



# Ministry of Housing, Communities & Local Government

## Rogue Landlord Enforcement

### Guidance for Local Authorities

# Ministerial foreword



Local authority housing enforcement officers play a vital role in making sure people in rented properties have somewhere safe, secure and warm to live. This consolidated guidance is intended as a practitioner's handbook for local authorities on the implementation of enforcement powers.

The private rented sector (PRS) has grown significantly in recent years. Not only is it the second largest housing tenure, representing 19% of households, it also houses an increasingly diverse range of tenants. It's a huge credit to the work that local authority enforcement officers do that the PRS has continued to improve – in quality, standards, and safety – whilst also adapting to significant change.

The vast majority of landlords are responsible and law-abiding, and many care deeply about providing the highest standards in the properties that they rent. But, sadly, there remains a small minority of criminal landlords who choose not to comply with the law, and whose tenants suffer unacceptable conditions as a result.

The government is committed to clamping down on these rogue landlords and forcing them to improve the condition of their properties or leave the sector completely. This is why we have taken some important steps to strengthen the

tools local authorities have to keep driving these improvements. We have introduced civil penalties, rent repayment orders, the rogue landlords database, and a mandatory licensing scheme that captures more houses in multiple occupation (HMOs) than ever before.

During our series of 'roadshow' events with local authorities in the summer of 2018, enforcement officers asked us for more help in navigating and deploying your powers to maximum effect. In response, we organised a nationwide programme of workshops to bring local authorities together and draw on the vast wealth of experience and expertise enforcement officers have to help each other.

We have also brought together all the existing PRS guidance into one place. This consolidated guidance is intended to be an easy-to-navigate, first port of call for you in your day-to-day work. It will help you identify the relevant legislation and powers available to you when facing many of the most common issues an enforcement officer encounters, and take you straight to the guidance documents for those powers. Although park homes and property guardianships do not form part of the PRS, we have included them in a separate section, as we know they present issues many of you encounter in your area.

We have worked in partnership with many local authority stakeholders to develop this document, and would like to thank them for giving us the benefit of their time and expertise. Their knowledge and experience have been invaluable.

We hope you find this document useful as you go about your crucial work, making sure that everyone who rents their property has a place they can proudly call home.

**Mrs Heather Wheeler MP**

Parliamentary Under Secretary of State  
Minister for Housing and Homelessness

# Contents

1. Introduction and context .....	6
1.1 Local authorities and the private rented sector .....	4
1.2 What this guidance is for .....	5
1.3 Who this guidance is intended to help .....	5
1.4 Navigating this guidance .....	5
2. Where to start .....	6
2.1 Identify: Understanding the private rented sector in your local area.....	6
2.2 Review: Agreed policies and procedures .....	8
2.3 Inspect: Proactive inspection and management of the sector .....	8
2.4 Act: Acting with enforcement powers .....	11
2.5 Communicate and engage: Educate tenants and landlords on their rights and responsibilities .....	12
3. What to do.....	14
3.1 Common issues and powers to act .....	14
3.2 Inspecting and gaining entry to a property .....	21
3.3 How to use enforcement and prosecution powers .....	22
3.4 Factors to consider when choosing how to act .....	22
3.5 Environmental scenarios .....	24
3.6 Protecting vulnerable tenants scenarios .....	34
3.7 Regulatory scenarios.....	38
3.8 Park homes and property guardians .....	45
4. Enabling a sustainable approach .....	53
4.1 Key principles for an enforcement service .....	53
4.2 Putting policies into action .....	54
4.3 Collaboration and partnerships .....	54
4.4 Sharing data and information .....	56
4.5 National database of rogue landlords .....	56
4.6 Communication and engagement .....	57
4.7 Resources.....	59
4.8 Wider powers.....	59
Appendices .....	60

## 1. Introduction and context

**You are currently accessing the local authority guidance on rogue landlord enforcement, it is part of a suite of documents which aim to support the local authorities to take enforcement action against rogue landlords.**



### Learning

Interactive learning which helps you to check your knowledge on the available enforcement powers and tools and use your learning to help strengthen your approach to enforcement. To be published in due course.



### Guidance

All you need to know about enforcement powers and tools with references to legislation and links to specialist guidance.



### Knowledge bank

The most frequently asked questions and answers about enforcement. To be published in due course.

The guidance is part of a toolkit aimed at providing local authority enforcement officers with detailed information on the powers and options open to them to tackle rogue landlords.

### 1.1. Local authorities and the private rented sector

The private rented sector is the second largest tenure in England, and has grown in the last 20 years. In 2017-18, the private rented sector accounted for 19% of households in England. The proportion of private rented sector households has doubled since 1996-97, and the overall size of the private rented sector has increased over this time from 2.1 million households in 1996-97 to 4.5 million households in 2017-18. The sector grew a little between 1996-97 and 2006-07, but growth accelerated after 2006-07, with over two million additional households added to the sector<sup>1</sup>.

While the quality of privately rented housing has improved rapidly over the past 20 years, a number of rogue or criminal landlords knowingly rent out unsafe and substandard accommodation. Local authorities play a very important role in ensuring that tenants in the private rented sector have access to safe and good quality housing.

Local authorities have a similarly important role in regulating park home sites, as well as commercial and industrial premises known to be inhabited by property guardians. Although these are not within the private rented sector, we recognise local authorities are encountering these situations and have included links to the relevant powers in this guidance.

<sup>1</sup> English Housing Survey 2017-18

# 1. Introduction and context

Local authorities have an important role to drive up standards in their area:

- they have the powers to send strong and clear messages to rogue landlords that they are not welcome in the sector;
- they can ensure the local area is a place where landlords uphold their duties responsibly, and tenants feel safe in their accommodation;
- they have powers beyond enforcement to improve neighbourhoods which might include regular engagement with good landlords; and the use of formal and informal enforcement.

## 1.2. What this guidance is for

Good quality and safe housing is something that every tenant has a right to expect. This document provides a comprehensive, single-source guide for local authority officers to help them to enforce against non-compliant landlords.

Section 2 describes principles for assessing and managing a local authority's private rented sector.

Section 3 offers a full view of the wide range of powers that local authorities have to take action against rogue landlords. The powers listed are grouped by the type of action that could be taken, and issue or practice that may be encountered. Further resources and information are also signposted.

Section 4 offers more practical advice for officers, exploring how action can be taken in a range of scenarios. It focuses on common issues and provides some examples of how local authorities have successfully enforced against rogue landlords, to act as a guide for other authorities. This section also sets out key principles for creating a sustainable enforcement service to tackle rogue landlords.

## 1.3. Who this guidance is intended to help

This guide is intended to provide practical advice to enforcement officers – whether they sit in the housing team or in a more bespoke or holistic enforcement service. It is designed to support both those with specialist expertise as well as officers who are new to enforcement, offering practical steps to act against rogue landlords.

## 1.4 Navigating this guidance

This guidance contains information on what powers exist for local authorities and how to act or use those powers in different situations. We have drawn on feedback from local authorities and consumer organisations to understand what the most common problems and complaints are and set out how existing powers can be used to tackle and resolve those issues.

The following is outlined in the remaining sections of this guidance:

- Section 2: Where to start:
  - how to identify issues in the private rented sector;
  - approaches local authorities can take to tackle those issues.
- Section 3: What to do:
  - issues local authority officers might encounter with private rented sector landlords and properties;
  - routes to enforcement.
- Section 4: Enabling a sustainable approach:
  - building blocks for successful enforcement.
- Appendix A: Legislation and powers provided to local authorities
- Appendix B: Building a network

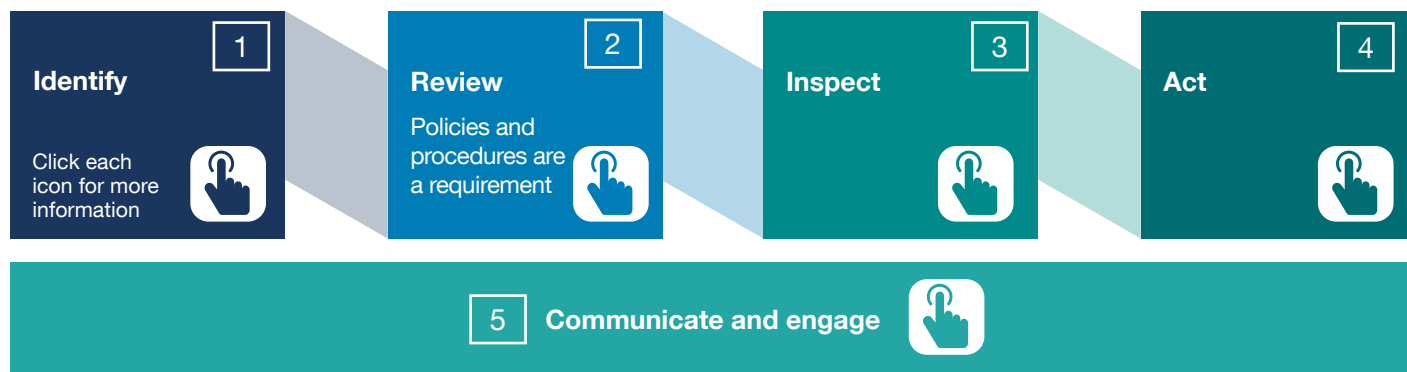
## 2. Where to start

In this section of the guidance, principles for assessing and managing a local authority's private rented sector are outlined based on what successful local authorities are already doing. The following is described:

- understanding the private rented sector in a local area;
- developing agreed policies and procedures to take enforcement action;
- guidelines for acting with enforcement powers;

- conducting proactive inspections and management of the sector;
- educating the sector on private landlord rights and responsibilities.

Local authorities which have well-managed private rented sectors have developed a clear strategy supported by policy, process and resource which is also aligned to their local circumstances. The diagram below presents stages of enforcement activity that a local authority could adopt as part of its own enforcement strategy.



### 2.1. Identify: Understanding the private rented sector in your local area

The growing availability of information and data sets mean that local authorities are able to build up a better picture of the private rented sector in their area.

Local authorities can cross reference data that they already hold and consequently have been able to pinpoint tenure information across a range of relevant data elements, such as:

- owner occupation, council tax names registered, names of those liable for council tax single person discount, student exemption, deferments;
- planning applications;

- site licence applications;
- building regulation approvals and breaches;
- frequency of turnover of occupants.

Once a robust evidence base has been established, other strategies can be used to build a more comprehensive view of the sector. This can enable a more effective enforcement approach, such as:

- multi-agency collaboration;
- local authority collaboration; sharing intelligence between council areas and through using the national database;
- key performance indicator (KPI) monitoring;
- complaints and triaging processes.

## 2. Where to start

### Building an intelligence database

#### Complaints and triaging processes

- **Sources of information:** Residents, tenants, the voluntary and community sector (VCS) and other partners can be an extremely useful source of information for local authorities in understanding where rogue landlords are operating
- **Effective enforcement:** Ensuring the complaint from a tenant or resident is quickly triaged to the relevant area of the local authority can enable effective enforcement
- **Building capacity:** With effective triaging processes in place, more resources can be made available to proactively identify harder to find rogue landlords

#### Multi-agency collaboration

- Local authority departments and other agencies working in the area, can pool together to tackle rogue landlords most effectively
- The following teams may be able to identify hotspots of rogue landlord activity:
  - complaints
  - planning enforcement
  - anti-social behaviour
- Other agencies such as the police, local health partners and fire and rescue service can offer insight into areas where rogue landlords may be prevalent
- Reporting issues collaboratively, and making connections between enforcement of other illicit activities can result in identifying pockets of rogue landlords

#### Authority collaboration

- Landlords can operate across local authority boundaries, and in these cases, officers from neighbouring local authorities can act together to enforce against these practices
- The national rogue landlord database enables effective management of those landlords who hold properties across boroughs

#### KPI monitoring

- Establishing and tracking key performance indicators allows for an effective review of the current state of the private rented sector
- Example indicators:
  - # streets surveyed
  - # properties inspected
  - # property problems reported
  - # improvements in the sector overall
  - # more landlords signing up to be accredited
  - # reduction in evictions



## 2. Where to start

### 2.2. Review: Agreed policies and procedures

Local authorities should have clear policies and procedures on enforcement, and these should be reviewed in light of intelligence gathered from the processes suggested in 2.1. These policies and procedures should be made publicly available for landlords and tenants to access, especially if the enforcement action is to hold up in the event of a legal challenge. Under the Regulatory Reform Act 2006, when developing policies and operational guidance local authorities must have regard to the Regulators' Code. Under the Code local authorities should base their regulatory activities on risk and take an evidence based approach to determining priority risks in their area of responsibility. Local authorities should allocate resources where they would be most effective in addressing those priority risks.

Enforcement policies should follow the principles of enforcement: proportionate, consistent, targeted, transparent and accountable. Clear policies and procedures of enforcement can lead to the following outcomes for local authorities:

- **Successful enforcement and prosecution:** Determining the scale of the penalty applied to a rogue landlord, and supporting this decision with evidence, is the responsibility of the local authority. Having clear and defined policies for how the scale of the offence is determined provides the court with confidence in the authority's approach, and is more likely to lead to a successful enforcement or prosecution.
- **Sustainable change:** Developing a transparent policy on enforcement, which outlines consequences for landlords who flout their responsibilities, will make clear to landlords the authority's expectations of them, and should deter non-compliant activity in the future.

Principles to consider when developing policies and procedures:

- **Assess legislation:** Determine the legislation that grants local authorities' powers to act against rogue landlords, and which powers are most relevant.
- **Consult:** Engage with a range of relevant bodies for their advice to produce effective policies. For example, local authorities have found it helpful to engage the Local Government Association (LGA), local or regional networks and other consumer groups representing tenants and landlords. Neighbouring boroughs have worked together to offer their expertise and perspectives on enforcement policy development.
- **Clarify:** Clarifying the consequences for types of rogue landlord behaviour will support officers in taking appropriate and proportionate action. Developing a framework to help officers choose the right response to each type of case has been a clear objective for successful local authorities when establishing policies and procedures.
- **Utilise full range of powers:** Local authorities have been most successful when making use of the full range of powers and tools available. The powers are intended to provide options to deal with cases of varying severity. The most effective local authorities have used the full range of powers to adopt an escalating approach with repeat offenders, as well as those who don't engage with initial interventions.

### 2.3. Inspect: Proactive inspection and management of the sector

Many local authorities have found success by taking a balanced approach to the management of the private rented sector – where they both reactively respond to issues when they arise and proactively seek to intervene before issues escalate.



## 2. Where to start



Local authorities might proactively identify issues, or be alerted by resident complaints or contact. A selection are detailed below:

Environmental	Planning
<ul style="list-style-type: none"> <li>• Poor maintenance</li> <li>• Untidy gardens and exteriors</li> <li>• Increased rubbish/over-spilling bins and discarded mattresses</li> </ul>	<ul style="list-style-type: none"> <li>• Newly blocked side entrances to a property</li> <li>• Sudden appearance of outbuildings in back gardens</li> <li>• Sheds which appear to be occupied e.g. they have flues, satellite dishes and curtains etc</li> </ul>
Behaviour	
<ul style="list-style-type: none"> <li>• Complaints from either tenants or neighbours about noise and anti-social behaviour</li> <li>• Gathering of large groups of people outside premises (may indicate overcrowding)</li> <li>• Permanently closed curtains (possible evidence of overcrowding)</li> <li>• High turnover of tenants (that may indicate the use of the property via short term rental sites like Airbnb)</li> </ul>	

### Reactive response:

Alongside a proactive approach, many local authorities have well developed responsive services that support landlords and tenants in cases where things have gone wrong. Local authorities have found the following useful in developing an effective responsive approach:

- **Complaints procedures:** Clear procedures for tenants to follow if they wish to lodge a complaint with their local authority. These are backed up by transparent and published policies.

- **Multiple channels:** Local authorities have found it useful to offer tenants multiple channels to lodge complaints, whether by phone or digital routes.
- **Triaging process:** Once a complaint has been lodged, internal processes within a local authority have been set up to enable rapid triage, so the complaint is quickly routed to the relevant service who can action, track the complaint effectively and ensure a swift resolution. If a complaint cannot be resolved directly by the local authority, complainants can then be directed to another service or towards relevant advice.

## 2. Where to start

### Proactive approach:

A proactive approach to managing the private rented sector can be favourable with regard to:

- **Vulnerable tenants:** Vulnerable tenants can be afraid to raise issues with a local authority or are unaware of their rights, including those who have recently migrated to the United Kingdom. A proactive approach is required to support these tenants whose landlords are not upholding their duties.

- **Pre-empt developing issues:** Smaller issues with a landlord can often develop into more serious problems if not addressed early, resulting in worse conditions for the tenant.

Local authorities have addressed these challenges in a different way, taking a more proactive approach, depending on capacity and locality.

The following table outlines a selection of approaches.

#### Street surveys

##### Proactive approach

There are a number of ways for authority's to understand their communities better, depending on capability and capacity:

- Manual street surveys by officers
  - Geographic information system mapping
  - Thermal imaging aerial maps
- amongst many others.

##### Benefits

- Understand local areas well
- Enables effective housing condition management
- Direct intervention

##### Example:

Blackpool Borough Council's 'Monitoring and Intervention in the Private Rented Sector' scheme collaborated across services to knock on all doors across the inner wards to identify private rented properties.

#### Multi-agency working

##### Proactive approach

Coordinate across services – such as police, fire brigade, housing and planning – to identify properties whose landlords may be in breach of standards. This can be accomplished in a number of ways:

- Co-location; e.g. between housing, environmental health, trading standards and planning officers
- Governance structures
- Specialised rogue landlord units with representation across services
- Data sharing to centralise relevant information to identify problem areas

##### Benefits

- Holistic view of a neighbourhood or area
- Long-lasting impact on an area
- Capability for intervention across services

##### Example:

Fenland District Council's Operation Pheasant is a multidisciplinary project drawn from several agencies that looks at links between poor property condition, culpable landlords and their associations with illegal working, gangmaster activity and human trafficking.

In this context, it is clearly important to define the approach that is most applicable to a local area; different challenges and localities require different solutions and there is a range of powers that can be used in different combinations as required.

Moving from reactive enforcement to proactive management is a key step in changing landlord behaviours, encouraging and incentivising good landlords while targeting rogue landlords systematically.

## 2. Where to start

### 2.4. Act: Acting with enforcement powers

Powers provided to local authorities in the Housing and Planning Act 2016 have strengthened authorities' ability to act against criminal landlords with civil penalties, banning orders, extended rent repayment orders and use of a national database to track rogue landlords across council boundaries.

Use of enforcement powers is a key part of a broader strategy that aims to improve an area's private rented sector.

Enforcement is most effective in an environment where good landlords are encouraged, and it is done alongside proactive efforts to improve a neighbourhood for the benefit of all residents.

The powers that local authorities have to enforce against rogue landlords, and the approach that local authorities can take in various situations and scenarios, are described in detail in section 3 – what to do.

There are some general guidelines of routes to enforcement:

#### Proportionate and escalating

- Decisions on which specific enforcement powers to use should also be informed by individual circumstances; if a landlord is a first time offender on a minor contravention, then clearly enforcement action should be proportionate and appropriate

#### Transparent

- Enforcement action should be grounded in the local authority's policies and procedures
- Officers should be working within a clear framework set out in the council's policies
- Decisions taken on similar cases should be broadly consistent and officers should be able to account for why a particular approach has been taken

#### Evidence based

- Local authorities should take a strong approach to evidence gathering so that decisions are defensible
- Often officers will only have one opportunity to inspect a property, so evidence should be gathered systematically and in consideration of all potential routes to enforcement

#### Repeat offenders

- As well as managing individual problems as they arise, local authorities should be proactive in tackling repeat offenders
- Previous offences should be taken into account when deciding enforcement actions, and authorities have greater powers to take action against repeat offenders, with civil penalties, banning orders, and inclusion on the rogue landlord database

## 2. Where to start

### 2.5. Communicate and engage: Educate tenants and landlords on their rights and responsibilities

Many landlords may not be fully aware of their obligations and responsibilities. While some

landlords deliberately flout the law, most landlords are willing and keen to learn how to be better in their role, and recognise the business benefits of maintaining their properties in good condition. There are a range of strategies local authorities can implement to build a well-informed, educated and ultimately responsible population of landlords and tenants.

<b>Landlord standards and guidance</b>	<p><b>Approach:</b></p> <ul style="list-style-type: none"> <li>• Refer landlords to code of practice, and guidance publications such as the <a href="#">‘How to let’</a> guide</li> <li>• Landlord training scheme</li> <li>• Dedicated web page on a local authority’s website on private rented accommodation to act as a landing page for landlords</li> <li>• Landlord forums to develop a knowledge-sharing community</li> </ul> <p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>• Multiple pathways for landlords to access information on responsibilities</li> <li>• Tailored digital engagement for landlords based on locality</li> </ul>
<b>Relationship with landlord associations</b>	<p><b>Approach:</b></p> <ul style="list-style-type: none"> <li>• Engage directly with representatives from local and national landlord associations</li> <li>• Local authorities can input and support the development of training and advice issued by the landlord association</li> </ul> <p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>• Landlords may be more receptive to advice and guidance provided by a landlord association</li> </ul>
<b>Local accreditation schemes</b>	<p><b>Approach:</b></p> <ul style="list-style-type: none"> <li>• Develop in conjunction with landlord associations: <ul style="list-style-type: none"> <li>– British Property Federation</li> <li>– National Landlords Association</li> <li>– Residential Landlords Association</li> </ul> </li> <li>• Develop at a regional level in conjunction with other local authorities</li> <li>• Provide landlords with benefits to signing up</li> <li>• Signpost tenants to landlord accreditation schemes</li> </ul> <p><b>Benefits:</b></p> <ul style="list-style-type: none"> <li>• Landlords are committed to meetings locally agreed standards</li> <li>• Landlords can continue their professional development</li> </ul>

## 2. Where to start

### Advise tenants on their rights and responsibilities

**Approach:**

- Refer tenants to the [‘How to rent’](#) guide
- Provide tenants with access to clear reporting procedures for complaints
- Proactively engage with tenants that are likely to be at risk
- Target hard-to-reach groups to ensure they are aware of the minimum standards of housing that they can expect

**Benefits:**

- Tenants are aware of their rights and know what action they can take in different situations
- Tenants can play a role in improving the private rented sector in their area

Tenants should also be made aware of their rights and responsibilities so they know the improvements they can ask for and the standard their property should meet. Communicating and engaging with landlords and tenants is an important part of ensuring the private rented sector in an area is


a safe and viable option for all residents, and has been essential for many local authorities as part of a wider enforcement strategy. Consumer guidance for landlords and tenants has been produced in parallel with this local authority guidance, and can be found [here](#).

## 3. What to do

### 3.1 Common issues and powers to act

This section of the guidance is intended to set out example scenarios in which different levels of action could be taken and how the powers available to local authorities can be used to achieve that.

- Section 3.1 (below): Indicates issues officers might encounter, powers they have to act against those issues, relevant legislation which provides those powers, and associated guidance (where available) where officers can find more information.
- Section 3.2: Outlines powers local authorities have to inspect and gain entry to a property;
- Section 3.3: Describes factors local authorities might consider when choosing how to act;
- Sections 3.4, 3.5, 3.6 and 3.7: Describes a selection of scenarios that local authority officers may encounter, and available routes to tackle them;
- Section 3.8: Outlines issues related to park homes and property guardians, and powers that officers have to act against those issues, relevant legislation which provides those powers, and associated guidance (where available) where officers can find more information.


Environmental			
Behaviour or non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
Property is in a condition that may result in a harmful outcome for the occupant (Click here to go to 'What to do') 	Housing Act 2004 Part 1	Serve a hazard awareness notice	<a href="#">Housing Health and Safety Rating System (HHSRS)</a> <a href="#">Enforcement Guidance: Housing Conditions (ODPM 2006)</a>
		Improvement notice	
		(Emergency) Prohibition Order	
		Emergency remedial action and recovery of expenses for category 1 hazards	<a href="#">Housing Health and Safety Rating System (HHSRS)</a> <a href="#">Operating Guidance: Housing Act 2004 – guidance about inspections and assessment of hazards given under section 9</a>
		Demolition order for category 1 hazards	
		Declare a clearance area for hazard 1 hazards	
		Discretionary power to intervene on category 2 hazards	
	Environmental Protection Act 1990	Serve an abatement notice	<a href="#">Statutory nuisances: how councils deal with complaints (DEFRA 2015)</a>

## 3. What to do



Environmental			
Behaviour or non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
	Housing and Planning Act 2016 Part 2	Rent repayment order (following failure to comply with improvement notice or prohibition order)	<a href="#">Rent Repayment Orders under the Housing and Planning Act 2016 (MHCLG 2017)</a>
		Civil penalty (max £30,000, level of penalty determined by LA, alternative to prosecution for breach of a banning order or following failure to comply with an improvement notice.)	<a href="#">Civil Penalties under the Housing and Planning Act 2016 (MHCLG 2018)</a>
	Gas Safety (Installation and Use) Regulations 1998	Fine or 2 years imprisonment.	No available guidance
	Energy Performance of Buildings (England and Wales) Regulations 2012	Issue a penalty charge notice £200 – can require the landlord to produce copy of valid EPC	<a href="#">Improving the energy efficiency of our buildings (DCLG, 2016)</a> <a href="#">Guidance for local weights and measures authorities about enforcing the rules on Energy Performance Certificates and air conditioning inspections.</a>
	Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015	Issue a penalty notice imposing a financial penalty. Not exceeding £2,000 where breach less than 3 months and £4,000 where breach 3 months or more	<a href="#">Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (Dept for Business, Energy &amp; Industrial Strategy)</a> <a href="#">A guide to energy performance certificates for the marketing, sale and let of dwellings.</a> <a href="#">Improving the energy efficiency of our buildings (DCLG, 2017)</a>



## 3. What to do

Environmental			
Behaviour or non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
Property is overcrowded 	Housing Act 1985 Part 10	Fine not exceeding level 2 on the standard scale, and a further fine not exceeding one tenth of the amount corresponding to that level in respect of every day subsequent to the date of conviction (if the offence continues)	No available guidance
	Housing Act 2004 Part 1	Enforcement under an HHSRS assessment	<a href="#">Housing Health and Safety Rating System (HHSRS) Enforcement Guidance: Housing Conditions (ODPM 2006)</a>  <a href="#">Housing Health and Safety Rating System (HHSRS) Operating Guidance: Housing Act 2004 – guidance about inspections and assessment of hazards given under section 9</a>
	Housing Act 2004 Part 4	Overcrowding notice – served if landlord of an HMO has accommodated excessive numbers of people	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a>  <a href="#">Regulation of ‘Crowding and Space’ in Residential Premises (June 2009)</a>  <a href="#">Licensing and Management provisions in the 2004 Housing Act</a>
	Housing and Planning Act 2016 Part 2	Civil penalty (max £30,000, level of penalty determined by LA, following failure to comply with an overcrowding notice)	<a href="#">Civil Penalties under the Housing and Planning Act 2016 (MHCLG 2018)</a>

## 3. What to do



Environmental			
Behaviour or non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
Property has waste piled outside 	Housing Act 2004 Part 1	Enforcement of housing standards	<a href="#">Housing Health and Safety Rating System (HHSRS) Enforcement Guidance: Housing Conditions (ODPM 2006)</a>  <a href="#">Housing Health and Safety Rating System (HHSRS) Operating Guidance: Housing Act 2004 – guidance about inspections and assessment of hazards given under section 9</a>
	Anti-social Behaviour, Crime and Policing Act 2014	Serve a community protection notice	<a href="#">Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers, statutory guidance for frontline professionals</a>
	Environmental Protection Act 1990	Serve an abatement notice	<a href="#">Statutory nuisances: how councils deal with complaints (DEFRA 2015)</a>
	Housing Act 2004 updated 2018	Unlimited fine for breach of HMO licence conditions on conviction  Financial penalty of £30,000 which may be issued as opposed to prosecution.	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a>  <a href="#">Civil Penalties under the Housing and Planning Act 2016 (MHCLG 2018)</a>
Buildings without planning permission for domestic use 	Town and Country Planning Act 1990 Part 7	Enforcement notice, offence not to comply – on summary conviction or conviction on indictment an unlimited fine	<a href="#">Planning Guidance (Ensuring Effective Enforcement) (MHCLG 2014)</a>


## 3. What to do

Environmental			
Behaviour or non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
Property does not satisfy smoke alarm and carbon monoxide alarm requirements	The Smoke and Carbon Monoxide Alarm (England) Regulation 2015	Remedial notice and subsequent remedial action and civil penalty	<a href="#">The Smoke and Carbon Monoxide Alarm (England) Regulation 2015: Explanatory Booklet for Local Authorities</a>
	Housing Act 2004 Part 1	Enforcement of housing standards	<a href="#">Housing Health and Safety Rating System (HHSRS) Enforcement Guidance: Housing Conditions (ODPM 2006)</a>  <a href="#">Housing Health and Safety Rating System (HHSRS) Operating Guidance: Housing Act 2004 – guidance about inspections and assessment of hazards given under section 9</a>
Property is not fire safe	Regulatory Reform (Fire Safety) Order 2005	Enforcement notice Fine or 2 years imprisonment	<a href="#">Regulatory Reform (Fire Safety) Order 2005. Guidance Note No. 1: Enforcement</a>
Property is empty and/or dangerous	Local Government (Miscellaneous Provisions) Act 1982	Enforcement notice  Undertake works to prevent unauthorised entry or prevent building becoming a danger to public health  Recovery of expenses	No guidance available
	Town and Country Planning Act 1990	Enforcement notice on summary conviction or conviction on indictment an unlimited fine	<a href="#">Town and Country Planning Act 1990 Section 215 – Best Practice Guidance (Jan 2005)</a>
	Housing Act 2004 Part 4	Empty Dwelling Management Order	<a href="#">Guidance Note on Empty Dwelling Management Orders (July 2006)</a>
Property has pests or is otherwise filthy	Prevention of Damage by Pests Act 1949	Enforcement notice Fine or 6 months imprisonment	No guidance available
	Public Health Act 1936	Enforcement notice Fine	




## 3. What to do

Protecting vulnerable tenants			
Behaviour or non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
Harassment of tenants 	Housing and Planning Act 2016 Part 2	Rent repayment order following a successful prosecution	<a href="#">Rent Repayment Orders under the Housing and Planning Act 2016 (MHCLG 2017)</a>
	Protection from Eviction Act 1977 Part 1	Breach is an offence. On summary conviction a person is liable to an unlimited fine and/or to up to 6 months' imprisonment. On conviction on indictment a person is liable to an unlimited fine and/or up to 2 years' imprisonment.	<a href="#">Retaliatory Eviction and the Deregulation Act 2015: A guidance note on the changes coming into force on 1 October 2015</a>
Illegal Eviction 	Protection from Eviction Act 1977 Part 1		No guidance available
Retaliatory Eviction	Deregulation Act 2015	Landlord cannot serve a s.21 notice on tenant	<a href="#">Retaliatory Eviction and the Deregulation Act 2015: A guidance note on the changes coming into force on 1 October 2015</a>
Serious anti-social behaviour	Housing Act 2004	Special Interim Management Order	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a>

Regulatory			
Behaviour or non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
Licensing contraventions 	Housing Act 2004 Part 2	Breaching mandatory licensing of HMOs is an offence and unlimited fine	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a>
		Letting or managing without a licence is an unlimited fine upon conviction	
	Housing Act 2004 (updated 2018)	Power to impose civil penalty of up to £30,000 as alternative to prosecution for breach of HMO licence, or failure to obtain a licence initially	<a href="#">Civil Penalties under the Housing and Planning Act 2016 (MHCLG 2018)</a>
		Required to consult, once an area is designated, landlords are required to apply for a licence	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a>
Poor management of HMOs	Housing Act 2004 Part 4	Power to issue Management Regulations for proper standards of management	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a>

## 3. What to do

Regulatory			
Behaviour or non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
Repeat offending 	Housing and Planning Act 2016 Part 2	Civil penalty (max £30,000, level of penalty determined by LA, alternative to prosecution for breach of a banning order)	<a href="#">Civil Penalties under the Housing and Planning Act 2016 (MHCLG 2018)</a>
		Banning Orders, following a successful criminal prosecution for a relevant offence	<a href="#">Banning Order Offences under the Housing and Planning Act 2016 (MHCLG 2018)</a>
		Issue a management order (where a banning order has been made)	<a href="#">Banning Order Offences under the Housing and Planning Act 2016 (MHCLG 2018)</a>
		Rent repayment order (breach of banning order)	<a href="#">Rent Repayment Orders under the Housing and Planning Act 2016 (MHCLG 2017)</a>
		Rogue landlord database	<a href="#">Database of rogue landlords and property agents under the Housing and Planning Act 2016 Statutory guidance for Local Housing Authorities</a>
	Housing Act 2004 updated 2018	Power to impose civil penalty of up to £30,000 as alternative to prosecution for breach of HMO licence	<a href="#">Civil Penalties under the Housing and Planning Act 2016 (MHCLG 2018)</a>
Selective Licensing	Housing Act 2004 Part 3 Section 80(2).  The Selective Licensing of Houses (Additional Conditions) (England) Order 2015/977 added a further 4 conditions to the 2 set out in s.80(2).	Introduced in areas which satisfy one of the following conditions: <ul style="list-style-type: none"> <li>• Low housing demand (or is likely to become such an area)</li> <li>• A significant and persistent problem caused by anti-social behaviour</li> <li>• Poor property conditions</li> <li>• High levels of migration</li> <li>• High level of deprivation</li> <li>• High levels of crime</li> </ul> Having control of or managing a house which is required to be licensed but is not so licensed is an offence and punishable by a Level 5 fine.  Letting or managing without a licence is an offence, unlimited fine.	<a href="#">Selective licensing in the private rented sector: a guide for local authorities</a>

## 3. What to do

Regulatory			
Behaviour or non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
Lettings Agency and Property Management	Enterprise and Regulatory Reform Act 2013	Requirement to belong to a Government approved redress scheme	<a href="#">Guidance for Local Authorities on the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 (Oct 2014)</a>  <a href="#">Lettings Agents and Property Managers Which Government approved redress scheme do you belong to? (Oct 2014)</a>
	Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014		
	Consumer Rights Act 2015	Duty to publicise fees and membership of CMP Scheme  Requirement to display fees and charges	

### 3.2 Inspecting and gaining entry to a property

Local authorities have powers to gain entry to and subsequently inspect a property if they consider it is appropriate. Local authorities can carry out reactive inspections, if they have received a complaint, or proactive inspections to identify any action that may need to be taken.

Officers should be mindful that the purpose of a property inspection is to gather evidence according to established procedures in a thorough and balanced fashion. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage.

<b>Powers to inspect</b>	<ul style="list-style-type: none"> <li>• Section 239 and 240 of the Housing Act 2004</li> </ul>
<b>Powers of entry</b>	<ul style="list-style-type: none"> <li>• Section 239 and 240 of the Housing Act 2004 give local authorities the power to enter a home to obtain information for enforcement action</li> <li>• Officers are required to give 24 hours' notice in most instances</li> <li>• If entry is refused or immediate entry is required because of an imminent risk to health and safety, officers should obtain a warrant from the Justice of the Peace</li> <li>• As an exception, officers may enter and take action in certain circumstances where a warning would make an inspection insignificant</li> </ul>

## 3. What to do

### 3.3 How to use enforcement and prosecution powers

This section sets out in greater detail the powers afforded to local authorities to enable enforcement. Any action undertaken should be in line with a local authority's policies and procedures.

When acting against unlawful behaviour, officers should follow the principles that are detailed in the guidance, [Improving the private rented sector and tackling bad practice: A guide for local authorities](#), page 31.

Officers should ensure that evidence gathered is clear and robust. The following are important considerations when approaching a prosecution:

1. collection of evidence in the correct form, sufficient to pass the Evidential Test in the Code for Prosecutors;
2. even if the Evidential Test is passed, the need to consider the Public Interest Test of the same Code to justify a prosecution;
3. the need to consider inviting a potential defendant to interview under caution before deciding whether or not to prosecute;
4. the need to ensure that if someone gives a witness statement as part of the evidence, that witness is aware that they may need to attend Court to give oral evidence and be cross examined;
5. the need to retain material obtained during an investigation which does not form part of the evidence, in such form that the obligation of disclosure on the prosecution can be met during the prosecution;
6. the need to record the costs involved in the investigation and prosecution.

#### Enforcement case study – Royal Borough of Kensington & Chelsea

The Royal Borough of Kensington and Chelsea took robust enforcement action against a landlord of a property comprising of three flats in a Grade II listed building that had been poorly converted. One flat had been subdivided into small units using flimsy plasterboard partitions and comprised 14 rooms and was then let to more than 18 tenants paying an average rent of £800 per month. The flat had no fire doors, smoke detectors or alarms and was served by one kitchen shared by all the tenants. The gas boiler had a cracked flue. Due to the manner in which the flat had been subdivided some rooms had no electrical light fittings in the ceiling, which led to extension leads and trailing wires running through the property. The local authority issued a Prohibition Order followed by successful prosecution proceedings.

### 3.4 Factors to consider when choosing how to act

As detailed in the table above and the scenarios below, local authorities have a number of different

approaches they can take in any given situation. When identifying an appropriate route for a particular circumstance, there are three things that should inform the approach, where it is:

Most rapid

Most effective

Most deterrent value



### 3. What to do

- **Most rapid:** Achieves the most rapid remedy for the immediate problem, e.g. imminent risk to health. This usually only solves the problem as seen from a single perspective;
  - **Most effective:** Deals with the immediate issue, but also proactively deals with potential outcomes. This approach is more sustainable and more likely to solve the problem as seen from multiple perspectives. However, it is usually slower and harder to implement because of the initial need to involve wider partnerships. It is more likely to deter individual poor landlord behaviour;
  - **Most deterrent value:** This approach has some impact on preventing individual landlord recidivism but has the maximum impact or leverage on like-minded landlords. This might be the slowest solution for individual cases as publicity is a key element, as well as partnership with bodies that have different priorities or perhaps no statutory obligations.
- When considering the above, local authorities might be guided by the following factors:

#### Factors to consider when identifying an approach

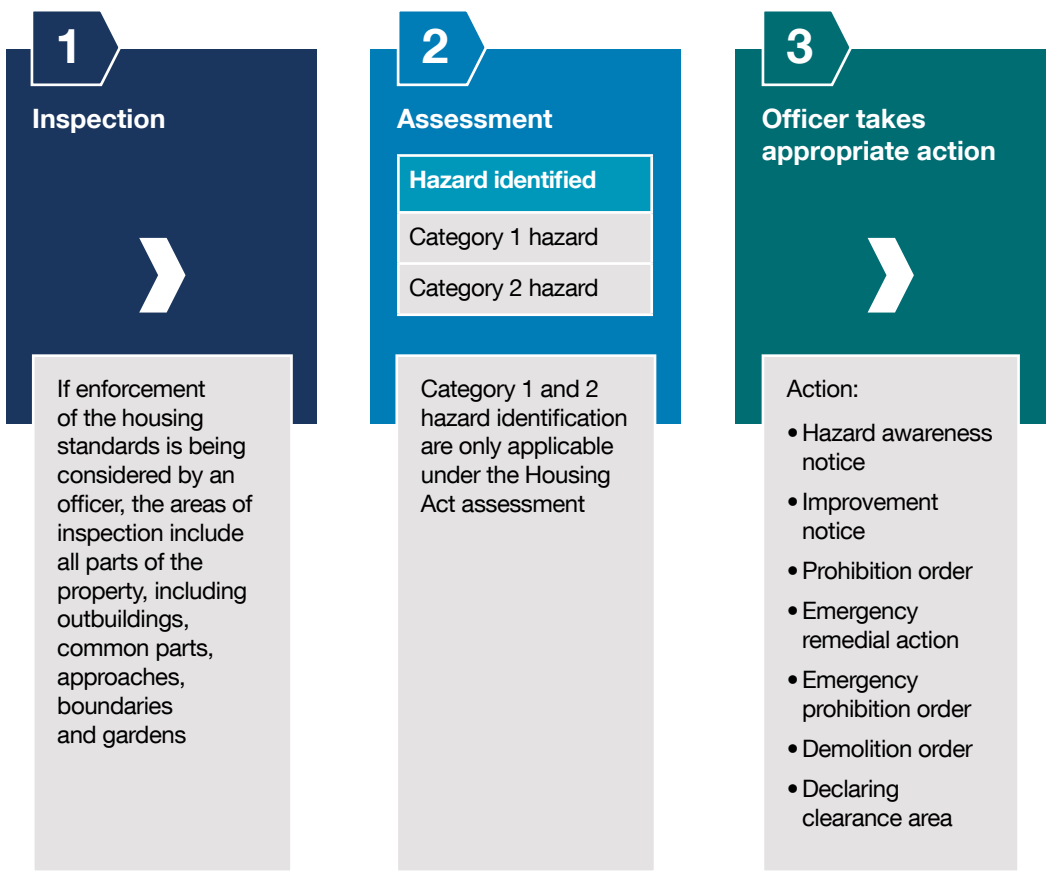
Priorities of the local authority as set out in their strategy	<ul style="list-style-type: none"> <li>• The priorities of each local authority vary depending on circumstance and context</li> <li>• These priorities will be determined in their local strategy</li> <li>• Rogue landlords will be tackled differently depending on the resources available, and the relationships that the authority holds internally and with external bodies</li> </ul>
Type of rogue landlord	<ul style="list-style-type: none"> <li>• The action a local authority will take might depend on the type of rogue landlord that they are taking action against</li> <li>• Not all landlords who commit an offence are deliberately rogue, some may be ignorant of their responsibilities and unknowingly flouting the law</li> <li>• However, there are also landlords who target victims, for example benefits recipients, immigrants and other vulnerable groups</li> <li>• Depending on the type of landlord, local authorities will need to vary their approach</li> </ul>
Mechanisms in place	<ul style="list-style-type: none"> <li>• Successful local authorities have a number of mechanisms in place to ensure appropriate action is being taken: delegated powers, interdepartmental working, robust information sources, and shared information sources</li> </ul>
Internal and external partnerships	<ul style="list-style-type: none"> <li>• Many local authorities will work across teams to ensure that the most appropriate route is taken, and to gather the required information</li> <li>• Working with homelessness prevention teams, council housing teams within a local authority is often necessary to determine an approach</li> <li>• Relationships with external partners such as the NHS and Citizens Advice can also be useful in determining a course of action</li> </ul>

These factors can support local authorities in determining an appropriate route to enforcement, and which powers should be used in particular scenarios.

## 3. What to do

### 3.5 Environmental scenarios

#### 3.5.1 Property is in a condition that may result in a harmful outcome for the occupant



The above diagram is illustrative of an approach for enforcing under the Housing Act 2004 Part 1. However, as noted in the table below, local authorities have further routes to enforcement, for example through the Environmental Protection Act 1990 in instances of statutory nuisances. Officers will of course use their discretion in responding to specific situations in their local area. Prosecution is not a guaranteed result of enforcement action by officers. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage.

## 3. What to do

An understanding of two things is needed when it comes to recognising and testing for hazards:

1. The basic physical, mental and social wellbeing for human life and comfort;
2. How the dwelling as a whole, and each individual element in the dwelling has an effect.

When assessing the potential hazards, local authority officers should follow the guidance detailed in the [Housing Health and Safety Rating System \(HHSRS\) Enforcement Guidance: Housing Conditions \(ODPM 2006\)](#).

Powers local authorities have to enforce against environmental issues include:

The powers listed below do not cover where hazards identified represent repeat offending from the landlord, or regulatory contraventions. Those sections are linked below:

[Section 3.7.1 Licensing Contraventions](#)

[Section 3.7.2 Repeat Offending](#)

Legislation	Enforcement power	Factors to consider when applying this power	Associated guidance (click each link for more information)
Housing Act 2004 Part 1	Serve a hazard awareness notice	<ul style="list-style-type: none"> <li>• Informs a landlord about a hazard, but does not require anything specific of them</li> <li>• Local authorities should consider monitoring any hazard awareness notice it serves</li> <li>• The landlord has no right to appeal against a hazard awareness notice</li> <li>• In general, not appropriate for a category 1 hazard</li> </ul>	<a href="#">Housing Health and Safety Rating System (HHSRS) Enforcement Guidance: Housing Conditions (ODPM 2006)</a>  <a href="#">Housing Health and Safety Rating System (HHSRS) Operating Guidance: Housing Act 2004 – guidance about inspections and assessment of hazards given under section 9</a>
	Serve an improvement notice	<ul style="list-style-type: none"> <li>• Requires the landlord to do specified works by a determined time</li> </ul>	
	Make a prohibition order	<ul style="list-style-type: none"> <li>• Stops the use of part or all of a building until work is complete, and/or stops part or all of it being used by a certain groups of vulnerable people where the risk arising from the hazard is greater than for any other group, e.g. the elderly, children</li> </ul>	



## 3. What to do

Legislation	Enforcement power	Factors to consider when applying this power	Associated guidance (click each link for more information)
	Take emergency remedial action or make an emergency prohibition order	<ul style="list-style-type: none"> <li>Action taken to remove an imminent risk of serious harm</li> </ul>	
	Make a demolition order for category 1 hazards only, unless prescribed for in Regulations	<ul style="list-style-type: none"> <li>Demolish a building because it is in such a dangerous state</li> </ul>	
	Declaring a clearance area for category 1 hazards only, unless prescribed for in Regulations	<ul style="list-style-type: none"> <li>All buildings in an area are dangerous and need to be demolished</li> <li>Clearance must be necessary for the well-being of residents</li> <li>Local authorities might consider using compulsory purchase powers as an alternative</li> </ul>	
Environmental Protection Act 1990	Serve an abatement notice	<ul style="list-style-type: none"> <li>Under s.79 Environmental Protection Act 1990 statutory nuisance comprises of 'any premises in such a state as to be prejudicial to health or a nuisance'</li> <li>Noise abatement notice requires that the statutory nuisance reduces or stops. Breaching of the notice can incur an unlimited fine</li> </ul>	<a href="#">Statutory nuisances: how councils deal with complaints (DEFRA 2015)</a>
Energy Performance of Buildings (England and Wales) Regulations 2012	Issue a penalty charge notice £200 – can require the landlord to produce copy of valid EPC	<ul style="list-style-type: none"> <li>Local authority can require the landlord to produce for inspection a copy of a valid energy performance certificate</li> </ul>	<a href="#">Improving the energy efficiency of our buildings (DCLG, 2016)</a> <a href="#">Guidance for local weights and measures authorities about enforcing the rules on Energy Performance Certificates and air conditioning inspections.</a>

## 3. What to do

Legislation	Enforcement power	Factors to consider when applying this power	Associated guidance (click each link for more information)
Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015	Issue a penalty notice imposing a financial penalty. Not exceeding £2000 where breach less than 3 months and £4000 where breach 3 months or more		<a href="#">Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (Dept for Business, Energy &amp; Industrial Strategy)</a>  <a href="#">A guide to energy performance certificates for the marketing, sale and let of dwellings. Improving the energy efficiency of our buildings (DCLG, 2017)</a>
Housing and Planning Act 2016 Part 2	Rent repayment order (following failure to comply with improvement notice or prohibition order)  Banning order and banning order offence	Local authority can apply for a rent repayment order as well as a civil penalty  The First-tier Tribunal (FTT) can ban a person from: <ul style="list-style-type: none"> <li>• Letting housing</li> <li>• Engaging in letting agency work</li> <li>• Engaging in property management work; or</li> <li>• Doing two or more of the above</li> </ul> Schedule 2 of the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018/216 provides for a list of offences.	<a href="#">Rent Repayment Orders under the Housing and Planning Act 2016 (MHCLG 2017)</a>

## 3. What to do

### 3.5.2 Property is overcrowded



The above diagram is illustrative of an approach that an officer may take in responding to the issue presented. Officers will of course use their discretion in responding to specific situations in their local area. Prosecution is not a guaranteed result of enforcement action by officers. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage.

## 3. What to do

An overcrowded property can be dangerous for tenants, and local authorities have a duty to address them. Local authorities' approaches should differ depending on whether the property is:

1. A single household occupancy dwelling;
2. An HMO.

The Housing Act 1985 Part 10 offers the legal definition of overcrowding that a local authority must act against, which applies to both single household occupancy dwellings and HMOs.

Assessment of Crowding and Space, under the Housing Act 2004, should be prioritised over the statutory overcrowding standard, under the

Housing Act 1985. However, the Housing Act 1985 remains a standard in force, and officers need to have regard for it.

Please see the relevant guidance listed below for further information on how to enforce against overcrowding.

### Powers local authorities have:

The powers listed below do not cover if overcrowding is in contravention of licensing regulations or part of repeat serious offending from the landlord. This information is covered in [Section 3.7.1](#) and [Section 3.7.2](#) respectively.

Legislation	Enforcement power	Factors to consider when applying this power	Associated guidance (click each link for more information)
Housing Act 2004 Part 1	Enforcement based on HHSRS assessment	<ul style="list-style-type: none"> <li>Applied against single household occupancy dwellings and HMOs</li> <li>Enforcement based on HHSRS assessment</li> <li>Duty to take enforcement action against category 1 hazards</li> <li>Discretionary power to intervene against category 2 hazards</li> </ul>	<a href="#">Housing Health and Safety Rating System (HHSRS) Enforcement Guidance: Housing Conditions (ODPM 2006)</a> <a href="#">Housing Health and Safety Rating System (HHSRS) Operating Guidance: Housing Act 2004 – guidance about inspections and assessment of hazards given under section 9</a>
Housing Act 1985 Part 10	Fine not exceeding level 2 on the standard scale	<ul style="list-style-type: none"> <li>Local authorities should assess the health and safety implications of overcrowding under Part 1 of the Housing Act 2004</li> <li>If local authorities choose to use Part 1 of the Housing Act 2004, it will not normally be appropriate to make parallel use of the Housing Act 1985 Part 10 provisions</li> </ul>	No available guidance

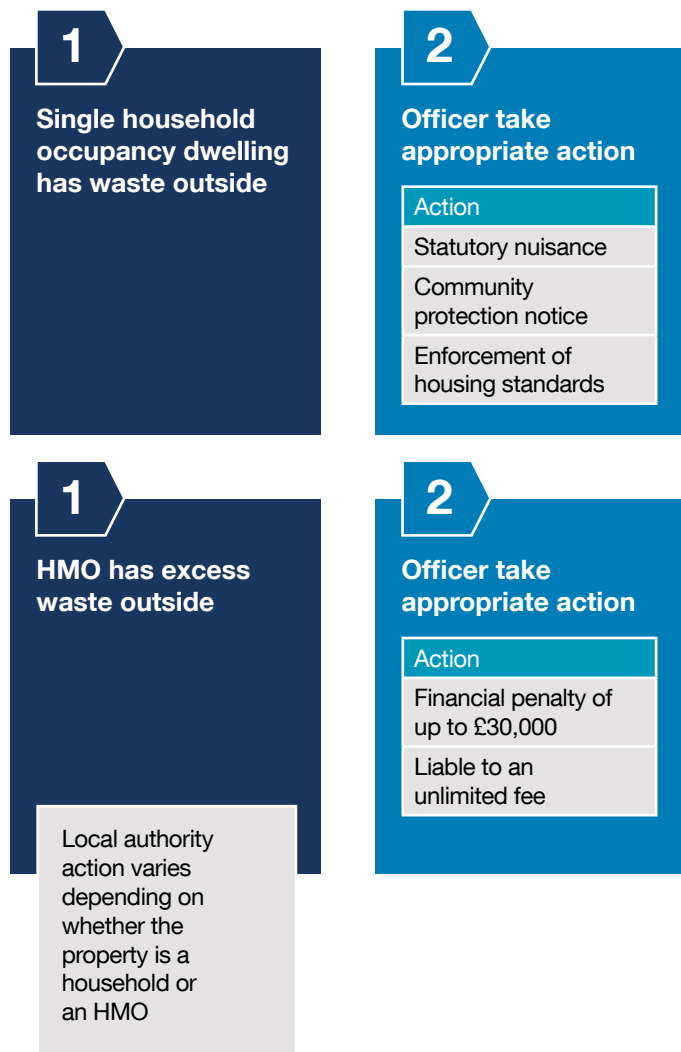


## 3. What to do

Legislation	Enforcement power	Factors to consider when applying this power	Associated guidance (click each link for more information)
Housing Act 2004 Part 4	Overcrowding notice – served if a landlord of an HMO has accommodated excessive numbers of people	<ul style="list-style-type: none"><li>Applied against HMOs</li></ul>	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a> <a href="#">Regulation of 'Crowding and Space' in Residential Premises (DCLG June 2009)</a> <a href="#">Licensing and Management provisions in the 2004 Housing Act</a>

## 3. What to do

### 3.5.3 Waste piled outside



The above diagram is illustrative of an approach that an officer may take in responding to the issue presented. Officers will of course use their discretion in responding to specific situations in their local area. Prosecution is not a guaranteed result of enforcement action by officers. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage

### Waste outside a single household occupancy dwelling:

Waste can be tackled by local authorities through a number of different routes:

- statutory nuisance under the Environmental Protection Act 1990;
- community protection notice under the Anti-social Behaviour, Crime and Policing Act 2014;
- enforcement of housing standards under the Housing Act 2004 Part 1;
- Prevention of Damage by Pests Act 1949 if rats and mice are present.

Please refer to [Section 3.5.1](#) for action local authorities can take against hazards, and the table below for more detailed guidance on how to enforce against waste outside a household.

### Waste outside an HMO:

For HMO licences granted after 1 October 2018 local authorities are required to impose a mandatory condition concerning the provision of suitable refuse storage facilities for HMOs. A breach of this will therefore constitute a breach of the landlord's HMO licence.

### Powers local authorities have:

All licensed HMOs will need to comply with the scheme issued by the local authority (if one exists) for the storage and disposal of domestic refuse pending collection. A licence holder's failure to comply with the scheme is a breach of the licence and criminal offence. This condition must be included in all HMO licences (mandatory or additional) granted or renewed after commencement of the Mandatory Conditions Regulations 2018 on 1 October 2018. As this is a breach of the HMO licence, the following enforcement options are available to local authority officers.

## 3. What to do

Legislation	Enforcement power	Factors to consider when applying this power	Associated guidance (click each link for more information)
Housing Act 2004 Part 1	Enforcement of housing standards	<ul style="list-style-type: none"> <li>• Applied against single household occupancy dwellings</li> <li>• Enforcement based on HHSRS assessment</li> <li>• Duty to take enforcement action against category 1 hazards</li> <li>• Discretionary power to intervene against category 2 hazards</li> <li>• Can be applied for protection against infection; where inadequately stored refuse allows access to insects, rodents, pests etc</li> </ul>	<a href="#">Housing Health and Safety Rating System (HHSRS) Enforcement Guidance: Housing Conditions (ODPM 2006)</a>  <a href="#">Housing Health and Safety Rating System (HHSRS) Operating Guidance: Housing Act 2004 – guidance about inspections and assessment of hazards given under section 9</a>
Housing Act 2004 updated 2018	Licence holder is liable to an unlimited fine  Financial penalty up to £30,000 which may be issued as opposed to prosecution.	<ul style="list-style-type: none"> <li>• Only applicable to HMOs</li> <li>• Local authorities should only proceed with prosecution if it is in the public interest to do so</li> </ul>	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a>  <a href="#">Civil Penalties under the Housing and Planning Act 2016 (MHCLG 2018)</a>
Anti-social Behaviour, Crime and Policing Act 2014	Serve a community protection notice	<ul style="list-style-type: none"> <li>• A fixed penalty notice can be issued of up to £100</li> <li>• A breach of the notice can result in a fine of up to level 4 (for individuals) or £20,000 (for businesses)</li> </ul>	<a href="#">Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers, statutory guidance for frontline professionals</a>
Environmental Protection Act 1990	Serve an abatement notice		<a href="#">Statutory nuisances: how councils deal with complaints (DEFRA 2015)</a>
Prevention of Damage by Pests Act 1949	Serve a notice to require works to keep the land free of rats and mice		No available guidance

## 3. What to do

### 3.5.4 Buildings without planning permission for domestic use

Planning enforcement action is discretionary. Where a building does not have planning permission for residential use local authorities have a range of powers to deal with unauthorised development as they see fit.

Depending on the circumstances of the case, an authority may wish to draw on tools to deal with a breach of planning control, such as planning contravention notices, planning enforcement notices or injunctions. Alternatively, an authority may choose to invite a retrospective planning application to rectify a breach rather than taking formal enforcement action.

Councils should be mindful that there are time limits within which action must be taken. In instances where planning contraventions are discovered as part of PRS enforcement action cross-departmental coordination within the authority is important.

## 3. What to do

### 3.6 Protecting vulnerable tenants scenarios

#### 3.6.1 Harassment of tenants



The above diagram is illustrative of an approach that an officer may take in responding to the issue presented. Officers will of course use their discretion in responding to specific situations in their local area. Prosecution is not a guaranteed result of enforcement action by officers. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage

Harassment is defined in the Protection from Eviction Act 1977 as:

- acts likely to interfere with the peace and comfort of those living in the property;
- persistent withdrawal of services that are reasonably required for the occupation of the premises.

The Act also creates two offences of harassment:

1. The first offence can be committed by any person if it can be shown that they had an intent to cause an occupier to leave all or part of the property or refrain from exercising any right or remedy in respect of the premises;
2. The second offence can only be committed by a landlord or their agents. This offence is committed if it can be shown that the landlord or their agents should have known or had reasonable cause to believe that their actions was likely to have this effect.

## 3. What to do

Officers should be aware that tenants can bring their own civil proceedings taking the form of injunctions and claim for damages against their landlords under the Protection from Harassment Act 1997.

### Powers local authorities have:

The Protection from Eviction Act 1977 gives local authority officers powers to prosecute the landlord in the criminal courts. As part of the prosecution,

local authority officers can apply for a maximum compensation of £5,000 per conviction on the tenant's behalf.

Tenancy relations officers (TROs) often will deal with harassment of tenants. However, other local authority officers can also support tenants and prosecute on behalf of the local authority. Local authorities have a duty to take reasonable steps to ensure the tenant's accommodation does not cease to be available.

Legislation	Enforcement power	Factors to consider when applying this power	Associated guidance (click each link for more information)
Protection from Eviction Act 1977 Part 1	Breach is an offence. On summary conviction a person is liable to an unlimited fine and/or to up to 6 months' imprisonment. On conviction on indictment a person is liable to an unlimited fine and/or up to 2 years' imprisonment.		<a href="#">Retaliatory Eviction and the Deregulation Act 2015: A guidance note on the changes coming into force on 1 October 2015</a> <a href="#">Protection against harassment and illegal eviction: guidance</a>
Housing and Planning Act 2016 Part 2	Rent repayment order	<ul style="list-style-type: none"> <li>• Available if a conviction has been made under the Protection from Eviction Act 1977</li> <li>• Available where the landlord has committed an offence i.e. pre-conviction, although the First-Tier-Tribunal (FTT) will need to be satisfied beyond reasonable doubt that the landlord has committed the offence</li> </ul>	<a href="#">Rent Repayment Orders under the Housing and Planning Act 2016 (MHCLG 2017)</a>
Housing Act 2004 Part 1	Emergency Remedial Action	<ul style="list-style-type: none"> <li>• Available if a tenant's boiler has broken down, for example, and the landlord has not intervened to make energy supply available</li> <li>• Action taken by the local authority should be remedial, and necessary to remove an imminent risk of serious harm</li> <li>• This action is only available for category 1 hazards</li> </ul>	<a href="#">Housing Health and Safety Rating System (HHSRS) Enforcement Guidance: Housing Conditions (ODPM 2006)</a>

## 3. What to do

### 3.6.2 Illegal eviction



The above diagram is illustrative of an approach that an officer may take in responding to the issue presented. Officers will of course use their discretion in responding to specific situations in their local area. Prosecution is not a guaranteed result of enforcement action by officers. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage.

Every tenant should feel secure in their home if they are abiding by the terms of their tenancy agreement, but there will be occasions when a landlord will wish to take back possession of their property, for example if they want to sell, or move into it themselves. However, landlords must follow strict procedures if they want their tenants to leave. They may be guilty of harassment or illegal eviction if they do not follow the correct procedures. Illegal eviction is a criminal offence. Actions that are deemed to be an illegal eviction include:

- forcible removal from a home;
- forced to leave due to threatening behaviour or intimidation;

- preventing tenants from accessing certain parts of their home;
- changing the locks while the tenant is out.

If a tenant considers that they might be at risk of an illegal eviction and reports this, local authority officers can help clarify the tenant's rights and what action to take. Where a criminal offence has occurred or is likely to occur, local authorities can prosecute the landlord. The tenancy relations officer can also issue a formal caution against the landlord under the Police and Criminal Evidence (PACE) Act. Police may be notified at the discretion of officers where powers of arrest are deemed appropriate.



## 3. What to do

### Powers local authorities have:

Legislation	Enforcement power	Factors to consider when applying this power	Associated guidance (click each link for more information)
Protection from Eviction Act 1977 Part 1	Breach is an offence. On summary conviction a person is liable to an unlimited fine and/or to up to 6 months' imprisonment. On conviction on indictment a person is liable to an unlimited fine and/or up to 2 years' imprisonment.		<a href="#">Retaliatory Eviction and the Deregulation Act 2015: A guidance note on the changes coming into force on 1 October 2015</a> <a href="#">Protection against harassment and illegal eviction: guidance</a>
Housing and Planning Act 2016 Part 2	Rent repayment order	<ul style="list-style-type: none"> <li>Only available if a conviction has been made under the Protection from Eviction Act 1977</li> </ul>	<a href="#">Rent Repayment Orders under the Housing and Planning Act 2016 (MHCLG 2017)</a>
Housing Act 2004 Part 1	Emergency Remedial Action	<ul style="list-style-type: none"> <li>Available if a tenant's boiler has broken down, for example, and the landlord has not intervened to make energy supply available</li> </ul>	<a href="#">Housing Health and Safety Rating System (HHSRS) Enforcement Guidance: Housing Conditions (ODPM 2006)</a>
Caravan Sites Act 1968 (as amended by the Mobile Homes Act 2013)		<ul style="list-style-type: none"> <li>Applies to illegal eviction of residents on protected sites</li> </ul>	<a href="#">Mobile Homes Act 2013 – A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime</a> <a href="#">Park homes: Know your rights (DCLG July 2013)</a> <a href="#">Selling or gifting a park home – fact sheet (DCLG July 2013)</a>

## 3. What to do

### 3.7 Regulatory Scenarios

#### Description of HMOs and licensing regulations

##### Definition of an HMO:

In order for a building, or part of a building, to form an HMO it must fall within the meaning of one of the following descriptions:

- a building in which more than one household shares a basic amenity e.g. a bathroom, toilet or cooking facilities; this is called ‘the standard test’;
- a flat in which more than one household shares a basic amenity (all of which are in the flat) e.g. a bathroom, toilet or cooking facilities; this is called ‘the self-contained flat test’;
- a building which has been converted and does not entirely comprise of self-contained flats; this is called ‘the converted building test’;
- a building which is comprised entirely of converted self-contained flats and the standard of the conversion does not meet, at a minimum, the standard required by the 1991 Building Regulations, and less than two thirds of the flats are owner occupied; this type of building is also known as a section 257 HMO.

For more information on the definition of an HMO, please see the following guidance:

[A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004](#)

##### Licensing:

There are three types of licensing requirements for properties in England:

- mandatory HMO licensing;
- additional HMO licensing;
- selective licensing.

The definitions for each are described below.

##### Mandatory HMO licensing:

Mandatory licensing applies to buildings defined as HMOs on the:

- standard test;
- self-contained flat test (unless it is a purpose built flat within a block comprising three self-contained flats or more);
- converted building test.

Where a building (or part of a building) does not meet one of the above tests but is subject to an HMO declaration, it will not require a licence.

Licensing will be required where the HMO is occupied by five or more persons living in two or more separate households. There is no requirement as to the number of storeys.

For more information on mandatory HMO licensing, please see the following guidance:

[Houses in Multiple Occupation and Residential Property Licensing Reform \(MHCLG 2018\).](#)

## 3. What to do

### Additional licensing:

If a local authority believes that there are problems such that there is a need to licence certain HMOs not subject to mandatory licensing (such as HMOs with fewer than five tenants, section 257 HMOs or purpose-built flats situated in a block comprising three or more self-contained flats) it can designate a specific area as subject to additional HMO licensing.

For more information on additional HMO licensing, please see the following guidance:

[Houses in Multiple Occupation and Residential Property Licensing Reform \(MHCLG 2018\).](#)

### Selective licensing:

A selective licensing designation may be made if the area to which it relates satisfies one or more of the following conditions. The area is one experiencing:

- low housing demand (or is likely to become such an area);
- a significant and persistent problem caused by anti-social behaviour;
- poor property conditions;
- high levels of migration;
- high levels of deprivation;
- high levels of crime.

An area where selective licensing has been approved covers all private rented properties in the area. Local authorities are required to obtain confirmation from the Secretary of State for any selective licensing scheme which covers more than 20% of their geographical area or affects more than 20% of privately rented homes in the local authority area.

When considering designating an area for selective licensing the local authority must:

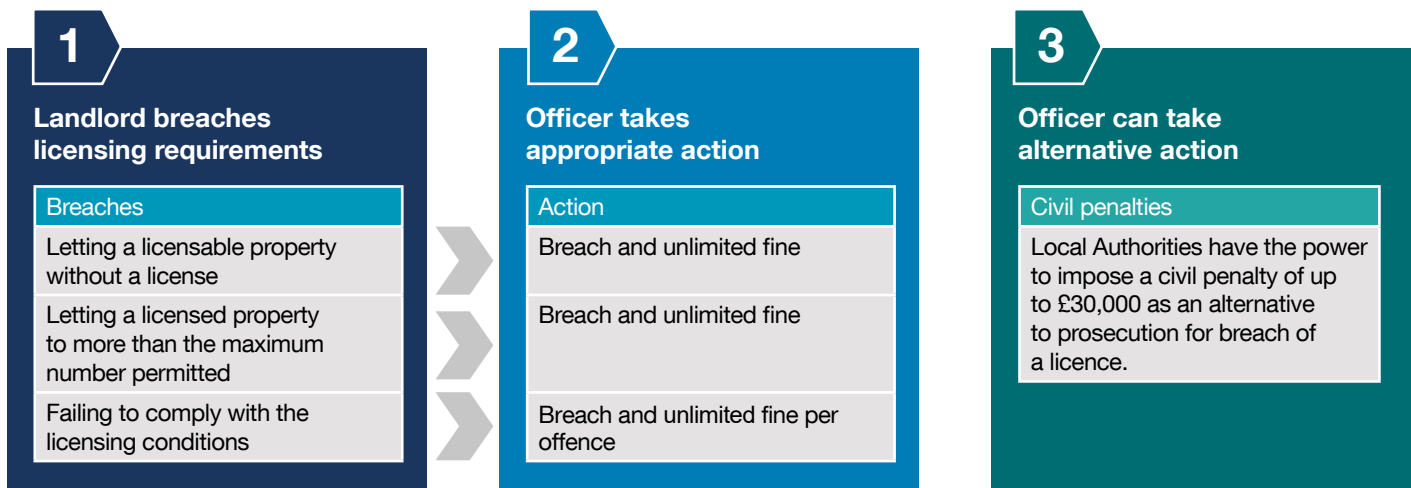
- take reasonable steps to consult persons who are likely to be affected by the designation;
- consider any representations made in accordance with the consultation (section 80(9) of the Housing Act 2004).

For more information on selective licensing, please see the following guidance:

[Selective licensing in the private rented sector: a guide for local authorities.](#)

## 3. What to do

### 3.7.1 Licensing contraventions



The above diagram is illustrative of an approach that an officer may take in responding to the issue presented. Officers will of course use their discretion in responding to specific situations in their local area. Prosecution is not a guaranteed result of enforcement action by officers. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage.

Local authorities can act against any of the above contraventions in licensing, whether the landlord has contravened their mandatory HMO licence, additional HMO licence or selective licensing regulations. The approach taken by a local authority needs to be consistent in each case.

For more information on licensing regulations, please see [section 3.7](#)

### Powers local authorities have:

Operating without a licence where one is required is an offence. Local authority officers have been granted a range of powers under various regulations made under the Housing Act 2004. When officers suspect that a licence is either not present, or has been breached, they can take any of the following enforcement actions:

## 3. What to do

Legislation	Enforcement power	Associated guidance (click each link for more information)
Housing Act 2004 Part 2	<ul style="list-style-type: none"> <li>• Mandatory licensing of HMOs – breach is an offence and unlimited fine</li> <li>• Letting or managing without a licence – a breach, unlimited fine</li> </ul>	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a>
Housing Act 2004 updated 2018	<ul style="list-style-type: none"> <li>• Power to impose civil penalty of up to £30,000 as alternative to prosecution for breach of HMO licence</li> </ul>	<a href="#">Civil Penalties under the Housing and Planning Act 2016 (MHCLG 2018)</a>
Housing Act 2004 Part 4	<ul style="list-style-type: none"> <li>• Power to enforce under Management Regulations for proper standards of management. Failure to comply with a regulation without reasonable excuse is an offence punishable by an unlimited fine</li> </ul>	<a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a>

### 3.7.2 Repeat Offending

The Housing and Planning Act 2016 granted local authorities new powers to act against the most serious and repeat offenders:

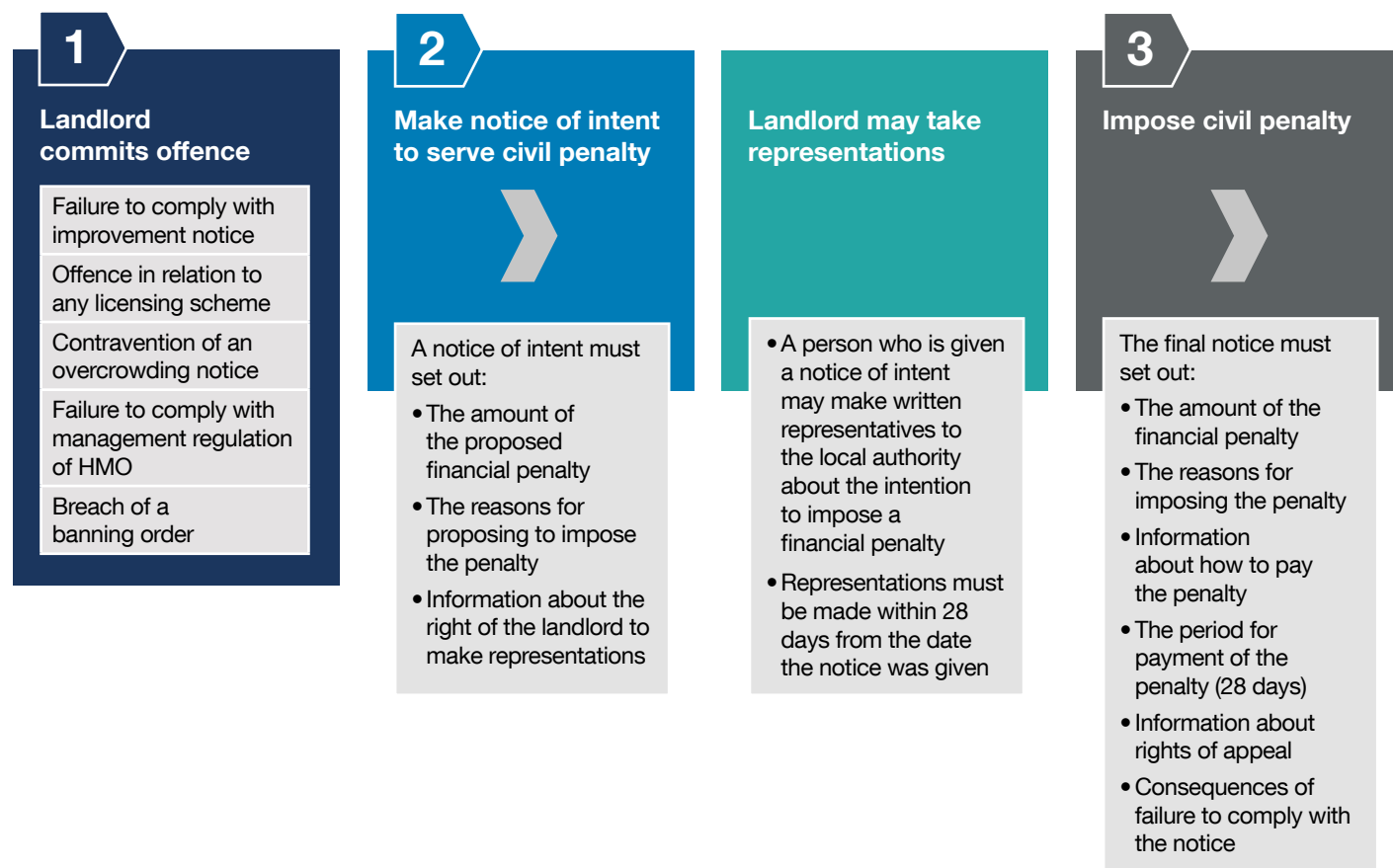
- civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences;
- banning orders for the most serious offences;
- enabling local authorities to apply for a rent repayment order requiring rogue landlords to repay an amount of rent, up to a maximum of 12 months, which was previously paid by a tenant;

- management orders in circumstances where a banning order has been made giving local authorities the right to possession of the property, to collect rent, setting rent levels, making repairs and managing tenancies.

These powers are applicable in varying circumstances, but some of these, such as banning orders and management orders should largely be considered for the most serious and repeat offenders.

## 3. What to do

### 3.7.2.1 Civil penalties



The above diagram is illustrative of an approach that an officer may take in responding to the issue presented. Officers will of course use their discretion in responding to specific situations in their local area. Prosecution is not a guaranteed result of enforcement action by officers. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage.

## 3. What to do

Civil penalties are financial penalties imposed by a local housing authority on an individual or organisation as an alternative to prosecution for certain housing offences under the Housing Act 2004 and a breach of a banning order under the Housing and Planning Act 2016.

The following offences are covered:

- failure to comply with an Improvement Notice (section 30 of the Housing Act 2004);
- offences in relation to licensing of Houses in Multiple Occupation (section 72 of the Housing Act 2004);
- offences in relation to licensing of houses under Part 3 of the Act (section 95 of the Housing Act 2004);
- offences of contravention of an overcrowding notice (section 139 of the Housing Act 2004);
- failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234 of the Housing Act 2004);
- breach of a banning order (section 21 of the Housing and Planning act 2016).

The maximum penalty that can be imposed for a single offence is £30,000. The civil penalty fine levels should be determined by the local authority in each case. A local authority should have a clear set of policies and procedures in place to determine the level of civil penalty fines so that officers are consistent in their approach. Some successful local authorities have also been able to use the income received from civil penalties to further the local housing authority's statutory functions.

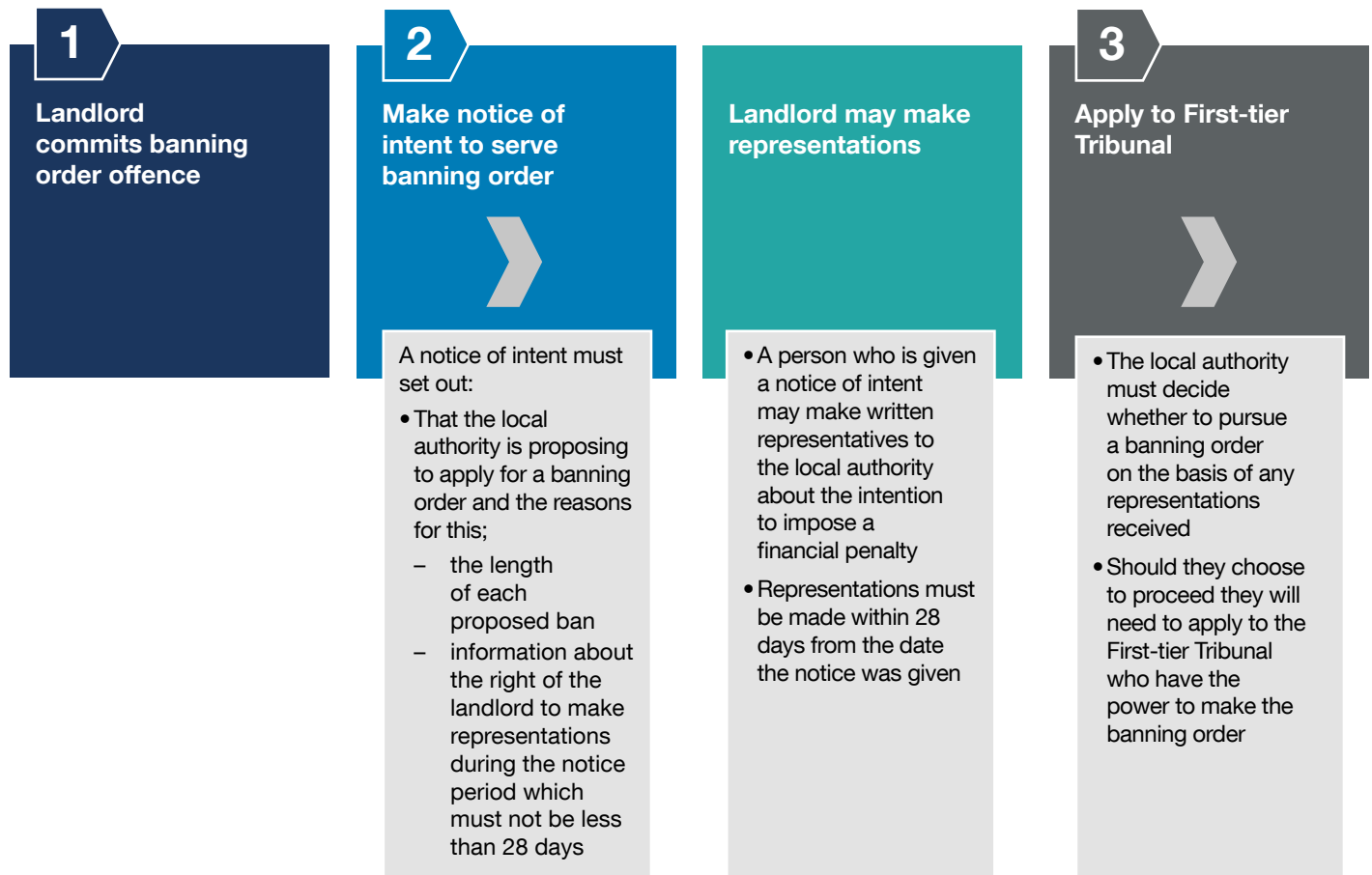
Landlords subject to two civil penalties within 12 months can also be placed on the rogue landlord database by the relevant local authorities. MHCLG strongly encourages local authorities to utilise the rogue landlord database. For further information, please see [Section 4.5](#).

For further information on civil penalties, how and when to apply them, please see the following guidance:

[Civil Penalties under the Housing and Planning Act 2016 \(MHCLG 2018\)](#).

## 3. What to do

### 3.7.2.2 Banning Orders



The above diagram is illustrative of an approach that an officer may take in responding to the issue presented. Officers will of course use their discretion in responding to specific situations in their local area. Prosecution is not a guaranteed result of enforcement action by officers. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage.

Banning order offences are listed in [Banning Order Offences under the Housing and Planning Act 2016 \(MHCLG 2018\)](#).

Local housing authorities should develop and document their own policy on when to pursue a banning order and should decide which option it wishes to pursue on a case by case basis in line with that policy. The expectation is that a local housing authority will pursue a banning order for the most serious offenders.

Details of landlords convicted of a banning order must be placed on the rogue landlord database. Please see [Section 4.5](#).

For more information on banning orders, how and when to apply them, please see the following guidance: [Banning Order Offences under the Housing and Planning Act 2016 \(MHCLG 2018\)](#).



## 3. What to do

### 3.8 Park homes and property guardians

Although park homes and property guardianship schemes are not part of the PRS, they nonetheless constitute part of the enforcement caseload for some local authorities. Residents in these situations deserve to feel safe and secure in their homes. In recognition of this the following section of this guidance outlines the powers which apply for local authorities when encountering issues with park homes or property guardianship.

#### 3.8.1 Enforcement of properties occupied by guardians

There are an estimated 5,000 – 7,000 people living as property guardians in the UK.

Local authorities have enforcement powers relating to standards in guardian properties and to harassment and unlawful eviction. As well as this, some local authorities use property guardian companies as a means to manage buildings they own that are empty, and therefore have additional responsibilities regarding the conditions in these properties and the protection of the rights of their guardians.

It's therefore important that local authorities seriously consider property guardianship in their area and how they will respond to it. This guidance sets out the responsibilities of local authorities with regards to property guardians and the buildings they occupy.

#### Enforcement responsibilities

Local authorities have a duty to ensure the housing stock in their area is free of serious hazards, including those properties occupied by property guardians, and can choose to proactively inspect guardian properties.

#### Housing Act 2004

Under the Housing Act 2004, local authorities have a legal **duty to keep the housing conditions in their area under review and identify any action that may need to be taken**. This includes properties occupied by property guardians.

If local authorities are aware of properties in their area occupied by property guardians, they should consider inspecting these properties proactively to identify potential health and safety hazards. This can be done at the point at which the local authority is aware of the intention to have property guardians in a building, but could be done at any other time.

Enforcement action resulting from the identification of serious hazards using the Housing Health and Safety Rating System (HHSRS) applies across all premises and parts of premises occupied as a dwelling.

**If at inspection a Category 1 hazard is found, the local authority has a duty to take enforcement action.** If a Category 2 hazard is found, the local authority has a power to take enforcement action. Local authorities should also respond if a property guardian makes them aware of the presence of a Category 1 hazard at a property in which they are staying.

#### Fire

Fire safety in domestic premises is assessed using the HHSRS. Fire safety in all non-domestic premises eg. in a school or factory, and including the common parts of houses in multiple occupation (HMOs), is covered by the **Regulatory Reform (Fire Safety) Order 2005**, and this is enforced by Fire and Rescue Services (FRSs). Local authorities and FRSs should consider working out a protocol to cover fire safety in complex buildings such as those occupied by property guardians.

## 3. What to do

Where a property is occupied as a dwelling, a smoke detector is mandatory on each level. Local authorities should enforce this requirement. It is also a legal requirement to have a carbon monoxide alarm in any room used as living accommodation where solid fuel is used.

### Electricity and gas

Electrical safety and gas safety requirements apply to all private rented sector properties including guardian properties that are residential or used as a dwelling. Landlords must have gas installations checked and provide a Gas Safe Certificate (GSC) to tenants at the outset of a tenancy and then yearly. Regulations will be brought in requiring five-yearly inspections of electrical installations and the provision of Electrical Installation Condition Reports (EICR) to tenants.

### Protection from eviction and harassment

The Protection from Eviction Act 1977 extends to all properties that are occupied as a dwelling. While tenants with licences have less security of tenure than those on tenancies, they are still protected. Local authorities should consider carefully how they intend to ensure property guardians' rights are protected and whether they will offer a tenancy relations service to property guardians.

### Houses in Multiple Occupation

If a property occupied by property guardians is a house in multiple occupation (HMO), and is licensable either under the national mandatory scheme or a local additional or selective scheme (please see [Section 3.7](#)), then the property owner should make an application to the local authority for a licence.

As property guardianships will often be formed by more than one family who will be sharing facilities in large properties, it is likely that many guardian properties will be licensable HMOs. It is therefore important for local authorities to proactively

identify potentially licensable guardian properties and ensure licence applications are made where appropriate. This will ensure that these properties are suitable for the number of occupants and that they are managed correctly. Property guardian companies may seek a licence that is for fewer than the standard 3-5 years. Local authorities have the flexibility to agree this.

If a property is found to be a licensable HMO, but the owner does not have a licence, then local authorities have strong enforcement powers including financial penalties and prosecution.

**Whether or not a property is an HMO is set out in Part 2 of the Housing Act 2004, and this definition includes properties occupied under licence agreements.**

### Dwellings and tenancies

It is important that local authorities establish if property guardians should have a tenancy or a licence depending on the way they occupy the property, as this will affect how they can take enforcement action. If the property guardians have tenancy agreements, then the whole property will be occupied as a dwelling. If the property guardians have licences, then parts of the property may be occupied as a dwelling depending on the circumstances of the case.

Where a property, or part of a property, is occupied as a “dwelling” local authorities have a range of powers to deal with property hazards under housing legislation. **The Housing Act 2004** defines a “dwelling” as a building of part of a building occupied or intended to be occupied as a separate dwelling.

The part of the building that is classed as a “dwelling” would depend on the licence agreement itself. The term “dwelling” could cover the whole or just part of the building, but would be referring to the whole of the property or area which is licensed to the guardian.

## 3. What to do

### Tenancy Types

Depending on the circumstance, property guardians can either have tenancy agreements or licenses to occupy their property. Those on both tenancy types have protections from poor conditions and can report concerns about serious health and safety hazards to their local authority, but whether the guardian holds a tenancy agreement or a licence to occupy can impact other aspects of local authority enforcement.

Property guardians on assured shorthold tenancies have a greater security of tenure, but those with either tenancy type can go to their local authorities if they are concerned about harassment or being unlawfully evicted.

The key characteristics of an assured shorthold tenancy is that the occupier has a right to exclusive possession of the premises included in the tenancy. In effect, this means that the landlord cannot enter onto the premises without the consent of the tenant in order to inspect or carry out repairs. The tenant does not share occupancy of the premises included in the agreement with others who are not joint tenants, although they may share common parts as the kitchen or bathroom with occupiers of the other parts of the property.

There have been occasions where licences are granted erroneously, with the suggestion that the property guardian does not have the right to exclusive possession. If the characteristics of an assured shorthold tenancy are met, the occupant has a tenancy irrespective of the agreement between the parties. If a guardian is found to be occupying as a tenant they have all the rights and protections which go with such status.

### Building Owner Responsibilities

If a local authority owns a building that is being occupied by property guardians, then the local authority, alongside the property guardian management company that they have contracted to oversee the building, has a **duty to make sure that the building is safe for the guardian and their visitors**. Property guardian management companies will manage and maintain the property and identify suitable property guardians on behalf of the property owner.

In ensuring the property is safe, the Occupiers' Liability Act 1957 applies irrespective of the use of the property, even if not occupied as a dwelling. The person who has a sufficient degree of control over the premises owes a duty of care to visitors. This means that both property guardian companies and building owners have a duty to ensure that guardians and their visitors are reasonably safe when they are using their property.

What is deemed to be 'reasonably safe' will be dependent upon the circumstances of each guardian property, and would include a consideration of an assessment of the likelihood of injury, the seriousness of any injury that might occur and the cost of preventative measures.

Local authorities who own buildings occupied by property guardians will need to ensure that property guardian management company provides all prescribed documents, including safety certificates.

## 3. What to do

Property Guardian – LA Enforcement			
Behaviour	Legislation	Factors to consider when applying Powers	Associated Guidance (click each link for more information)
Conditions of buildings occupied through a property guardianship scheme	Occupiers' Liability Acts 1957	Both guardian companies and building owners have a duty to take reasonable care to ensure that guardians and their visitors are reasonably safe when they are using the property in compliance with their licence agreement for the safety of occupants.	<a href="#">Property guardians: a fact sheet for current and potential property guardians</a>
	Protection from Eviction Act 1977	Property Guardians are protected by the Protection from Eviction Act 1977 they will qualify as a residential occupier if occupying the premises as a residence. The landlord is required to give 28 days notice to quit and the property guardian is entitled to remain in the premises until the guardian company obtains a court order.	
	Housing Act 2004	Local authorities have a duty to keep the housing conditions in their area under review and identify any action that may need to be taken. Outlines the electrical, gas and fire safety requirements for properties that are residential or used as a dwelling.  Local authorities have a duty to take action if they identify a serious category 1 hazard, and have the power to take action if they identify a category 2 hazard where a property is occupied as a residential premises (dwelling, HMO, unoccupied HMO accommodation, any common parts of a building containing one or more flats). The Housing Health and Safety Rating System is a tool used to assess housing conditions, the system can be used in the enforcement of housing standards.	

## 3. What to do

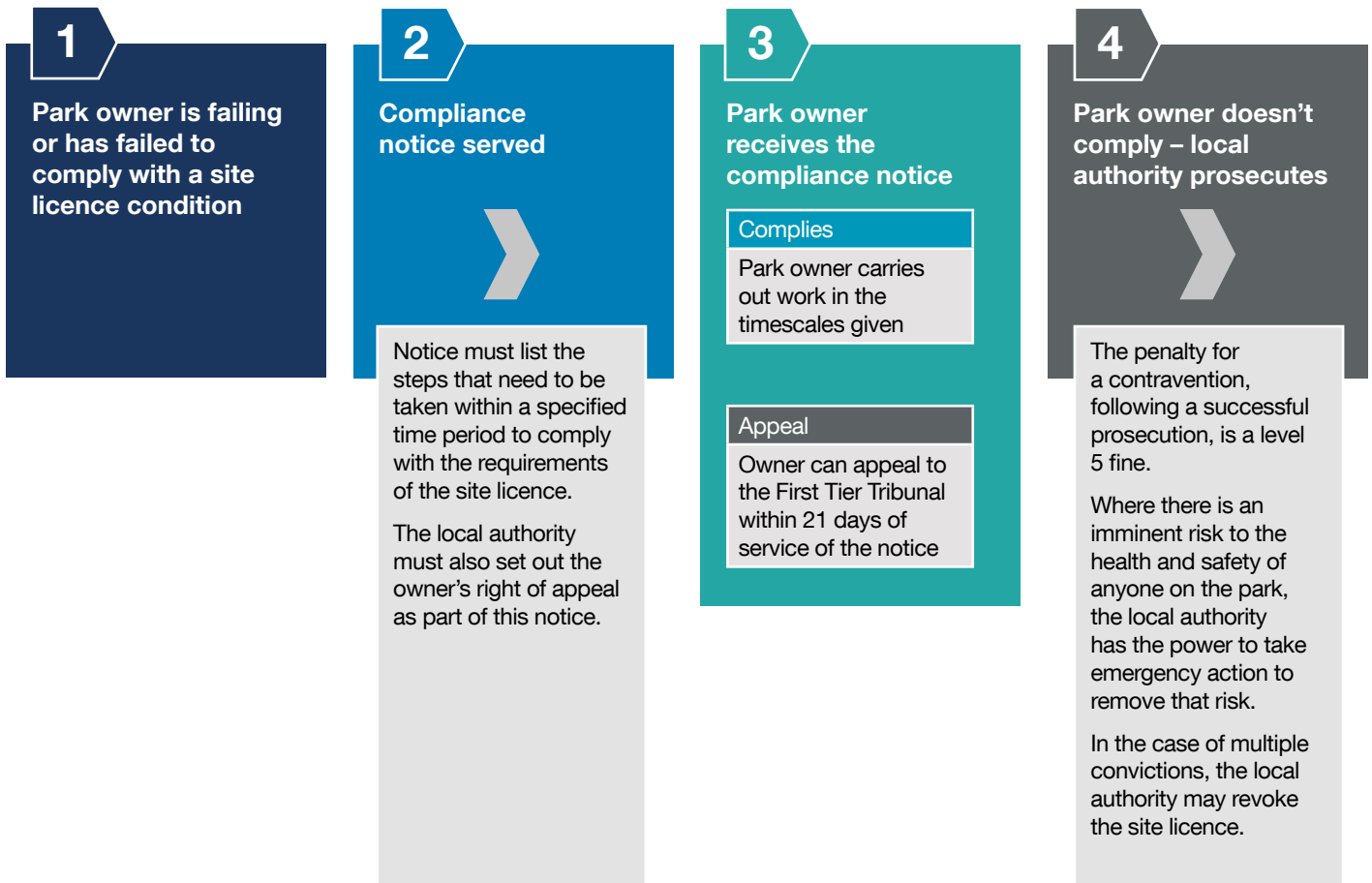
### Property Guardian – LA Enforcement

Behaviour	Legislation	Factors to consider when applying Powers	Associated Guidance (click each link for more information)
	Housing and Planning Act 2016	<p>The Secretary of State Regulations impose duties on a private landlord of residential premises to ensure that electrical safety standards are met during any period when the premises are occupied under a tenancy. For these purposes a tenancy includes a licence to occupy therefore a landlord's duties will extend to property guardians occupying all or part of the premises as a dwelling.</p> <p>(The mandatory inspection of electrical installations every five years will include properties occupied by property guardians where they comprise a dwelling (once it comes into force for all private rented properties).</p>	
	Gas Safety (Installation and Use) Regulations 1998	<p>A landlord is under a duty to ensure that gas appliances, fittings and flues are safe in premises used for domestic or residential purposes or as sleeping accommodation. They must provide all tenants or licensees including property guardians, with a copy of the gas safety certificate.</p>	
	Regulatory Reform (Fire Safety) Order 2005	<p>A person responsible for a multi-occupied residential building has a duty to take such general fire precautions that may reasonably be required in the circumstances to ensure that the premises are safe. The Order does not apply to private dwellings, however residential premises including blocks of flats and HMO's (to the extent that they comprise common parts) are included in the Order. This applies to guardians who hold a licence in a properties defined as an HMO.</p>	

# 3. What to do

## 3.8.2 Park Home Sites

### Poor site maintenance or non-compliance with a licence condition



The above diagram is illustrative of an approach that an officer may take in responding to the issue presented. Officers will of course use their discretion in responding to specific situations in their local area. Prosecution is not a guaranteed result of enforcement action by officers. A decision on whether the evidence amounts to a case for prosecution is taken later in the process and should not be pre-empted during the inspection stage.

## 3. What to do

Privately owned park home sites that are occupied for permanent residential use are subject to different rules of enforcement than standalone households and HMOs. This section outlines the powers available to local authorities to act against park home site owners that are not meeting the expected standards. For more information on enforcement on park home sites please see the guidance in the table below.

The Caravan Sites and Control of Development Act 1960 gives local authorities powers to attach site licence conditions.

The Mobile Homes Act 2013 has introduced changes to the procedures and penalties for enforcement of site licence conditions on residential park home sites. These procedures and penalties are in place to act against the minority of park owners who do not run their sites well and allow conditions to deteriorate, affecting the amenity of the site and health and safety of residents.

The below powers and guidance enable local authorities to ensure standards are met through the licensing regime and that dilatory/non-performing park home site owners acted against.

### Powers local authorities have:

Legislation	Enforcement power	Associated guidance (click each link for more information)
Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013)	<p>Enforcement of breaches of site licence conditions</p> <p>Local authorities (LA's) can recover their costs for taking enforcement action, including the preparation of notices. They can also charge for works they carry out in default or in an emergency</p> <p>LA has power to force a sale to recover their costs and charges if the site owner fails to pay when required to do so.</p>	<p><a href="#">Mobile Homes Act 2013 – new licensing enforcement tools. Advice for Park Home Site Owners (DCLG 2014)</a></p> <p><a href="#">Mobile Homes Act 2013 – Advice to local authorities on the new regime for applications for the grant or transfer of a site licence (DCLG March 2015)</a></p> <p><a href="#">The Mobile Homes Act 2013 – A Guide for Local Authorities on setting site licence fees – Summary (DCLG Feb 2014)</a></p> <p><a href="#">Mobile Homes Act 2013: a best practice guide for local authorities on enforcement of the new site licensing regime (DCLG 2015)</a></p>



## 3. What to do

Park Home Sites			
Behaviour or issue of non-compliance	Legislation	Power	Associated Guidance (click each link for more information)
Park home site conditions	Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013).	Enforcement of Protected Sites	<a href="#">Mobile Homes Act 2013: a best practice guide for local authorities on enforcement of the new site licensing regime (DCLG 2015)</a>  <a href="#">Mobile Homes Act 2013 – Advice to local authorities on the new regime for applications for the grant or transfer of a site licence (DCLG March 2015)</a>  <a href="#">The Mobile Homes Act 2013 – A Guide for Local Authorities on setting site licence fees – Summary (DCLG Feb 2014)</a>  <a href="#">The Mobile Homes Act 2013 – A Guide for Local Authorities on setting site licence fees (DCLG Feb 2014)</a>
Harassment or illegal eviction of occupiers of park home sites	Caravan Sites Act 1968 (as amended by the Mobile Homes Act 2013)		<a href="#">Mobile Homes Act 2013: a best practice guide for local authorities on enforcement of the new site licensing regime (DCLG 2015)</a>  <a href="#">Park homes: Know your rights (DCLG July 2013)</a>  <a href="#">Selling or gifting a park home – fact sheet (DCLG July 2013)</a>
Protected Sites Licensing Regime	The Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013)	Power to license sites and attach conditions	<a href="#">Mobile Homes Act 2013: advice to local authorities on the new regime for applications for the grant or transfer of a site licence</a>  <a href="#">Model Standards 2008 for Caravan Sites in England: Caravan Sites and Control of Development Act 1960</a>  <a href="#">Mobile Homes Act 2013: A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime</a>



## 4. Enabling a sustainable approach

This section sets out a summary of the main building blocks of a successful enforcement service and reflects the approach and advice of many of the local authorities who have contributed to this guidance. It includes some examples from local authorities who are taking a proactive approach to tackling issues in their local area.

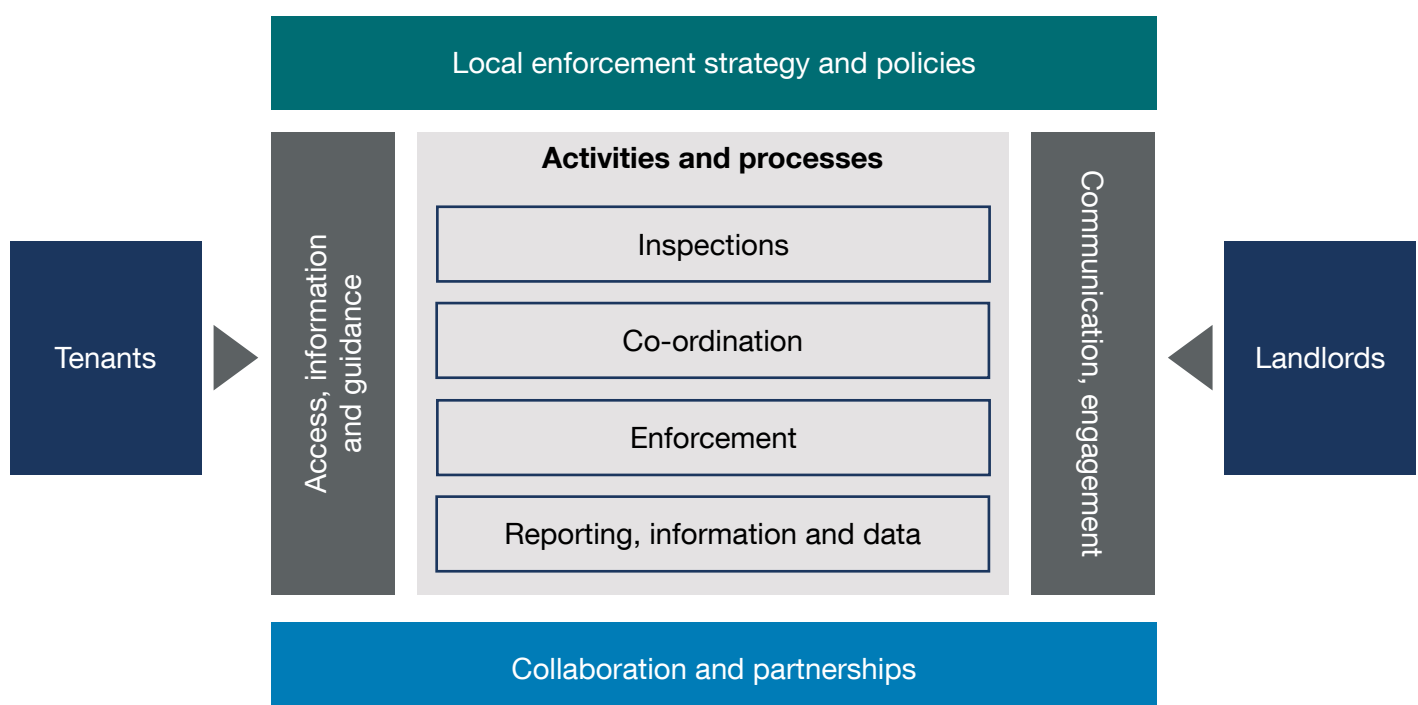
### 4.1 Key principles for an enforcement service

The key principles include:

- setting out a clear strategy (and the enabling policies) for the proactive and reactive inspection and management of the private rented sector in an area, which in turn defines how the approach will be delivered;
- confirming the communication and engagement channels with tenants and landlords with a focus on increasing the understanding of rights and responsibilities across the board and changing behaviours;

- defining the balance of work between inspection, enforcement and coordination that has been planned;
- setting up and implementing the processes for reporting, collecting data, and sharing it;
- developing a collaborative partnership approach with internal and external teams such as the Home Office, police, or fire and rescue service as appropriate, and finding ways of sharing information (including the national database).

Clearly, the nature and extent of applying these key principles will be determined by local need and resources and local authorities will invest in some principles over others to reflect their specific context.



## 4. Enabling a sustainable approach

### 4.2 Putting policies into action

Section 3 of this guidance document sets out in detail the powers that are available to local authorities in undertaking enforcement and the legislation that enables this. Central to delivering effective enforcement activity is the need to establish – and refresh and update as needed – a set of policy and operational processes that are consistent with legislative and regulatory requirements. These policies must be fair and transparent to council officers as well as tenants, landlords and other key stakeholders. Adhering to these policies is of course then a key requirement for effective enforcement or prosecutions to take place.

### 4.3 Collaboration and partnerships

Local councils have adopted a wide variety of approaches in order to respond to the different challenges they face in improving conditions in their local private rented sector. Working in partnership enables intelligence, data and resources from a variety of organisations to come together to tackle issues of overcrowding, homelessness and illegal immigration in a more effective way and with better outcomes.

#### Collaboration and Partnerships: Leeds City Council

##### Context:

Leeds City Council has developed the 'Leeds Neighbourhood Approach (LNA)' which is a project which addresses both housing conditions and the needs of the households and community.

##### Approach:

It proactively targets small areas of the city on a street by street basis based on intelligence, stock condition, levels of empty homes and identifiable community needs. The LNA is a partnership approach, led by the Private Sector Housing team. The approach involves a wide range of partners to deliver change in their local area. These partners include:

- community champions and ward members
- West Yorkshire Police and fire service
- Home Office Immigration
- the council sustainability unit (to help address fuel poverty)
- local community-led housing organisation
- the Leeds Credit Union and VCS organisations such as Connect for Health

All rented properties within the designated area are inspected by the Private Sector Housing team to ensure consistency. All owner/occupiers are invited to take part with help and advice provided on property maintenance. All landlords, agents and empty home owners are invited to work with the partnership to improve the area. Any owner who does not come forward within the six-week amnesty is dealt with formally using whatever legislation is appropriate. All notices are robustly enforced. The LNA allows individual household needs to be met as well as creating the opportunity to work with the wider community groups.

##### Outcome:

By crossing the threshold, officers are able to engage with owners, build relationships over a period of time and help partners target their resources to those who need them. In addition to the house by house approach, there is a regular Hub Bus, local landlords' forums and community walkabouts.

##### Things to be aware of:

This approach is intensive and only works on a small geographical area – anything too large would not be effective as resources would be stretched and not be able to make the desired impact.

## 4. Enabling a sustainable approach

The table below sets out some of the components or partner organisations that are essential to developing this approach:

Local authority	Home Office	Local authorities should involve Home Office immigration Compliance and Enforcement teams in any enforcement activity where suspected illegal immigrants are involved. The Immigration Act 2014 requires landlords to undertake basic immigration checks of their adult tenants. The Home Office is responsible for enforcing this scheme and should be contacted if illegal migrants are suspected.
	Fire and Rescue	Fire and rescue authorities and local authorities are expected to work closely together to ensure risks to their communities are identified and effectively mitigated. 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 2005.
	Co-location	Some local authorities have found it advantageous to have their housing functions co-located with environmental health, trading standards and planning officers. This helps facilitate the sharing of knowledge on illegal behaviour and speed up the coordination of enforcement action.
	National Crime Agency	Where the local authority suspects that criminal activity may involve human trafficking – where victims are moved into or around the UK and have been deceived or coerced by individuals into an exploitative situation – the National Crime Agency should be involved. The local authority should also notify the police in such a scenario.
	Housing Associations	In some cases, for example if the local authority deem a house too dangerous to habituate, it may be necessary to rehouse the tenants. To prevent homelessness, especially where young children may be involved, the authorities should work with local housing associations to provide temporary accommodation for the tenants.
	Landlord Organisations	Organisations representing landlords – such as the Residential Landlords Association or the National Landlord Association – can often support local authorities in providing information to the landlords in their area, informing them of their rights and responsibilities, and any changes to legislation.
	Tenant Organisations	Local authorities can also build relationships with organisations that support tenants – such as Shelter and other local tenant groups. They can often support tenants in issues of harassment and illegal eviction. These organisations can also provide useful information to tenants about their rights and responsibilities.
	Police	Police have powers of arrest, and search and entry. Local authorities should work closely with the police where landlords are suspected of involve in criminal activity. Police can also arrest landlords who have committed an illegal eviction.

## 4. Enabling a sustainable approach

### 4.4 Sharing data and information

In many authorities, problems are concentrated in small areas, sometimes individual streets. Teams working on investigating complaints, planning enforcement and licensing of HMOs will all have intelligence to share on hotspots and sometimes on particular landlords in the area.

For example, some authorities cross-reference their Housing Benefit database with properties licensed as HMOs. 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.

It is important that data and intelligence is made accessible to the relevant teams within a local authority and other organisations as appropriate in order to enable an intelligence-led approach to tackling problems. Data sharing agreements between councils and across council department – if required – could assist this process and exemptions exist in the Data Protection Act allowing the sharing of certain personal data that would be applicable in this context.

Previous convictions are regarded as sensitive information. Names, addresses and any data capable of identifying a living person are all personal data. This means that there would need to be a secure database or portal which could be accessed by those who have agreed to certain terms and conditions before viewing or using the available data. Local authority officers should also seek the advice of their own legal or data protection teams when establishing a secure database or portal.

### 4.5 National database of rogue landlords

The database is designed to be a tool which will help local authorities to keep track of rogue landlords. There is both statutory guidance to help local authorities understand their powers and obligations to make entries in the database of rogue landlords and property agents, and non-statutory user guidance (detailed and quick start) for local authorities to help them understand how to access and use the features and functions of the database. Both these pieces of guidance can be found here:

[Database of rogue landlords and property agents under the Housing and Planning Act 2016.](#)

Under the Housing and Planning Act 2016, a local authority must make an entry on the database where a landlord or property agent has received a banning order. They have the discretion to make entries where a landlord or property agent has been convicted of a banning order offence or has received two or more civil penalties within a 12-month period.

The more comprehensive the information on the database, the more useful it will be to authorities. This is also intended to enable more joint working between local authorities who will be able to establish whether rogue landlords operate across their local authority areas.

## 4. Enabling a sustainable approach

### 4.6 Communication and engagement

It is essential that there is clear communication and engagement with landlords, tenants and other stakeholders so rights and responsibilities are properly understood as that is often not the case. This also means that for effective enforcement and prosecutions to take place, policies and procedures must be transparent and clearly available.

Securing publicity for prosecutions can send out the message to landlords, agents and tenants that local authorities will use their powers where necessary. Some local authorities have used this approach very effectively and it can act as a deterrent and reduce the likelihood of an increase in non-compliant or illegal activity.

#### Targeted enforcement case study: London Borough of Southwark

The public statement about this case can be found [here](#).

##### Context:

The landlords, whose negligent and dangerous management of rented flats above the former Thomas Beckett pub on the Old Kent Road in the London Borough of Southwark, were sentenced at the Inner London Crown Court on 17 December 2018.

His Honour Judge Wood QC handed out fines of £37,500 and costs of £16,467.30; he also granted a confiscation order of £55,372.96, linked to the proceeds of their crime.

There is a long history of council intervention at the property and two previous convictions linked to breaches of housing laws that are designed to protect tenants. The fire protection in the accommodation was found to be poorly maintained:

- the fire alarm system didn't work
- the fire doors were not up to standard
- the fire extinguishers had not been tested or maintained

Further to this, flats within the property were found to be unlicensed and illegally over occupied. Additionally, a studio flat previously identified by the council as being unsafe for accommodation, was found to be occupied by a couple who were paying £730 a month for rooms that all fell short of the council's minimum size and contained a bedroom that was internal, with no window, natural light or ventilation.

##### Approach:

Council officers were made aware of the property when the owners made an application for a license under mandatory licensing. The officers took the following action:

- served prohibition orders on the undersized rooms under the crowding and space hazard (this would now be enforced using licensing conditions)
- served prohibition orders on the inner rooms in the first floor flat both on crowding and space hazard due to the size of the rooms, in addition to the fire hazard for lack of a safe means of escape. The prohibition orders prohibited use of the rooms for any type of occupation other than by a single family or occupation by the owner and members of their immediate family to prevent the use of the property as a HMO
- served a prohibition order on the first floor studio for the lighting, excess heat and crowding and space hazards, this prohibited the use of the studio as living accommodation (this would now be enforced using licensing conditions)
- service of a prohibition order on the inner room in the second floor flat under the fire hazard, this prohibited the use of the room until an alternative means of escape was provided
- service of schedules requiring management works to be carried out in relation to fire protection, articles stored in communal hallways and disrepair in common areas and living accommodation. They were also required to install a second set of kitchen facilities in the second floor
- service of a notice requiring the production of documents including tenancy agreements and proof of the relationship between the occupiers of the first floor flat and the owners



## 4. Enabling a sustainable approach

### Prosecution:

As the landlords failed to bring the property up to standard they were prosecuted using the following powers:

Contravention of:

- two prohibition orders under section 21, Housing Act 2004 in relation to the first floor flat
- one prohibition order under section 21, Housing Act 2004 in relation to the first floor studio
- section 234(3), Housing Act 2004, management regulations in respect of HMOs, regulation 4 – duty of manager to take safety measures & regulation 7 – duty to maintain common parts, fixtures, fittings & appliances
- a notice under section 235, Housing Act 2004, power to require documents to be produced

The landlords pleaded guilty in October 2013, did not receive a sentence and were given an absolute discharge in 6 months from conviction.

### Follow up:

In order to ensure the conviction could be used as a previous offence in subsequent proceedings, the HMO was re-inspected in January 2014 and as the same offences were witnessed, further prosecution took place in relation to the prohibition order and offences under the management regulations. The inspections that took place to build the case for the second and third prosecutions were made using a warrant of entry without giving notice of intention to enter.

### Outcome:

The landlords again pleaded not guilty and the case went to trial. In October 2015 the landlords were convicted and fined £2400 each and ordered to pay costs and charges.

In January 2016 the council put into place an additional licensing scheme so at this point the property required a licence. In August 2016 the properties were re-inspected. The same offences were witnessed so legal proceedings were instigated but this time failure to apply for a licence was included.

### Opportunity for learning:

Due to the extensive history and lack of compliance it was decided to use this case as a test for the Proceeds of Crime Act (POCA) and how to tackle rogue landlords with a multidisciplinary approach. A joint prosecution with Trading Standards took place and there has been close working amongst colleagues across the council as part of Southwark's Rogue Landlords Multidisciplinary Team. This involves information sharing and the identification of rogue landlords who have committed offences relevant to other teams including Tenancy Relations, Planning, and Council Tax & Benefits.

In July 2017 the landlords pleaded guilty. The application for POCA was made and in December 2018 they were sentenced and ordered to pay under proceeds of crime. The information required by the notice under section 235 was provided and it proved useful in terms of calculating the benefit under the POCA as it included tenancy agreements dating back for a number of years. Officers in Southwark now serve notices requiring similar information on a regular basis in order to establish occupation.



## 4. Enabling a sustainable approach

### 4.7 Resources

The powers afforded to local authorities from 2016 onwards allow monies from certain types of enforcement – such as civil penalties and selective licensing – to be retained by the local authority. The income must be used to further enforcement activities as specified in the relevant Regulations. For example, licensing monies may only be used to fund the cost of licensing<sup>2</sup>, while monies collected from civil penalties are ring-fenced for the use of enforcement<sup>3</sup>. Civil penalties in particular, which can be fines of up to £30,000 for the most serious of offences, can act as a strong deterrent for rogue landlords, while also enabling local authorities to build a sustainable enforcement service which can tackle rogue landlords in the long term.

These powers are also intended to support a more proactive approach that can be more effective in challenging non-compliant and illegal activity in their local area. More information and guidance on selective licensing, banning orders, civil penalties and rent repayment orders can be found here:

- [Selective licensing in the private rented sector: a guide for local authorities](#)
- [Banning orders for landlords and property agents under the Housing and Planning Act 2016.](#)
- [Rent repayment orders under the Housing and Planning Act 2016](#)
- [Civil penalties under the Housing and Planning Act 2016](#)

### 4.8 Wider powers

Although this guidance has necessarily focussed on the breadth of legislation and regulation that relates to directly to the impact that rogue landlords can have, there are other general powers as well as restrictions which may influence action in local authorities' area. The General Power of Competence – introduced by the Localism Act 2011 and took effect in February 2012 – gives councils the power to do anything an individual can do provided it is not prohibited by other legislation.

The General Power of Competence builds upon a long history of legislation designed to enable practical action and service delivery using the combined resources of local authorities. For example, s113 of the Local Government Act 1972 allows local authorities to share officer resource and create a joint head of service for example. Considering such arrangements may be useful where rogue landlord activity goes beyond individual boundaries.

<sup>2</sup> R (on the application of Peter Gaskin) v Richmond Upon Thames LBC and others [2018] H.L.R. 47 and R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council [2017] UKSC 50

<sup>3</sup> Regulation 4 of the Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017/367

## Appendices

Appendix A – Summary of legislation

Appendix B – Building a network



# Appendix A – Summary of legislation

There is a wide range of tools and powers available to local authorities to act against rogue landlord and letting agent practices, and this section of the guidance will provide a comprehensive view of all the powers available to local authorities. Some of these powers date back to legislation introduced in 1936, and they have been variously added to and amended up to more recent acts. The Housing Act 2004 and Housing and Planning Act 2016 are two recent and relevant pieces of legislation that grant local authorities significant powers in tackling rogue landlords. The Housing and Planning Act 2016 in particular introduced a number of powers to local authorities. These include:

- banning orders for the most serious offences;
- civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences;
- introducing a database of rogue landlords and property agents against whom a banning order has been made, which may also include persons convicted of a banning order offence or who have received two or more financial penalties;
- enabling local authorities to apply for a rent repayment order requiring rogue landlords to repay an amount of rent, up to a maximum of 12 months, previously paid by a tenant;
- management orders in circumstances where a banning order has been made giving local authorities the right to possession of the property, to collect rent, setting rent levels, making repairs and managing tenancies.

It is essential that local authorities are aware of the full range of powers that are available to them to enforce against rogue landlords, so they are able to use the right intervention, or combination of interventions at the right time. There are often a number of different approaches local authorities

can take in any given situation when choosing to act against rogue landlords. Please see [Section 3.4](#) on what to consider when choosing an approach.

Two pieces of legislation are due to come into force close to the publication of this consolidated guidance and which local authorities should be aware of: the Tenant Fees Act 2019 and the Homes (Fitness for Human Habitation) Act 2018. Detailed guidance is available for both pieces of legislation. All individual guidance can be found on the gov.uk website.

## Tenant Fees Act 2019

The Tenant Fees Act 2019 sets out the government's approach to banning letting fees and capping tenancy deposits paid by tenants in the private rented sector in England.

The Act comes into force on 1st June 2019. It reduces the costs that tenants can face at the outset, and throughout, a tenancy, and is part of a wider package of measures aimed at rebalancing the relationship between tenants and landlords to deliver a fairer, good quality and more affordable private rented sector.

Tenants will be able to see, at a glance, what a given property will cost them in the advertised rent with no hidden costs. The party that contracts the service – the landlord – will be responsible for paying for the service, which will help to ensure that the fees charged reflect the real economic value of the services provided and sharpen letting agents' incentive to compete for landlords' business.

Please see the guidance on the Tenant Fees Act 2019 [here](#).

## Appendix A – Summary of legislation

### The Homes (Fitness for Human Habitation) Act 2018

Comes into force on 20 March 2019.

The Homes (Fitness for Human Habitation) Act 2018 applies to the social and private rented sectors and, while it does not impose any new responsibilities on landlords, it does confirm that:

- landlords must ensure that their property, including any common parts of the building, is fit for human habitation at the beginning of the tenancy and throughout;
- to achieve that, landlords will need to ensure that their property is free of hazards which are so serious that the dwelling is not reasonably suitable for occupation in that condition.

Where a landlord fails to do so, the tenant has the right to take action in the courts for breach of contract on the grounds that the property is unfit for human habitation. The remedies available to the tenant are an order by the court requiring the landlord to take action to reduce or remove the hazard, and / or damages to compensate them for having to live in a property which was not fit for human habitation.

As the Act allows the tenant to seek remedy and redress for any defect in the property, the role of the local authority will be one of advice and guidance rather than enforcement. However, local authorities may choose to offer more practical assistance to tenants seeking redress under the Act, especially

vulnerable tenants. Many tenants will use the provisions of the Act and will not contact their local authority, but some tenants might approach their local authority for advice, guidance or even assistance with the Act.

The local authority can take enforcement action alongside acting in a support role if a tenant informs them that they are seeking redress through the Act. A tenant taking action against their landlord does not preclude the local authority from taking enforcement action where the most serious hazards are present.

In cases where a local authority has served an improvement notice or a notice of emergency remedial action, a landlord cannot evict a tenant for six months using a 'no fault' section 21 eviction notice. Local authorities should consider their enforcement policies and procedures carefully and use these powers to protect tenants seeking redress through the Act from retaliatory eviction.

Local authorities should make it clear to tenants that there are protections from retaliatory eviction in the Deregulation Act 2015 and that the local authority will work with the tenant to ensure that they benefit from these protections.

Please see the guidance on the Homes (Fitness for Human Habitation) Act 2018 below:

[Homes \(Fitness for Human Habitation\) Act 2018: Guidance for tenants, landlords and local authorities](#)

# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
<p>Housing and Planning Act 2016</p> <p>Part 2</p> <p><b>Banning Orders</b></p>	<p>Applies only to landlords letting houses in England or engaging in English letting agency work or engaging in English property management work.</p> <p>The First-tier Tribunal (Property Chamber) (“FTT”) can make an order banning a landlord from:</p> <ul style="list-style-type: none"> <li>letting houses</li> <li>engaging in letting agency work</li> <li>engaging in property management work</li> </ul> <p>Must be for a minimum period of 12 months. No statutory maximum period.</p> <p>Factors to take into account when deciding whether to seek a banning order:</p> <ul style="list-style-type: none"> <li>the seriousness of the offence</li> <li>previous convictions/rogue landlord database</li> <li>the harm caused to the tenant</li> <li>punishment of the offender</li> <li>deter the offender from repeating the offence</li> <li>deter others from committing similar offences</li> </ul>	<p>LA has power to apply for banning order.</p> <p>Banning order can be made where a landlord or property agent has been convicted of a banning order offence.</p> <p>These include offences such as:</p> <ul style="list-style-type: none"> <li>unlawful eviction and harassment of occupier</li> <li>failing to comply with an improvement notice issues under the Housing Act 2004</li> <li>offences in relation to HMOs</li> <li>fire and gas safety offences</li> </ul> <p><b>Management Order</b></p> <p>LA can also make a management order in circumstances where a banning order has been made. LA will have the following rights in respect of the dwelling:</p> <ul style="list-style-type: none"> <li>a right to possession of the property</li> <li>right to collect rent, setting rent levels, making repairs and managing tenancies</li> <li>a right to grant new tenancies or licences</li> </ul> <p>LA can use the rental income to help cover its costs in managing the property. The management order is initially an interim order and lasts for a period of up to 12 months. The interim order can become a final order if the LA are not satisfied that the health and safety of the occupiers of the property and persons living in or owning property nearby are protected. A final order lasts up to a period of 5 years. The landlord has a right of appeal to the FTT.</p>	<p><a href="#">Banning Order Offences under the Housing and Planning Act 2016 (MHCLG 2018)</a></p>

## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Housing and Planning Act 2016 Part 2 <b>Civil Penalties</b>	<p>LA has power to impose a civil penalty of up to £30,000 as an alternative to prosecution for breach of a banning order.</p> <p>Factors to consider when imposing a civil penalty include:</p> <ul style="list-style-type: none"> <li>• severity of the offence</li> <li>• culpability and track record of the offender</li> <li>• the harm caused to the tenant</li> <li>• punishment of the offender</li> <li>• deter the offender from repeating the offence</li> <li>• deter others from committing similar offences</li> <li>• remove any financial benefit the offender may have obtained as a result of committing the offence</li> </ul> <p>Landlord has a right of appeal to the FTT.</p>	<p>The maximum penalty is £30,000. The amount of the penalty is determined by the LA in each case.</p> <p>Only one penalty can be imposed in respect of the same offence.</p> <p>LA can recover the civil penalty by way of debt proceedings in the County Court.</p> <p>Income received from a civil penalty can be retained by the LA provided that it is used to further the LA's statutory functions in relation to their enforcement activities covering the private rented sector, as specified in Regulations.</p> <p>Where a landlord receives two or more civil penalties over a 12 month period the LA may include that person's details in the data base of rogue landlords and property agents.</p>	<a href="#">Civil Penalties under the Housing and Planning Act 2016 (MHCLG 2018)</a>

# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Housing and Planning Act 2016 Part 2 <b>Rent Repayment Orders</b>	<p>LA can apply to the FTT for an order requiring a landlord to repay an amount of rent paid by a tenant.</p> <p>Rent Payment orders apply in relation to the following offences:</p> <ul style="list-style-type: none"> <li>• failure to comply with an Improvement Notice</li> <li>• failure to comply with a Prohibition Order</li> <li>• breach of a banning order</li> <li>• illegal eviction or harassment of occupier</li> </ul> <p>Factors to consider when considering how much rent a LA should seek to recover:</p> <ul style="list-style-type: none"> <li>• punishment of the offender</li> <li>• deter the offender from repeating the offence</li> <li>• dissuade others from committing similar offences</li> <li>• remove any financial benefit the offender may have obtained as a result of committing the offence</li> </ul> <p>The Landlord has a right of appeal to FTT.</p>	<p>LA can apply for a rent repayment order as well as a civil penalty.</p> <p>The FTT can order that the maximum amount of rent (up to 12 months) is repaid.</p> <p>In determining the amount the FTT will take into account:</p> <ul style="list-style-type: none"> <li>• the conduct of the landlord</li> <li>• the financial circumstances of the landlord</li> <li>• whether the landlord has at any time been convicted of one of the offences</li> </ul> <p>If landlord fails to comply with the rent repayment order the LA can recover by way of a county court judgment and use bailiffs to enforce the judgment.</p> <p>Income received from a rent repayment order can be retained by the LA provided that it is used to further the LA's statutory functions in relation to their enforcement activities covering the private rented sector, as specified in Regulations.</p>	<a href="#">Rent Repayment Orders under the Housing and Planning Act 2016 (MHCLG 2017)</a>
Housing and Planning Act 2016 Part 2 <b>Database of Rogue Landlords</b>	<p>New tool for LA's to keep track of rogue landlords.</p>	<p>LA may make an entry in the database in respect of a landlord who has been convicted of a banning order offence.</p> <p>Where a landlord receives two or more civil penalties over a 12 month period the LA may include that person's details in the data base of rogue landlords and property agents.</p>	<a href="#">Database of Rogue landlords and Property Agents under the Housing and Planning Act 2016 (MCHLG 2018)</a> <a href="#">Dealing with Rogue Landlords (DCLG August 2012)</a>

## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
<p>Housing Act 2004</p> <p>Part 1</p> <p><b>Enforcement of Housing Standards</b></p>	<p>Category 1 Hazards – Duty on LA to take enforcement action.</p> <p>Level 5 fine. LA has power to impose a civil penalty of up to £30,000 as an alternative to prosecution.</p> <p>Factors to consider when imposing a financial penalty include:</p> <ul style="list-style-type: none"> <li>• severity of the offence</li> <li>• culpability and track record of the offender</li> <li>• the harm caused to the tenant</li> <li>• punishment of the offender</li> <li>• deter others from committing similar offences</li> <li>• deter the offender from committing similar offences</li> <li>• remove any financial benefit the offender may have obtained as a result of committing the offence</li> </ul> <p>The Landlord has a right of appeal to FTT.</p> <p>Civil penalty not available for Prohibition Order but LA can seek a rent repayment order.</p> <p><b>Category 2 Hazards</b> – LA has a discretionary power to intervene.</p> <p>Enforcement of housing standards apply to commercial or industrial premises occupied by property guardians as residential premises.</p>	<p>Measures available to the LA include:</p> <ul style="list-style-type: none"> <li>• Serve a hazard awareness notice</li> <li>• Serve an Improvement Notice: <ul style="list-style-type: none"> <li>I. requirement to carry out works</li> <li>II. works can be carried out by the LA in default</li> <li>III. the landlord has a right of appeal to FTT</li> <li>IV. prosecution for failure to comply</li> </ul> </li> <li>• Prohibition Order: <ul style="list-style-type: none"> <li>I. banning the use of the whole or part of a dwelling</li> <li>II. can also restrict the number of people residing in the dwelling</li> <li>III. the landlord has a right of appeal to FTT</li> <li>IV. prosecution for failure to comply</li> </ul> </li> <li>• Emergency remedial action, or an emergency prohibition order, and recovery of expenses</li> <li>• Make a demolition order</li> <li>• Declare the area to be a clearance area</li> </ul> <p>LA can use income received from civil penalty to further the LA's statutory functions.</p> <p>Can be included within an Improvement Notice provided there is the existence of a category 1 hazard.</p> <p>LA can make a demolition order in respect of a dwelling which is not a flat and any building containing one or more flats.</p>	<p><a href="#">Housing Health and Safety Rating System (HHSRS) Enforcement Guidance: Housing Conditions (ODPM 2006)</a></p> <p><a href="#">Housing Health and Safety Rating System Operating Guidance (DCLG February 2006)</a></p> <p><a href="#">Housing Health and Safety Rating System Guidance for Landlords and Property Related Professionals (DCLG May 2006)</a></p> <p><a href="#">Reducing the risks – The Housing Health and Safety Rating System (DCLG March 2006)</a></p> <p><a href="#">Housing Health and safety Rating System: Assessment of High Rise Residential Buildings with Cladding Systems (MHCLG Nov 2018)</a></p>

# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
		<p>LA can declare an area to be a clearance area if satisfied that:</p> <ul style="list-style-type: none"> <li>The other buildings (if any) in the area are dangerous or harmful to the health and safety of the inhabitants in the area</li> <li>The circumstances of the case are circumstances specified or described in an order made by the Secretary of State</li> </ul>	
<p>Housing Act 2004 Part 2 <b>Licensing of Houses in Multiple Occupation</b></p>	<p>Mandatory licensing – As of 1 October 2018 extends to HMOs occupied by five or more persons who together do not form a single household regardless of the number of storeys.</p> <p>Breach of a licence condition is an offence, unlimited fine.</p> <p>Letting or managing without a licence is an offence, unlimited fine.</p> <p><b>Additional Licensing</b> – discretionary power to extend licensing to smaller types of HMOs.</p> <p>Property guardians are included within the definition of HMO.</p>	<ul style="list-style-type: none"> <li>Addresses poor management, health and safety hazards and adequate provision of amenities</li> <li>Only a “fit and proper” person can be granted a licence</li> <li>LA can impose conditions on a licence</li> </ul> <p>LA has power to impose a civil penalty of up to £30,000 as an alternative to prosecution for breach of a HMO licence.</p> <ul style="list-style-type: none"> <li>Requirement to consult person who are likely to be affected by the designation</li> <li>Once an area is designated landlords required to apply for a licence</li> </ul>	<p><a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a></p> <p><a href="#">Licensing of Houses in Multiple Occupation in England A guide for landlords and managers (DCLG 2007).</a></p> <p><a href="#">Licensing of Houses in Multiple Occupation in England – A guide for tenants (DCLG 2007).</a></p> <p><a href="#">A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004 DRAFT (Jan 2010).</a></p>
<p>Housing Act 2004 Part 3 <b>Selective Licensing</b></p>	<p>Selective Licensing – high levels of crime, anti-social behaviour, poor property conditions.</p> <p>Breach of a licence condition is an offence, Level 5 fine.</p> <p>Letting or managing without a licence is an offence, unlimited fine.</p>	<p>Secretary of State approval is required for schemes that cover over 20% of the LA area or housing stock.</p> <p>Requirement to consult.</p> <p>Once designation confirmed landlords required to apply for a licence.</p> <p>LA can impose conditions on licence.</p> <p>LA has power to impose a civil penalty of up to £30,000 as an alternative to prosecution for breach of a HMO licence.</p>	<p><a href="#">Selective Licensing in the private rented sector A Guide for local authorities (March 2015)</a></p>



## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
<p>Housing Act 2004</p> <p>Part 4</p> <p><b>Management Regulations</b></p>	<p>LA can issue Management Regulations to ensure that the person managing an HMO has in place a satisfactory management arrangement and observes proper standards of management.</p> <p>The Management Regulations are contained in the Management of Houses in Multiple Occupation (England) Regulations 2006/372.</p> <p>The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007/1903 impose similar duties on a person managing a property which is an HMO because it is a converted block of flats.</p> <p>The Management Regulations require the person managing an HMO to:</p> <ul style="list-style-type: none"> <li>• provide contact details to all occupiers and display these in the house</li> <li>• take safety measures including fire safety</li> <li>• supply and maintain electricity and gas, including ensuring that appliances are tested and that certificates are provided to the LA upon request</li> <li>• maintain common parts, fixtures, fittings and appliances</li> <li>• maintain living accommodation</li> <li>• provide waste disposal facilities</li> </ul>	<p>Failure to comply with Management Regulations is an offence.</p> <p>Summary conviction to a Level 5 fine.</p>	<p>No available guidance.</p>



# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Housing Act 2004 Part 4 <b>Management Orders</b>	LA can take over management of a private dwelling to tackle serious anti-social behaviour emanating from individual private dwellings.	<ul style="list-style-type: none"> <li>• FTT approval required</li> <li>• Special Interim management Order lasts for up to 12 months</li> <li>• LA takes over management from the landlord, collects rent, undertakes repairs, can use money from rents to cover management function</li> </ul>	<a href="#">Guidance Note on Empty Dwelling Management Orders (July 2006)</a>
Housing Act 2004 Part 4 <b>Overcrowding Notices</b>	<p>LA can serve an overcrowding notice on the landlord of an HMO if it considers that excessive numbers of persons are being accommodated in the HMO.</p> <p>Seven days before serving the notice the LA must:</p> <ul style="list-style-type: none"> <li>• inform in writing every relevant person of their intention to serve the notice</li> <li>• ensure that every occupier of the HMO is informed of the LA's intention</li> </ul> <p>The landlord has a right of appeal to the FTT.</p>	<p>Summary conviction and fine not exceeding £2,500.</p> <p>LA must allow a reasonable period (of up to 18 months) to be remedied before it prosecutes for breach of the licence condition.</p>	<p><a href="#">Houses in Multiple Occupation and Residential Property Licensing Reform (MHCLG 2018)</a></p> <p><a href="#">Regulation of 'Crowding and Space' in Residential Premises (June 2009)</a></p>
Housing Act 2004 Part 7 <b>Power to require documents to be produced</b>	<p>LA can serve notice on landlord to produce documents connected with LA's functions under Parts 1 and 4 of the Housing Act 2004 or for the purpose of investigating whether an offence has been committed under any of Parts 1 and 4.</p> <p>Documents to which legal professional privilege applies can be withheld.</p>	Summary conviction and fine not exceeding level 5 on the standard scale.	No available guidance.
Housing Act 2004 Part 7 <b>Supplying false or misleading information</b>	It is an offence to supply any information to a LA in connection with their functions under Parts 1 to 4 of the Housing act 2004 that is false or misleading, whether provided knowingly or recklessly.	Summary conviction and fine not exceeding level 5 on the standard scale.	No available guidance.

## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Housing Act 2004 Part 7 <b>Powers of Entry</b>	<p>LA can enter premises where it considers that a survey or examination is necessary provided any of the following conditions are met:</p> <ul style="list-style-type: none"> <li>the survey or examination is necessary to determine whether any functions under any of Parts 1 to 4 of the Housing Act 2004 should be exercised in relation to the premises</li> <li>the premises are specified premises in relation to an improvement notice or prohibition order</li> <li>a management order is in force in respect of the premises</li> </ul> <p>Before entering any premises the LA must have given at least 24 hours notice of intention to do so to the owner and occupier, if any, of the premises.</p>	<p>LA can apply to the Magistrates Court for a warrant of entry to survey or examine the premises or to which an improvement notice or prohibition order applies or management order is in force.</p> <p>The power of entry includes power to enter by force (if necessary).</p> <p>The warrant continues in force until the purpose for which the entry is required is satisfied.</p>	No available guidance.
Housing Act 2004 Chapter 4 <b>Security Deposits</b>	<p>Where a landlord takes a deposit he must register it with an authorised protection scheme (which may be a custodial scheme or an insurance scheme).</p> <p>Within 30 days of receiving the deposit the landlord or the landlord's agent must give the tenant information about:</p> <ul style="list-style-type: none"> <li>the scheme contact details</li> <li>a summary of the law on deposits</li> <li>how the deposit may be recovered</li> <li>how disputes are resolved</li> </ul>		No available guidance.
Prevention of Damage by Pests Act 1949 Part 1 <b>Power to action in respect of rats and mice</b>	<p>LA can serve on the owner or occupier of land a notice requiring the carrying out on the land of any structural repairs or other works so specified for keeping the land free from rats and mice.</p>	<p>Summary conviction and fine not exceeding level 3 on the standard scale.</p> <p>The LA can take steps required by the notice and recover from the owner any reasonable expenses incurred in doing so.</p>	No available guidance.

# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Protection from Eviction Act 1977 Part 1 <b>Unlawful Eviction and Harassment</b>	<p>It is an offence to:</p> <ul style="list-style-type: none"> <li>deprive a residential occupier of his occupation of premises</li> <li>interfere with the peace or comfort of the residential occupier or members of his household with intent to cause the residential occupier to give up the occupation of the premises</li> <li>persistently withdraw or withhold services reasonably required for the occupation of the premises as a residence by the residential occupier or members of his household</li> </ul> <p>Unlawful to exercise the right of re-entry or forfeiture of premises let as a dwelling on a lease otherwise than by proceedings in the court while any person is lawfully residing in the premises.</p> <p>Unlawful for owner to enforce against the occupier of premises let as a dwelling under a tenancy where the tenancy has come to an end but the occupier continues to reside in the premises otherwise than by proceedings in the court.</p> <p>It is an offence for the property guardian company, the owner of the building, or anyone acting on their behalf to unlawfully evict an occupier of residential premises regardless of whether the property guardian is a licensee and not a tenant.</p>	<p>LAs have an express power to prosecute persons who commit any of the offences under the Act.</p> <p>A landlord will have unlawfully deprived a tenant of his occupation of the premises if the landlord did not have the legal right to recover the premises from the residential occupier without a court order.</p> <p>Breach is an offence. On summary conviction a person is liable to an unlimited fine and/or to up to 6 months' imprisonment.</p> <p>On conviction on indictment a person is liable to an unlimited fine and/or up to 2 years' imprisonment.</p> <p>LA can apply to the FTT for an order requiring a landlord to repay an amount of rent paid by a tenant.</p>	<a href="#">‘My landlord wants me out’ Protection against harassment and illegal eviction (2011).</a>

## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Environmental Protection Act 1990 Part III <b>Statutory Nuisances</b>	Any premises in such a state as to be prejudicial to health or a nuisance or noise emitted from premises so as to be prejudicial to health or a nuisance is a statutory nuisance.	LA can serve an abatement notice on the owner or occupier of the premises imposing any of the following requirements: <ul style="list-style-type: none"> <li>requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence</li> <li>requiring the execution of works and the taking of such other steps as may be necessary</li> </ul> The landlord has a right of appeal to the Magistrates Court. Summary conviction to a fine not exceeding level 5 on the standard scale. Where an abatement notice has not been complied with the LA can abate the nuisance and recover any expenses reasonably incurred in abating or preventing its recurrence from the owner of the premises where the act or default was caused by the owner.	<a href="#">Statutory nuisances: how councils deal with complaints (DEFRA 2015)</a>
Housing Act 1985 Parts 9 and 10 <b>Slum Clearance and Overcrowding</b>	LA can make a demolition order where a category 1 or category 2 hazard exists in relation to: <ul style="list-style-type: none"> <li>dwelling or HMO which is not a flat</li> <li>building containing one or more flats</li> </ul> Right of appeal to the FTT. It is an offence for the landlord of a dwelling to cause or permit it to be overcrowded.	Conviction to a fine not exceeding level 2 on the standard scale.	No available guidance.

# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Housing Act 1988 Part 1 <b>Assured Shorthold Tenancies</b>	<p>Assured Shorthold tenancies are the most common form of private residential tenancy provided in the private rented sector.</p> <p>An Assured Shorthold Tenant has no security of tenure but the tenancy cannot be brought to an end by the landlord without an order of the Court.</p> <p>The tenant is entitled to repayment of rent where tenancy is brought to an end before the end of the period of the tenancy.</p>	<p>Obligations of the landlord include:</p> <ol style="list-style-type: none"> <li>providing contact details</li> <li>protecting the tenant's deposit</li> <li>providing a gas safety certificate</li> <li>providing an Energy Performance Certificate (EPC)</li> <li>keeping the property in good repair</li> <li>keeping the tenant safe</li> </ol>	<p><a href="#">Improving the Private Rented Sector and Tackling Bad Practice (DCLG 2015)</a></p> <p><a href="#">How to Let guide (June 2018)</a></p> <p><a href="#">How to Rent a safe home (June 2018)</a></p> <p><a href="#">How to rent: the checklist for renting in England (July 2018)</a></p> <p><a href="#">Top Tips for Landlords Assured Shorthold Tenancies (MHCLG 2011)</a></p>
Deregulation Act 2015	<p>Prescribes a form for the section 21 notice.</p> <p>Landlord cannot give a s.21 notice within 4 months of the beginning of the tenancy.</p> <p>Landlord must comply with certain prescribed legal requirements:</p> <ul style="list-style-type: none"> <li>to provide the tenant with an energy performance certificate free of charge</li> <li>to provide the tenant with a gas safety certificate</li> <li>a landlord cannot serve a s.21 notice where there has been a failure to comply with either of the above two requirements</li> </ul> <p>The landlord must give the tenant, in hard copy or by email, a document published by the DCLG called "How to rent: the checklist for renting in England".</p>	<p>A landlord may not give a s.21 notice within 6 months of being served by a LA with an improvement notice or a notice of emergency remedial action under the Housing Act 2004.</p>	<p><a href="#">Retaliatory Eviction and the Deregulation Act 2015: A guidance note on the changes coming into force on 1 October 2015</a></p> <p><a href="#">Property guardians: a fact sheet for current and potential property guardians (May 2018)</a></p>

## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
	<p>A s.21 notice is invalid if the following conditions are met:</p> <ul style="list-style-type: none"> <li>• before the s.21 notice was served, the tenant complained in writing to the landlord about the condition of his home</li> <li>• the landlord did not respond to the complaint within 14 days or gave an inadequate response. A response is only adequate if the landlord describes his proposed remedial action and gives a reasonable timescale for carrying it out</li> <li>• the tenant then complained to the LA about the same (substantially the same) issue</li> <li>• if the s.21 notice was not given before the tenant's complaint to the LA, it was given before the service of the LA notice</li> </ul>		

# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
<p>Enterprise and Regulatory Reform Act 2013</p> <p>Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014</p> <p>Part 4 and Schedule.</p> <p><b>Requirement to belong to a Government approved redress scheme.</b></p>	<p>Persons engaging in lettings agency work or property management work must be a member of a redress scheme approved by the Secretary of State.</p> <p>The notice of intent must be served within 6 months of the date the LA is first satisfied that a person has failed to comply with the requirement to belong to an approved redress scheme.</p> <p>A person served with a notice of intent may within 28 days make written representations or objections to the LA.</p>	<p>LA, as an enforcement authority within its area can serve a 'notice of intent' imposing a monetary penalty on any person who fails to comply with the requirement to belong to an approved redress scheme.</p> <p>The monetary penalty must not exceed £5000.</p> <p>A person served with a notice of intent can appeal to the FTT on the grounds that:</p> <ol style="list-style-type: none"> <li>the decision to impose a monetary penalty was based on an error of fact</li> <li>the decision was wrong in law</li> <li>the amount of the monetary penalty is unreasonable</li> <li>the decision was unreasonable for any other reason</li> </ol>	<p><a href="#">Guidance for Local Authorities on the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 (Oct 2014)</a></p> <p><a href="#">Lettings Agents and Property Managers Which Government approved redress scheme do you belong to? (Oct 2014)</a></p>
<p>Landlord and Tenant Act 1985</p> <p><b>Landlords Repairing Obligations</b></p>	<p>The landlord is responsible for maintaining the structure and exterior of the property and to keep the installations in repair and proper working order.</p> <p>The landlord can enter the premises for the purpose of viewing the condition and state of repair on giving the tenant 24 hours notice in writing.</p>	<p>Where the LA is the landlord it can recover its costs of complying with its repairing obligation, under a lease, by way of a service charge.</p> <p>The LA must consult if the leaseholder's contribution is likely to exceed £250.</p> <p>The leaseholder can apply to the FTT for a determination of the reasonableness of the service charge and where there has been a failure to consult.</p>	<p>No available guidance.</p>

## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Defective Premises Act 1972	<p>Where the tenancy imposes an obligation on the landlord towards the tenant for the maintenance or repair of the premises, the landlord owes a duty to take reasonable care to ensure that all persons who may reasonably be expected to use the premises are reasonably safe from personal injury or damage to their property caused by;</p> <ul style="list-style-type: none"> <li>defects in the state of the premises; or</li> <li>the failure by the landlord to carry out his obligations for the maintenance or repair of the premises</li> </ul>		No available guidance.
Occupiers Liability Act 1957	<p>The landlord has a common duty of care to all visitors. The duty of care is to take such care as is reasonable in all the circumstances to ensure that a visitor will be reasonably safe when on the premises for the purpose for which he or she was invited.</p> <p>Where the tenancy sets out a right to enter the property for repairs or maintenance on the landlord then the landlord has a positive duty to ensure that his failure to carry out that repair or maintenance does not cause personal injury or property damage.</p> <p>The duty applies to property guardian companies and building owners where commercial or industrial buildings are occupied by property guardians as residential premises.</p>		No available guidance.



# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Energy Performance of Buildings (England and Wales) Regulations 2012	<p>Where a building is rented out the prospective landlord must make available free of charge a valid energy performance certificate to a prospective tenant.</p> <p>Where no valid energy performance certificate is available the prospective landlord must use all reasonable efforts to secure a valid energy performance certificate before the end of the 7 day period starting with the day on which the building was put on the market.</p>	<p>LA can require the landlord to produce for inspection a copy of a valid energy performance certificate.</p> <p>LA can issue a penalty charge notice £200 where the building is a dwelling.</p>	<p><a href="#">Improving the energy efficiency of our buildings – Local Weights and Measures Authority Guidance for the enforcement of the requirements of the Energy Performance of Buildings (England and Wales) Regulations 2012 (DCLG, 2016)</a></p>
Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015	<p>Landlords must ensure properties that are within scope of the legislation (unless an exemption is registered on the Public Exemptions Register) reach at least an Energy Performance Certificate (EPC) rating of E before granting a new tenancy to new or existing tenants. These requirements will then apply to all private rented properties even where there has been no change in tenancy arrangements.</p>	<p>LA can serve a penalty notice imposing a financial penalty not exceeding £2000 where the landlord has been in breach for less than 3 months and not exceeding £4000 where the landlord has been in breach for 3 months or more.</p>	<p><a href="#">The Domestic Rented Property Minimum Standard Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (Dept for Business, Energy &amp; Industrial Strategy)</a></p> <p><a href="#">A guide to energy performance certificates for the marketing, sale and let of dwellings – Improving the energy efficiency of our buildings (DCLG 2017)</a></p> <p><a href="#">Improving the energy efficiency of our buildings – Local Weights and Measures Authority guidance for the enforcement of the requirements of the Energy Performance of Buildings (England and Wales) Regulations 2012 (as amended) – March 2016.</a></p>
Electrical Equipment (Safety) Regulations 2016	<p>LA trading standards departments are responsible for enforcing the Regulations in relation to consumer goods.</p>	<p>A person committing an offence under the Regulations is liable to a penalty including a fine or imprisonment of up to 3 months or to both on summary conviction or a fine or imprisonment of up to 2 years or both on conviction on indictment.</p>	<p>No available guidance.</p>

## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Gas Safety (Installation and Use) Regulations 1998/2451	<p>The obligations on landlords include:</p> <ul style="list-style-type: none"> <li>ensuring that any relevant gas fitting and any flue which serves any relevant gas fitting is maintained in a safe condition so as to prevent risk of injury to any person in lawful occupation of premises</li> <li>ensure that each appliance and flue is checked for safety within 12 months of being installed and at intervals of not more than 12 months since it was last checked for safety</li> <li>in the case of a lease, ensuring that each appliance and flue has been checked for safety within a period of 12 months before the lease commences or is checked within 12 months after the appliance or flue has been installed</li> <li>ensure that a record in respect of any checked appliance or flue is made and retained for a period of two years from the date of the last check of that appliance or flue</li> <li>the checking of a gas appliance or flue is carried out by a person approved by the Health and Safety Executive and a copy of the record made is given to the tenant</li> </ul>	<p>Failure to comply with the Order is an offence.</p> <p>Summary conviction to a fine not exceeding the statutory maximum.</p> <p>Conviction on indictment to a fine or to imprisonment for a term not exceeding 2 years or both.</p>	No available guidance.

# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
<p>The Smoke and Carbon Monoxide Alarm (England) Regulations 2015</p> <p>Part 3</p>	<p>A landlord must ensure when the premises are occupied under the tenancy that</p> <ol style="list-style-type: none"> <li>a smoke alarm is equipped on each story of the premises on which there is a room used wholly or partly as living accommodation</li> <li>a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance</li> <li>checks are made by or on behalf of the landlord to ensure that each smoke or carbon monoxide alarm is in proper working order on the day the tenancy begins if it is a new tenancy</li> </ol>	<p>LA can serve a remedial notice.</p> <p>Where a landlord fails to comply with the requirements in the remedial notice the LA can arrange for an authorised person to take the remedial action specified in the remedial notice.</p> <p>The LA must ensure that the authorised person takes the remedial action within 28 days.</p> <p>LA can require the landlord to pay a penalty charge and which must not exceed £5000.</p> <p>Landlord can request a review from the LA, if a notice is confirmed or varied by the LA. Following the review the landlord can appeal to the FTT.</p>	<p><a href="#">The Smoke and Carbon Monoxide Alarm (England) Regulations 2015: Explanatory Booklet for Local Authorities (Sept 2015)</a></p> <p><a href="#">The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Q&amp;A booklet for the private rented sector – landlords and tenants (Sept 2015)</a></p> <p><a href="#">Housing Fire Safety Guidance on Fire Safety Provisions for certain Types of Existing Housing LACORS August 2008.</a></p>
The Furniture and Furnishings (Fire) (Safety) Regulations 1988	Landlords have an obligation to check on the fire safety of fixtures and furnishings that go with the tenancy.		No available guidance.
Sexual Offences Act 2003 Fit and Proper Landlord	An LA should consider a landlord that has committed any offences involving fraud or other dishonesty, violence or illegal drugs or are listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements) as not being a fit and proper landlord.		No available guidance.
Proceeds of Crime Act 2002 Part II <b>Confiscation Orders</b>	Landlord's property can form part of a confiscation order where the landlord has been convicted of a listed serious offence.	<p>Freezing of assets.</p> <p>Civil recovery in the High Court.</p>	No available guidance.

## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
<p>Town and Country Planning Act 1990</p> <p>Part VII</p> <p><b>Enforcement</b></p>	<p>LA can issue an enforcement notice on the owner or occupier of land where there has been a breach of planning control.</p> <p>Right of appeal to the Secretary of State.</p> <p>LA can issue a temporary stop notice where there has been a breach of planning control. Stops the activity for a period of 28 days.</p> <p>LA can issue a stop notice prohibiting the carrying out of any activity on the land to which an enforcement notice relates.</p> <p>LA can restrain by an injunction any actual or apprehended breach of planning control.</p> <p>LA can serve a breach of condition notice where planning permission granted subject to conditions has not been complied with.</p> <p>Authorised officers of LA have powers of entry for purposes of obtaining information required for enforcement.</p> <p>LA can withdraw permitted development rights by Article 4 directions.</p>	<p>An unlimited fine except for breach of notice, which carries a Level 4 fine up to £2,500</p>	<p><a href="#">Planning Guidance (Ensuring Effective Enforcement) (MHCLG 2014)</a></p> <p><a href="#">Town and Country Planning Act 1990 Section 215 – Best Practice Guidance (Jan 2005)</a></p> <p><a href="#">Planning Guidance (Appeals – Appeals against other Planning Decisions) (MHCLG March 2014)</a></p> <p><a href="#">The National Planning Policy Framework and Relevant Planning Practice Guidance (MHCLG Nov 2016).</a></p>
<p>Local Government (Miscellaneous Provisions) Act 1976</p> <p>Part 1</p>	<p>LA can obtain particulars of persons interested in land.</p> <p>Particularly useful when gathering evidence to serve a notice under other legislation.</p> <p>LA can serve an enforcement notice on the owner of a private sewer/drain to remove an obstruction within the drain within a specified time. The LA can remove the obstruction on expiry of the specified time where the owner fails to comply with the notice.</p>	<p>LA can recover reasonable expenses for remedial works.</p>	<p>No available guidance.</p>

# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Local Government (Miscellaneous Provisions) Act 1982 Part XI	LA can undertake works to prevent un-authorised entry or prevent building becoming a danger to public health.	LA can serve enforcement notice.  LA can recover reasonable expenses for works undertaken.	No available guidance.
Public Health Act 1936 Part II and XI	LA can serve enforcement notice in respect of premises that are filthy or in unwholesome condition as to be prejudicial to health or are verminous. This extends to a tent, van, shed or similar structure used for human habitation.  LA can undertake works where the person served with the notice fails to comply with the notice.	LA can recover reasonable expenses for works undertaken.  Summary conviction to a fine not exceeding level 1 on the standard scale and a further fine not exceeding £2 for each day on which the offence continues after conviction.	No available guidance.
Public Health Act 1961 Part II	LA can serve an enforcement notice in respect of a drain, private sewer, water closet, waste pipe or soil pipe which is not sufficiently maintained or kept in good repair and can be sufficiently repaired at a cost not exceeding £250.	Where the sewer, water closet, waste pipe or soil pipe is stopped up the enforcement notice can require the owner or occupier to remedy the defect within 48 hours.  If the notice is not complied with the LA can carry out works to remedy the defect and to recover expenses for works undertaken.	No available guidance.
Fraud Act 2006	Dishonestly making a false representation intended to make a gain or to cause loss to another or to expose another to a risk of loss is a breach of the Act.  Dishonestly failing to disclose to another person information which a person is under a legal duty to disclose in order to make a gain or to cause loss to another or to expose another to a risk of loss is a breach of the Act.		No available guidance.

## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
<p>Consumer Protection from Unfair Trading Regulations 2008</p> <p>Part 2</p> <p><b>Unfair Commercial Practices</b></p>	<p>The Regulation prohibits unfair commercial practices, misleading actions, misleading omissions and aggressive commercial practices.</p> <p>The Regulation implements Directive 2005/29 concerning unfair business-to-consumer commercial practices in the internal market.</p> <p>A commercial practice is a misleading action if it contains false information in relation to certain key areas, such as the existence or nature of the product, which causes, or is likely to cause, the average consumer to take a transactional decision they would not have taken otherwise.</p> <p>Commercial practices are considered to be misleading if they omit, hide, disguise or delay material information so as to cause the average consumer to take a transactional decision that they would not otherwise have made.</p> <p>Schedule 1 sets out the commercial practices which are in all circumstances considered unfair.</p>	<p>It is an offence if a trader engages in a commercial practice that breaches the general prohibition set out in Regulation 3 or is guilty of a misleading action, omission or an aggressive commercial practice.</p> <p>It is also an offence if a trader is guilty of one of the unfair commercial practices listed in Schedule 1.</p> <p>Summary conviction to a fine not exceeding the statutory maximum.</p> <p>Conviction on indictment to a fine or to imprisonment for a term not exceeding 2 years or both.</p>	<p>No available guidance.</p>
<p>Consumer Rights Act 2015</p> <p>Part 3</p> <p><b>Duty to publicise fees</b></p>	<p>Duty on letting agents to publicise their fees. A list of the fees must be displayed at each of the letting agent's premises at a place where they are likely to be seen. The agent must also publish the fees on the agent's website.</p>	<p>LA can impose a financial penalty for failure to publicise fees.</p> <p>LA can determine the financial penalty and which must not exceed £5000.</p>	<p>No available guidance.</p>



# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Caravan Sites Act 1968 (as amended by the Mobile Homes Act 2013)	<p>It is an offence to:</p> <ol style="list-style-type: none"> <li>I. deprive an occupier of his occupation of a protected site</li> <li>II. exclude the occupier other than by court proceedings</li> <li>III. cause the occupier to abandon his occupation of the site</li> <li>IV. interfere with the peace or comfort of the occupier or those residing with the occupier</li> <li>V. persistently withdraw or withhold services or facilities required for occupation of the protected site</li> </ol> <p>The offence can be committed by both an individual and a body corporate.</p>	<p>Summary conviction to a fine not exceeding the statutory maximum or imprisonment to a term not exceeding 12 months, or both.</p> <p>Conviction on indictment to a fine or to imprisonment for a term not exceeding 2 years or both.</p>	<p><a href="#">Mobile Homes Act 2013 – new licensing enforcement tools. Advice for Park Site Owners (DCLG 2014)</a></p> <p><a href="#">Park homes factsheet. Consolidated implied terms in park home pitch agreements (DCLG May 2013)</a></p> <p><a href="#">Mobile Homes Act 2013 – Advice to local authorities on the new regime for applications for the grant or transfer of a site licence (DCLG March 2015)</a></p> <p><a href="#">The Mobile Homes Act 2013 – A Guide for Local Authorities on setting site licence fees – Summary (DCLG Feb 2014)</a></p> <p><a href="#">Mobile Homes Act 2013 – A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime</a></p> <p><a href="#">Park homes: Know your rights (DCLG July 2013)</a></p> <p><a href="#">Selling or gifting a park home – fact sheet (DCLG July 2013)</a></p>



## Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Caravan Sites and Control of Development Act 1960	<p>An occupier of land must not cause or permit any part of the land to be used as a caravan site without holding a site licence.</p> <p>LA has power to attach licence conditions. A site licence can be subject to any of the following conditions:</p> <ol style="list-style-type: none"> <li>restricting the occasions on which caravans are stationed on the land</li> <li>controlling the types of caravan that are stationed on the land</li> <li>restricting or regulating the placing or erection on the land of caravans, vehicles or tents</li> <li>taking steps for preserving or enhancing the amenity of the land</li> <li>taking proper measures for preventing and detecting the outbreak of fire</li> <li>securing adequate sanitary facilities</li> </ol>	<p>It is an offence to use land as a caravan site without a site licence.</p> <p>Summary conviction liable to a fine not exceeding level 5 on the standard scale.</p> <p>LA's should take a staged approach to enforcement. In the first instance the LA should take an informal approach to enforcement.</p> <p>LA can serve a compliance notice which must:</p> <ol style="list-style-type: none"> <li>set out the condition which has been breached</li> <li>detail the steps the site operator must take to remedy the breach</li> <li>specify a time scale for completion</li> <li>explain the right of appeal to the FTT against the notice</li> </ol> <p>Failure to comply with a compliance notice is an offence which on summary conviction carries a level 5 fine (unlimited).</p>	<p><a href="#">Mobile Homes Act 2013 – new licensing enforcement tools. Advice for Park Site Owners (DCLG 2014)</a></p> <p><a href="#">Park homes factsheet. Consolidated implied terms in park home pitch agreements (DCLG May 2013)</a></p> <p><a href="#">Mobile Homes Act 2013 – Advice to local authorities on the new regime for applications for the grant or transfer of a site licence (DCLG March 2015)</a></p> <p><a href="#">The Mobile Homes Act 2013 – A Guide for Local Authorities on setting site licence fees – Summary (DCLG Feb 2014)</a></p> <p><a href="#">Mobile Homes Act 2013 – A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime</a></p> <p><a href="#">Park homes: Know your rights (DCLG July 2013)</a></p> <p><a href="#">Selling or gifting a park home – fact sheet (DCLG July 2013)</a></p>



# Appendix A – Summary of legislation

Relevant Legislation	Powers of Enforcement	How the power can assist in enforcement	Relevant Guidance (click each link for more information)
Homes (Fitness for Human Habitation) Act 2018	<p>The Act comes into force on 20 March 2019. It applies to new tenancies of less than seven years.</p> <p>The Act inserts an implied covenant that the dwelling is fit for human habitation:</p> <ol style="list-style-type: none"> <li>I. at the time the lease is granted or if later at the beginning of the term of the lease</li> <li>II. will remain fit for human habitation during the term of the lease</li> </ol> <p>A dwelling is unfit for human habitation if there are defects in respect of any of the following:</p> <ul style="list-style-type: none"> <li>• repair</li> <li>• stability</li> <li>• freedom from damp</li> <li>• internal arrangement</li> <li>• natural lighting</li> <li>• ventilation</li> <li>• water supply</li> <li>• drainage and sanitary convenience</li> <li>• facilities for preparation and cooking of food and for the disposal of waste water</li> </ul>	<p>There is implied a covenant by the lessee that the lessor, or a person authorised in writing by the lessor, may enter the dwelling for the purpose of viewing its condition and state of repair.</p> <p>Entry to the dwelling is permitted only:</p> <ol style="list-style-type: none"> <li>a. at reasonable times of the day</li> <li>b. if at least 24 hours' notice in writing has been given to the occupier of the dwelling</li> </ol>	<p><a href="#">Homes (Fitness for Human Habitation) Act 2018: Guidance for tenants, landlords and local authorities (MHCLG, 2019)</a></p>

## Appendix B – Building a network

Local authorities who need support to develop a more proactive approach can draw on wide range of organisations for help. These organisations – some which we have listed here – can provide advice and policy support to those councils who need it.

Organisation	Description
<a href="#">Chartered Institute of Housing</a>	Independent voice for housing and home of the professional standards.
<a href="#">Chartered Institute for Environmental Health</a>	The professional membership body for environmental health.
<a href="#">Shelter</a>	Registered charity that campaigns to end homelessness and improve housing in England and Scotland.
<a href="#">Local Government Association</a>	Membership organisation for local authorities in England and Wales.
<a href="#">Royal Institutions of Chartered Surveyors</a>	Global professional body promoting and enforcing international standards in the valuation, management and development of land, real estate, construction and infrastructure.
<a href="#">National Residential Landlords Association(NRLA)</a>	A community of landlords who deliver day-to-day support, expert advice, government campaigning, plus a range of services relevant to landlords' needs.
<a href="#">National Landlord Association</a>	UK's largest membership organisation for private residential landlords, which provides assistance to its members in navigating their legal and regulatory challenges.
<a href="#">Association of Residential Letting Agents</a>	A professional body for individuals working in residential property lettings and management in the United Kingdom.
<a href="#">Guild of Residential Landlords</a>	Provides services to help landlords manage and let their property. Provides help, advice, forms and templates including tenancy agreements and notices for landlords or agents.
<a href="#">Chartered Trading Standard Institute</a>	Represents trading standards professionals working in the UK and overseas – in local authorities, business and consumer sectors and central government.
Local Tenant Groups	Local tenant groups provide help and advice to tenants on housing.





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Ministry of Housing, Communities and Local Government  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF

Telephone: 030 3444 0000

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