

# Compliance and Enforcement Policy

## Annex 4: Housing Enforcement

### 1. Introduction

- 1.1 This annex supplements the Shared Regulatory Services Compliance and Enforcement Policy in establishing a consistent approach in respect of Housing Enforcement. It must be read in conjunction with that overarching policy.
- 1.2 Shared Regulatory Services is committed to improving the standards of private rented sector housing by ensuring that accommodation is well managed, properly maintained, safe and habitable. We recognise the significant role of the Private Rented Sector (PRS) within the local housing market and will continue to support good landlords and agents as they comply with the law to provide decent, well-maintained homes. At the same time, the Service is aware of issues that persist in the PRS, relating to the condition and management of properties and is committed to tackling unscrupulous landlords who continue to fail in their legal obligations and seek profit from their non-compliance.
- 1.3 SRS aims to advise owners, landlords and agents on the property standards they are expected to meet; support tenants in understanding their rights and responsibilities, and to take formal action when deemed necessary or where issues cannot be resolved amicably.
- 1.4 Officers tackle a broad and extensive range of housing issues, from tenant complaints concerning housing standards to the licensing and inspection of Houses in Multiple Occupation (HMOs). There is a statutory duty to enforce the provisions of the Housing Act (2004) and this annex sets out our approach when enforcing other housing-related legislation, such as the Public Health Acts 1936 – 1984 and the Environmental Protection Act 1990.
- 1.5 The different housing stock characteristics of the three partner Council areas bring different priorities and challenges. This means that there will be regional differences in the use of the different enforcement tools and levers that are available.
- 1.6 Where there is any conflict in interpretation between this annex and the overarching Compliance and Enforcement Policy, the latter will take precedence.

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## 2. Roles and responsibilities

### 2.1 Officers

2.1.1 It may be possible to take action in the following areas if conditions are not satisfactory. Please note that this list is not exhaustive).

- Property in disrepair (Hazards and Risks to Health)
- Entry by intruders
- Conditions within HMOs
- Vermin and infestation problems
- Fire safety
- Overcrowding
- Poor management
- Public Health Nuisance issues (e.g., accumulation of rubbish)
- Emergency health issues (e.g., lack of hot water/heating)
- Energy efficiency and excess heat/cold
- Inadequate security

2.1.2 Shared Regulatory Services will respond to complaints based on seriousness and risk of harm. If enforcement action is necessary, regulatory powers can be used to address and resolve the issue. In the first instance and where appropriate, we expect the landlord to take steps to rectify the issues before we intervene formally.

2.1.3 Officers will conduct inspections when there is a statutory duty to do so, or in cases where the Council considers it is appropriate to intervene. This could be a part of a proactive inspection programme or reactively if there is reason to believe a health and safety hazard exists.

2.1.4 Upon inspection, officers may use equipment to take measurements, samples, and photographs where appropriate. Following an inspection, officers will notify the reasons for enforcement action and specify the remedial works required over a specified timeframe and will distinguish between works that are a legal requirement and works that are best practice.

2.1.5 Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case with the person responsible and, if possible, resolve points of difference, unless immediate action is required (for example, an imminent risk to health and safety).

2.1.6 Where immediate action is considered necessary, an explanation of why such action was required will be confirmed in writing and accompanied by a statement of reasons in all cases within 10 working days.

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2.1.7 The Service is committed to ensuring that all its authorised officers have the necessary skills, competencies, and experience required for their roles and responsibilities. Officers will undergo Continuing Professional Development (CPD), training and development programs, to enable them to carry out their jobs effectively and efficiently.

## 2.2 Tenants

2.2.1 Before SRS will consider taking any action in respect of a tenanted property, we require tenants to first inform their landlords of any problems before contacting us. This initial communication allows landlords to begin addressing their legal obligations and resolve the issue informally. It is encouraged that concerns are made in writing, wherever feasible, as written evidence may be required by officers at a later date.

2.2.2 Contract-holders are expected to provide landlords with a reasonable time to inspect and carry out any repair work required. Timeframes are dependent on the type of repairs needed and can vary depending on how serious and complex the problem is. If the landlord fails to carry out the works needed by the agreed-upon date, then SRS will investigate and take action where appropriate.

2.2.3 Note that the below conditions may result in the withdrawal of an investigation (this is not an exhaustive list):

- Where the Council has evidence that the tenant(s) unreasonably refused access to the landlord, managing agent or landlord’s contractor, to arrange or to carry out any necessary works.
- The tenant(s) have, in the Council’s judgement, clearly caused the damage to the property which they are complaining about, and there are no other disrepair concerns. *(Please Note: Any damage that poses a significant risk to the health and safety of the tenant, will require rectification by the landlord, regardless of who is at fault for the damage).*
- Where the tenant(s) has requested a service and then failed to keep to an appointment and has not responded to a follow-up letter or appointment card.
- Where the tenant(s) is being aggressive, threatening or verbally or physically abusive towards officers.
- Where there is found to be no justification for the complaint on visiting the property.
- Where the tenant(s) has unreasonably refused to provide the Council with relevant documentation.
- Where the tenant(s) only reason for contacting SRS is, in the Council’s opinion, to get re-housed. Our Housing Enforcement teams are responsible for ensuring housing conditions are safe and habitable and do not serve to increase applicants’ priority on the housing register. Instead, the landlord will need to be contacted to remedy the issues at the property for the tenant to remain in situ.

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2.2.4 Officers will consider the views of occupants when determining the most appropriate course of action. Where there are concerns about vulnerable occupants, officers shall consult other relevant agencies (such as social services).

## 2.3 Landlords/Letting Agents

2.3.1 SRS expects landlords/letting agents to be aware of their legal obligations and to remain updated with any new or amended legislation/regulations.

2.3.2 A landlord must always keep the dwelling in repair. If a landlord/letting agent receives a service request from a tenant, the council expects the landlord to respond promptly and resolve the issues at the earliest opportunity without the need for the council's intervention.

2.3.3 Before entering a property, it is expected that landlords/agents provide written notice to their tenant (this could be in the form of an email, text, or letter). The landlord/agent must provide reasonable notice to tenants when an inspection is required or to complete work.

2.3.4 SRS expects landlords/letting agents to cooperate with their investigations for non-compliance as it may be considered an offence if an officer is obstructed when performing their duties. Officers also expect that any informal requests are complied with promptly.

2.3.5 Where appropriate, landlords are expected to submit a valid HMO licence application and meet management regulations.

2.3.6 Since 1<sup>st</sup> December 2022, landlords/letting agents have a duty to ensure their dwelling meets the **Fitness For Human Habitation** (FFHH) requirements. The FFHH Regulations place three specific requirements on landlords to help prevent certain matters and circumstances arising. These are:

- ensuring the presence of smoke alarms in proper working order
- ensuring the presence of carbon monoxide detectors in proper working order
- ensuring the inspection and testing of the electrical installation

**Please note:** *The FFHH requirements have been documented solely for the purpose of reference. Should requirements not be followed, SRS will not investigate or enforce, but rather will recommend that legal advice be sought.*

## 2.4 Leaseholder Complaints

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- 2.4.1 SRS sometimes receives complaints from leaseholders requesting assistance in taking action against other leaseholders or freeholders. SRS action will be limited to; failure to licence enforcement, statutory nuisance enforcement and Category 1 and Category 2 hazards enforcement, where the leasehold flat is tenanted.
- 2.4.2 In all other situations (e.g. civil disputes between freeholder and leaseholder), the leaseholder will be redirected to; [The Leasehold Advisory Service](#) and advised to contact a solicitor who specialises in leasehold law.
- 2.4.3 Further information can be found at: <https://www.lease-advice.org/wales-page/> or by contacting: 020 7832 2500.

## 2.5 Registered Social Landlords

- 2.5.1 Tenants who reside in social housing will initially be advised to follow their social housing provider complaints procedure unless circumstances dictate urgent action is required (i.e., there is an imminent risk to health and safety). On completion of the complaints procedure, officers will consider an inspection of properties in this category in the Bridgend and Vale of Glamorgan Council areas. Please note that this service is only available in the Bridgend and Vale of Glamorgan areas.
- 2.5.2 Where Registered Social Landlords (RSL) have a programme of work to improve their stock to meet the Welsh Housing Quality Standard, an informal approach will be taken to enforcement. However, should the informal approach fail or where urgent action is required to protect the safety and health of tenants, formal action will be considered.
- 2.5.3 When determining the most appropriate course of action officers will consider the views of the occupants. Where there are concerns about vulnerable occupants, officers shall consult with other relevant agencies to agree upon a suitable approach (i.e. social services and/or housing teams). For example, the availability of suitable alternative accommodation may need to be considered when dealing with a crowding and space hazard.

## 3. Housing, Health, and Safety Rating System (HHSRS)

- 3.1 SRS will respond to complaints from tenants, as well as other residents and stakeholders, about private housing. Complaints will be prioritised based on the severity and the risk of harm. Following a complaint, an inspection will be conducted in cases where the officer considers it appropriate.
- 3.2 The assessment of housing standards shall be made under the Housing Health and Safety Rating System (HHSRS). This is a risk-based assessment tool which allows officers to rate the impact of housing conditions on the health of occupiers.

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- 3.3 Twenty-nine potential hazards are assessed and scored for their severity. Appendix 1 refers to the hazards and their descriptions that form part of this scoring system. The scores are sorted into categories based on their sub banding.
- *Category 1 hazards (bands A-C)* indicate a serious danger to health and the Council must take appropriate action to reduce these hazards.
  - *Category 2 hazards (bands D-J)* indicate a less serious danger and the Council has the power, but no duty, to reduce category 2 hazards through appropriate action.
- 3.4 Under the Housing Act 2004, officers are equipped with a range of enforcement powers that can be used to remove or reduce any hazards identified to an acceptable level. Therefore, each case will be risk-assessed on their own merits to determine the most appropriate course of enforcement action.
- 3.5 Officers will make these judgements by reference to those who would be most vulnerable to the hazard, even if they may not be living in the property at the time. In determining what action to take, the Council will consider the hazard assessment score; whether the Council has a duty or discretion to act; the views of the occupiers; the risk to the current and likely future occupiers and regular visitors; and the presence of other significant hazards in the property.

## 4. Taking Enforcement Action

- 4.1 Section 8.4 of the SRS Compliance and Enforcement Policy is concerned with decisions on enforcement action and considers the broad range of enforcement options available to the Service. This purpose of this section is to set out the additional enforcement options available, specific to the administration of housing law, and these are considered from section 5 of this annex, onwards.
- 4.2 In deciding upon the type of enforcement action to take, authorised officers must have regard to the nature of the breach and the history of compliance of the business or individual. Unless circumstances indicate a significant risk, officers will operate a graduated and educative approach moving to more formal action where informal action does not achieve the desired effect.

## 5. Enforcement Approaches

### 5.1 Compliance advice and support

- 5.1.1 Section 6 of the overarching SRS Compliance and Enforcement Policy is concerned with the provision of advice and guidance to businesses as a means of achieving compliance.
- 5.1.2 Certain circumstances may not warrant any action to be taken other than to provide

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advice and support. Listed below are examples where this may be the case (this list is not exhaustive):

- Where a premises is found to be satisfactory, or the health and safety risk is considered sufficiently low enough.
- When it appears apparent to the officer that problems have arisen through the direct lifestyle or actions of the tenant or similar.
- Where another regulator or advice service is considered more appropriate.
- Taking legal action would be considered disproportionate or inappropriate against the case circumstances.

5.1.3 Ordinarily, officers will confirm by writing or telephone that no action is being taken. Where appropriate, officers may also advise if there are any legal avenues available to the complainant where issues can be resolved without SRS intervention.

## 5.2 Informal Action

5.2.1 Officers may work on an informal basis with those involved to seek improvement and remedial works unless the case circumstances warrant officers to take a formal approach. Formal action will always be considered except where one of the following situations apply:

- There is no legislative requirement to serve a formal notice or order and the circumstances are not serious enough to warrant formal action.
- History suggests informal action will achieve compliance.
- There is confidence in the management or the individual.
- The consequences of non-compliance will not pose a significant risk to occupiers or the public at large.
- There is recognition from the landlord and a credible plan for completing the works.

5.2.2 Informal action can be provided through verbal advice, written communication (e.g., e-mail) or schedules of work detailing the action recommended.

5.2.3 Advice provided by SRS officers will clearly differentiate between items that are legal requirements and those that are recommended as good practice. Details of the defects at the property and how the landlord can rectify the problem will be provided. Landlords will be given an opportunity to discuss the matter further.

5.2.4 It will be clearly stated that failure to comply with informal requests to meet legal requirements may result in formal action being taken.

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### 5.3 Formal Action

5.3.1 Where the circumstances of the case justify it, or compliance with a statutory requirement has not been achieved by informal action, a range of formal enforcement options are available, and these are considered in the sections that follow.

## 6. Formal action under the Housing Health and Safety Rating Scheme

6.1 Officers can resort to the formal action measures under the Housing, Health and Safety Rating Scheme (HHSRS) listed below.

- Hazard Awareness Notice
- Improvement Notice (including a Suspended Improvement Notice)
- Prohibition Order (including a Suspended Prohibition Order)
- Emergency Prohibition Order
- Emergency Remedial Action
- Demolition Order
- Clearance Area Declaration

6.2 The Council is limited to taking only one of the actions mentioned above at any given time concerning a particular hazard (unless one of the actions is an emergency action). However, if the action taken proves to be ineffective, it can be modified or repeated.

6.3 In each case where the Council has decided to take any of the above actions, a statement of reasons will be provided alongside the notice or order.

6.4 Where reasonably practicable, any proposed enforcement action will be discussed with the relevant person prior to the service of any notice or order under Part 1 of the Act, and their representations sought.

6.5 The remainder of this section provides further detail on each of the HHSRS enforcement options listed in above.

### 6.5.1 Hazard Awareness Notices

6.5.1.1 A Hazard Awareness Notice (HAN) provides formal notification to an owner or landlord of the existence of a hazard at their residential premises. If a hazard is identified, but not addressed it may have future implications upon the property.

- Hazard Awareness Notices relating to Category 1 Hazards; Section 28
- Hazard Awareness Notices relating to Category 2 Hazards; Section 29

6.5.1.2 To serve a HAN, the Council needs to be satisfied that a hazard exists and that there is no management order attached to the property.

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6.5.1.3 This notice sets out the hazards of concern and the remedial action officers believe would reduce the hazards. A HAN is not enforceable and therefore there is no right of appeal.

## 6.5.2 Improvement Notices

6.5.2.1 An improvement notice requires the person responsible to carry out a described set of remedial works to reduce or remove the hazard(s) identified within a specified timeframe.

- Improvement Notices relating to Category 1 Hazards; Section 11
- Improvement Notices relating to Category 2 Hazards; Section 12

6.5.2.2 The notice will be placed as a local land charge on the property. Failure to comply with an Improvement Notice is a criminal offence and enforcement action can be taken in relation to this, such as prosecution or works in default.

6.5.2.3 Officers will not serve an improvement notice unless they are confident that they have sufficient evidence to defend against an appeal. All improvement notices served will contain information about the right to appeal to the Residential Property Tribunal (RPT).

## 6.5.3 Prohibition Orders

6.5.3.1 A prohibition order is used to prevent the use of all or part of a dwelling, for certain defined purposes or for specific types of tenants who are particularly at risk or may be at risk when subject to the hazard.

6.5.3.2 Prohibition Orders may serve as the most appropriate form of enforcement action when housing conditions present a risk, but remedial action is unreasonable or impractical i.e., work cannot be carried out with the tenant(s) in residence. In an HMO a prohibition order can be used to prohibit the use of specified dwelling units.

- Prohibition Orders relating to Category 1 Hazards; Section 20
- Prohibition Orders relating to Category 2 Hazards; Section 21

6.5.3.3 A prohibition order will be placed as a local land charge on the property. Failure to comply with a Prohibition Order is a criminal offence and enforcement action can be taken in relation to this, such as prosecution.

6.5.3.4 Officers will not serve a Prohibition Order unless they are confident that they have sufficient evidence to defend against an appeal. All orders will contain information about the right to appeal.

6.5.3.5 Certain Category 1 hazards may warrant an [Emergency Prohibition Order: Section 43](#). This has the same effect as a Prohibition Order but comes into force immediately.

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## 6.5.4 Suspension of an Improvement Notice and Prohibition Order

6.5.4.1 A suspension may be enacted when enforcement action can be safely postponed until a specified event or time.

- Suspension of Improvement Notice; Section 14
- Suspension of Prohibition Order; Section 23

6.5.4.2 A suspension might be considered as the preferred enforcement choice where:

- i) There is good reason to defer enforcement action.
- ii) It is appropriate to wait until a particular circumstance ends, or a person departs, or ceases to occupy the premises.
- iii) An Improvement Notice or Prohibition Order has been served and remains non-compliant.

6.5.4.3 A suspended notice must be reviewed by the local authority within a year of when the notice was served, and at least annually thereafter.

6.5.4.4 The following are example situations in which it may be appropriate to suspend an Improvement Notice:

- The need to obtain planning permission (or other appropriate consent) that is required before repairs and/or improvements can be undertaken.
- Works which cannot properly be undertaken whilst the premises are occupied, and which can be deferred until such time as the premises falls vacant or temporary alternative accommodation can be provided.
- Personal circumstances of occupants; for example, temporary ill health, which suggests that works ought to be deferred.

## 6.5.5 Revocation and Variation of Improvement Notices and Prohibition Orders

6.5.5.1 A revocation may be considered in cases where the Council is satisfied that an improvement notices or prohibition order has been complied with.

- Revocation and Variation of an Improvement Notice; Section 16
- Revocation and Variation of a Prohibition Order; Section 25

6.5.5.2 In the case of a notice or order that applies to more than one hazard, the requirement of compliance applies to each hazard individually.

6.5.5.3 The Council may also vary an improvement notice in the following circumstances:

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- Where part of a notice, which relates to more than one hazard, has been revoked the remainder of the notice may also be varied as considered appropriate.
- With the agreement of the person on whom the notice was served
- In the case of a suspended improvement notice, alter the time or event specified that triggers the end of suspension.

### 6.5.6 Emergency Remedial Action (Section 47)

6.5.6.1 This action permits the Council to intervene and carry out works to remove one or more Category 1 hazard(s) at a property. Officers may consider this action when satisfied that:

- A Category 1 hazard exists on a residential premises and
- There is an imminent risk of serious harm to the health and safety of any occupiers and
- No management order is in place under Part 4 of the Act.

6.5.6.2 The Council will take emergency remedial action upon the relevant person within 7 days to inform them of the hazard and works taking place at their property.

6.5.6.3 Officers will not take emergency remedial action unless they are confident that they have sufficient evidence to defend an appeal against the notice.

### 6.5.7 Demolition Orders (Section 46)

6.5.7.1 Requires the demolition of a property and will only be considered by SRS in circumstances where Category 1 hazards are present; no management order is in place (under Part 4 of the Act) and remedial works are not possible or reasonable because of excessive cost, or other reason.

6.5.7.2 Consideration will be given to the following:

- Availability of local accommodation for rehousing
- The sustainability of the accommodation if the hazard(s) were remedied
- The prospective use of the cleared site
- The local environment i.e., the suitability of the area for continued residential occupation and the impact of a cleared site on the appearance and character of the neighbourhood.

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## 6.5.8 Clearance Areas (Section 47)

6.5.8.1 The Council may decide to declare a clearance area on a single or group of properties where it is satisfied that:

- The residential building(s) in the area contains a category 1 hazard, and that other buildings in the area (if any) are dangerous or harmful to the health or safety of the residents.
- The residential buildings in the area are dangerous or harmful to the health or safety of the residents because of their bad arrangement or the narrowness or poor arrangement of the streets.
- Each of the residential buildings in the area contains a Category 2 hazard and that the other buildings in the area (if any) are dangerous or harmful to the health or safety of the residents. The circumstances of the case are specified or described in an order made by the Welsh Assembly Government.

## 6.5.9 Appeals

6.5.9.1 Any person served with a notice/order has the legal right to appeal to the Residential Property Tribunal under The Housing Act (2004). Further details on the process for an appeal are contained in the relevant notice or order.

## 6.5.10 Failure to comply with an Improvement Notice

6.5.10.1 Subject to the type of notice served an example of non-compliance can include:

- No works initiated.
- Not starting the work by the time specified within the notice.
- Works remaining incomplete by the completion date.

6.5.10.2 If the recipient of a notice does not comply, the Council may enforce the subsequent action.

- Undertake Works in Default
- Issue a Caution
- Pursue a Prosecution

## 7. Simple Caution

7.1 See section 9.4.4 of the Shared Regulatory Services Compliance and Enforcement Policy for details.

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## 8 Prosecution (Section 30 & 32)

- 8.1 Prosecution will be considered as a course of action where there has been a failure to comply, 'without reasonable excuse', with the requirements of an operative improvement notice or prohibition order.
- 8.2 See section 9.4.5 of the Shared Regulatory Services Compliance and Enforcement Policy for details.

## 9. Works in Default (Section 31)

- 9.1 In circumstances where SRS have legally required someone to do work, but they have failed to do so, powers are available to carry out works in their default. This action may be taken with or without the agreement of the person responsible and a contractor will be appointed to carry out the required work.
- 9.2 SRS may consider this course of action in any of the following circumstances:
- There is an imminent risk to the health and safety of tenants or the public.
  - Where a person has failed to comply with the requirements of an improvement notice.
  - Where reasonable progress, to the requirements of the notice, is not being made.
- 9.3 In most cases, notice from the council to carry out works in default will be provided. Once work has commenced it is an offence to obstruct the Council or any appointed contractor(s) to carry out the required work.
- 9.4 The Council will seek to recover costs and associated expenses through the courts.
- 9.5 Prosecution may still be considered irrespective of whether Works in Default has been carried out to alleviate the hazard.

## 10. Power to Charge for Enforcement Action (Section 49)

- 10.1 Under the Housing Act (2004) Section 49 local authorities have the power to make a charge to recover administrative and other expenses incurred by them when taking enforcement action.
- 10.2 It will be the policy of the Council to make a charge for taking enforcement action, our latest fees can be found here: [Shared Regulatory Services Fees and Charges](#)
- 10.3 The purpose of this fee is to cover the cost of the inspection of the premises, the consideration of any action to be taken and the service of a notice/order incurred by officers.

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## 11. Power to Recover Certain Expenses

- 11.1 Where the Council undertakes works in default or exercises its power to take emergency remedial action, it will seek to recover the expenses reasonably incurred in doing so, in addition to any administrative charges from the relevant person.
- 11.2 Expenses will be recovered by demanding a payment of the charge. At the time that the demand becomes active, the sum recoverable will be registered as a local land charge on the premises concerned. Once the debt is cleared the registered charge will be removed.

## 12. Powers of Entry

- 12.1 The council has the power of entry to properties at any reasonable time to carry out its duties under Section 239 of the Housing Act 2004 provided that the officer has:
- written authority from an appropriate officer stating the purpose for which entry is authorised and
  - given at least 24 hours' notice to the owner (if known) and the occupier (if any) of the premises they intend to enter.

**Note:** In certain cases, prior notice may not be given when entry is required to determine whether an offence has been committed in relation to the licensing and management regulations of HMOs (under sections 72, 95 or 234(3) of the Housing Act, 2004) or where emergency remedial action is being undertaken.

- 12.2 The power of entry also allows officers to leave recording equipment in a property for later collection. The equipment must be relevant to the officer's enforcement powers.

## 13. Houses in Multiple Occupation (HMO)

The Housing Act 2004 introduced mandatory licensing for larger, higher-risk HMOs (Houses in Multiple Occupation), and provided discretionary powers to licence smaller, multiple-occupied properties.

### 13.1 Mandatory HMO licensing

- 13.1.1 A Mandatory licence is currently required for HMOs with three or more storeys with five or more occupiers forming two or more households and sharing amenities either a kitchen, bathrooms, or W.C.

### 13.2 Discretionary licensing

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13.2.1 As defined by parts 2 and 3 of the Housing Act (2004), Local Authorities have powers to require landlords of specific privately rented properties to apply for a licence.

13.2.2 There are two types of discretionary licensing, that can be utilised: Selective Licensing and Additional Licensing.

- Additional licensing may be considered appropriate by the Council in areas that contain a high concentration of poorly managed HMOs. Consideration of this action would benefit tenants of smaller HMO properties that are not covered under mandatory licensing. The license requirements aim to improve the safety standards and the living conditions of HMO properties.

**Note:** Cardiff Council has declared some areas of the city as discretionary licensing areas, landlords and agents need to check to see if their property(s) are in the relevant areas.

- Selective licensing may be considered appropriate by the Council in areas that contain a high proportion of properties in the private rented sector and there are issues in relation to, housing condition, migration, deprivation, or crime. SRS has not yet adopted selective licensing, but the situation will remain under review.

### 13.3 Licensing an HMO

13.3.1 The aim of licensing is to ensure that every licensable HMO is safe for the occupants and is properly managed. The responsibility to ascertain whether the building should have a licence rests with the person having control of or managing the property.

13.3.2 On receipt of a new application, an officer will contact the applicant to arrange an inspection of the licensable property. Following the inspection, a draft licence with a schedule of work and its timescales will be issued for comments. After the consultation period has lapsed for the draft licence, a full licence will be issued.

13.3.3 SRS will actively enforce HMO licence conditions to ensure continued compliance with the scheme, and to ensure the health and safety of all occupants. All licensed HMOs will continue to be inspected once at least every five years to ensure that licence conditions are being met.

13.3.4 It is also the landlord's responsibility to re-licence a property as necessary. Landlords who fail to reapply for a licence in properties that require a renewal of their licence or fail to provide the required information or the appropriate fee, may be investigated for failing to licence a licensable property.

### 13.4 Fees

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13.4.1 The Council will charge a fee for HMO licence applications. Fees will be set to cover costs incurred in administering the licensing schemes. Our latest fees can be found here: [Shared Regulatory Services Fees and Charges](#).

## 13.5 Licensing Offences

13.5.1 The Housing Act (2004) details the HMO licensing offences that include, without reasonable excuse:

- Failure to licence an HMO.
- Exceeding the number of occupants than the HMO licence allows.
- Failure to comply with any of the conditions specified on the licence.

13.5.2 If you are unsure as to whether an HMO property requires a licence you can contact us, and our officers will be able to provide advice.

13.5.3 To check whether a property has been licensed you can also check the [HMO public register](#).

## 13.6 Duration of Licences

13.6.1 Licences will normally be granted for the full five-year period. We may reduce the length of the licence from five years to an appropriate reduced period:

- where the property has not been satisfactorily managed or there are management concerns
- where officers are concerned the proposed management arrangements may not be satisfactory and want to see evidence that they are suitable, before allowing a longer licence period to be granted.

13.6.2 In the case of a renewal of a licence to the same licence holder, the Council will normally grant a new licence for a period of five years, from the date of expiry of the previous licence.

## 13.7 Fit and Proper Person Check

13.7.1 Each application will be considered on its own merits to ensure that only fit and proper persons hold licences. If a licence is to be refused on the ground that a person is not fit and proper, the Council must be able to justify its decision with clear reasons.

13.7.2 If the Council has refused to award a licence because the applicant was not a fit and proper person, the Council will consider an alternative application from another manager who is fit and proper and sufficiently competent to hold the licence.

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13.7.3 A person’s fit and proper status may be reviewed at any time if circumstances change. If found that the person does not satisfy this standard, it may result in the refusal of an application or revocation of an existing licence(s).

## 13.8 Interim and Final Management Orders

13.8.1 The Council may decide to use their powers to take over the management of an HMO and become responsible for running the property, collecting rent, and creating new tenancies.

13.8.2 An Interim Management Order transfers the management of a residential property to the council for a period of up to twelve months. A management order will only be considered as a measure of last resort in situations where there is no prospect of a qualifying HMO being licensed.

13.8.3 The Council would look to a partner Housing Association and / or local letting agencies to manage the HMO on the Council’s behalf.

13.8.4 In exceptional circumstances, the council can also apply for a Final Management Order (FMO) which can last for up to five years.

## 13.9 Rent Repayment Order

13.9.1 A Rent Repayment Order is a financial penalty placed upon a landlord who, without reasonable excuse, manages or lets a property which ought to be HMO licensed under the Housing Act 2004.

13.9.2 A tenant or former tenant can make an application to the Residential Property Tribunal to impose a Rent Repayment Order. If successful, tenants can reclaim up to twelve months rent.

## 13.10 Temporary Exemption Notice

13.10.1 The Council will only serve a temporary three-month exemption notice, when officers are confident that steps are being taken to make an HMO non-licensable.

13.10.2 If we refuse to grant a temporary exemption notice we will advise the applicant by a notice, as soon as possible, and give the reasons for refusal and appeal details.

13.10.3 In exceptional circumstances a second TEN can be served for a further three-month period and will be considered on a case-by-case basis.

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