complied with the remedial notice, the council must take remedial action and can require the landlord to pay a penalty charge by serving a penalty charge notice.

### **Statement of principles:**

The council is required to publish a statement of principles which they will follow when deciding on the penalty charge amount for failing to comply with a remedial notice served under these regulations.

This statement sets out the principles that the councils will apply in exercising powers to impose a penalty charge for failing to comply with a remedial notice.

The principles to be taken into account when setting the penalty charge include:

- The level of penalty should as a minimum cover the cost of all the works in default, officer time, recovery costs, an administration fee and a punitive fine.
- Repeated offences should attract a higher penalty in view of continuing disregard for legal requirements and tenant safety.
- A lesser penalty will be applied to first offences.
- Prompt payment of the penalty will attract a reduced penalty in recognition of early admission of liability and savings in administration costs.

### **Level of penalty charge:**

The regulations state the maximum penalty charge must not exceed £5,000. The penalty charges for failure to comply with a remedial notice are shown in the table below.

Breach	Penalty charge	Early payment reduction
First breach	£2,500 for the first breach to comply with a remedial notice	Reduced to £1,250 for payments received within 14 days of the notice being served.
Two or more breaches	£5,000 for each subsequent breach to comply with a remedial notice	Reduced to £2,500 for payments received within 14 days of the notice being served.

Where the councils are satisfied, on the balance of probabilities, that a landlord has not complied with the remedial notice the councils must serve a penalty charge notice within six weeks.

### Reviews and appeals:

The landlord can request that the council reviews their decision to issue a penalty charge notice. Any request to review must be made in writing and within 28 days from the day when the penalty notice was served.

The council must consider any representation and decide whether to confirm, vary or withdraw the penalty charge notice within 28 days. Properly made representations will be considered by the Head of Housing and Environment.

A landlord who is served with a notice confirming or varying a penalty charge notice may appeal to the First-tier Tribunal against the council's decision.

### Recovery of penalty charge:

The councils may recover the penalty charge as laid out in the Regulations on the order of a Court, as if payable under a Court Order.

## The Energy Efficiency (Domestic Property) (England and Wales) Regulations 2015: Penalty charges

### Introduction:

The Energy Efficiency (Private Rented Property) (Amendment) Regulations 2019 (the Regulations) require domestic private rented properties to have a minimum Energy Performance Certificate (EPC) rating of E<sup>3</sup>.

If the council believes a landlord has failed to fulfil their obligations under the Regulations, we can serve the landlord with a compliance notice.

### Compliance notice:

A compliance notice may request information on:

- the EPC that was valid for the time when the property was let
- the tenancy agreement used for letting the property
- information on energy efficiency improvements made
- any Energy Advice Report in relation to the property
- any other relevant document

### Penalty notice:

If the council confirms that a property is (or has been) let in breach of the Regulations, we may serve a financial penalty up to 18 months after the breach and/or publish details of the breach for at least 12 months (publication penalty).

### Level of penalty charge:

The council can decide on the level of the penalty, up to maximum limits set by the Regulations. The table below shows the fines per breach of the Regulations the councils will impose, however the total amount of the financial penalty may not exceed £5,000.

The council will impose penalties in line with the maximum levels set out by the Regulations. Prompt payment of the penalty will attract a reduced penalty in recognition of an early admission of liability and savings in administration costs.

Breaches	Penalty charge	Early payment reduction
Renting out a non-compliant property	Up to £4,000 and/or publication penalty	Up to £2,000 and/or publication penalty
Providing false or misleading information on the PRS exemptions register	Up to £1,000 and/or publication penalty	Up to £500 and/or publication penalty
Failing to comply with a compliance notice	Up to £2,000 and/or publication penalty	Up to £1,000 and/or publication penalty
<b>Notes:</b> Maximum total amount of financial penalty that can be imposed is capped at £5,000		

<sup>3</sup> Unless a valid exemption from the Regulations of the PRS Exemptions Register or the property is not legally required to have an EPC.



Where the council issues a penalty notice, the notice may tell the landlord what action they should take to remedy the breach and by what date this action should be completed. The completion date must be no sooner than one month from the date of the penalty notice. A further penalty notice may be issued if the action required is not taken in the time specified.

### **Reviews and appeals:**

The landlord can request that the council reviews its decision to serve a penalty notice. Any request to review must be made in writing and within 21 days from the day on which the penalty notice was served.

The council must consider any representation and decide whether to confirm, waive or reduce the penalty; grant additional time to pay the penalty; and/or modify the application of a publication penalty. Properly made representations will be considered by the Head of Housing and Environment.

A landlord who is served with a notice confirming or varying a penalty charge notice may appeal to the First-tier Tribunal against the council's decision.

### **Recovery of penalty charge:**

Any unpaid financial penalty is recoverable from the landlord as a debt owed to the council unless the penalty charge notice has been withdrawn or quashed.

## **Part Three: HOUSES IN MULTIPLE OCCUPATION LICENSING AND STANDARDS**

### **Definition of a House in Multiple Occupation (HMO)**

In summary, the legal definition of a House in Multiple Occupation (HMO) is a property occupied by three or more persons from two or more households and who share an amenity, for example a bathroom, toilet or kitchen. A household can consist of a single person or persons who are related.

HMOs can include shared houses and bedsits, flats, converted buildings which include units of accommodation that are not self-contained flats, and buildings converted entirely into self-contained flats (section 257 HMOs).

HMOs occupied by five or more people require an HMO licence from the local authority.

### **Minimum standards for HMOs**

The Housing Act 2004 and associated Regulations set the minimum legal standards required for HMOs. This policy sets out the council's approach on ensuring how the standards are met.

The space standards are used to determine the maximum occupation of an HMO under section 64 of the Housing Act 2004; known as the 'permitted number'.

The amenities and facilities standards indicate how we will determine the 'tests as to suitability for multiple occupation' can be met under section 65 of the Housing Act 2004 for licensing purposes.

The council expects that the council's HMO standards, as set out in detail in Appendix 1, are achieved in all HMOs (including section 257 HMOs) and they will inform the council's enforcement decisions. It is a legal requirement for HMOs to be compliant with the HMO minimum standards. The council acknowledges however that there may be exceptional instances where compliance with the minimum standards is not practicable and any variation from the minimum standards will need to be agreed with the council and confirmed in writing.

The council will also use the bedroom space standards as the relevant standard for overcrowding enforcement in all other HMOs.

### **Summary of standards**

Full details of the minimum standards for HMOs in Vale of White Horse and South Oxfordshire, whether licensable or not, are set out in Appendix 1. The standards cover minimum room sizes and the provision of amenities and facilities including:

- Heating and ventilation
- Fire protection
- Water supply and drainage
- Personal washing and toilet facilities
- Facilities for storage, preparation and cooking of food
- Waste and recycling management

For licensable HMOs, the minimum standards may not necessarily be met on the date a licence becomes operative. Where the standards are not met the licence will be issued with conditions requiring compliance with the standards within a required time period.

## Management regulations

HMOs require a higher level of management than single household properties and specific regulations are in place to ensure this. All HMOs are subject to Management Regulations whether they require a licence or not, and landlord and managers of HMOs must comply with the relevant management regulations.

In summary, managers of HMOs are required to:

- Provide management information to occupants and display the name, address and telephone number for the manager clearly in the HMO property.
- Take safety measures including fire safety. Keep escape routes free from obstruction and maintain fire alarms and equipment in good working order.
- Protect occupants from injury – appropriate safeguards must be maintained for roofs, balconies and low windowsills.
- Maintain water supply and drainage in good, clean working order and protected from frost damage.
- Supply and maintain gas and electricity; ensure the electrical installation is inspected and tested every 5 years and supply gas safety certificates and electrical reports to the councils within seven days of a request.
- Maintain common parts, fixtures, fittings and appliances in good order and repair.
- Maintain living accommodation in a clean condition at the beginning of the tenant's occupation and in good repair.
- Provide waste disposal facilities suitable for the size of each household and comply with the councils' waste storage and disposal schemes.

Occupants of HMOs are required not to hinder the manager in their duties and to cooperate with reasonable requests.

### Penalties

Failing to comply with HMO management regulations is an offence under the Housing Act 2004, subject to a financial penalty of up to £30,000 or an unlimited fine on summary conviction. (See Part Two: Civil Penalties and Other Penalties).

## HMO licensing

The councils operate a mandatory HMO licensing scheme as specified by Part 2 of The Housing Act 2004.

HMOs with five or more persons will be subject to mandatory licensing except section 257 HMOs and HMOs within self-contained, purpose-built blocks of flats with more than two flats in the block.

Blocks of purpose-built flats where there are up to two flats in the block and one or both are occupied as an HMO with five or more occupants are also subject to mandatory licensing.

Certain buildings which are exempt from HMO Licensing are prescribed in Schedule 14 of the Housing Act 2004 and associated Regulations.

## Applications for HMO licences

To be considered a valid application, the following information must be provided to the council in an acceptable format.

- Licence application form completed in full, including all information specified by Regulations, plus any further information required by the council.
- A declaration signed by the applicant (and the proposed licence holder where different).
- The specified fee paid in full.

Where an HMO has a licence in place, and a valid application is submitted before the expiry and the same licence holder is proposed, a renewal application will be accepted, and a reduced licence fee applied. In all other cases a new application form must be completed, and full licence fee paid.

When the council receives an application, we must decide whether to grant or refuse to grant an HMO licence considering the factors below:

- The property is reasonably suitable for occupation by the intended number of occupants or can be made suitable by the imposition of licence conditions. The intended number of occupants is either the number specified in the application or another number set by the council.
- The proposed licence holder and manager are fit and proper persons.
- The proposed licence holder is the most appropriate person to hold the licence.
- The manager is either the person having control or an agent or employee of the person having control.
- The proposed management arrangements are satisfactory.

The following sections explain how the council will reach their decisions on these matters.

### **Suitability for multiple occupation**

The amenities and facilities standards (Appendix 1) include the prescribed standards for deciding the suitability for occupation of an HMO by a particular maximum number of households or persons set by the Regulations made under section 65(3) of the Housing Act 2004.

The amenities and facilities standards indicate out how the council will judge if the 'tests as to suitability for multiple occupation' can be met under s.65 of The Housing Act 2004 for licensing purposes.

### **Fit and proper person**

The council must be satisfied that the proposed licence holder is a fit and proper person and the most appropriate person to hold the licence.

The council must also be satisfied that the proposed manager of the house is the person having control or is an agent or employee of the person having control of the house and is a fit and proper person.

The Housing Act 2004 states that a person is not a fit and proper person if a banning order under section 16 of the Housing and Planning Act 2016 is in force against the person.

In deciding whether a person is a fit and proper person to be the licence holder or manager of the property, the council must have regard (among other things) to whether a person has:

- Committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003.
- Practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business.
- Contravened any provision of the law relating to housing or of landlord and tenant law.

- Acted otherwise than in accordance with any applicable code of practice approved under section 233.

Other considerations as to whether a proposed landlord or manager is a fit and proper person include where a person:

- Has contravened any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgment being made against them.
- Has contravened any legal requirement as a letting or management agent.
- Has had a licence refused or revoked (in consequence of the licence holder breaching the conditions of his licence) in relation to Part 2 or 3 of the Housing Act 2004.
- Owns or manages or has owned or managed an HMO or house which has been the subject of an interim or final management order under the Housing Act 2004.

In addition, any person associated or formerly associated with a proposed licence holder or manager, is subject to the considerations.

Where evidence of the above considerations is found, the council will review the person's fit and proper status and may revoke their licence. A person will generally be considered to be fit and proper unless evidence is found to the contrary.

## **Satisfactory management arrangements**

The council must be satisfied that the proposed management arrangements for a HMO are satisfactory. The council expects licence holders to have the following arrangements in place:

- A person to whom tenants can report defects, including an emergency contact, and for this information to be displayed in writing in the premises.
- An established system for periodically inspecting the HMO to identify any repairs or maintenance.
- The ability to finance and to undertake repairs and maintenance in an appropriately timely fashion.
- Where the manager is not the owner of the property, the manager must be able to fund and implement urgent repairs in those situations where it is not possible to obtain the owner's approval without undue delay.
- A system to deal with any anti-social behaviour caused by tenants or their visitors, which causes nuisance or annoyance to people living in the vicinity.

The council may also consider whether any person involved in the management of the house has a sufficient level of competence and may take into account matters such as the frequency and nature of any valid complaints received in connection with the property or its management, and the adequacy of any response.

## **Inspections**

Officers will normally inspect HMOs following receipt of a valid new application in order to assess the suitability of the HMO for the proposed number of occupants and compliance with the HMO standards and management regulations.

During the licence period, all licensed HMOs will be subject to an assessment using the Housing Health and Safety Rating System (HHSRS) to ensure properties are free from significant hazards.

Further inspections may be undertaken throughout the lifetime of the licence and may include (but are not restricted to) visits to check compliance with licence conditions, to assess ongoing confidence in management, or to investigate complaints.

## Licence conditions

Licences may include conditions that the council considers appropriate for regulating any aspect of the HMO's management, use, occupation, conditions or contents. Licences issued by the council may include conditions in the following categories:

**Mandatory Conditions:** The Housing Act 2004 Schedule 4 (as amended) prescribes Mandatory Licence Conditions which must be included in all HMO licences.

**Discretionary Conditions (General):** A set of standard conditions will be included in all licences issued by the council. The general purpose of these conditions is to secure the effective management of the licensed HMOs across the districts.

**Discretionary Conditions (Specific):** Licences may also contain conditions designed to regulate matters specific to the HMO.

## Issuing licences

Draft licences ('Intention Notice') must be issued within a reasonable period of time following the receipt of a valid licence application. The council aims to issue draft licences within 12 weeks of a valid application.

The applicant will be given at least 14 days after the date of service of the draft licence to make any representations regarding the proposed licence. Any representations received will be reviewed by a senior officer or team leader and a written response provided before the actual licence ('Decision Notice') is issued.

Licences will generally be issued for five years, except where we have concerns relating to the management of the property, including non-compliance with licence conditions, breaches of the management regulations or contraventions of other relevant legislation. In these cases licences will generally be issued for one year and the length of licence reviewed upon renewal.

Licences may only relate to a single HMO and are non-transferrable.

## Licence fees

The councils will charge a fee for each licence. Fees will be periodically reviewed and will be set in accordance with available best-practice guidance. The council may determine that different fees will apply in different situations and may, for example, set a lower rate for licence renewals, or a higher fee for larger HMOs and HMOs found operating without a licence.

Fees will be reviewed annually and revised as necessary through the council's fees and charges setting procedures and as required by any legislative changes. Details of fees will be published on the councils' websites.

## Variation of licences

The council may vary a licence either with the agreement of the licence holder or without agreement if it considers there has been a change of circumstances since the licence was granted. Change of circumstances will be taken to include the discovery of new information.

## Revocation of licences

The council may revoke a licence either with the agreement of the licence holder or without agreement in the following circumstances:

- Where the council considers that the licence holder or any other relevant person has committed a serious breach of a licence condition or repeated breaches of a condition.
- where the council no longer consider that the licence holder is a fit and proper person to hold the licence.
- Where the council considers that the management of the premises is no longer being carried out by fit and proper persons.
- Where the property has ceased to be an HMO requiring a licence.
- Where the council considers that, were the licence to expire at that time, it would not grant a further licence because of the structure of the premises.

## Appeals of licence decisions

The applicant, anyone with an estate or interest in the premises, a person managing the premises or anyone on whom the licence would place any restriction or obligation, may appeal against the councils' decision to either grant or refuse to grant a licence, or in connection with decisions in relation to revocation or variation. Details of how to appeal will be included with licences ('Decision Notices').

## Temporary Exemption Notices (TENs)

Where a landlord or manager makes an application in writing, the council may issue a Temporary Exemption Notice (TEN) for up to three months if we are satisfied that particular steps are being taken to ensure either that the building will cease to be an HMO, or that it will become an HMO that is no longer subject to mandatory licensing. For example, entering into a contract for the sale of the building with vacant possession for use other than as an HMO.

Placing or proposing to place an HMO on the market for sale will not normally be sufficient for the council to agree to issue a TEN.

TENs will be refused in cases where it appears the application has only been sought with the aim of avoiding or evading licensing.

The council will confirm its decision in writing by serving a notice giving the reasons for the decision whether or not to grant the exemption. Applicants may appeal the decision and details of how to appeal will be included with the TEN.

TENs can only be granted for a maximum of three months, although in exceptional circumstances it can be renewed for a further three months on further application to the council.

If the licence holder dies while the licence is in force the licence ceases and for three months from the death the building will be treated as having a temporary exemption notice granted. During that period the licence holder's personal representatives may apply to the council for an extension to the exemption for a further three months whilst affairs are being sorted out. The council does not have to grant a further extension, however consent is unlikely to be withheld in such cases.

## **Enforcement**

It is an offence to:

- Have control of or manage an HMO which is required to be licensed but is not licensed.
- Have control of or manage an HMO which is licensed and to knowingly permit another to occupy the house with the result that the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.
- Be a licence holder or a person on whom restrictions or obligations are imposed under a licence and fail to comply with any condition of the licence.
- Fail to comply with the relevant HMO management regulations.

These offences carry a range of punitive actions which the councils may wish to pursue, including:

- Prosecution resulting in an unlimited fine on summary conviction
- Seeking Banning Orders following successful conviction
- Financial penalties of up to £30,000 for each offence
- Rent Repayment Orders to recover Housing Benefit/Universal Credit
- Assisting tenants to apply for Rent Repayment Orders
- Entering landlords and agents into the 'Rogue Landlords Database'
- Interim or Final Management Orders

Any decision to pursue enforcement action will be taken in line with this policy and in discussion with the Legal and Finance teams.



## APPENDIX ONE: HOUSES IN MULTIPLE OCCUPATION STANDARDS

This appendix sets out the standards which apply to HMOs in South Oxfordshire and Vale of White Horse.

The councils expect the standards to be achieved in all HMOs (including section 257 HMOs) and they will help inform the councils' enforcement decisions. In the case of licenced HMOs, compliance is a legal requirement however, the councils acknowledge there will be exceptional instances where compliance with the minimum standards will not be practicable. Any variation from the standards will need to be agreed with the council and be confirmed in writing.

### HMO SPACE STANDARDS

The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 specify the statutory legal minimum size of bedrooms in licensable HMOs. For a bedroom occupied by one person aged over 10 years the minimum is 6.51m<sup>2</sup> and for two people aged over 10 years is 10.22m<sup>2</sup>. For a bedroom occupied by one person aged under 10 years the minimum size is 4.64m<sup>2</sup>.

In order to be counted, floor-space must be usable space. Space occupied by chimney breasts and bulkheads and any part of a floor which has a ceiling height of less than 1.5m will not be counted towards the usable floor space of a room. Fitted wardrobes may be counted as useable space provided they extend from floor to ceiling and the remaining free space and utility are not compromised.

Rooms must be able to accommodate the required amount of appropriate furniture, allow its effective use and provide enough space for movement around the room. Where this is judged not to be the case, for whatever reason, including unusually irregular or narrow layout, or the number and relative location of doorways, additional floor space over and above the minimum may be required.

With the exception of the statutory minimum sizes set out above, the space standards given in this document are the minimum acceptable but there may be exceptional circumstances in which some variation may be appropriate. Any permissible variation will be confirmed in writing.

### Shared house HMO space standards

The table below sets out the council's space standards for shared houses in the districts. (shared houses are those where occupiers share facilities such as a bathroom and kitchen).

Minimum bedroom size	Total number of people in HMO	Minimum kitchen size	Minimum living and dining space	
			One or two storey HMO minimum living space	Three or more storey HMO minimum living/dining space
1 occupant under 10 years 4.64m <sup>2</sup>	3 – 5 people	7m <sup>2</sup>	<b>Either:</b> 11m <sup>2</sup> separate living room.	<b>Either:</b> 11m <sup>2</sup> separate living room within one floor distance of kitchen.
1 occupant over 10 years 6.51m <sup>2</sup>			<b>Or:</b> 18m <sup>2</sup> combined kitchen/living room (of which 7m <sup>2</sup> must be kitchen area).	<b>Or:</b> 18m <sup>2</sup> combined kitchen/living/dining room (of which 7m <sup>2</sup> must be kitchen area)

2 occupants 10.22m <sup>2</sup>	6 – 10 people	10m <sup>2</sup>	<b>Either:</b> 14m <sup>2</sup> separate living room. <b>Or:</b> 24m <sup>2</sup> combined kitchen/living room (of which 10m <sup>2</sup> must be kitchen area).	<b>Either:</b> 14m <sup>2</sup> separate living room within one floor distance of kitchen. <b>Or:</b> 24m <sup>2</sup> combined kitchen/living/dining room (of which 10m <sup>2</sup> must be kitchen area).
1 occupant under 10 years 6.51m <sup>2</sup>	3 – 5 people	7m <sup>2</sup>	No additional communal living space required	<b>Either:</b> 13m <sup>2</sup> kitchen/diner. <b>Or:</b> 11m <sup>2</sup> separate dining room within one floor distance of kitchen <b>Unless:</b> all bedrooms within one floor distance of kitchen
1 occupant over 10 years 8.5m <sup>2</sup>				<b>Either:</b> 16m <sup>2</sup> kitchen/diner <b>Or:</b> 14m <sup>2</sup> separate dining room within one floor distance of kitchen <b>Unless:</b> all bedrooms within one floor distance of kitchen
2 occupants 14m <sup>2</sup>	6 – 10 people	10m <sup>2</sup>	No additional communal living space required	<b>Either:</b> 16m <sup>2</sup> kitchen/diner <b>Or:</b> 14m <sup>2</sup> separate dining room within one floor distance of kitchen <b>Unless:</b> all bedrooms within one floor distance of kitchen

**Notes:**

A living room will be accepted as a dining room and vice versa, provided the minimum space requirements (given above) are fulfilled.  
Rooms less than 4.64m<sup>2</sup> must not be used as bedrooms in any circumstances.  
Bedrooms may only be occupied by members of the same household.

### Bedsit HMO space standards

A bedsit is a unit of accommodation in which sleeping, living and cooking amenities are provided for exclusive use by occupants within the unit of accommodation (i.e. one room). The following space standards are the appropriate requirements for bedsits in their districts.

A bedsit can be occupied by a maximum of two persons who must be a single household.

- The minimum size for a one-person bedroom/sitting room/kitchen is 14m<sup>2</sup>.
- The minimum size for a two-person bedroom/sitting room/kitchen is 18m<sup>2</sup>.

### Section 257 HMOs space standards

Section 257 HMOs are buildings converted entirely into self-contained flats each occupied by a single household (or up to two people from two households). The following space standards are the appropriate requirements for Section 257 premises in their districts.

Bedrooms must meet the size standards set out above for bedsits.

Where the kitchen is provided in a room separate from the bedroom/sitting room:

- In flats occupied by one or two people the kitchen must be a minimum of 4m<sup>2</sup>.
- In flats occupied by three or more people the kitchen must meet the standards set out in the space standards table above.

## HMO AMENITIES AND FACILITIES STANDARDS

### Heating and ventilation

The council will assess the suitability of heating and ventilation by means of the Housing Health and Safety Rating System (HHSRS). Where a hazard relating to heating or ventilation is identified, additional heating, insulation and/or ventilation improvements may be required.

Heating and ventilation	
<b>System</b>	A fixed and efficient heating system capable of maintaining a temperature of 21°C with an outside temperature of -1 °C in each unit of living accommodation. All space heating appliances must be fixed. Portable or removable appliances are not an acceptable means of permanent heating.
<b>Availability</b>	Heating should always be available and be under the control of the occupier.
<b>Electricity and gas meters</b>	Pre-payment meters are unsuitable for use in HMOs because of the potential for disputes over responsibility for payment and the resulting possibility of interruptions to the electricity supply to shared facilities and safety systems when credit payments expire.
	Prepayment meters are not recommended in any HMOs and will not be accepted in licensed HMOs. Pre-payment meters serving only independent facilities within a letting room, which are not required by or accessible to other residents, may be accepted.
<b>Ventilation</b>	All habitable rooms should be ventilated directly to external air by a window which has an openable area equivalent to one-twentieth of the floor area.
	Where reasonably practicable, kitchens, bathrooms and toilet compartments should also have mechanical extract ventilation ducted to the outside air. Mechanical ventilation must comply with Building Regulations.

### Fire protection

Fire safety requirements in HMOs vary according to whether a HMO is deemed to be high or low risk shared house or a bedsit type property. The council will assess the suitability of means of escape and other fire precautions using HHSRS and will have regard to the national guidance on fire safety standards issued by LACORS.

HMOs are required to have a fire risk assessment and exact fire safety requirements will vary according to assessed fire risk however, as a minimum all HMOs will require the following fire precautions in the relevant tables below.

Type of HMO: Low risk shared house				
Area	Requirement	1-2 storeys	3 storeys	4 storeys
<b>Firefighting equipment</b>	Wall mounted fire blanket in kitchens	✓	✓	✓
<b>Fire doors</b>	Kitchen doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	✓	✓	✓
	Living room doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	Best practice <sup>1</sup>	Best practice <sup>1</sup>	✓
	Bedroom doors: Close fitting, traditionally constructed, solid wood.	✓	✓	✗

	Bedroom doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	Best practice <sup>1</sup>	Best practice <sup>1</sup>	✓
	Basement and cellar doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	Best practice	✓	✓
Fire detection	Grade D LD2 fire alarm system with smoke detectors in the escape route at all floor levels and heat alarm in kitchens. All alarms must be mains wired and interlinked.	✓	✗	✗
	Grade A LD2 fire alarm system with smoke detectors in the escape route at all floor levels and heat alarm in kitchens. All alarms must be mains wired and interlinked.	✗	✓	✓
	Additional interlinked smoke alarm in each bedroom.	✓	✓	✓
	Additional interlinked smoke alarm in living room.	✓	✓	✓
	Additional Grade D smoke alarm in basement and cellars.	✓	✓	✓

**Notes:**

1: Cold smoke seals must only be fitted to fire door if an interlinked smoke alarm is within the room.

**Type of HMO: High risk shared houses**

Area	Requirement	1-2 storeys	3 storeys	4 storeys
Firefighting equipment	Wall mounted fire blanket in kitchens	✓	✓	✓
Fire doors	Kitchen doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	✓	✓	✓
	Living room doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	✓	✓	✓
	Bedroom doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	✓	✓	✓
	Basement and cellar doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	✓	✓	✓
Fire detection	Grade D LD2 fire alarm system with smoke detectors in the escape route at all floor levels and heat alarm in kitchens. All alarms must be mains wired and interlinked.	✓	✗	✗
	Grade A LD2 fire alarm system with smoke detectors in the escape route at all floor levels and heat alarm in kitchens. All alarms must be mains wired and interlinked.	✗	✓ <sup>1</sup>	✓
	Additional interlinked smoke alarm in each bedroom.	✓	✓	✓
	Additional interlinked smoke alarm in living room.	✓	✓	✓

	Additional Grade D smoke alarm in basement and cellars.	✓	✓	✓
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**Notes:**

1: Grade D system may be acceptable depending on risk assessment

Type of HMO: High risk bedsit property				
Area	Requirement	1-2 storeys	3 storeys	4 storeys
Firefighting equipment	Wall mounted fire blanket in communal kitchens and all bedsit rooms	✓	✓	✓
Fire doors	Communal kitchen doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	✓	✓	✓
	Living room doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	✓	✓	✓
	Bedroom doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	✓	✓	✓
	Basement and cellar doors: 30 minute fire doors (FD30) with heat and smoke seals and self-closer	✓	✓	✓
Fire detection	Grade D LD2 fire alarm system with smoke detectors in the escape route at all floor levels and heat alarm in communal kitchens. All alarms must be mains wired and interlinked.	✓	✗	✗
	Grade A LD2 fire alarm system with smoke detectors in the escape route at all floor levels and heat alarm in communal kitchens. All alarms must be mains wired and interlinked.	✗	✓	✓
	Additional interlinked heat alarm in each bedroom.	✓	✓	✓
	Additional stand-alone smoke alarms in bedrooms (mains powered with battery back-up)	✓	✓	✓
	Additional interlinked smoke alarm in living room.	✓	✓	✓
	Additional Grade D smoke alarm in basement and cellars.	✓	✓	✓

## Water supply and drainage

Under the Management of HMOs (England) Regulations 2006, managers of HMOs are required to maintain water supply and drainage in good, clean working order and protected from frost damage and failure to do so is an offence. The council may also take enforcement action in connection with any HMO if arrangements for the supply of water or drainage are judged to give rise to a serious hazard assessed using the HHSRS.

Water supply and drainage	
Water supply	The council will assess the suitability of water supply and drainage using HHSRS. Water supplies must be wholesome, sufficient and uninterrupted. Water for drinking purposes should draw directly from a mains supply.
Drainage	Dwellings should be provided with an effective system both above and below ground for the drainage of foul, waste and surface water. All new drainage works must comply with current Building Regulations.

## Personal washing and toilet facilities

Bathrooms, shower rooms and toilet cubicles should be provided with the facilities set out in the table below.

Personal washing and toilet facilities	
Location and access	Shared facilities must be accessible from a suitable common area.
	Toilet cubicles, bathrooms and shower-rooms should not be more than one floor distance from the letting-rooms they serve.
	Toilet cubicles and rooms containing WCs should not open directly onto the area of a kitchen where food is prepared.
	Bath and shower rooms must be capable of being used in privacy. In particular, doors must be capable of being secured from the inside, and any glazing must be suitably obscured.
	Separate toilet cubicles must be fully compartmented with obscured glazing as necessary and have a lockable door.
Water supply	Each bath and shower must be provided with a constant supply of hot and cold running water. The supplies must be adequate and capable of effective temperature control.
Wall coverings	Baths must be provided with an appropriate tiled splash-back to all abutting walls and must be sealed to the splash-back to prevent leakage.
	Showers must be provided with fully tiled walls (or an acceptable purpose made cubicle enclosure) and fitted with a suitable water-resistant curtain or shower-cubicle door.
	Rooms containing toilets must have smooth, non-absorbent wall and ceiling finishes which can be readily and easily cleaned.
Flooring	Bathrooms and shower-rooms must be provided with, easily cleaned, non-slip flooring.
	Rooms containing toilets must have slip-resistant flooring and, where the cubicle or room is in shared use, must be impervious and capable of being readily and easily cleaned.
Wash hand basin	A wash basin with continuous supplies of hot and cold running water and with a tiled splash-back must be provided in each separate toilet compartment, and each bathroom or shower-room containing a toilet.
	Wash basins with continuous supplies of hot and cold running water and with a tiled splash-back should be provided in all shared bathrooms/shower rooms (whether or not a WC is present) unless basins are provided within separate letting rooms.
	A wash basin with continuous supplies of hot and cold running water, and a tiled splash-back should be provided within each letting in HMOs let as bedsits, unless there is a sink in the letting, or the occupant has sole access to a room containing a basin or sink.
Heating	A fixed heating appliance in each bath or shower room sufficient to minimise condensation and capable of maintaining a temperature of 21°C with an outside temperature of -1 °C.
Ventilation	Where reasonably practicable, bathrooms and toilet compartments should also have mechanical extract ventilation ducted to the outside air. Mechanical ventilation must comply with Building Regulations.

**En-suite facilities**

Provision of en-suite facilities must not reduce the area of the associated habitable room below the minimum areas specified in the space standards and must not compromise the layout or appropriate use of the habitable room.

**Dimensions and layout of personal washing and toilet facilities**

Rooms of the dimensions in the table below are likely to be judged acceptable for the proper and safe use of the amenities shown. Where rooms fall short of these requirements, are irregular in layout or unduly narrow, they may be judged unsuitable.

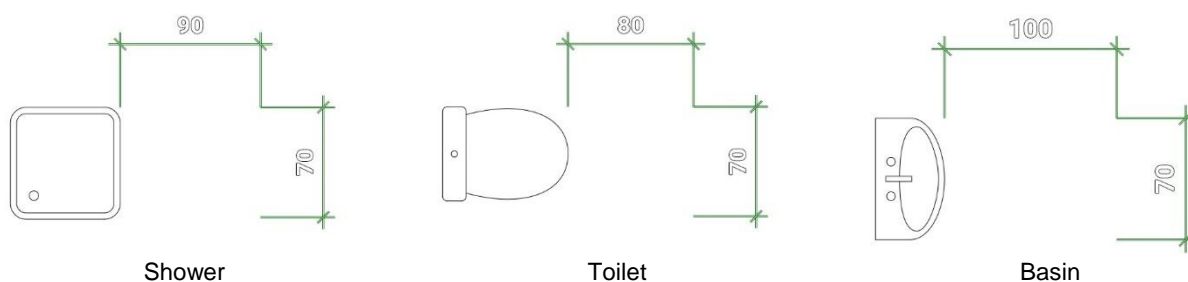
Washing and toilet facilities dimensions	
Amenity in room	Minimum room dimensions
Shower	1600mm by 900mm
Bath	1700mm by 1400mm
Shower and basin	2000mm by 900mm
Bath and basin	1700mm by 1600mm
Shower, toilet and basin	1900mm by 1700mm
Bath, toilet and basin	2000mm by 1700mm
Toilet and basin	1500 by 800mm

Toilet cubicles, bathrooms and shower-rooms must be laid out in such a way to enable safe unhindered use of the facilities. Bathrooms and shower-rooms must, in particular, have sufficient 'activity space' to allow users to undress, dry themselves, and dress in a safe manner.

The council will also have regard to the dimensions and activity space of each amenity. Activity space is the area next to a facility needed to allow safe and unhindered use, set out in the table below. Where facilities or available space fall short of these requirements they may be judged unsuitable.

Washing and toilet amenity sizes and minimum activity spaces		
Amenity	Amenity size	Minimum activity space*
Shower	800mm by 800mm	900mm by 700mm
Bath	1700mm by 700mm	1100mm by 700mm
Basin in toilet cubicle	Hand wash size only	-
Basins in other locations	500mm by 400mm	1000mm by 700mm
Toilet	700mm by 400mm	800 by 600mm
<b>Notes:</b>		
*Activity spaces may overlap		

Minimum activity space required for each amenity (dimensions in cm)



In the case of en-suite facilities in rooms occupied by one person only, the councils may accept a reduction in the activity space shown in the table above within the en-suite, provided the following requirements are met:

- The en-suite bath/shower-room is accessed directly from the habitable room in question.
- The habitable room can provide appropriate activity space, and
- That use of the facilities is not judged unreasonably compromised or hazardous.

Reduction in the activity space for WCs is least likely to be acceptable. Any agreed variation to the standard activity space will be confirmed in writing.

### Sharing ratios for personal washing and toilet facilities

Toilets and bathrooms/shower-rooms in shared use must be provided in the numbers specified in the table below.

A minimum of one suitable bathroom containing a full-size bath with appropriate supplies of hot and cold water must be provided in all HMOs providing accommodation for children aged under 10 years.

Washing and toilet facilities sharing ratios	
Number of people sharing (irrespective of age)	Minimum facilities required
1 - 4	One bathroom and one toilet with wash basin (the bathroom and toilet may be in the same room) <b>Minimum provision:</b> One bathroom containing toilet, basin and bath or shower.
5	One bathroom and one separate toilet with wash basin (the toilet may be in a second bathroom). <b>Minimum provision:</b> One bathroom containing a bath or shower and one separate toilet with basin.
6 -10	Two bathrooms and two separate toilets with wash basins (but one of the toilets may be contained within one of the bathrooms). <b>Minimum provision:</b> One bathroom containing a bath or shower and toilet with basin, a second room containing a bath or shower, and a third room containing a toilet and basin.
11 - 15	Three bathrooms and three separate toilets with wash basins (but two of the toilets may be contained within two of the bathrooms). <b>Minimum provision:</b> Two bathrooms containing toilet, basin and bath or shower, a third bathroom containing a bath or shower, and a separate toilet and basin.



<b>Bedrooms with en-suites</b>	Where a room is provided with a complete en-suite facility (bath/shower, toilet, and wash hand basin) for exclusive use of that occupant, then that occupant will be disregarded when considering the provision of sanitary facilities.
	e.g. HMO with six occupants, one of which has exclusive use of a fully equipped en-suite. The requirement for the remaining occupants would be for five people.
	If, however, the en-suite only provides one facility (a WHB, bath/shower or a WC) then the occupant will not be disregarded for the missing amenity.

## Facilities for storage, preparation and cooking of food

Kitchen must be provided with the facilities set out in the table below which comprise a complete 'set of facilities.' Where the number of occupiers means that two or more kitchens are required, each kitchen will require a complete set of facilities. Similarly, (where the size of the room permits it) where two kitchens are provided in a single room, two full sets of facilities will be required.

Kitchens: Set of facilities	
<b>Location and access</b>	Each occupant must have access to a suitable kitchen which should be no more than two floors distance from the letting-room(s). Occupants should not have to go outside in order to access kitchen facilities.
	Kitchen facilities must be available for use 24-hours a day.
<b>Sink</b>	One stainless-steel sink with integral drainer, on a secure base, provided with constant supplies of hot and cold running water and connected to a drainage system. Both water supplies must be adequate and capable of effective temperature control.
	The cold-water supply to kitchen sink must be direct from the mains supply.
	A tiled splash back must be provided to walls abutting the kitchen sink and drainer. Sinks should be non-porous and smooth, to facilitate cleaning.
<b>Worktops</b>	A minimum of one undivided and securely supported worktop measuring 1000mm by 600mm plus additional lengths of worktop necessary to ensure provision on both sides of each cooker and next to each sink bowl.
	A tiled splashback must be provided to walls abutting all worktops.
	Worktops should be non-porous and smooth, to facilitate cleaning.
<b>Storage</b>	One food storage cupboard for each occupant that is at least one 500mm wide base unit or a 1000mm wide wall unit.
<b>Fridge/freezer</b>	A refrigerator with a minimum capacity of 130 litres and a freezer with a minimum capacity of 60 litres.
<b>Cookers</b>	A gas or electric cooker with 4 rings/burners, oven and grill, all of which are capable of simultaneous use.
	Electric cookers must be connected to the mains circuit by means of a fused spur connection.
	Walls abutting cookers should be provided with tiled splashbacks.
<b>Power sockets</b>	A minimum of 3 twin 13amp sockets provided at appropriate heights directly above fixed worktop(s) plus such additional sockets, in appropriate locations, as are needed to serve fixed appliances such as washing machines and fridges/freezers.

## Dimensions and layout of kitchen facilities

Each kitchen must be large enough and laid out in such a way as to enable safe, unhindered use of the facilities. Kitchen of the dimensions given in the table below are likely to be judged acceptable

for the proper and safe use of the facilities. Where rooms fall short of these requirements, are irregular in layout or unduly narrow, they may be judged unsuitable.

Kitchen facilities dimensions	
3 – 5 occupants	usable floor area of at least 7m <sup>2</sup>
6 – 10 occupants	usable floor area of at least 10m <sup>2</sup>
Kitchen width	All kitchens must be at least 1.8m wide to allow safe movement of occupants

There must be adequate space for cookers, sinks and worktops and these must be placed in appropriate positions in the room and in relation to each other. Cookers must be located away from doors, door-openings and windows.

Sinks, worktops and immediately adjacent walls and floors should be non-porous and smooth, so as to facilitate cleaning. Walls abutting cookers, sinks and worktops should be provided with tiled splashbacks.

Where two sets of facilities are provided in one kitchen, the layout must allow both sets to be safely used at the same time. No more than two sets will normally be acceptable in a single room.

In cases where more than one kitchen is provided in separate rooms, each kitchen must be equipped with a suitable sink, traditional cooker and appropriate worktop.

### Sharing ratios for kitchen facilities

A complete set of kitchen facilities must be provided for every five occupants as described in the table below. No more than two sets of facilities shall be provided in any one kitchen. Any household with exclusive access to a kitchen (i.e. bedsits) will be excluded from this assessment.

Kitchen facilities sharing ratios	
Number of people sharing (irrespective of age)	Minimum facilities required
3 - 5	One complete set of kitchen facilities
6 - 7	Two complete sets of kitchens facilities however, where the two sets of facilities are provided in the same room: <ul style="list-style-type: none"> <li>• A combination microwave (with oven and grill function) is acceptable as a second cooker.</li> <li>• A dishwasher is acceptable is acceptable as a second sink</li> </ul>
8 - 10	Two complete sets of kitchen facilities with a minimum of 2000mm by 600mm worktop
11 +	At least two separate kitchens containing three complete sets of kitchen facilities.

### Mini or compact kitchens

Compact all-in-one mini kitchens typically include a sink, fridge, dry storage and a cooking facility (e.g. hot plates). Mini kitchens are unlikely to provide sufficient worktop, food storage or an appropriate cooker, so unless these units satisfy the requirements for the provision of kitchen facilities set out above, mini kitchens will not be accepted as an alternative to the kitchen facilities.

However, mini kitchens can provide additional facilities welcomed by occupants, and may allow some limited reduction in the provision of sinks, cookers and microwaves in shared kitchens. Any

revision will be determined following an assessment of the circumstances of each case and confirmed in writing.

Mini-kitchens must be securely fixed and appropriately connected to services. Cold water supplies must be taken directly from the cold-water main.

Mini-kitchens will not be acceptable if their installation reduces the available free floor space in the room below 8.5m<sup>2</sup> or if their installation results in a hazard identified under the HHSRS.

## Bedsit kitchens

A bedsit is where sleeping, living and cooking amenities are provided for exclusive use by occupants within a single unit of accommodation (i.e. one room).

Kitchens provided in bedsits must meet the standards set out below.

Bedsit kitchen facilities	
Layout	The same principles of safe layout and design apply in bedsits as for shared kitchens. Cookers must not be located near doorways to avoid collisions.
Cooking	A gas or electric cooker with a minimum two-ring hob, oven and grill.
Storage	A 130-litre refrigerator with freezer compartment plus at least one food storage cupboard for each occupant in the bedsit (base units shall be 500mm wide and wall units shall be 1000mm wide). The sink base unit cannot be used for food storage.
Preparation	Worktop of at least 500mm deep and 1000mm long, comprising a minimum of 300mm both sides of the cooking appliance to enable utensils and pans to be placed down. All worktops must be securely supported, impervious and easy to clean
Electricity	Two double 13-amp power sockets suitably positioned at worktop height for use by portable appliances, in addition to sockets used by fixed kitchen appliances, plus two double sockets located elsewhere within the bedsit.
Washing	A stainless-steel sink and integral drainer set on a base unit with constant supplies of hot and cold running water. The sink shall be properly connected to the drainage system. The cold water shall be direct from the mains supply. A tiled splash-back shall be provided behind the sink and drainer.
Ventilation	Mechanical ventilation to the outside air at a minimum extraction rate of 60 litres/second or 30 litres/second if the fan is sited within 300mm of the centre of the hob. This is in addition to any windows.
Fire detection	An interlinked heat alarm with integral battery back-up located in each bedsit. An additional non-interlinked smoke alarm with integral battery back-up located in each bedsit. 30-minute protected route <sup>1</sup> is required, including 30-minute fire-resisting construction and FD30S doors to all risk rooms. Travel distance must not be excessive.
<b>Notes:</b>	
1: A full 30-minute protected route is the preferred option however, in two-storey, normal risk HMOs the provision of suitable escape windows from all bedsit rooms may be acceptable in lieu of a fully protected route.	

## Meals provided by employers

Where meals are provided to staff occupying staff accommodation as part of their employment, the employees must have the use of kitchen facilities whenever meals are not available. Ideally this will be through the provision of exclusive or shared kitchen facilities, as described above.

In certain circumstances the use of the commercial kitchen may be an acceptable alternative. However, for this arrangement to be acceptable, the councils will have to be satisfied that occupants have access to the kitchen at all times.

In addition, the councils' Food and Safety team will have to be satisfied that there is appropriate and effective management of the kitchen, that all of the users have adequate food safety training to be using the commercial kitchen and that all users are complying with all applicable food hygiene regulations. Note: Failure to meet these obligations could result in prosecution under legislation concerned with food safety and hygiene.

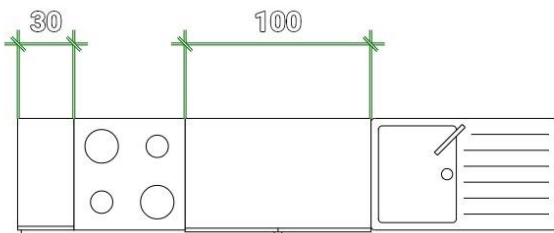
Occupants must be able to make hot and cold drinks at all times and each occupant must be provided with:

- A 130-litre refrigerator connected to a dedicated socket.
- A food storage cupboard (minimum size 600mm x 500mm x 600mm).

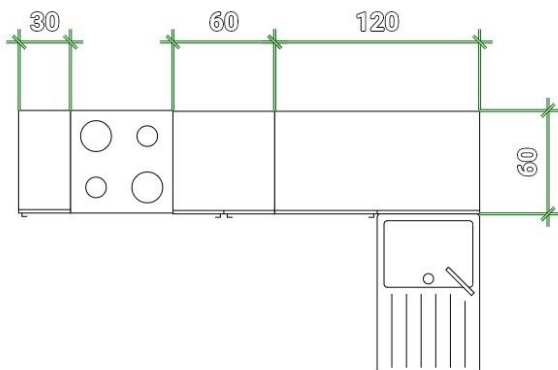
## Kitchen layout

### Good practice

A satisfactory kitchen must be safe, convenient and must allow good hygiene practices. It must be possible to stand directly in front of the cooker and sink and to place utensils down on both sides of each. Worktops must be secure, level and impervious and must be of adequate size. Adjacent walls require splashbacks and power points must be suitably located.



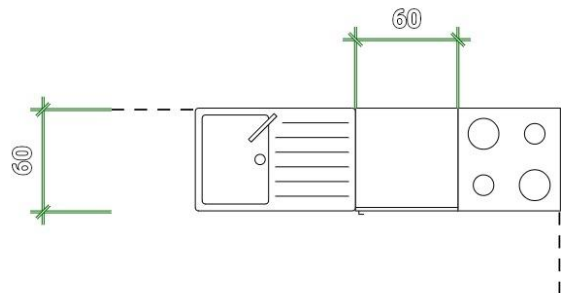
This is the minimum provision for a kitchen. It incorporates worktop on both sides of the cooker and working space both sides of the sinkbowl. Note 300mm is a minimum width and should be made wider where possible.



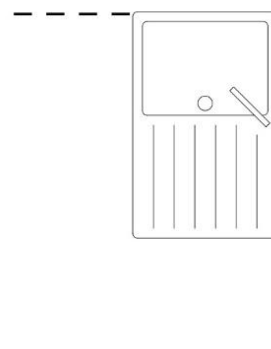
Alternative minimum layout. This arrangement provides more workspace but could be further improved by giving more room in front of the sink (see below).

### Unacceptable

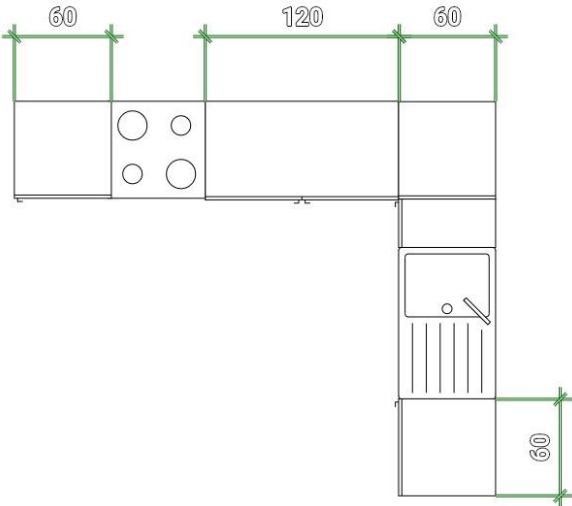
Cookers cannot be safely used if they are located in corners, do not have adequate worktop on both sides or are too close to sinks. Sinks require space to put dirty utensils on one side and clean on the other.



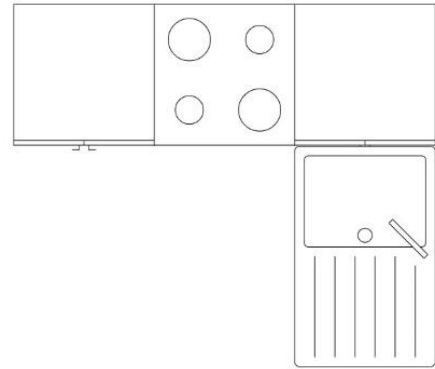
Cooker may not be located in a corner. This arrangement is impractical and unsafe



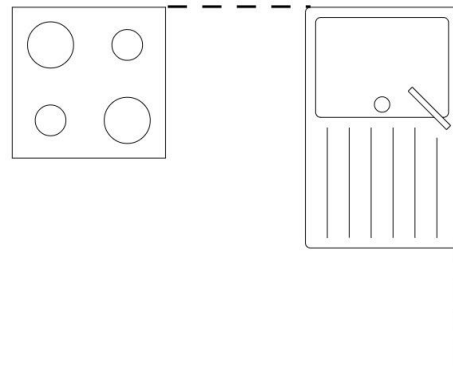
The sink bowl must not be located in a corner. This is an impractical arrangement and because there is no worktop next to the bowl and it is impossible to separate clean and dirty utensils, it also creates a hygiene hazard.



This is a good kitchen layout. It is well set out and has plenty of usable workspace.



Neither cooker nor sink can be practically or safely used with this arrangement.



The cooker is free-standing and improperly located in relation to the sink. Both the cooker and sink also lack worktops. This arrangement is impractical and unsafe. Adding worktops will still not give a practical and safe kitchen.

## **Recycling and waste management**

### **Waste and recycling storage facilities**

HMOs occupied by separate and multiple households can generate more waste and rubbish than single family homes. Landlords must therefore ensure that they comply with the councils' waste storage and disposal schemes.

Landlords should provide suitable and sufficient facilities for the storage of household waste and recycling pending collection by the council.

The number and type of bins must be adequate for the requirements of each household and provided in accordance with the councils' waste and recycling policies.

Requests for additional bin capacity should be made to the councils' Waste Team. Landlords should not source their own bins and should contact the council if any of the bins are damaged or go missing. Bins will always remain the property of the council.

### **Information to occupiers**

Landlords must ensure that suitable instructions are given to all occupiers regarding the correct use of all waste and recycling bin. In particular, the following information must be provided to all occupiers upon moving into the HMO:

- The number and colour of bins at the property.
- The types of waste which should be placed in each bin.
- Where and when each bin should be stored, placed for collection, and returned after collection.

A notice clearly summarising this information should be prominently displayed within a communal area of the HMO.