



Department for  
Communities and  
Local Government

# Dealing with Rogue Landlords

A Guide for Local Authorities

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## **A Joint Foreword by the Housing Minister Grant Shapps MP and the Immigration Minister Damian Green MP**

When it comes to housing, this Government is committed to providing choice and opportunity for all. The demand for rented homes is high and the private rented sector has grown rapidly in recent years with around 3.6 million households - 17% of all - in England now renting their home from a private landlord. We want to help the private rented sector to grow and meet the continuing demand for good quality rented housing.

Overall the sector is performing well. However a small minority of landlords fail to meet their basic responsibilities and in some cases act in a way which is outright criminal. These rogue landlords often target vulnerable people, placing them in overcrowded or poor quality accommodation. In some places people are living in squalid outbuildings or makeshift accommodation – beds in sheds.

The false promises of work and accommodation are the key means by which illegal migrants are tempted to the UK and then exploited. The activities of rogue landlords helps fuel illegal working and benefit fraud and the harmful effects of their activities go beyond those individuals whom they exploit. The victims of crime are also the wider community and those whose local services are robbed of resources. Allowing the development of a “shadow” housing market carries wider dangers to public health and community relations.

This is simply unacceptable in modern Britain, and we have been working across Whitehall and with overseas Governments to tackle the problem. We have also been working with local authorities to discover the extent of the problem and the barriers that they face in tackling rogue landlords. We have awarded £1.8m to the nine local authorities who have the biggest problem with beds in sheds.

From this partnership we have produced this good practice guidance, to share experience and knowledge with all local authorities so that they can effectively tackle rogue landlords. By working together we can stamp out rogue landlords and eliminate unacceptable housing in the sector.

Handwritten signatures of Grant Shapps and Damian Green. The signature of Grant Shapps is on the left, and the signature of Damian Green is on the right.

Rt Hon Grant Shapps MP  
Minister for Housing

Damian Green MP  
Minister for Immigration

# Introduction

1. Local authorities have highlighted a significant and growing problem with rogue landlords. These landlords target vulnerable tenants and place them in overcrowded or poorly maintained accommodation. In some places there has been an increase in the use of outbuildings as living accommodation. As well as the impact on tenants, these poor living conditions can have a huge impact on neighbourhoods leading to problems with excessive waste, sewage and in some cases an increase in crime and anti-social behaviour. In some places, rogue landlords have specifically targeted migrants, some of whom are in the UK illegally. This can lead to serious problems in a neighbourhood including illegal working, benefit fraud and tensions between communities.
2. Local authorities should take swift and decisive action to tackle rogue landlords. It is important that local authorities take leadership on this issue and prioritise action as tackling rogue landlords can have improve the quality of life for a whole community.
3. Local authorities should:
  - Understand the nature and extent of the problems in their area;
  - Take swift and decisive action to stop rogue landlords using unsuitable accommodation to house tenants;
  - Prosecute rogue landlords and deter others by building effective cases and publicising successful prosecutions.
4. This guidance provides practical advice on how local authorities can step up their work to tackle rogue landlords drawing on the experience of local authorities already working on these issues.

# 1. Rogue Landlords: Diagnosing the Problem

1. It can be difficult to establish the extent and nature of the problems caused by rogue or criminal landlords. Problems can be highly localised and well hidden. Many local authorities rely on concerns being raised by tenants or neighbours. However, vulnerable tenants can be afraid to raise issues with the local authority or unaware of their rights. Staff working on planning enforcement and on licensing Houses of Multiple Occupation will have the best intelligence about the housing stock in their area and about landlords operating locally. It is important that local authorities work proactively to identify problems by:
  - **Sharing intelligence across the authority to identify hotspots.** In many authorities, problems are concentrated in small areas, sometimes individual streets. Teams working on investigating complaints, planning enforcement and licensing of Houses in Multiple Occupation will all have intelligence to share on hotspots and sometimes on particular landlords in the area.
  - **Cross-referencing data the local authority holds.** Some authorities have cross-referenced their Housing Benefit database with properties licensed as Houses in Multiple Occupation. If a property is licensed for four occupants but there are six claimants at the address, the authority knows to investigate. Similarly, Council Tax data can sometimes highlight where outbuildings are being used illegally as dwellings. The case study gives more information about how Housing Benefit information can be used to detect landlord criminality.
  - **Clear policies and processes for dealing with complaints from residents/tenants.** This means effective triaging of complaints so cases can be prioritised; documented procedures to ensure processes are thoroughly and consistently applied and clarity about which teams should be involved at each stage. Many local authorities have set out clear process maps so that colleagues have a step by step process to follow.
2. If you suspect that there is a problem in an area, it is important to quantify and understand it. Local authorities may consider –
  - **Targeted investigation of areas including door to door surveys.** The London Borough of Ealing has undertaken a road to road inspection of parts of their Borough using a multi-disciplinary team to identify possible rogue landlords.
  - **Working with other agencies.** Section 2 of this guidance deals with working with other agencies to tackle rogue landlords and the advantages that working together can provide.

## **Bury Case Study – Working across the authority to tackle rogue landlords**

A Channel 4 Dispatches programme identified significant issues with properties owned by the Meridian Foundation. The local authority followed this up with joint action from two of their departments, Urban Renewal and the Benefits Service.

The aim of **Benefits Service** was to assess why housing benefit was being paid direct to the landlord in 39 out of the 46 cases. They speculated that:

- Meridian were deliberately targeting vulnerable tenants (creating contrived tenancies)
- Meridian were misrepresenting the fact that their tenants were vulnerable
- Benefit fraud may have been taking place

The **Urban Renewal** unit were involved to tackle housing standards issues.

### **How and using what powers?**

Unannounced visits were led by staff from the Benefits Service supported by environmental health officers. This approach negated the need for the potential use of powers of entry by Urban Renewal. Urban Renewal staff inspected properties using the Housing Health and Safety Rating System, under the Housing Act 2004. 46 properties (identified from existing council records) were visited.

### **Results**

- Category 1 hazards were found in 14 properties.
- The landlord agreed to address the hazards and an Environmental Health Officer is overseeing this process.
- Some Housing Benefit claims have been cancelled where there has been no response to the request for contact by the Benefits Service.
- Several customers are no longer classed as vulnerable.
- Only 18 housing benefit claims are now being paid direct to the landlord, down from 39.

## 2. Rogue Landlords – Taking Action.

### Local Authority Powers

1. The problem of rogue landlords varies considerably from area to area. In some areas, homes may be poorly maintained and dangerously overcrowded. In others, landlords are renting outbuildings as permanent living accommodation compromising the safety of their tenants and causing significant problems for neighbours. Some local authorities have also discovered that vacant commercial premises, often in poor repair, are being used as living accommodation. Local authorities should take action in all these circumstances.
2. If local authorities have concerns about the quality of the accommodation provided in any residential property then they should take action under the Housing Act 2004. The Housing Health and Safety Rating System is used to assess housing conditions in all residential property. Local authorities have a duty to take enforcement action to secure necessary improvements where Category 1 (serious) hazards are present, and the discretion to intervene where Category 2 hazards are present. **Annex A** provides more details of these powers and the enforcement action which can be taken if hazards are found.
3. Some home-owners choose to build annexes to their property for legitimate reasons, following planning law and applying for permissions where necessary. However, where outbuildings are being used as separate residential accommodation without planning permission this is likely to be a breach of planning control and local authorities should take action. Even where there are no hazards within these properties, they may create problems in the wider neighbourhood (for example, with sewage and drainage, or noise). Ultimately a local authority can issue a planning enforcement notice which may prohibit a building's use and in some circumstances require demolition.
4. Local authorities can use both housing and planning powers simultaneously to take action against rogue landlords. Where using the powers together it is important that they do not conflict. Some local authorities have found it more effective to issue planning notices first followed by Prohibition or Demolition Orders under the Housing Act. **Annex A** to this guidance document sets out the full range of powers at a local authority's disposal when considering how to deal with rogue landlords.
5. Local authorities have the powers to enter land for obtaining the information required for housing and planning enforcement purposes at any reasonable hour and can enter any building used as a dwelling house giving 24 hours notice. If entry is refused or the local authority

believes that a case is urgent they can obtain a warrant to enter from a Justice of the Peace. This system strikes a balance between protecting civil liberties and enabling local authorities to take enforcement action.

6. The two case studies below demonstrate different approaches taken in different circumstances. In Southwark, the authority used the Housing Act 2004 to prohibit use of a property which was overcrowded and unfit for tenants. In Brent, the authority required that an outhouse was demolished as it had contravened planning law by being used as a dwelling.

### Case Study Southwark – Emergency Prohibition Order



#### **The Property:**

The property was a first floor five room flat above a cafe. The room occupied by the complainant was approximately nine square metres in area and was occupied by two adults and two children (a boy and girl aged two and seven). The other room was smaller and was occupied by four adults using a set of single bunk beds. The local authority understood that the other three rooms were occupied by up to four people.

#### **Hazards:**

All facilities were in an extremely poor state of repair. The only cooking facilities were located at the top of the stairs which led to the flat. The cooker was located on the means of escape from fire. If there was a fire caused by cooking or an electrical fault (the most common cause of a fire in Houses in Multiple Occupation) the escape route would be blocked and the occupants trapped in the building. There was no fire protection in the flat.

#### **Action:**

- **An emergency prohibition order** was served prohibiting the use of the flat as residential accommodation.
- The family was supported by Social Services.
- The other occupants received letters advising them to seek advice about their situation.

### **Case Study: Brent – Planning Enforcement of Outbuildings**

Brent Council first became aware of a large outhouse being constructed in the garden of a residential premises in September 2007. Builders claimed they were building a garage. After an investigation, the Council served a planning contravention notice but no reply was received to it.

In January 2009, Brent Council carried out a further inspection of the premises and building work had been completed. It took some time to gain access but by then it was clear that the premises were a self-contained flat. Following that visit the Council sent letters of warning and then issued an enforcement notice requiring the demolition of the building. An appeal was lodged and dismissed by September 2010 and the building was vacated but not demolished by the compliance deadline.

Council officers therefore visited the building and demolished it. Demolishing it meant the Council was assured that it could not be reused at a later date.

See photographs of the premises below

Before Demolition





After Demolition



7. In some areas, rogue landlords focus their activities on Houses in Multiple Occupation. If local authorities are concerned about the management or condition of Houses in Multiple Occupation in their area they can consider Additional Houses in Multiple Occupation Licensing Schemes. If the authority has wider concerns about privately rented housing in their area, they can consider selective licensing schemes. Selective licensing is a discretionary power allowing local authorities to license all privately rented properties in a specific area that suffers either from low housing demand or from significant and persistent antisocial behaviour. **Annex A** sets out more detail on how local authorities can operate these licensing schemes.
8. If local authorities are concerned about the construction of outbuildings in a neighbourhood with an acute local problem, they can make an Article 4 Direction to withdraw 'permitted development' rights under certain circumstances. An Article 4 Direction would not prevent the construction an outbuilding on a property, but instead require that planning permission was first obtained from local authority. While this would not remove the need for proactive enforcement activity, it would help authorities gain more control over future development.

## **Preventing Homelessness**

9. Local authorities will also want to consider the impact of their action on tenants, and share information with homelessness services particularly where enforcement action is planned.
10. In some cases those accommodated may be migrants, some here illegally. Many will have no recourse to public funds. Local authorities should report anyone they suspect to be in the UK illegally to the UK Border Agency. Local authorities should also consider reconnecting migrants to their home country especially where the alternative is for them to become destitute and sleep rough. Authorities may also wish to consider the provision of short-term accommodation ("reconnection beds") where people have volunteered to return home to prevent rough sleeping.
11. Local authorities will want to work closely with voluntary sector partners to ensure that anyone displaced from beds in sheds or other unsuitable accommodation is picked up and does not end up rough sleeping. Local authorities should work closely with the UK Border Agency who will be able to confirm which individuals have illegal immigration status and take action. Where Accession 10 nationals are involved the UK Border Agency should also be involved in case administrative removal is being considered for those not exercising their Treaty Rights.

## Working with other Agencies

12. In some cases, landlord criminality will be linked to other issues, such as providing illegal employment, benefit fraud, or tax evasion. In some parts of the country, outbuildings are occupied by predominantly migrant workers, some of which may be in the UK illegally. Local authorities will need to combine forces with other agencies – and may wish to form focussed multi-disciplinary teams.

## The UK Border Agency

13. The UK Border Agency is an operational agency of the Home Office and is responsible for controlling immigration and enforcing related rules. It considers applications for permission to enter or stay in the UK, citizenship and asylum applications and will seek to deport those foreign nationals who commit criminal offences and to administratively remove those who have committed offences under immigration legislation such as entering the UK illegally, overstaying permission to stay or gaining permission to stay in the UK by deception. The Agency works alongside the new Border Force which is a separate operational command within the Home Office and is responsible for the protection of the United Kingdom's border.
14. The UK Border Agency's enforcement function is structured around Local Immigration Teams who work with the public and alongside police, HM Revenue & Customs, local authorities and other local partners. They are able to offer advice and support in determining a person's immigration status and whether they may have committed an immigration offence. Each Local Immigration Team has a leader who is the local point of contact for any UK Border Agency enquiry during office hours. The team works with the community and develops the local knowledge needed to tackle the area's specific needs, and to understand and address the local impact of migration. Local authorities should be aware of their Local Immigration Team contact and should seek to involve them in any enforcement activity where the suspect illegal immigrants are involved. More on the powers held by UK Border Agency officers can be found at **Annex B**.

## Police

15. Where a local authority suspects that more widespread criminal activity may be associated with landlord criminality, it is appropriate to involve the Police. The Police have considerable powers of search and arrest without warrant where circumstances permit. These include the power to arrest without warrant persons suspected of committing criminal

offences relating to immigration, such as assisting unlawful immigration. They also have the power to arrest for a number of other potentially relevant offences including conspiracy to defraud, fraud, forgery and counterfeiting, trafficking for sexual exploitation, possessing and making false identity documents. They also have the power to enter and search without warrant premises owned or occupied by someone arrested for an immigration offence to search for nationality documents, or enter other premises under warrant to apprehend suspected immigration offenders.

16. The Police can assist local authorities in conducting joint visits to premises as part of a locally agreed partnership plan to reduce Anti Social Behaviour and crime associated with landlord criminality and/or beds in sheds. This can assist build the local problem profile by gathering and sharing data in relation to premises, occupants and landlords. This in turn will help inform decision-making, risk management and prioritising activity to tackle associated crime and Anti Social Behaviour. In Ealing for example the local authority has established a multi-disciplinary team including a funded police officer to develop a problem profile, joint intelligence product, and enforcement tactics using Proceeds of Crime Act legislation. Similar arrangements have developed between Local Authorities and the Police to tackle a range of locally agreed priorities such as Anti Social Behaviour. Other practice is developing between Local authorities and partners such as the Police, the UK Border Agency, and Fire and Rescue Services in conducting visits to tackle related issues.

### **The Fire and Rescue Service**

17. Fire and rescue authorities and local authorities are expected to work closely together to ensure risks to their communities are identified and effectively mitigated. Fire and rescue authorities consider on the basis of individual cases whether the Regulatory Reform (Fire Safety) Order 2005 applies to the premises and the extent to which they have power of entry (without use of force) to domestic premises for the purposes of inspection and enforcement of general fire safety. Generally, premises exclusively occupied as a single private dwelling (including the garden, outbuildings, sheds etc.) are outside the scope of the Fire Safety Order. However, the common parts of multi-occupied residential premises, such as Houses in Multiple Occupation or blocks of flats are subject to the general fire safety requirements of the Fire Safety Order. In addition, the emergency powers of fire and rescue authorities to prohibit or restrict the use of premises in cases of risk of death or serious injury from fire (including power of entry to inspect) are extended under the Fire Safety Order and apply to domestic premises that are not premises consisting of or comprised in a house which is occupied as a single private dwelling. This includes flats and bedsits in blocks or Houses in Multiple Occupation and other premises that cannot

reasonably be construed as a 'house' that is occupied as a single dwelling. Local authorities and fire and rescue authorities should work together to ensure the safety of domestic premises including the providing fire safety advice to households (such as the benefits of a working smoke alarm).

## **Her Majesty's Revenue and Customs**

18. Where Local Authorities have a suspicion that a landlord has not declared rental income they can disclose that information to HM Revenue and Customs. Section 29 of the Data Protection Act 1998 provides a specific exemption for disclosure to HM Revenue and Customs for the purposes of the assessment or collection of tax. Penalties for tax evasion can be large – up to 100% of the tax due – and can act as a significant deterrent. Illegal activity by rogue landlords can go beyond their rental income and they can be involved in the wider illegal economy. It is therefore very important that local authorities involve HM Revenue and Customs if they have any suspicion of landlord involvement in the illegal economy.

### 3. Rogue Landlords – Prosecution and Deterring Criminality

#### Prosecution:

1. Local authorities must consider carefully before bringing prosecutions, but where a landlord persists in illegally letting property, local authorities should prosecute through the Courts. Different penalties apply depending on the nature of the offence and the enforcement route authorities have used to tackle the issue. These are set out at **Annex A** to this guidance. In preparing an effective case for prosecution, local authorities should:
  - **Act promptly in bringing cases to Court.** While local authorities will wish to work with landlords to try to reach a solution without prosecution, once this has proved unsuccessful, local authorities should act swiftly in bringing the case against a landlord to Court.
  - **Invest in good legal advocacy and training for staff.** Planning enforcement teams and private housing officers should be trained on how to gather and give evidence. A strong management commitment will be needed to engage and resource legal teams especially when dealing with the Proceeds of Crime Act, Rent Repayment Orders, other Residential Property Tribunal appeals and licensing matters.
  - **Gather and present as much evidence as possible about the nature of the breach or hazard.** Keeping thorough records of how the local authority has dealt with the enforcement action will be helpful in bringing successful prosecutions and local authorities should present impact statements as part of their cases to give a sense of the impact the landlord's actions have had on their tenants and the wider community.
  - **Bring joint prosecutions.** Where breaches of both housing and planning legislation are occurring at a property, enforcement officers should consider combining the charges in one Court action to ensure that Magistrates appreciate the overall picture and issue costs and fines accordingly.
2. Even where a prosecution is successful, the fines issued to landlords found guilty of offences can vary hugely. The maximum fine that landlords can receive for failing to comply with a prohibition order or other statutory notice issued by the local authority will be unlimited when the recently passed Legal Aid, Sentencing and Punishment of Offenders Act comes into force later this year. However, magistrates take into consideration the financial circumstances of the offender when determining the level of fine they set. In practice, if a landlord's

income is low or they do not declare their full earnings this can mean they face a low level of fine for these offences. To combat this, local authorities should, where possible, provide any evidence they have available of the landlord's earnings from the property or properties concerned. This may help magistrates determine an appropriate level of fine for the offence.

- Local authorities should also consider using the Proceeds of Crime Act and seeking Rent Repayment Orders after prosecuting landlords. If a defendant has been convicted of a listed serious offence or has a history of a number of convictions, the court can assume that all their property is the proceeds of crime and this can be factored into the amount of a confiscation order. Separately, under the Housing Act 2004, the local authority may recover rents paid as Housing Benefit where a licensable property has not been licensed. Further information on the Proceeds of Crime Act can be found at **Annex A** but some local authorities have already used this successfully in cases of landlord criminality. An example of the sums that can be levied against landlords and received by the local authority from successful use of the Proceeds of Crime Act and Rent Repayment Orders are below.

#### **Example of Proceeds of Crime Act Prosecutions (London Borough of Newham)**

Address	Confiscation Order awarded by the courts	Council Share @ 37%		Total Costs to the Council including legal costs
Property 1	£22,218.50	£8,220.80		£4,500
Property 2	£62,149.34	£22,995.20		£8,000
Property 3	£12,005	£4,441.85		£6,500
Property 4	£8,240	£3,048.80		£11,000
<b>Total</b>	<b>£104,612.84</b>	<b>£38706.65</b>		<b>£30,000</b>

#### **Example of Rent Repayment Order recovery data (London Borough of Newham)**

Address	Rent Repayment Order sought	Rent Repayment Order granted by RPTS	Total Costs(inc legal costs)
<b>Total (2)</b>	<b>£10,432.60</b>	<b>£10,432.60</b>	<b>£7371.68</b>

- Local authorities should also consider working together to prosecute landlords. This can result in much higher fines as Magistrates have the full picture of the scope and extent of a landlord's activities. The case study below sets out a successful example of a joint prosecution using the Proceeds of Crime Act.

### **Case study: Joint Prosecution using the Proceeds of Crime Act**

A landlord, who amassed a property empire by illegally putting 28 flats into four houses, was prosecuted and ordered to pay £303,112 under the Proceeds of Crime Act. The London Borough of Brent brought the prosecution using evidence from planning enforcement officers from both Brent and Harrow Councils. This demonstrated to Magistrates how the landlord had flouted planning regulations in both boroughs.

The two planning enforcement teams pooled their resources to use the Proceeds of Crime Act. The landlord concerned had failed to comply with planning enforcement notices against a number of properties. The £303,112 was a confiscation order based on rent collected from tenants who lived in the properties from 2005. On top of the £303,112 confiscation order under the Proceeds of Crime Act, the landlord was ordered to pay a fine of £7,515 for the breach of the planning regulations and legal costs of more than £18,000. HM Treasury received half of the fine and the rest was divided between Brent and Harrow Councils, Brent and Harrow Trading Standards, and the Court Collection Agency.

### **Deterring Rogue Landlords**

5. Given the time and cost of prosecutions, local authorities will want to consider doing all they can to deter rogue landlords and raise public awareness – both so that the public report any properties of concern and so that prospective tenants are informed about landlords to avoid. Local authorities should consider –
  - **Naming and shaming prosecuted landlords.** Some local authorities have done this very effectively – see the case study below. In many areas there are particular shops or newspapers which advertise accommodation so these are useful to target with any publicity materials.

Getting publicity for prosecutions is essential for sending out the message to landlords, agents and tenants that local authorities will use their powers where necessary. A range of media options was used by Oxford City Council to maximise the publicity opportunities offered by successful prosecutions of criminal landlords. The Council:

- Held Media training courses for officers, including TV interview techniques
- Developed relationships with newsroom contacts in local media organisations
- Agreed to publish successful prosecutions as the lead news item on the Council's website
- Included prosecution cases in the Council's newspaper which is sent to every household in the city
- Issued press releases and photos to a wide audience of media, including newspapers, radio and TV as well as specialist professional publications
- Included details of prosecutions in quarterly newsletters sent to landlords
- Included case studies of prosecutions at landlord training events

#### **What was the result?**

- Local newspapers published the full details of prosecution cases – they particularly liked good photos
- The newspapers followed up the issue and ran several in depth features on what steps the Council was taking to deal with criminal landlords
- Public comments on the newspapers websites on articles about prosecutions were overwhelmingly positive
- The prosecution articles got picked up by news agencies and spread around the specialist media, particularly those who are web based
- A TV company approached the Council to film officers taking action against criminal landlords for a trailer for a documentary series
- The names of landlords and letting agents prosecuted by the Council became well known by the others operating in the sector and it damaged their reputation and businesses
- The Council developed a reputation as a strong enforcer who targeted the non-compliant

- **Making it clear who the public should contact to raise concerns.** This could be as simple as issuing a leaflet or holding an open day for people to raise concerns. An example of publicity material provided by Slough is below.
- **Making sure tenants are clear about their rights.** In 2011, DCLG published "Top tips for tenants" which provides a short and simple summary of tenants' rights and responsibilities. This is free to download. Local authorities can also work with other advice services, and with landlords and letting agents to ensure that tenants have the information they need. Links are provided in the useful links and contacts section of this document.
- **Landlord accreditation schemes.** Landlord accreditation schemes can be effective in raising the standard of accommodation available

locally. Around 70% of local authorities currently have some sort of scheme.

### Example publicity material

## We Are Here To Help

In recent years there has been an increase in the number of what we call 'Slough Sheds'. You may have heard about these on the radio or read about them in the local newspapers. 'Slough sheds' are usually converted garages or out-buildings in gardens used as sleeping accommodation. They often lack sanitation, have dangerous electrics and are in contravention of the Planning laws.

The Council has set up a special group of officers to inspect these "Sheds" to ensure that the health of the occupiers is not being put at risk. Officers have been targeting areas in Slough and inspecting sheds since the beginning of the year. During the week beginning **28th June 2010** we will be visiting houses on and around the **Farnham Road area** (Please see the map on the other side of this leaflet).

Council officers will be in the Church café on Sunday 27th June after the 12 noon mass to answer any questions you might have about these inspections or general queries concerning renting accommodation in Slough. Or alternatively you can contact the Private Sector Housing Team on:

☎ **01753 875264**



[www.slough.gov.uk](http://www.slough.gov.uk)  
**Slough**  
Borough Council

## **Conclusion**

Local authorities have a range of powers they can use to tackle the issue of rogue landlords in their area. Effective working with local partners is critical to addressing the serious problems that rogue landlords can inflict on communities and the hardship that can be suffered by tenants. In particular, where a local authority suspects that illegal activity is associated with problem properties they should work closely with other agencies to address this. It is also very important that criminal landlords are brought to justice and that those contemplating tenant exploitation are aware of the penalties that can be brought to bear against them. Better information for tenants and support for reputable landlords can also help to ensure that rogue landlords do not have the opportunity to exploit vulnerable people.

## Further information

### **DCLG:**

Top tips for tenants: Assured shorthold tenancies

<http://www.communities.gov.uk/publications/housing/tipstenantsassuredshorthold>

Housing Health and Safety Rating System: Enforcement Guidance: Housing Act 2004 Part 1: Housing Condition

<http://www.communities.gov.uk/publications/housing/housingact2>

Health and Safety ratings system – guidance for landlords and property related professionals:

<http://www.communities.gov.uk/documents/housing/pdf/150940.pdf>

Housing Health and Safety Rating System:

<http://www.communities.gov.uk/documents/housing/pdf/142631.pdf>

Further advice on planning enforcement can be found at:

Circular 10/97 Enforcing Planning Control: Legislative Provisions and Procedural Requirements;

<http://www.communities.gov.uk/publications/planningandbuilding/circularenforcingplanning>

Circular 2/2005 Temporary Stop Notice;

<http://www.communities.gov.uk/publications/planningandbuilding/circulartemporarystop>

Circular 2/2002 Enforcement Appeals: Procedures.

<http://www.communities.gov.uk/publications/planningandbuilding/circularodpmenforcement>

And on undertaking Article 4 Directions at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1759738.pdf>

## **UK Border Agency**

Further information for potential Assisted Voluntary Return Applicants and others may be found on: [www.refugee-action.org.uk](http://www.refugee-action.org.uk) <http://www.refugee-action.org.uk/>

Refugee Action can be contacted on 0808 800 0007 (free from mobile phones as well as land line)

Other UKBA guidance is available on:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/returns/assisted-voluntary-returns.pdf?view=Binary>

For regional links and contacts:

<http://www.ukba.homeoffice.gov.uk/aboutus/your-region/>

## **Police**

Information on Police Powers can be found at:

<http://www.homeoffice.gov.uk/police/powers/>

Find your local Police team / Service information at:

<http://www.police.uk/>

## **Local Government Association**

The Private Sector Housing Forum on the Local Government Association's Knowledge Hub website provides local authorities with the opportunity to share information about private sector housing issues:

<https://knowledgehub.local.gov.uk/group/privatesectorhousingforum>

## ANNEX A – LOCAL AUTHORITY POWERS

Local Authorities have a wide range of powers to tackle the problems associated with criminal landlords. These powers have been enhanced by the Localism Act 2012. This summary also includes information on the relevant powers held by other bodies.

### Housing Act 2004

Power	What the power allows	What the power can deliver
<p><b>Housing Act 2004</b></p>	<p>Housing Health and Safety Rating System is an evidenced based system used to assess housing conditions in all residential property. The Housing Health and Safety Rating System sets a minimum standard for all residential properties, ensuring that they are safe and habitable.</p> <p>The Housing Health and Safety Rating System comprises an assessment of the presence and severity of 29 hazards, including 'excess cold'. Local authorities have a duty to take enforcement action to secure necessary improvements where Category 1 (serious) hazards are present. Local authorities also have discretionary power to intervene where Category 2 hazards are present. In determining the most appropriate form of action, local authorities can consider the extent of vulnerability of person's living (or likely to live) in the accommodation</p>	<p>A local authority can carry out an assessment of a home and will look at the likelihood of an incident arising from the condition of the property and what the harmful outcomes might be.</p> <p>As a result of the assessment, the council will be able to say whether the property has 'Category 1' (serious) or 'Category 2' (other) hazards.</p> <p>If the local authority discovers serious Category 1 hazards, they will first discuss these with the home owner or landlord to encourage them to deal with the problems. If this isn't successful, then they can:</p> <ul style="list-style-type: none"> <li>▪ serve a hazard awareness notice to draw attention to the problem</li> <li>▪ issue an improvement notice to the landlord to carry out improvements to the property</li> <li>▪ take emergency action to fix the hazard where there is an immediate risk</li> <li>▪ ban the use of the whole or part of a dwelling or restrict the number of people living there using a <b>prohibition order</b></li> </ul> <p>If a home owner/landlord doesn't carry out the requirements of a legal</p>

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		<p>(‘statutory’) notice issued by the local authority, they could face a fine which is currently up to £5,000 but will be increased to unlimited when the Legal Aid Sentencing and Punishment of Offenders Act is commenced.</p>
<p><b>Mandatory Licensing of Houses in Multiple Occupation</b></p>	<p>There is a statutory duty on local authorities to license larger higher risk Houses in Multiple Occupation of three or more storeys housing five or more unrelated persons. These properties are seen as higher risk, both because of the nature and condition of the properties, and the vulnerability of their occupants.</p> <p>The mandatory Houses in Multiple Occupation licensing regime addresses poor management practices and aims to secure a reduction in death and injury from fire and other health and safety hazards, and ensures adequate provision of amenities.</p>	<p>Private landlords must be deemed to be a “fit and proper” person in order to be granted a licence.</p> <p>Local authorities can impose conditions on a licence, such as how the licence holder deals with the behaviour of occupiers and the maximum number of occupants allowed in the property. They can also impose conditions requiring adequate amenities and safety requirements to ensure decent standards in properties where there are several households sharing basic facilities.</p> <p>Breach of a licence condition is an offence currently subject to a fine of up to £5,000. Letting or managing a property without a licence is a criminal offence currently subject to a maximum fine of £20,000.</p>
<p><b>Additional Licensing of Houses in Multiple Occupation:</b></p>	<p>Poor conditions and bad management practices can manifest themselves in smaller Houses in Multiple Occupation in specific areas. These smaller types of Houses in Multiple Occupation may not meet the mandatory licensing criteria but there is a discretionary power to extend licensing to smaller types of Houses in Multiple Occupation. Local authorities have the general consent to introduce such schemes subject to local consultation.</p>	<p>In order to introduce additional Houses in Multiple Occupation licensing schemes local authorities are required to consult with local residents, landlords and tenants for a minimum of ten weeks.</p> <p>Local authorities are required to provide a robust evidence base for introducing a scheme, such as demonstrating there are significant management issues and poor property condition that need addressing within a designated area.</p>

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		<p>Once a designation is confirmed landlords who operate within the designated area will be required to apply for an Houses in Multiple Occupation licence for each of their properties.</p>
<p><b>Selective Licensing:</b></p>	<p>This is a discretionary power to licence all privately rented properties in a designated area that is deemed to suffer from low housing demand and/or significant and persistent anti-social behaviour. Such schemes are subject to local consultation. Selective licensing is intended to address the adverse impact that poor management by a minority of private landlords, and anti-social behaviour by a few tenants, can have on other tenants and the wider community.</p> <p>Selective licensing is only concerned with the management of privately rented property, not property condition.</p>	<p>In order to introduce a selective licensing scheme local authorities are required to consult with local residents, landlords and tenants for a minimum of ten weeks.</p> <p>Local authorities are required to provide a robust evidence base for introducing a scheme, such as demonstrating there are significant management issues that need addressing within a designated area.</p> <p>Once a designation is confirmed landlords who operate within the designated area will be required to apply for a licence for each of their properties.</p>
<p><b>Special Interim Management Orders:</b></p>	<p>This is a power to take over the management of individual privately rented properties which give rise to significant problems of anti-social behaviour if the landlord does not take action to deal with the problem. Local authorities can use this power to tackle serious anti-social behaviour emanating from individual privately rented properties that are causing problems for the local community, without the need to introduce a selective licensing scheme.</p>	<p>Local authorities will require approval from a Residential Property Tribunal in order to make a Special Interim Management Order. In order for it to be granted the local authority will need to demonstrate that a private landlord is failing to address the anti-social behaviour and that the Special Interim Management Order is necessary to protect the health, safety and welfare of occupiers, neighbours or visitors to the property.</p> <p>Once in force a Special Interim Management Order will last for a period of up to twelve months.</p>

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		Local authorities will take over the management of the property from the landlord i.e. will collect rent, do repairs, spend money from rents on its management functions etc.

### Planning Legislation

Under powers in the Town and Country Planning Act 1990<sup>1</sup>, local planning authorities have wide-ranging, discretionary enforcement powers to deal with breaches of planning control. The powers provide for a controlled and proportionate response to a wide range of breaches of planning control. Ultimately failure to comply with any enforcement action will lead to the Courts, and it will be for the Courts to decide what sanction to impose.

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<b>Planning Contravention notices</b>	This may be used where it appears that there may have been a breach of planning control and the local planning authority require information about the activities on the land or to find out more about the nature of the recipient's interest in the land.	Penalty for non-compliance is a level 3 fine (maximum £1,000) on summary conviction. A second conviction for continuing non-compliance can be penalised by a daily fine. A false or misleading response to a Planning Contravention Notice (either deliberately or recklessly) is subject to a penalty of a level 5 fine (maximum £5,000) on summary conviction (s171D Town and Country Planning Act 90).
<b>Temporary Stop Notices</b>	This stops any activity for a period of 28 days. This allows the local planning authority time to decide whether further enforcement action should be taken.	Penalty for non-compliance is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment (s171G Town and Country Planning Act 90).
<b>Enforcement notice</b>	This notice requires steps to be taken to remedy the breach within a given period (there is a right of appeal to the Secretary of State against an enforcement notice)	If the notice is upheld, the penalty for failure to comply is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment. If non-compliance continues after conviction, a further conviction

<sup>1</sup> As amended by the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011.

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		can result in a daily fine. In determining the amount of the fine, the court “shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence” (s179 Town and Country Planning Act 90).
<b>Stop notice</b>	This has the effect of immediately stopping any activity which contravenes planning control guidelines and where there are special reasons which justify doing this. A stop notice can only be served with or subsequently to an enforcement notice. It cannot prevent the use of a building as a dwelling house.	Penalty for non-compliance is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment. A second conviction for continuing non-compliance can be penalised by a daily fine. In determining the amount of the fine, the court “shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence” (s187 Town and Country Planning Act 90).
<b>Breach of Condition notices</b>	This can be issued where there is a failure to comply with any condition or limitation imposed on a grant of planning permission.	Penalty for non-compliance is a level 4 fine (maximum £2500 from 6 April 2012). A second conviction for continuing non-compliance can be penalised by a daily fine (s187A Town and Country Planning Act 90)
<b>Injunctions</b>	Injunction in the High Court or County Court to restrain any actual or expected breach of planning control (including against someone whose identity is unknown).	Non-compliance is a contempt of court and can be penalised by a fine or possibly imprisonment.
<b>Powers of entry</b>	Powers of entry on to land are available for authorised officers of the local planning authority for the purposes of obtaining information required for enforcement purposes. Wilful obstruction of an authorised person is an offence.	An authorised person can enter land at any reasonable hour but must give 24 hours notice to enter any building used as a dwelling house (s196A Town and Country Planning Act 90). If the entry has been refused or the case is urgent, entry under a warrant issued by a Justice of the Peace may be authorised at a

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		<p>reasonable hour (s196B Town and Country Planning Act 90).</p> <p>This offence is a general one for Town and Country Planning Act 90 and is not specific to enforcement. The penalty is a level 3 fine (maximum £1,000) on summary conviction (s325 Town and Country Planning Act 90).</p>
<b>Article 4 Directions</b>	<p>Article 4 directions allow local planning authorities to withdraw the 'permitted development' rights that would otherwise apply by virtue of the <i>Town and Country Planning (General Permitted Development) Order 1995</i> as amended. An article 4 direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development.</p>	<p>Domestic outbuildings can often be erected without the need for specific planning permission from the local council (i.e. as permitted development). However, this cannot allow outbuildings for the purposes of primary living accommodation.</p> <p>It is possible to withdraw permitted development rights and instead require that planning permission is obtained through making 'article 4 directions'. Such directions must go through local consultation.</p>

#### Other indirect means of redress

The landlord may have breached other areas of law and as such it may be appropriate to work with the Serious Organised Crime Agency to bring action against the perpetrator.

Power	What the power allows	What the power can deliver
<b>Proceeds of Crime Act</b>	<p>If a defendant has been convicted of a listed serious offence or has a history of a number of convictions, the court can assume that all their property is the proceeds of crime and can be factored into the amount of a confiscation order. Confiscation orders are made through the Crown Court. Although there is power under the legislation to make confiscation orders in Magistrates Courts this has not yet been commenced.</p>	<p>The Act provides for:</p> <ul style="list-style-type: none"> <li>• The confiscation of the value of the proceeds of crime following any criminal conviction regardless of the amount;</li> <li>• The freezing of assets from the beginning of an investigation so as to prevent their dissipation;</li> <li>• Civil recovery: a process that allows for the Serious Organised Crime Agency and the main prosecution agencies</li> </ul>

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	<p>The Proceeds of Crime Act allows specific financial investigation powers which are also available to civilian investigators in the public sector (known as accredited financial investigators). The National Policing Improvement Agency has the lead on training, accrediting and monitoring financial investigators. Over 20 bodies have investigators and there are 119 Accredited Financial Investigators within the Local Authorities. This allows accredited financial investigators within local authorities to apply for restraint orders, to seize and seek the forfeiture of suspect cash and investigate the suspected proceeds of crime</p>	<p>to effectively sue for the proceeds of crime in the High Court. This is against property, rather than an individual, and so does not require a criminal conviction;</p> <ul style="list-style-type: none"> <li>• Seizure and forfeiture of cash (not less than £1,000) which is the proceeds of, or intended for use in crime;</li> <li>• Serious Organised Crime Agency to tax the suspected proceeds of crime;</li> </ul> <p>In 2010-11 Local Authorities recovered assets to the value of £4.45m (and they were paid back £2.4m under the Asset Recovery Incentivisation Scheme). The cases referred to Serious Organised Crime Agency for civil recovery action resulted in £900,000 being recovered.</p>

## ANNEX B – POWERS OF OTHER AGENCIES

### UK BORDER AGENCY

1. The UK Border Agency has a number of powers to execute its functions, and maintains information on non-European Economic Area nationals who have entered the country lawfully or previously been dealt with as an immigration offender. Immigration officers have the power to arrest and detain non-European Economic Area nationals committing offences under the Immigration Act 1971, both at ports and inland. Immigration officers' more limited powers over citizens of the European Economic Area and their family members are currently governed by the Immigration (EEA) Regulations 2006.
2. The power to detain immigration offenders is exercised as a last resort and is for the purpose of effecting the person's enforced removal from the UK. It can sometimes take some time to manage a person's removal because of the need to obtain the necessary travel documentation from the relevant overseas government, and the need to address legal challenges. The UKBA prefers that illegal migrants leave the UK voluntarily at their own expense. Where appropriate, UKBA provides assistance for illegal migrants to facilitate a dignified return through Assisted Voluntary Return, schemes.

**a) Voluntary Assisted Return and Reintegration Programme** is open to asylum seekers or failed asylum seekers of any nationality (apart from UK, European Economic Area or Swiss nationals) meeting eligibility criteria relating to criminality, immigration history and status in the UK.

**b) Assisted Voluntary Return of Irregular Migrants** assists irregular migrants – illegal entrants, trafficked people, smuggled people, overstayers – of any nationality (apart from UK, European Economic Area or Swiss nationals) to return to their country of origin. It is not open to those who are been in the asylum system.

**c) Assisted Voluntary Returns for Families and Children** this programme provides specific assistance for returning families and also to unaccompanied children (under-18). It is open to those who have sought asylum or are irregular migrants. A family is considered as one or two parents or legal guardians and at least one child under-18. Any other family members over 18 may be considered under the Voluntary Assisted Return and Reintegration Programme or Assisted Voluntary Return of Irregular Migrants as appropriate, or make a Voluntary Departure through UKBA. Each individual family member under Assisted Voluntary Returns Families Children is eligible for reintegration assistance of up to £2000 including a £500 relocation grant on departure and, once home up to £1500 in kind.

UKBA may, in certain circumstances, meet the cost of departure in cases where evidence of the persons inbound carrier is not available. Departure in these circumstances will not include any element of assistance payment. It should be noted that the above programmes are dependent on cooperation from the person's home government authority for travel documentation. Speed of departure is therefore reliant on that countries administrative processes.