

MHDC Private Sector Housing Policy Statement 2015

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Introduction.

Malvern Hills District Council recognises the importance of decent, warm and safe housing for all residents. We strive to achieve national standards and promote warm and safe homes throughout the District.

This policy covers all privately owned residential accommodation and privately owned land in the Malvern Hills District. We set out to maintain and improve the housing conditions in privately owned residential property within the District and improve neighbourhoods.

The Council has statutory duties to regulate and enforce the Housing Health and Safety Rating System (which replaced fitness standard) and Licencing of Houses in Multiple Occupation (and other rented dwellings in areas subject to Selective Licencing). It also uses other relevant housing legislation to ensure that private sector homes are safe for residents and neighbourhoods and of a reasonable standard. Regulation consist of carrying out inspections, dealing with licence applications etc; enforcement being service of notices and orders, carrying out work in default and prosecution, etc.

The statutory responsibilities of the Council are set out in Annex A to this Statement.

In summary, the Housing service is responsible for:

- Regulation and enforcement of housing standards in the private sector, offering advice, guidance and support to landlords and tenants and use of other more formal actions to secure compliance where necessary.
- Regulation and licensing of residential caravan sites, park homes and other sites.
- Inspection and regulation of all Houses in Multiple Occupation (HMOs) and licensing of registerable HMOs.
- Assistance to disabled and vulnerable people. This service is currently provided under contract by Care & Repair, the Home Improvement Agency for Worcestershire (HIA). The HIA offers a comprehensive advice and options service, assists with applications for Disabled Facilities Grants and carries out adaptations where necessary to meet the needs of disabled people. They also deliver support to residents where appropriate under the Council's Discretionary Housing Assistance policy (subject to the availability of funding); and provide advice and signposting to other funding options as appropriate.

Our limited resources are targeted at delivering the Worcestershire Housing Strategy 2011-16:

<http://www.malvern hills.gov.uk/documents/10558/125552/Worcestershire+Housing+Strategy+2011+-+2016.pdf/df4ba52-b7b7-420e-bb83-84ea765616f7>

This Policy is especially directed at achieving Goal 1 – “Making the best use of existing housing” and Goal 3 – “improving the condition of existing homes”.

Aims of this policy

- To address the legal responsibilities, policies, principles and priorities that the Council will follow when enforcing legislation.
- To explain how the Council will take steps to ensure safer and healthier private housing.

This overarching policy sets out the broad principles and processes which the Council will endeavour to follow when delivering our services in the private sector. It is not intended to provide a full detailed breakdown of individual policies and processes as these can be found in supporting documentation.

Our Objectives

We will strive to ensure

- That tenants of a private landlord or a Registered Social Landlord (RSL) live in homes free of significant risks to their health and safety.
- That all Houses in Multiple Occupation (HMO's) and Selective Licensed properties are safe, licensed where required and meet all licensing conditions.
- That empty homes are not left empty where there is blight and a need for housing.

- That privately owned property and land does not present a statutory nuisance to other land owners, and does not directly or indirectly present an unacceptable risk to public health, safety or the environment.
- That we meet our statutory duties as a public authority.

Principles of Enforcement

Our aim is to enforce legislation efficiently and effectively without imposing unnecessary burdens upon property owners and occupiers. Any enforcement action taken by Malvern Hills District Council will be in line with the principles of good regulation:

(a)regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent; .

(b)regulatory activities should be targeted only at cases in which action is needed.

These principles derive from s21 Legislative and Regulatory Reform Act 2006 and the relevant statutory code of practice - the Regulators' Compliance Code (RCC).

In carrying out its enforcement policy the Council will have regard to the Home Office Code of Practice on Powers of Entry issued in December 2014 pursuant to Section 48 (1)(a) of the Protection of Freedoms Act 2012.

Inspections and other visits

We will carry out inspections to the properties in greatest need. This will usually be where we have received a complaint, or where we have a statutory duty to carry out inspections, for example Houses in Multiple Occupation which are subject to Mandatory Licensing. We will also target inspections, for example to properties identified as having particular problems such as empty properties.

We also have a general duty to keep housing conditions under review in order to identify any action that may need to be taken under the Housing Act 2004.

Advice and guidance

The Council will provide general information, advice and guidance to make it easier for businesses to understand and meet their responsibilities.

When we take enforcement action it will be:

Targeted: Examples of properties that we will seek to target for enforcement include those that pose the greatest risk, or nuisance.

Proportionate: When deciding what enforcement action to take, we will take actions that are proportionate given the breach. We will avoid actions which may provide a perverse incentive for non compliance (for example carrying out costly works in default where it is difficult for us to recover our costs.)

Fair and objective: Our decisions will not be influenced by the race, culture etc of the offender, victim or witness. Decisions will be based on the situation and all available facts will be taken into consideration.

Transparent: We will endeavour to clearly define our policies and procedures to ensure that they can be easily understood. As far as possible, we will provide full details upon demand. Clear reasons will be given to a person against whom enforcement action is being taken.

Consistent: We will carry out training of our officers to promote consistency in the interpretation and enforcement of legislation and liaise with other local authorities as necessary.

Accountable: We will seek to consult landlords, tenants and others with an interest in the private housing sector; where possible and appropriate.

Role of the Council in dealing with Private Sector Housing

This section explains the main functions that the Council performs to enforce and regulate relevant legislation and regulations.

Dealing with complaints

Council officers will respond to complaints from tenants and other residents regarding problem private properties and take enforcement action where appropriate using a range of legislation.

Carrying out inspections

Where there is a statutory duty, or the local authority considers that it is appropriate for an inspection to be conducted.

The Health and Safety Rating System (HHSRS)

The HHSRS is a method of assessing how likely the condition of a property is to cause a hazard to health. There are two categories of possible hazards. Category 1 hazards represent a serious danger to health and the Council has a duty to take action to deal with these. Category 2 hazards represent a less serious danger and the Council has the power, but not a duty to take action. A range of enforcement powers is available under the Housing Act 2004 to remove or reduce any hazards identified to an acceptable level.

Houses in Multiple Occupation (HMO's)

There are homes in the Malvern Hills District in which more than one family share facilities. Although many smaller HMO's are not required to be licensed they can

sometimes be in poor condition and pose a danger to the welfare of their residents who are often vulnerable. We will prioritise these for inspection.

Mandatory HMO licensing

A licence is required in HMOs of 3 or more storeys with 5 or more persons in 2 or more households sharing the facilities. The Council will take steps to ensure that properties that require a licence are licensed and will consider taking enforcement action against landlords of such properties that remain unlicensed.

Overcrowding

We will work with our partner agencies where we find a particularly severe case of overcrowding. Before taking any action that might result in a household losing its home, we will carefully consider the availability of suitable alternative accommodation, the amount of disruption (to children's schooling etc) and the views of the household.

Giving evidence in private court cases

Officers may be asked to give evidence on behalf of one of the parties in a private action. In order to prevent any implication that the officer has taken sides, officers will usually only attend in response to a witness summons.

Our priorities

1. Property standards and management in the private sector

Private rented properties

The Council will intervene where necessary to address disrepair and unacceptable treatment of tenants (including illegal eviction and harassment).

The Council will generally seek to consult with tenants before taking enforcement action, and take into account any representations. This may not always be possible, for example in an emergency. Consultation with landlords will depend upon the severity of the issue.

The Council maintains a register of Houses in Multiple Occupation (HMOs) and acts to maintain standards in both registered and unregistered HMOs

The reasonable costs associated with enforcement will be charged to the responsible persons. For example, the costs of inspection and notice being served under the Housing Act 2004 and the cost of officer time associated with any emergency remedial action or works in default which may be carried out. Please refer to the Council's Housing Enforcement Policy.

<http://www.malvernhillsgov.uk/cms/pdf/Private%20Sector%20housing%20Enforcement%20Policy%20Published%20version%20Mar%202012.pdf>

Empty properties

The Council will monitor the numbers of empty properties which have been empty for longer than 2 years. We will act to address any problems of nuisance relating to empty properties, and we will strive to bring them back into use through formal or informal action where this presents a practicable solution.

Owner occupied properties

Assistance to homeowners may be provided by the Council only under the terms of its discretionary Housing Assistance Policy (see Annex C). Subject to availability of funding, assistance may be offered through our agent (Care & Repair Worcestershire) to address serious issues of health & safety, including Category 1 hazards, as assessed under the Housing Health & Safety Rating System (HHSRS). Currently the Council's priorities are boiler replacements and rewiring of dangerous electrical installations.

2. Licensing of caravan sites

The Council maintains a register of licenced sites and carries out regular inspections to ensure compliance with site licence conditions.

A register of site rules has been established as required by the Mobile Homes Act 2013.

The Council has adopted a system for the setting and annual review of fees for this work as permitted by the Act, and will implement its new charging regime with effect from 6 April 2016.

<http://www.malvernhillsgov.uk/caravan-licensing-page>

3. Adaptations, grants and other assistance

All enquiries should be addressed to our agent, Care and Repair Worcestershire, who will advise on the options available. A statement of the Council's process for dealing with referrals for mandatory Disabled Facilities Grants is set out at Annex C.

4. Fuel poverty and energy efficiency

The UNO database of private property condition is used to monitor energy efficiency improvements and to target future grant programmes and other initiatives.

The Council's progress in implementing the Home Energy Conservation Act 1995 (HECA) is set out in the HECA report adopted by the Council in January 2014 (Executive Committee report EC1300) and is published on the Council's website:

HECA report:

<http://www.malvern hills.gov.uk/documents/10558/1632761/EC1300+HECA+Monitoring+Appendix+1.pdf/9ab6407e-4676-42f4-8d73-13aa4773a6a3>

The report will be regularly updated as required under the Act.