

DARTFORD
BOROUGH COUNCIL

**Private Sector
Housing
Enforcement
Policy**

March 2009

DARTFORD BOROUGH COUNCIL

PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

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A. FRAMEWORK FOR ENFORCEMENT ACTION

1. This policy sets out the general principles, relevant legislation and guidance which will be applied in relation to enforcement action taken within the Private Sector Renewal Team. Its implementation and effectiveness will be monitored and reviewed on a regular basis.
2. The policy is designed to:
 - Ensure consistency of approach and enforcement
 - Enable Council Officers to make reasoned decisions regarding enforcement
 - Inform the public of the principles by which enforcement action is determined and subsequently taken
3. In exercising the duties and other functions of the Private Sector Renewal Team, Officers will seek to do so in a firm but fair, open, consistent and helpful manner.
4. In 2001, the Council adopted the Enforcement Concordat developed by the Cabinet Office and Local Government Association. The principles of this are embodied in the Housing Services Enforcement Policy developed in 2008. The Council also operates with due regard to the guidance outlined in the Office of the Deputy Prime Minister's Housing Health and Safety Rating System Enforcement Guidance. Any enforcement action taken will be compliant with these guidelines.
5. All enforcement actions should follow four key principles :
 - proportionality in the application of the law and in securing compliance
 - consistency of approach
 - transparency about how we operate and what those regulated may expect from us
 - targeting of enforcement action.
6. All investigations into alleged breaches of legislation will follow best professional practice and the requirements of:
 - The Human Rights Act 1998
 - The Regulation of Investigatory Powers Act 2000
 - The Police and Criminal Evidence Act 1984 – Codes of Practice
 - The Criminal Procedures & Investigations Act 1996
 - The Code for Crown Prosecution 2004
 - Regulatory Enforcement and Sanctions Act 2008
 - Regulators' Compliance Code - Statutory Code of Practice for Regulators 2007
7. It is recognised that there may be circumstances where shared or complimentary enforcement action may be taken with other agencies. In

these cases, the Council will liaise with the other body to ensure that; action is effectively co-ordinated, proceedings instituted are for the most appropriate offence and that inconsistencies are avoided. Other bodies may include the Police, Health and Safety Executive, Kent County Council, Immigration Services and internal departments such as planning, building control and the Public Safety Unit. The Council benefits from close working arrangements with the local Office of the Kent & Medway Fire & Rescue Service and follows the principals embodied in the draft "Protocol between Local Housing Authorities in Kent and the Kent & Medway Fire & Rescue Authority" 2007. The Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005 places duties on both the Council and the local Fire Safety Unit to enforce fire safety provisions within housing in the borough. This protocol document assists in this by providing a framework of property types and guidance on which enforcement authority should take the lead. In respect of means of escape and fire detection in Houses in Multiple Occupation, the Council will consult with the fire authority as far as practicable.

B. LEGISLATION

8. The Council's Private Sector Renewal Team is responsible for enforcing a wide range of statutory provisions relating to housing standards and environmental conditions affecting health and safety.

The Acts concerned are:

- Housing Act 1985
- Housing Act 2004
- Environmental Protection Act 1990
- Public Health Act 1936 (as amended)
- Building Act 1984
- Local Government (Miscellaneous Provisions) Act 1976
- Caravan Sites and Control of Development Act 1960
- Landlord & Tenant Act 1985

9. The principle piece of legislation used by the Private Sector Renewal Team is the Housing Act 2004. However, there are circumstances where other legislation may be more appropriate in dealing with an identified problem. Officers will be expected to use professional judgement to determine the most appropriate piece of legislation to use; in some cases a range of enforcement tools may be appropriate.

C. PRIORITIES

10. Cases dealt with within the Private Sector Renewal Team include Houses in Multiple Occupation (HMO's), single dwellings ,empty properties and caravans.
11. The Team consists of one full time Manager, one part time Senior Officer, one full time Officer, two part time Officers and a full time administrator. It is therefore necessary to assess and prioritise cases for urgency and the type of action which is appropriate.
12. All complaints/service requests received are dealt with /prioritised by the Officer using their professional judgement and knowledge of the Housing Health and Safety Rating System (HHSRS) and based on the information provided/requested. This may result in advice being given, information sent or a visit being made.
13. In the case of complaints about the condition of a single occupied property, in the first instance complainants are advised to inform their Landlord in writing of any defects and ask for these to be rectified within a reasonable period from the date of the letter. A copy of this should be provided to the Private Sector Renewal Team and notification given at the appropriate time should the Landlord fail to carry out repairs or offer an acceptable response. At this point, further intervention by the appropriate Officer will be required if matters have not been remedied or if there is no evidence of reasonable progress to undertake repairs. (see paragraph 15).
14. In the case of a complaint as outlined in paragraph 13 received where the Officer deems that there is an imminent risk of harm to the health and safety of the occupiers then more immediate action will be taken. Issues falling into this category could include electrical, gas, water and structural issues.
15. In prioritising demand for action, the Private Sector Renewal Team on reviewing housing conditions within the Borough, or following a complaint or for any other reason, consider it appropriate to determine whether a Category 1 or 2 hazard exists under the HHSRS, an inspection will be undertaken. Similarly, where an official complaint about the condition of residential premises is made by a Justice of the Peace or a Parish or a Community Council, an inspection will be made. Formal enforcement by way of service of a notice will not be undertaken where only Category 2 (low bands G – J) are evident.
16. For HMO's, the Council operates a 'desktop risk assessment' system to prioritise when a full HHSRS inspection is required; this operates over a five year period from April 2006 (see appendix 1). At the end of the five year period i.e. 2010/'11, the programme will be 'rolled on', with year one (known as priority year) becoming 2011/'12 and so on. All premises will be

re visited in accordance with the original priority year given and any new cases allocated a priority year for a visit.

17. The desk top assessment is processed using various information sources:

- Historic information held on files and 'Uniform' records which could relate to planning, building control, complaints etc
- Information provided on a Housing Act 2004 HHSRS Questionnaire which is sent to the owner of new cases which have arisen (see appendix 2)
- Information gathered by the Officer whilst conducting an initial inspection of a property which is subject to a complaint or service request.

D. GENERAL PRINCIPLES

18. The aim of the Private Sector Renewal Team is to improve the housing conditions in the private sector by use of advice and education. However, there are occasions where these methods are not successful in improving conditions and therefore, it is necessary to consider enforcement action.
19. Officers will be expected to follow the principles outlined in Section A of this document. In order to achieve this, Officers will be expected to be transparent in the way they have made decisions by keeping clear records and file notes. All remedial work that is required must be sufficient to adequately remove or reduce risks but not so excessive as to be burdensome.
20. Officers will use their skill, knowledge, experience and judgement to decide how individual cases should be dealt with and whether a situation should be resolved by informal means or by formal proceedings. Officers will take advice and guidance from senior officers where appropriate.
21. Enforcement will be carried out with due regard to the circumstances of the individual or business and to ensure that the rights of individuals and organisations are safeguarded.
22. The Private Sector Renewal Team is committed to the promotion of equal opportunities in all of our activities. Every effort will be made to ensure that everyone is treated equitably and fairly, regardless of sex, colour, race, nationality, ethnic group, regional or national origin, age, marital status, disability, political or religious belief, sexuality or class, as identified in the Council's Comprehensive Equality Policy.

E. LEVELS OF ENFORCEMENT ACTION

While formal enforcement action is a necessary and important part of the enforcement process, it is generally viewed as a last resort. Officers will seek compliance with legislation by one or more of the following :

23. Advice and guidance: to assist individuals, existing and prospective businesses and other organisations to comply with their legal obligations. This will be achieved by providing both information leaflets and the opportunity for face-to-face contact to discuss and help resolve potential problems.
24. Informal enforcement: when the Council becomes aware of a breach of the law, Officers will normally inform the appropriate person verbally and details will be confirmed in writing. The letter will include the nature of the problems and advice on what remedial action is necessary to remedy the hazard or defect. The appropriate person will be given a timescale of 14 days within which to make contact to outline their intentions (see appendix 3 for an example letter relating to Housing Act 2004). Where a response is received and a timescale for completion of works is agreed, it is not necessary to proceed to formal action. However, if no response is given to the letter within the timescale, or agreement cannot be reached to the extent of the works or the timeframe for their completion, then Officers will proceed to the formal enforcement stage. This will also occur when agreed works are not completed satisfactorily or on time.
25. Formal enforcement: this includes the use of statutory (legal) notices and formal cautions where informal action has failed to achieve a satisfactory resolution. Prosecution will normally be taken in instances where there is a failure to comply with a notice within the specified time period or there is a subsequent breach of the statutory notice.
26. Immediate action: this includes the power to take emergency action by entry to premises (with a warrant if necessary) and making safe areas or articles which cause imminent danger or serious harm.
27. Enforcement will normally progress from advice to formal enforcement. In serious cases, for example where the offence involves a significant breach of the law such that the residents health, safety, environment or well being is or has been put at risk, it may be appropriate to commence formal enforcement immediately.
28. Interim Measures: In the case of HMO's, Officers may request that short term interim measures are taken by the appropriate person to improve health and safety at the premises. Types of works may include the installation of battery operated smoke/heat detectors, clearance of means of escape routes, provision of a 30 minute fire door on a Kitchen. Circumstances where these measures may be requested include when the HMO occupancy is likely to cease within a short period of time (such as 28 days) or whilst a planning application is being considered for a change of

use of the premises. These requests are at the discretion of the Senior HMO Officer/Private Sector Renewal Manager and may not be appropriate for all HMO's.

F. HOUSING ACT 2004

29. The Housing Health and Safety Rating System (HHSRS) is an evidence based risk assessment system utilising statistical data on the impact of housing conditions on health. The system assesses the likelihood of an occurrence that could cause harm and the probable severity of the outcome of such an occurrence within a 12 month period. The first part of the process involves the inspection of a dwelling, identifying whether there are any of 29 hazards present. Each identified hazard is then scored and this score (the hazard rating)) places the hazard in one of 10 bands A to J. Any hazards scoring within a band A, B or C are classed as Category 1 Hazards, whilst those falling in bands D to J are known as Category 2 Hazards.
30. In the case of a Category 1 hazard, the local authority has a duty to act. For hazards classed as Category 2, the authority has discretion to act.
31. When either category of hazard is identified in a property, action will commence at the informal stage as outlined in section E (unless emergency action is required).
32. There are a number of enforcement tools available to deal with Category 1 and 2 Hazards in privately rented properties:
- serve an improvement notice
 - make a prohibition order
 - serve a hazard awareness notice
 - take emergency remedial action (category 1 only)
 - make an emergency prohibition order (category 1 only)
 - make a demolition order
 - declare a clearance area
 - require the production of documentation (see paragraph 53)

Appendix 4 gives an overview of the enforcement procedure.

33. The Council cannot take more than one of these actions (unless it is an emergency action) at any one time but can vary the action required if one of the actions taken has proved unsuccessful.
34. Section 8 of the Act requires that all Notices and Orders should have a statement of reason attached to them. The statement should include why one type of enforcement action was taken over another. A copy of the statement must accompany the notice or order.
35. When an Improvement Notice is served and there is a change in ownership of the property, the notice can be enforced on the new owner or recipient. However any outstanding liabilities such as fines will remain with the original owner or recipient of the notice.

36. It is likely that Improvement Notices, Hazard Awareness Notices and Emergency Remedial Action will be the most frequently used courses of action. With the exception of a Hazard Awareness Notice, other notices/orders are registered as a local land charge.
37. If an enforcement notice is served on an HMO and it reverts to a single occupation, the Council will consider whether the impact of the hazard has diminished and take appropriate action ie to withdraw the notice or amend.
38. Level of remedial works required - As a minimum, category 1 hazards must be reduced to a low category 2. Where this is not possible all reasonable steps must be taken to reduce the hazards as far as reasonably practicable. In some cases, such as listed buildings, category 1 hazards may remain. This scenario should have been considered when deciding which course of action is most appropriate and may influence the officer's decision as to which type of enforcement action to take. When deciding on the remedial works, regard must be given to the seriousness of the hazard, the ideal that the property should achieve, and the level of work required that is reasonable to reduce the hazard significantly without incurring excessive cost. For the hazard of fire, where the property is an HMO, section 10 of the Housing Act 2004 states that the Local Housing Authority must consult with the Fire Authority before taking any action and deciding on the remedial works.

39. Improvement Notice

- An improvement notice can be served on all Category 1 and 2 hazards. It must, as a minimum, remove all Category 1 hazards and the hazard should not recur within 12 months of the notice. A notice can contain more than one hazard and it is our policy to deal with all Category 1 and Category 2 hazards at the same time.
40. Timescales for remedial works must be 28 days or more from the date of service of a notice. Different deadlines may be set for different hazards; these will be assessed on an individual basis by the Officer and consideration will be given to the urgency, complexity and quantity of works required. In general **minor works** will be classed as those costing up to £1000 to be completed by professional tradesperson, and will be given 28 days to be completed. **Intermediate works** will be classed as those costing up to £5000 to be completed by professional tradesperson, and will be given 2 months to be completed. Whilst **major works** will be classed as those costing over £5000 to be completed by professional tradesperson, and will be given 3 months to be completed. Once the work has been completed, with the notice must be revoked formally in writing; a copy of this standard letter can be viewed in Appendix 5. Improvement notices are registered as local land charges and any appeal must be made within 21 days of the service of a notice.

41. Prohibition Order

A prohibition order can be served for both Category 1 and Category 2 hazards. It would become effective after 28 days. It may prohibit the use of part or all of the premises for some or all purposes or occupation by a particular number of households or individuals. For example;

- where remedial action is unreasonable or impractical and conditions present a high risk
- to specify the maximum number of persons that should occupy a dwelling
- to specify the maximum number of person or households who should occupy the dwelling where there are insufficient facilities
- to prohibit the use of a dwelling to a specific group of people

42. Regard will be given to the risk of social exclusion, whether the premises are listed or in a conservation area, the owner proposes to consider alternative uses, the effects on the community and the effect on the availability of local accommodation for re-housing any displaced occupants.

43. Prohibition orders will be registered as local land charges and any appeal must be made within 28 days.

44. Compensation may be available in certain cases.

45. Suspending a Notice

A local authority may suspend the action specified in an Improvement Notice or Prohibition Order. The notice to suspend may specify certain trigger points such as non-compliance of an undertaking given to the Authority or a change in occupancy. The trigger points will be clearly stated in the notice.

The Council needs to consider the likely tenants who, in the next 12 months, could potentially occupy a premise, before deciding to suspend a notice.

46. Emergency Measures

Where the Council is satisfied that a hazard presents an imminent risk to the occupants of a premises emergency measures can be taken. It is for the Council to determine what constitutes an imminent risk. Emergency measures include emergency remedial action or an emergency prohibition order. Any appeal must be made within 28 days. An appeal will not prevent emergency action from being taken.

47. Emergency Remedial Action

Where a Category 1 hazard exists and there is an imminent risk of harm to the occupier, the Council may enter a premise (with a warrant) to take remedial action to remove the imminent risk of serious harm. The Council will serve a notice within 7 days of remedial action.

48. Emergency Prohibition Orders

If in the view of the Council the hazard involves a serious risk of harm to the occupant, the Council may enter a premise to prohibit its use. The order

will take effect immediately. It is for the Council to consider whether the action carried out gives grounds to revoke or vary the order.

49. Hazard Awareness Notice

The Hazard Awareness Notice is discretionary and may be used as a response to a minor hazard. There is no appeal and the notice is not registered as a local land charge. It may be considered where the landlord has agreed to carry out repairs informally. It may also be considered for Category 1 hazards where the Council wishes to inform an owner-occupier of a particular hazard. In consideration of this the Council must take account of the likelihood of harm to people who may visit the property and the vulnerability of the occupants. The Council must be able to justify why it took a more lenient approach. It may not be appropriate to serve a Hazard Awareness Notice where there are risks of falling objects such as slates from a roof. This is because it would be a clear risk to those visiting the premise as well as the owner-occupier.

50. Demolition Orders

This is a possible response to a Category 1 hazard. In deciding, the Council should:

- take into account the availability of replacement housing for the occupants
- take into account the demand for and sustainability of the accommodation if the hazard was remedied
- consider the prospective use of the cleared site
- consider the local environment and the impact of a cleared site on the appearance and character of the neighbourhood.

51. Clearance Area

The Council can declare an area a Clearance Area if it is satisfied that each of the residential buildings in the area contains one or more Category 1 hazards (or these buildings are dangerous/harmful to the health and safety of the occupants as a result of bad arrangements), and any other buildings in the area that are dangerous or harmful to the health of the inhabitants. Significant statutory consultation forms part of this process.

52. Powers of Entry

The Council has the power of entry to properties to carry out its duties under the Housing Act provided that:

- the officer has written authority stating the purpose for which entry is authorised
- the officer has given 24 hours notice to the owner or occupier of the premises they intend to enter

If this proves unsuccessful the Council will obtain a warrant from a Justice of the Peace to include the power of entry by force if necessary. If prior warning of entry is likely to defeat the purpose of the entry then a warrant can also be obtained.

53. The Council also has the power to require documentation to be produced in connection with its enforcement (Parts 1–4 of the Housing Act 2004) by a notice. The notice will specify the consequences of not complying. Copies of documents can be obtained and kept by the Council.

54. Category 1 and Category 2 Hazards – Risk Assessment

Where a Category 1 hazard exists the Council has a duty to take action. However the Council does have discretion on how to prioritise action – the greater the hazard the higher the risk to the most vulnerable occupant. It may be necessary for the Council or its officers to prioritise their cases with the highest risk first. Appendix 6 illustrates prioritisation of hazards and options for action.

In the case of Category 2 hazards (i.e. those where the Council has discretion) regard will be made to:

- The number of individual Category 2 hazards at the property which would appear to create a more serious situation when looked at together
- Whether the Council is already taking action to deal with Category 1 hazards in which case moderate Category 2 (D and E) hazards should be enforced at the same time.
- The potential for the hazard to become a Category 1 hazard within a short duration (under 2 years)

55. Power to Charge for Enforcement Action

Section 49 of the Housing Act 2004 allows the Council to make a reasonable charge to recover certain administrative and other expenses incurred by them in taking enforcement action and Dartford Council has taken the decision that it will do this. Enforcement action which will incur a charge include:

- serving an Improvement Notice
- making a Prohibition Order
- taking Emergency Remedial Action
- making an Emergency Prohibition Order
- making a Demolition Order

The charge may include for:

- determining whether to take such action (including the cost of any inspections)
- identifying any action to be specified in the Improvement Notice or Emergency Remedial Action Notice
- serving the notice or serving copies of the order.

Appendix 7 illustrates the types of work/actions that may be included in the charge calculation. This operates on a calculation of the relevant officers time spent on a task and the Officers hourly rate levied including on costs.

Appendix 3 outlined in paragraph 24 provides the appropriate person the opportunity to remedy the hazard on an informal basis, without the need to serve a formal notice and the charges this will involve.

Whilst there is no statutory maximum charge, the Council has made the decision to cap the charge to a maximum of £1000.

Generally a Notice of Entry will trigger the start of the charging period.

The Council will charge for taking enforcement action unless extenuating circumstances are exhibited; when it will be reported to the Head of Housing Services for consideration and determination as to whether the charge will be reduced or waived.

Examples of extenuating circumstances are where the responsible person is providing accommodation for others and is:

- vulnerable due to their personal circumstances. This may include people who have physical or sensory impairments, learning difficulties; who suffer from mental illness or emotional distress or are frail older people; and who for any other reason are unable to care for themselves or protect themselves from significant harm or exploitation.
- Financially vulnerable i.e. in receipt of a means tested benefit.

56. Non-Compliance

If a notice is complied with no further action will be necessary. However if the notice is not complied with an Officer will consider the following options:

- Prosecution
- Carry out the works in default
- Carry out the works in default and prosecute
- Consider whether a formal caution is appropriate

Our target is to ensure that instructions to commence legal proceedings are with the Legal Section within 8 weeks of the expiry of the time period for complying with a formal Notice.

57. Prosecution

When there is failure to comply with an Improvement Notice without reasonable excuse, the notice recipient commits an offence and is liable to prosecution. On summary conviction they can be fined up to level 5 on the standard scale. The obligation to carry out the remedial works continues despite the fact that the period for completion has expired.

When there is failure to comply with a Prohibition Order, an offence is committed if the premises is used in contravention to the order, or permission is given for the premises to be used in contravention to the order. On summary conviction fines up to level 5 on the standard scale may

be levied. In addition there is a further fine of up to £20 per day for every day or part day after conviction that the property is used in contravention.

58. Work in Default

The Housing Act 2004 makes provisions for the Council to carry out the works to a property where the person responsible has failed to comply with a notice. Works in default can be carried out either instead of a prosecution or in addition to a prosecution. This is a discretionary power. Decisions to carry out works in default will be made in consultation with the Private Sector Renewal Manager due to the cost implications of this procedure. The cost of works plus administration charges will be recovered either as a civil debt or by virtue of a 'charge' being placed on the property records. Interest is added to outstanding charges at 4% above the current bank rate calculated on a daily basis.

Generally works in default are used where there is an imminent risk to health and safety and where the remedy is relatively easy to achieve. If it is to be used in other circumstances, full justification based on the merits of the case will be required.

It may also be used in conjunction with prosecution where it is appropriate to do so. This would be dependant on the nature of the hazard but should be considered due to the delays often experienced during the prosecution procedure. The delays often result in the remedial action being postponed leaving the occupier living in unacceptable conditions.

In deciding whether works in default is an option, the officer must consider: the imminent risk to health and safety and whether undue delay would put the occupier(s), visitors or the public at increased risk. They must also consider what the minimum works required would be to remove the risk. Works in default cannot be carried out if, as a result of the action a second, different hazard will result. Any remedial works must be extensive enough to remove the Category 1 hazard and reduce the level of Category 2 hazards to an acceptable level .

59. Action by Agreement.

The Act also makes provision for remedial works to be carried out by agreement. This is where the local authority arranges for the works to be carried out at the request of the person responsible and they are then charged for the full cost (including administration charges). In order to use this provision the officer must be confident that the cost of the works will be repaid in full once the work is complete. The budget must be in place for this procedure. If the costs incurred cannot be paid they must be placed as a charge against the property. The Enforced Sale Procedure may then be used if considered appropriate.

60. HMO Licensing.

The Council does not need to consider HHSRS before a HMO licence is issued. However, if during the licensing process we have reason to be concerned about the health and safety of the occupants and the likelihood

of Category 1 hazards we will take action. The Council also has to ensure that no licensed property has any Category 1 hazards within five years of the licence being granted and annual inspections will be undertaken to check these standards have been maintained. In practice we will prioritise our work in considering which premise will be visited first by risk assessment as outlined in paragraph 15. The Council cannot attach conditions to the licence on the expectation of the works being carried out.

61. Unlicensed HMOs

When an HMO is brought to the attention of the Private Sector Renewal Team they will investigate whether the property should be licensed. It is an offence for properties with 3 or more storeys and with 5 or more persons in more than one household to operate without a licence. Where such premises are found, legal proceedings will be considered and a letter will be sent to the owner/person having control, inviting any observations they wish to make. A licence application pack will be sent to the owner/person having control, requiring an application within 28 days. Licences will only be issued following receipt of a valid application, to fit and proper persons. All practical steps will be taken to assist the owner of the property to satisfy the licensing requirements.

G. MANAGEMENT ORDERS

62. If a property should be licensed, but for whatever reason(s) there is no reasonable prospect of granting a licence, the council must introduce a Management Order. The Council also has a duty to make an order where the health and safety condition as described in the Section 104 of the Act is met. Similarly, the council can also decide to take over the management of some empty properties in order to bring them back into use and those properties where it is decided the council should intervene for anti social behaviour reasons.
63. Management Orders effectively mean that the Council (or its Agent) takes over running the property as if it were the landlord, including collecting rents, forming tenancies, carrying out repairs and other management matters, the duties vary between the different orders that can be made. This does not affect the ownership of the property; the owner retains certain rights depending on the type of order including receipt of surplus rental income. Relevant costs are recoverable.
64. An Interim Management Order (IMO) lasts for no longer than 12 months and will be made on a property if a licensable HMO but does not have a licence. The Council must make an IMO if they do not anticipate that the HMO will be licensed in the near future or because the Council have revoked the license. The expiry date of the IMO will be determined when it is made.
65. Final Management Order (FMO) lasts for no longer than 5 years and must be made on expiry of the IMO where a licence cannot be granted. When a FMO expires a new one may be made if necessary.
66. A Special Interim Management Order (SIMO) is an order authorised after a successful application to a Residential Property Tribunal (RPT) where circumstances fall within a category of circumstances prescribed by the national authority and it is necessary to protect the health, safety and welfare of occupants, visitors or neighbours. A FMO can follow a SIMO to protect persons on a long-term basis as described in the Order.
67. An Interim Empty Dwelling Management Order (interim EDMO) is an order authorised after a successful application to a RPT. The dwelling must have been wholly unoccupied for at least six months and there is no reasonable prospect that the dwelling will become occupied in the near future. An interim EDMO enables the Council to take steps to ensure, with the consent of the proprietor, an empty dwelling becomes occupied. An interim EDMO lasts no longer than 12 months.
68. A Final Empty Dwelling Management Order (Final EDMO) may replace an Interim EDMO if the Council feels that unless a Final EDMO is in place the dwelling will become or remain empty. Where the dwelling is already unoccupied the Council must have taken all appropriate steps under the interim EDMO with a view to ensuring the dwelling becomes occupied. A

final EDMO lasts for 7 years; once a Final EDMO expires a new one may be made if necessary.

69. Orders can be varied or revoked in accordance with the provisions of Part 4 of the Act.

70. The Council is under a duty to issue interim and final management orders where necessary. The Private Sector Renewal Team will instigate this action where necessary **but as a last resort**.

H. COMPLAINTS PROCEDURE

71. Dissatisfaction with any actions or decisions must in the first instance be dealt with through the Council's Corporate Complaints Procedure which is explained in the leaflet "How to Complain to Dartford Borough Council". A complaint form is available from the Council.

72. In the event that the complainant remains dissatisfied after the Council has investigated the complaint, the complainant may refer the complaint to the Local Government Ombudsman, who is independent of the Council. The Ombudsman will not consider complaints where more than 12 months has elapsed since the alleged act/omission (unless the Ombudsman considers that it is reasonable to look into the matter despite the delay).

APPENDIX 1

Dartford Borough Council
H.H.S.R.S. RISK ASSESSMENT FORM
HMO & SINGLE HOUSEHOLD PROPERTIES

PROPERTY DETAILS

Address Details	Total Points =
	451 + Points Year 1
	376 - 450 Points Year 2
	301 - 375 Points Year 3
	200 - 300 Points Year 4
	101 - 199 Points Year 5
	0 – 100 Points No Visit
Date of Assessment :	

OFFICER :	YEAR REQUIRED:	VISIT
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CRITERIA	CONDITIONS	SCORING
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1) Planning/Building Control Consent	No	30 Points
	Yes	0 Points

2) Storey Heights	4+	100 Points
	3	60 Points
	2	20 Points
	1	10 Points

3) Hazard Category	1	100 Points
	2	20 Points

4) Number of Occupants	8+	100 Points
	7	80 Points
	6	70 Points
	5	60 Points
	4	40 Points
	3	30 Points
	2	20 Points
	1	0 Points

5) Property Type	HMO No Resident Landlord	60 Points
	HMO with Resident Landlord	40 Points
	Self Contained Flats	10 Points
	Single Occupation	5 Points

6) Means of Escape (Fire Doors) Smoke Seals & Intumescent Strips	None	60 Points
	Partial	30 Points
	Complies	0 Points

7) Other Fire Precautions (Fire Alarms etc)	None	60 Points
	Partial	30 Points
	Complies	0 Points

8) Provision of Amenities	Unsatisfactory	40 Points
	Partial	20 Points
	Satisfactory	0 Points

9) Sharing of Amenities	All Shared	40 Points
	Partial	20 Points
	Exclusive	0 Points

10) Additional Risks		
At the discretion of T.O. HMO in Consultation with Private Sector Renewal Manager		
Example: Portable gas /paraffin heaters, petrol storage, Residential occupation above commercial premises.	High Risk	100 Points
	Medium Risk	50 Points
	Minor Risk	20 Points
	None	0 Points

Total	
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**APPENDIX 2
ASSESSMENT FORM FOR HOUSING ACT 2004 -
HOUSING HEALTH & SAFETY RATING SYSTEM (HHSRS)**

This form will enable the Council to assess if your property is affected by the new legislation and to offer advice. If you require assistance in completing the form, please contact the Private Sector Housing Team Tel 01322 343674. **Please return completed form in pre-paid envelope supplied to the Private Sector Housing Team, Dartford Borough Council, Civic Centre, Home Gardens, Dartford, Kent. DA1 1DR**

A. Address of Property:

.....
.....

B. Landlord's/Owner's details:

Full name:
.....

Contact Address:
.....
.....

Telephone No:
.....

Mobile No:
.....

C. Premises

1.1 Please give approximate date of construction of the property:

Pre 1919

1919-1945

1945-1964

1965-1980

Post 1980

1.2 If converted, approximate date of conversion:

1.3 Please provide details of any building works carried out to the property. If works have been carried out copies of planning consents, building regulations approval or certificates issued on completion of works should be included.

Description of works	Date of completion

1.3a Does the property have planning consent for permitted change of use to allow multiple occupation? **YES/NO** (delete as appropriate)

If you have answered YES, please provide date of approval and reference number given by the Planning Department

1.4 How many floors are there in the house, including basements and attic floors?: _____

2. People Living In The House

2.1 How many households occupy the house? _____

2.2 How many individual people occupy the house? _____

2.3 Is there a resident landlord? **Y** **N**

2.4 Number of people in resident landlord's household? _____

2.5 Which rooms in the house are occupied by resident landlord's household? _____

3. Please complete the following table indicating the occupation of each unit or letting and whether facilities are shared or for sole use. Please indicate facilities (but not fire precautions) using the abbreviations given below. Children of whatever age, including babies, must be entered. Units occupied by leaseholders should be included

Letting number	Number of people in this letting	Number of rooms for sole use of this letting	Facilities provided for sole use of this letting	Facilities shared with other lettings Abbreviations: SH Shower WC Water Closet WHB Wash Handbasin S Sink F Fridge C Cooker B Bath
e.g. 1	2	1	None	SH, W.C., WHB, S,F,C

D. Property Details

Yes No Not
known

1. Do you have a schedule for
- a) Planned maintenance?
- b) Inspection of furniture/facilities/equipment?
(please provide brief details)
-
2. **Fire Precautions (only complete if the accommodation is occupied
by 3 or more persons in 2 or more households)**
- 2.1 a) Is there a system of smoke/heat detectors incorporating:
- A fire alarm panel?
- Emergency lighting in the common hallways?
- Mains powered smoke/heat detectors in kitchen/common
rooms and hallways ?
- Battery operated smoke detectors?
- Sounders/alarms on all levels?
- b) Is the main escape route protected by fire doors fitted with
smoke seals, intumescent strips and self closers?
- c) Is the escape route kept clear of flammable material and
other obstructions?
- d) Do you have a contractor to maintain and inspect your
system?
- e) Please state who _____
- f) Is there a log book of inspection/testing?
- g) Where is it kept? _____
- h) Is there a current test certificate?
(please provide copy)
- i) Is there a current emergency lighting test certificate?
(please provide copy)
- j) Is there a service contract for the alarm and lighting systems?
(please provide copy)

- | | Yes | No | Not
known |
|---|--------------------------|--------------------------|--------------------------|
| k) Are fire extinguishers provided? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| l) Please state type and location | | | |
| <hr/> | | | |
| m) Have details of escape routes and other fire safety training been provided to occupiers? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

3. Heating & Utilities

- 3.1 What form of heating does the property have?
- | | | | |
|--|--------------------------|--------------------------|--------------------------|
| Gas fired central heating | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Off peak night storage heaters | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Individual wall mounted gas heaters | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Individual wall mounted electric heaters | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Other (please specify):

- 3.2 If there is a gas supply to the property, please confirm that you have a current Gas Safety Certificate (required annually for the installation and equipment you provide) and enclose a copy
- 3.3 Do you have an electrical safety certificate from a competent electrical engineer within the last 5 years to confirm that the electrical installation is safe? (This should be available at the inspection of the property or enclosed)

4. Electrical Appliances and furniture

Please indicate whether you provide:

- | | | | |
|---|--------------------------|--------------------------|--------------------------|
| Furniture? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Electrical Appliances? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.1 Is all furniture you provide compliant with current fire safety regulations? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.2 Are all the electrical appliances you provide compliant with current electrical safety regulations? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

THANK YOU FOR YOUR CO-OPERATION

APPENDIX 3

Dear

RE: HOUSING ACT 2004 Part (1) HOUSING HEALTH & SAFETY RATING SYSTEM (HHSRS)

ADDRESS:

The Council has undertaken an inspection of the above mentioned premises of which I understand you have an interest. During this inspection, a number of deficiencies were noted that result in the presence of hazards that could affect the health and well being of any occupiers. We are therefore currently considering the most appropriate way for us to deal with the hazards that have been identified.

Under the above legislation the Council has a duty to ensure that all residential properties are free from serious potential risks to health and safety. It is considered that the works identified in the attached schedule(s) are the minimum required to achieve this. The attached schedule(s) are at this stage for your guidance only and may be altered if conditions at the property change or if more information becomes available prior to the service of a Notice or order.

This letter is to seek your views on the best way to remedy the situation and decide on the most appropriate course of action. There are a number of different options available to the Council which could include the service of an Improvement Notice which would require you to carry out works to remove the hazard(s).

Please note that Section 49 of the Housing Act allows the Council to charge the recipient for the service of a Notice. The Council can recover all reasonable costs involved which could include; Officer time taken to complete the HHSRS inspection and report, travelling expenses, considerations on the appropriate action, time taken to prepare and serve the Notice, and any other action/paperwork/administration associated with this action. The Act does not set a maximum fee that you may be charged; each case is dealt with individually, and charges will relate only to expenses incurred to take this action. The cost for work undertaken so far in this case is £xxx and this would continue to rise if formal action is needed to a maximum of £1000.

The Council would prefer to work with the owner's co-operation to ensure relevant works are completed voluntarily without the need to take formal action and as a result, no charges would be levied for administrative work undertaken by the Council. This letter provides you with an opportunity to let us know what steps you propose to take to deal with the issues outlined or to suggest alternative remedial action/works.

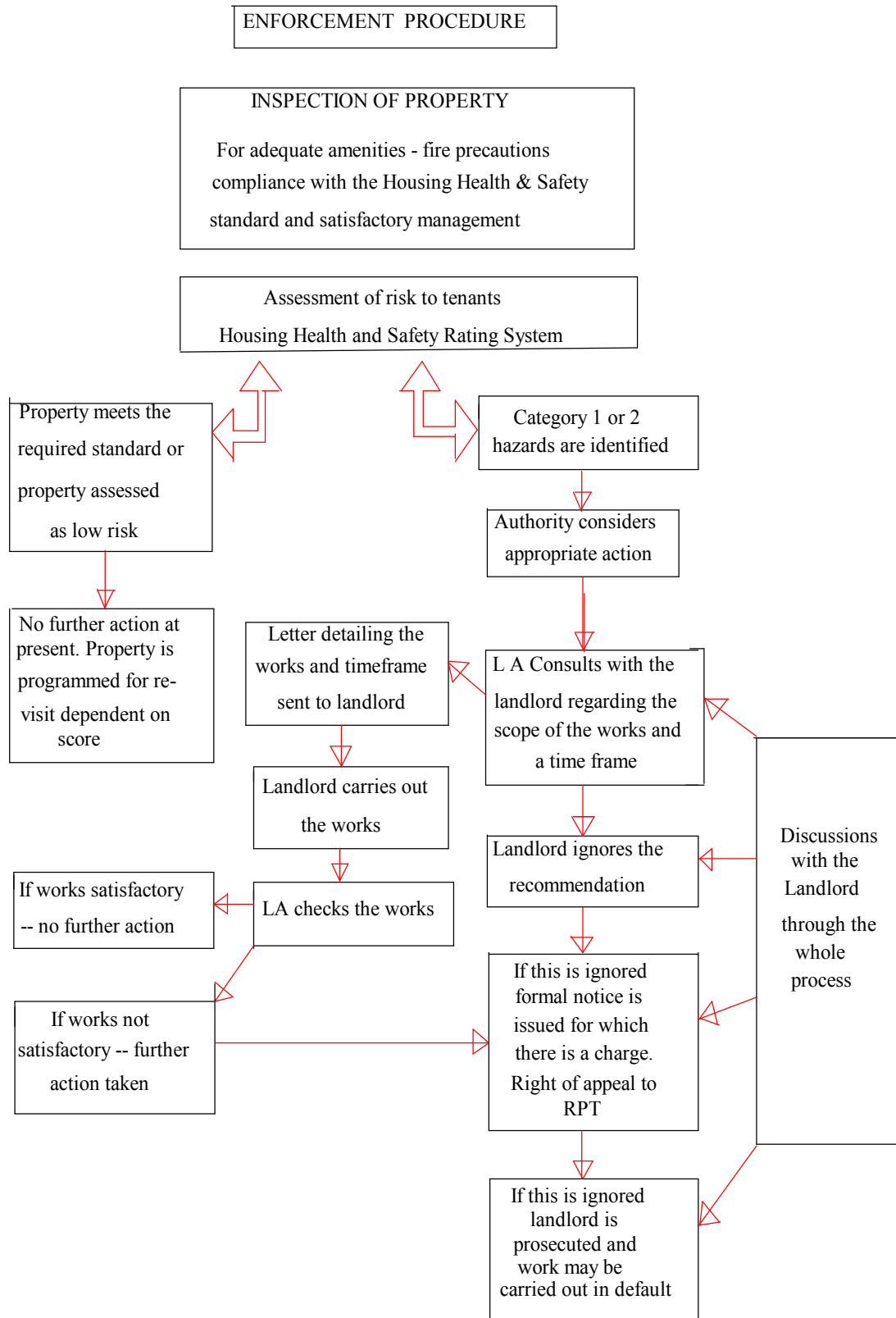
Should you wish to make any observations, please write to or telephone the above named officer within fourteen days (14) days from the date of this letter.

Your views are an important part of our considerations and I look forward to hearing from you.

Yours sincerely

HMO Officer

APPENDIX 4



APPENDIX 5

Sheri Green *Strategic Director*
Peter Dosad *Head of Housing*

Please ask for:

Direct Line:

Direct Fax:

E-mail:

DX:

Your Ref:

Our Ref:

Date:

Dear

RE:

Housing Act 2004 Part (1) HHSRS xxxxxx Notice/Order (insert date)

Further to my recent inspection of the above property with regard to the above.

I am pleased to confirm that the works required by the Housing Act 2004 xxxxxx Notice/Order have been completed to the satisfaction of this Authority, and I have therefore given instruction for the Housing Act Notice to be removed from the local land charges register.

I would like to thank you for your co-operation in this matter.

Yours sincerely

Ian Mackay
Senior HMO Officer

APPENDIX 6

Prioritisation of Hazards and Options for Action

Priority (P)		Main options for Action	Other options available for consideration
Category one			
Immediate action	P1 - Highest band A+ Imminent risk to health and safety.	Emergency Remedial Action Emergency Prohibition Order Prohibition Order Demolition Order	Clearance Order Suspended action Hazard Awareness Notice
High Priority	P2 – Hazard Bands A – C	As Above	Clearance Order Suspended action Hazard Awareness Notice
Category two			
Medium Priority	P3 - Hazard Bands High bands D - F	Improvement Notice Suspended action Hazard Awareness Notice	Prohibition Order
Low Priority	P4 – Hazard Bands Low bands G - J	Hazard Awareness Notice Suspended action	Improvement Notice Prohibition Order

APPENDIX 7

PRIVATE SECTOR HOUSING - DARTFORD BOROUGH COUNCIL HOUSING ACT 2004

ENFORCEMENT NOTICE CHARGE CALCULATION

Name & Address:

	PSRM	admin	Snr officer	Officer	Sub Totals
Surveyor (initials)					
Survey time involved					
Travel Time					
Time taken to write up HHSRS post inspection					
Section 16 LGMP Act 1976					
Production of drawings					
Produce schedule of works					
Consultation with Fire Authority					
Letters and telephone calls with owner					
Letters and telephone calls with tenant					
Consultation with Manager					
Production of photographs					
Land registry search request					
Drafting of relevant notice					
Notification to other Dept.					
Service of relevant notice					
Confirmation of Recorded Delivery					
TOTAL NUMBER OF HOURS=	0.00	0.00	0.00	0.00	
Hourly Rate (including on costs)	£10.00				
SUBTOTAL	£0.00	£0.00	£0.00	£0.00	£0.00
Land registry fee (insert number)				£4.00	£0.00
Postage (insert number of letters)				£0.30	£0.00
Formal correspondents (insert number)				£0.50	£0.00
Confirmation of Recorded Delivery				£2.00	£0.00
Mileage charge					0.00
Other admin costs e.g. paper, photocopying, tel calls					
GRAND TOTAL					£0.00