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BOSTON BOROUGH COUNCIL

Private Sector Housing Policy Framework

BOSTON BOROUGH COUNCIL

PRIVATE SECTOR HOUSING POLICY FRAMEWORK 2018

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1 Introduction

Poor quality housing can have a detrimental effect not only on the health and wellbeing of the people living in poor quality and badly managed homes but also on the general quality of life in an area. Whilst the responsibility for the maintenance and improvement of homes rests with the property owner, the Council recognise that some owner occupiers – often the elderly and other vulnerable home owners – may not have the resources necessary to ensure that their homes remain free from disrepair that can affect their health and well-being.

The Council also has a **critical** role to play in ensuring that all rented homes are well maintained and well managed and present no threat to the health, safety or well-being of those who live or otherwise visit them.

This Framework document aligns to our Corporate Plan and sets out the Council's broad approach to its support for, work with and regulation of 'private sector housing' within the Borough. The term 'private sector housing' refers to owner-occupied homes and homes rented from a private landlord. The term includes homes that go with a job or business but not those owned by Housing Associations or Registered Providers, however, all enforcement and regulation provision applies regardless of tenure.

Throughout we describe how the Council, as the Local Housing Authority, will meet its private sector housing focussed statutory responsibilities and support residents by providing a range of advice and assistance to improve the provision, quality and management of homes within the Borough. It includes information on: the licensing of Houses in Multiple Occupation (HMOs), housing enforcement responsibilities, small works grants for vulnerable households, and the provision of mandatory and discretionary Disabled Facilities Grant (DFG) adaptations and other functions.

As with any medium term framework, parts of this document may become outdated as a result of amendments to legislation and the influence of other strategic policy documents produced by the Council, Government or other National Authority. It is essential that it is kept under regular review and updated when necessary and appropriate. The relevant Head of Service therefore has delegated authority to make minor and consequential changes to this Framework in consultation with the relevant Portfolio Holder.

A table of potential financial assistance and conditions is shown in **Appendix C**. It must be noted that any discretionary assistance or discretionary powers identified in this Framework are subject to the availability of funding and other resources and the Council is under **no** obligation to provide assistance or take discretionary action. All aspects of this Framework can only be delivered in full accordance with the Council's corporate governance arrangements so must be read in conjunction with other Council policies and procedures including but not being limited to Council's Procedure Rules, Scheme of Delegation to Officers and Corporate Enforcement Policy.

2 Legislative Context

There are a number of statutory provisions that govern our support for, work with and regulation of the homes within our Borough, these include but are not limited to:

Housing Act 2004

This Act came into force in April 2006 and reformed housing legislation for landlords, owners and occupiers. The Act places both mandatory duties on housing authorities as well as giving a range of **discretionary** powers, these include: an amended mandatory licensing scheme for Houses in Multiple Occupation (HMOs) in properties occupied by five or more people, forming two or more households sharing basic amenities. The granting of a licence is dependent on meeting minimum stands for amenities, management and fire precautions.

The Housing Health and Safety Rating System (HHSRS) is the prescribed method for assessing and determining if a hazard exists that could affect the health safety and wellbeing of occupiers and visitors. The Act sets out that a Council shall take action where it finds serious hazards to remove or reduce the risk of harm. Further details on HHSRS and the Council's processes on enforcement are set out in Section 3

The power to take over the management of empty homes in certain circumstances to make sure they are maintained, occupied and managed properly. More details on the powers available to local authorities to return empty homes back into use and the Council's approach can be found in Section 7.

Regulatory Reform (Housing Assistance) (England and Wales) Order 2002

This legislation empowers local housing authorities to provide financial assistance for housing renewal in the form of grants, loans or other assistance to tenants and private owners in accordance with a locally determined policy. Details on housing renewal assistance offered by the Council are set out in Sections 5 and 6.

Housing Grants, Construction and Regeneration Act 1996, Disabled Facilities Grant Regulations 2008 and Disabled Facilities Grant General Consent 2008

The Housing Grants, Construction and Regeneration Act 1996, amended by the Regulatory Reform Order 2002, provides the primary legislation governing mandatory Disabled Facilities Grants (DFGs) with the Disabled Facilities Grant General Consent 2008

covering discretionary grant assistance, the current scope of DFGs and setting out the conditions in which a local authority can place a charge on a property in respect of DFGs. Further information on DFGs is contained within Section 5 of this policy and in Appendix C.

Home Energy Conservation Act (HECA) 1995

This places an obligation on a local authority to prepare and publish a strategy to improve the domestic energy efficiency of all residential accommodation in their areas. The Council's strategy and the bi-annual updates can be accessed on the Council's website at www.boston.gov.uk/Housing

Energy Act 2011

The Act created a financing framework to enable the provision of fixed improvements to the energy efficiency of households and non-domestic properties. The Act also requires that from April 2016 private residential landlords are unable to refuse a tenant's reasonable request for consent for energy efficiency improvements where a suitable finance package exists and from April 2018 made it unlawful to rent out a residential or indeed business premise that does not achieve a minimum energy efficiency standard (EPC 'E' rating) unless a valid exemption is in place.

The Redress Scheme for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

This Order made it a legal requirement for all existing lettings agents and property managers to join a Government approved redress scheme by 1st October 2014 and for all new operators from 1 October 2014 to join prior to operating.

The Order provides that tenants, prospective tenants, landlords dealing with letting agents in the private rented sector; as well as leaseholders and freeholders dealing with property managers in the residential sector can complain to an independent person about the service received.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

This Order identifies the requirements, obligations and actions required by a relevant landlord and the Council in relation to smoke and carbon monoxide alarms in privately rented properties.

Housing and Planning Act 2016

The Housing and Planning Act introduced a wide new package of measures affecting Local Housing Authorities and local Planning Authorities. The principal matters covered by the Act relevant to this Policy Framework are:

- Introducing the framework for Civil Penalties in respect of certain housing offences
- Allowing Local Authorities to apply for Banning Orders
- Creating a national database of Rogue Landlords and Letting Agents
- Allowing tenants or Local Authorities to apply for Rent Repayment Orders where landlords have committed certain offences.

3 Housing Health and Safety Rating System

The Housing Act 2004 places a duty on the Council to deal with Category 1 hazards where they are identified using the Housing and Health Safety Rating System (HHSRS). Category 1 hazards are those hazards that represent the most serious risk of harm to people's health, safety and well-being.

Private rented properties and owner occupied homes are more generally of concern to the Council as Registered Providers are regulated independently and are required to provide housing stock that meets the Decent Homes Standard.

Although this is generally an enforcement role, the Council are also committed to helping responsible landlords and owners to achieve high standards in their properties by providing advice, guidance and support wherever possible.

The Council's response to complaints about housing conditions will be in accordance with the following principles;

- Following a complaint about poor housing standards in a private rented home, the Council will take appropriate and proportionate action to investigate the complaint. Initial investigations could result in advice or assistance being given or where necessary a formal inspection of the property will be undertaken.

- Inspections can take place in response to a: complaint from a resident (a request for service), in accordance with statutory requirements, a risk based assessment such as the licensing of houses in multiple occupation (HMOs) or as part of any proactive scheme to target poor property conditions.

- Formal inspections are made in accordance with the risk based HHSRS model which is used to identify potential risks and hazards to health & safety arising from any deficiencies identified in the dwellings. Inspections will be carried out by suitably trained and competent officers.

- When offering advice in relation to compliance we will distinguish between statutory requirements and advice or guidance which is aimed at improvements above minimum standards

Enforcement activities will always be carried out in accordance with the Council's prevailing Corporate Enforcement Policy and Scheme of Delegation to Officers. This policy is implemented by Council Officers in accordance with the Council's constitution. All officers undertaking enforcement activity will be suitably qualified and/or experienced to do so and will be duly authorised under the Council's Scheme of Delegation.

Powers and Options

Power of Entry

Section 239 of the Housing Act 2004 gives the Council power of entry to properties in pursuance of its duties under Part 1 of the Act. Under Sub-section(7) officers are entitled to enter premises at any reasonable time without giving prior notice, where the Council considers that an offence might have been committed under Sections 72 and 95 (HMO Licensing) and Section 234 (HMO Management Regulations). In other cases 24 hours notice will be given to the owner and/or occupier for an inspection to be carried out to ascertain whether Category 1 or 2 hazards exist. In circumstances where entry is refused, the property is empty or where prior warning would negate the purpose of access a warrant may be obtained.

Enforcement Options

The Housing Act 2004 (and other legislation) places councils under a general duty to take appropriate action in relation to Category 1 hazards. Boston Borough Council will use any of the following options;

- Serve an Improvement Notice in accordance with Section 11
- Make a Prohibition Order in accordance with Section 20
- Serve a Hazard Awareness Notice in accordance with Section 28
- Take Emergency Remedial Action under Section 40 or otherwise undertake works in default
- Make an Emergency Prohibition Order under Section 43
- Make a Demolition Order under Section 265 of the Housing Act 1985 Powers a) to c) can also be used in relation to dealing with Category 2 hazards.

The Council also has numerous duties and powers under various other Acts, Orders and Regulations that it can and will use as part of its housing regulation function.

In addition, the Council work very closely with Lincolnshire Fire and Rescue on matters of fire safety and fire protection who have separate enforcement powers under the Regulatory Reform (Fire Safety) Order 2005 which they are able to use if needed. Where serious breaches are found that prejudice the health, safety and well-being of our residents, we will consider joint enforcement and joint prosecution where applicable.

Boston Borough Council has a duty under Section 5 of the Housing Act 2004 to take the most appropriate course of action (enforcement action) where Category 1 hazards exist. In all cases, the Council will take action that is reasonable, justified and proportionate which can include a range of formal and pre-formal stages. When determining the most appropriate course of action, officers will take account of matters, including but not being limited to, the severity of the issues to hand, the immediacy of the issues to hand and the compliance history of the landlord or agent to most effectively protect the health, safety and well-being of those having cause to resort to the premise.

Section 7 of the Housing Act 2004 gives the Council a power (rather than a duty) to take enforcement action in respect of Category 2 hazards. It will be for appropriately authorised officers to consider the individual merits of every case and what if any action to take in respect of reducing or removing Category 2 hazards. Whilst the Council is **not** under a **duty** and therefore may choose **not** take action in respect of every deficiency or defect found within any home, the enforcement options open to it include but may not be limited to:

- Serving an Improvement Notice in accordance with Section 11
- Making a Prohibition Order in accordance with Section 20
- Serving a Hazard Awareness Notice in accordance with Section 28

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The Council charge for all forms of formal enforcement action where the law allows. A schedule of fees is set out in **Appendix B**. Charges will be reviewed at least annually and published from time to time.

Non Compliance

Where statutory Orders and other Notices are not complied with or where there are serious breaches of legislation/threats to people's health, safety or well-being, the Council will consider further action such as issuing a caution, a Civil Penalty or commencing prosecution proceedings. Prosecutions will be dealt with through the Courts as civil or criminal matters.

In securing acceptable housing standards, other legislation may be used, including but is not being limited to:

- Anti-Social Behaviour, Crime and Policing Act 2014
- Environmental Protection Act 1990
- Public Health Act 1936
- Prevention of Damage by Pests Act 1949
- Building Act 1984

- Town and Country Planning Act 1990
- Housing and Planning Act 2016

Boston Borough Council has a range of legal powers available to it for enforcement across many of its areas including as a Local Planning Authority and as an Environmental Health authority. Where any cross over or link with other teams exist, other teams from the Council may take the lead in any enforcement action or the Council may take multi-disciplinary action.

In cases where the Council has evidence to suggest that an offender has financially benefitted from a crime, Boston Borough Council may also seek legal action (in conjunction with) other agencies under the Proceeds of Crime Act 2002.

4 Licensing of Houses in Multiple Occupation (HMOs)

Until 1 October 2018, HMO licences are/were only required in Boston for properties consisting of THREE or more storeys that are occupied by FIVE or more people who form TWO or more households who share basic amenities. From 1 October 2018, changes to the law mean that all HMOs that house FIVE or more people who form TWO or more households who share basic amenities REGARDLESS OF THE NUMBER OF STOREYS THE HMO IS SPREAD OVER must have made a valid application or hold a valid HMO Licence. Failure to have applied by 1 October 2018 or hold a valid licence from 1 October 2018 is a criminal offence.

For further information, please refer to the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 and The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licenses) (England) Regulations 2018.

Unless there are legitimate extenuating circumstances, Boston Borough Council require HMO applications to be made online.

The granting of a licence is dependent on meeting minimum standards for amenities and other minimum requirements including but not being limited to room sizes, management, refuse storage and disposal, fire precautions and other as prescribed in law.

Appendix A of this Framework and Schedule 1 thereof sets out the **minimum** conditions to be applied by the Council to an HMO Licence and the minimum Amenity Standards **all** HMOs must meet. In addition, the licence holder **will** be required to comply with **all** prevailing regulations, statutory codes or other, such as any requirement arising as a consequence of tribunal and other legal rulings, or additionally specified within the licence. Boston Borough Council will use the room sizes prescribed within *The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licenses) (England) Regulations 2018*, however, it will always consider at what point a Crowding and Space Hazard may arise and limit occupation accordingly.

Mandatory HMO licenses are valid for up to 5 years and will specify the number of occupiers and households permissible in the HMO. Occupancy numbers will depend on the size of rooms and the facilities and amenities available.

Where a property does not meet all of the requirements for a full licence, the Council may;

- Apply additional conditions to the licence
- Reduce the length of the licence and apply conditions to the granting of the licence
- Restrict the occupation of the property until conditions are met
- Refuse to grant the licence

An applicant will be expected to show that they are a 'fit and proper person' to be issues with a licence. Boston Borough Council will determine whether the Landlord/Managing Agent is the most appropriate person to hold a licence by looking at whether they have:

- Committed any serious criminal offences (fraud, violence, drugs or sexual offences)
- Discriminated illegally against anyone
- Breached laws that relate to renting out property

Whilst the Council will adopt a common sense approach and exercise its discretion reasonably and proportionately in relation to applying 'fit and proper' tests in accordance with Section 89 of the Housing Act 2004, applicants WILL need to provide a basic DBS disclosure certificate, issued no more than **one month prior to making a Mandatory HMO Licence application**. A licence may be revoked if the Council no longer considers the licence holder to be a fit and proper person to hold a licence.

Licence fees are payable both at the point of application, and, in respect of applications that will be granted, will be subject to a further payment prior to issue of the Licence. The further payment is to cover monitoring of compliance of the licence in accordance with the requirements of the EU Services Directive. Full details of the licensing charges in force at the time of publication of this version are shown in **Appendix B**; these charges will be reviewed at least annually.

Breaches of licence conditions (where reported to the Council or found upon compliance inspections) could result in variation to, or revocation of, a licence as well as potential enforcement action including the issuing of a Civil Penalty.

Failure to licence a HMO may also result in enforcement action including issuing of a Civil Penalty by the Council and the involvement of the Residential Property Tribunal who are able to impose Rent Repayment Orders requiring up to 12 months rent to be repaid on conviction of a failure to licence.

Inspections of HMOs can be undertaken for many reasons, including but not being limited to:

- When a new HMO is identified
- Following a complaint about property standards or management
- In accordance with a risk based inspection programme
- Before issuing a HMO licence

Further details, guidance and application forms relating to HMOs are available from the Council on request.

5 Civil Penalties and Banning Orders

Introduction

The power to impose a **Civil Penalty** as an **alternative** to prosecution for certain Housing Act offences was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016. A Civil Penalty is '*a financial penalty imposed by a local housing authority on an individual or organisation as an alternative to prosecution for certain housing offences under the Housing Act 2004'*.

The list of offences (which may from time to time be amended) that may be dealt with by way of a Civil Penalty are:

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing of Houses in Multiple Occupation (section 72);
- Offences in relation to licensing of houses under Part 3 of the Act (section 95);
- Offences of contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234).

At all times the Local Housing Authority will have *regard* to prevailing Statutory Guidance in respect of civil penalties.

Factors in deciding whether to Prosecute or issue a Civil Penalty.

Each case will be decided upon its own merits taking into account all the evidence available.

Where the Council considers that a relevant Housing Act offence has been committed, it will determine the most appropriate course of action to take, including, whether to prosecute or to issue a Civil Penalty as an alternative to prosecution. A range of factors, including but not limited to those set out below, will be used to determine the appropriate enforcement option:

- The seriousness of the offence
- The immediacy of the risk
- The history of an individual, including any previous non-compliance and convictions
- Whether prosecution is in the 'public interest'
- Whether the offence was committed as a result of a genuine mistake or misunderstanding, having regard to the seriousness of the offence

- The likely 'human impact' the enforcement action will have in preventing future offences

As a Civil Penalty is an 'alternative' to prosecution, the burden of proof test to be applied is the same as any criminal prosecution and requires that the case is proved ***beyond all reasonable doubt***. The Council will satisfy itself that there would be a realistic prospect of conviction if the case were to be prosecuted in a Magistrates Court before issuing a Civil Penalty and will comply with the Council's prevailing Corporate Enforcement Policy and all other prevailing Codes and Statutory Guides, eg the Code for Crown Prosecutors and Police and Criminal Evidence Act codes.

Factors determining the level of Civil Penalty

The law allows a maximum penalty of **£30,000** to be imposed for each relevant offence.

The Council will use a range of factors, including but not limited to those set out below in order to set a Civil Penalty at an appropriate level:

- The severity of the offence, the more serious the offence the higher the penalty
- The **culpability,** history and compliance of the offender
- The **harm** caused to the tenant and other relevant people by the offender
- The 'real terms' economic impact that a Civil Penalty punishment will have on the offender
- The deterrent value that a Civil Penalty is likely to have on preventing the offender from repeating the offence and failing to meet all of their legal responsibilities
- The deterrent value that civil penalties are likely to have on other landlords from committing similar offences

Removal of any financial benefit gained by the offender from committing the offence.

The nature of the harm will depend on the personal characteristics and circumstances of the victim. Where no **actual** harm has resulted from the offence the Council will consider the relative danger that persons have been exposed to as a result of the offenders conduct, action or lack of action as well as the likelihood of harm occurring and the gravity of harm that could have resulted.

In determining the level of **harm** arising from an offence, the Council will have regard to any relevant consequences including:

- The harm caused to an individual or individuals, i.e. physical injury, damage to health and psychological distress
- The harm caused to the wider neighbourhood and community i.e. economic loss and harm to public health.

Factors that indicate higher degrees of harm include:

- Where there are multiple victims
- Where there is a serious or long term psychological effect on the victim or
- Where the victim or victims is/are particularly vulnerable

In determining the **culpability** of the offender or offenders, the Council will have regard to issues including whether:

- The offender **deliberately and/or intentionally** caused harm
- The offender was **reckless** in their actions or failings. Being reckless here means failing to have had regard to the danger or other negative consequences of any risk or risks that would be obvious to most people
- The offender **knew** of the risks, for example, they had been set out in a notice and not complied with or would have been obvious to most people upon inspection
- The offender was **negligent**. Being negligent here means the offender failed to take reasonable care and did something or failed to do something that would have been reasonable to do, ie inspecting or causing to have a property regularly inspected, acting upon the findings of an inspection or failing to act on reports from tenants and others

Where a Civil Penalty is deemed appropriate, to demonstrate transparency, the Council will determine the financial level of the Civil Penalty using the matrix set out within this document.

Procedure for imposing a Civil Penalty.

Where it has been determined that it is appropriate to impose a Civil Penalty as an alternative to prosecution, the Council will follow the process set out within the Housing Act 2004. In summary:

A "**Notice of Intent**" shall be served on the person suspected of committing the offence. The Notice shall be served no more than six months after the Council has sufficient evidence of the conduct to which the penalty relates.

The Notice shall specify:

- The amount of any proposed financial penalty
- The reasons for proposing the financial penalty

- Information about the right to make representation to the Council.
- The person to which the notice relates will be given **28 days** to make written representation to the Council about the proposal to impose a financial penalty. The representation may be via any legible written format, but to aid respondents, a form will be included with the Notice of Intent.

Following the 28 day period the Council will decide:

- Whether to impose a Civil Penalty on the person, and
- The value of any such penalty imposed.

If the Council decides to impose a Civil Penalty, a final notice shall be issued imposing that penalty. The final notice will specify:

- the amount of the financial penalty,
- the reasons for imposing the penalty,
- information about how to pay the penalty,
- the period for payment of the penalty,
- information about rights of appeal to the First tier Tribunal
- the consequences of failure to comply with the notice.

A person who receives a final notice may appeal to the First-tier Tribunal against:

- the decision to impose a penalty; or
- the amount of the penalty.

The Council may, at any time:

- Withdraw a notice of intent or final notice or
- reduce the amount specified in a notice of intent or final notice

Where the Council decides to take either action, it will write to the person to whom the notice was served.

Payment of a Civil Penalty

Where a person in receipt of a Civil Penalty has exhausted all rights of appeal or has not paid or is not paying the penalty, the Council may refer the case to the county court for an Order of that Court. The Council may use any reasonable and lawful process, including use of county court and other bailiffs, to enforce the order and recover the debt.

Database of Rogue Landlords

Where a landlord receives **two** or more civil penalties over a 12 month period, the Council may include that person's details in the national **database of rogue landlords and property agents**.

The purpose of the database is to enable local housing authorities to record information about, and target enforcement action against, any landlord who has:

- received a banning order under the Housing and Planning Act 2016;
- been convicted of a banning order offence; or
- received TWO or more civil penalties over a 12 month period.

Banning Orders

A Banning Order is an Order made by the First-tier Tribunal that bans a landlord, **for a minimum of 12 months**, from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

A banning order offence is an offence of a description specified in **The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018**. In considering whether to pursue an Banning Order, the Council will take account of prevailing national guidance and consider factors including but not necessarily limited to: the seriousness of the offence; previous convictions and whether a Landlord appears on the Database of Rogue Landlords; the harm caused to tenants; punishment of the offender and the deterrent effect of a Banning Order on the offender and on others. The process the Council will follow prior to applying for a Banning Order is set out in section 157 of the Housing and Planning Act 2016. **Breach of a Banning Order is a criminal offence.**

Civil Penalty Matrix

Factors	Score = 1	Score = 5	Score = 10	Score = 15	Score = 20	Total
1 - Deterrence& Prevention (Pick only one box to the right)	High confidence that a financial penalty will deter repeat offending. Publicity likely to have some deterrence value to other landlords.	Medium confidence that a financial penalty will deter repeat offending. Publicity likely to have some deterrence value to other landlords.	Low confidence that a financial penalty will deter repeat offending (e.g. no contact from offender). Publicity likely to have deterrence value to other landlords.	Little confidence that a financial penalty will deter repeat offending. Publicity likely to have significant deterrence value to other landlords.	Very little confidence that a financial penalty will deter repeat offending. Publicity likely to have very significant deterrence value to other landlords.	
2 - Removal of Financial Incentive (Pick only one box to the right)	No or very low financial benefit made by the offender. Probable single property asset.	Low financial benefit made by the offender. Probable small property asset value (2–3 properties).	Some financial benefit made by the offender. Probable small portfolio landlord (between 4 and 6 properties). Low asset value.	Clear financial benefit made by the offender. Probable medium portfolio landlord (between 7 and10 properties) or a small Managing Agent. Medium asset value.	Substantial financial benefit made by the offender. Probable large portfolio landlord (over 10 properties) or a medium to large Managing Agent. Large asset value.	
3 - Offence History (Pick only	Single offence with no previous enforcement	Single offence with one previous enforcement issue.	Single offence with two previous enforcement issues.	Single offence with three or more previous enforcement issues.	Multiple offences with three or more previous	

one box to the right)	history.	Multiple offences with no previous enforcement history.	Multiple offences with one previous enforcement issues.	Multiple offences with two previous enforcement issues.	enforcement issues.	
Factors	**Score = 1**	**Score = 5**	**Score = 10**	**Score = 15**	**Score = 20**	**Total**
4 - Harm to Tenant(s) (Weighting x2) (Pick only one box to the right)	Little potential for harm.	Potential for low level harm.	Potential for moderate level harm.	Potential for high level harm.	Actual harm caused to occupant/ occupants as a direct consequence of a landlords failings.	Double score
5- Culpability (Responsibility, guilt, fault) (Pick only one box to the right)	There has been an unintentional/unforeseen failing(s) on behalf of the landlord/agent.	There has been an act, error or omission on behalf of the landlord/agent. Offence is committed with little fault on the part of the landlord or property agent e.g. damage caused by tenants including damp and mould caused by tenants where however property improvements could be made to improve the property and	There has been a **negligent act**, error or omission on behalf of the landlord/agent. i.e. a landlord or agent has failed to take reasonable care and did something or failed to do something that would have been reasonable to do. e.g. failing to act upon the findings of an inspection or	There has been a **reckless act**, error or omission on behalf of the landlord/agent. i.e. the danger and risk brought about by an act, error or omission would be obvious to most people yet the landlord/agent made no attempt to address such obvious matters. e.g. failure to comply with gas and/or electrical safety requirements for rented	There has been a **deliberate and intentional act**, error or omission on behalf of the landlord/agent. i.e. – there has been a blatant disregard for the law. e.g. an unreasonable failure to comply with a correctly served Improvement	

		address the situation	failing to act in a timely manner to reports from tenants.	property, failure to carry out a fire risk assessment in an HMO or failure to remedy obvious serious disrepair.	Notice, deliberate breach of the Management Regulations or deliberate failure to Licence a Mandatorily Licensable HMO.	
Failure to Licence a THREE storey plus Mandatorily Licensable House in Multiple Occupation	**<u>Score = 41</u>**					
Failure to Licence a one/two storey <u>Mandatorily</u> Licensable House in Multiple Occupation	**<u>Score = 36</u>**					
Final Total	**Add total of above scores here**					

Score Range	Fee
6-10	Warning Letter
11-20	£500
21-30	£750
31-40	£1,000
41-45	£2,500
46-50	£5,000
51-60	£10,000
61-70	£15,000
71-80	£17,500
81-90	£20,000
91-100	£22,500
101 – 110	£25,000
111 – 120	£27,500
121 and above	£30,000

Scoring regime-

Each row should be scored in order with only one option being chosen for each row.

All rows MUST be scored.

Note the score in the Total column.

Factor 4 – Harm to Tenants has an additional weighting, which will double the selected score.

In the final cell at the bottom of this column insert the final total.

The score should then be compared to the sliding scale of enforcement fee to be levied.

6 Rent Repayment Orders

Introduction

The Housing Act 2004 introduced rent repayment orders (RROs) to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed, specifically Houses in Multiple Occupation(HMO's). RROs are a means by which a tenant or local authority can seek to have up to 12 months of rent repaid in addition to other enforcement action.

RROs have now been extended through the Housing and Planning Act 2016 to cover a much wider range of offences and can now be applied for to cover the following situations:

- Failure to comply with an Improvement Notice (s.30 Housing Act 2004)
- Failure to comply with a Prohibition Order (s.32 Housing Act 2004)
- Breach of a banning order made under s.21 Housing and Planning Act 2016
- Using violence to secure entry to a property under s.6 Criminal Law Act 1977
- Illegal eviction or harassment of the occupiers of a property under s.1 Protection from Eviction Act 1977

Applications for a RRO must be made to the First-tier Tribunal.

Where the offence was wholly committed before 6 April 2017 or the commission of the offence started before the 6 April 2017 and ended no later than 5 April 2018, the provisions in the Housing Act 2004 continue to apply.

Where the offence was wholly committed on or after 6 April 2017, the provisions in the Housing and Planning Act 2016 and this guidance should be used.

An order can be applied for when one of the above offences has been committed, whether or not the landlord has been convicted. Where the landlord has not been convicted of the relevant offence, the First-tier Tribunal will need to be satisfied beyond reasonable doubt that the landlord has committed the offence.

If the Council paid the rent through either housing benefit or universal credit, any rent recovered must be repaid to the Council. If the tenant paid the rent in full (no HB or UC) any amount recovered must be paid to the tenant. If the rent was paid partly through

HB/UC and by the tenant, the amount recovered must be repaid on an equivalent basis to each party. If there are multiple tenants in the property, each must apply for a RRO to recover the rent they have paid.

The maximum amount of rent that can be recovered is capped at 12 months.

Any income received from a RRO can be retained by the Council provided it is used towards private sector housing enforcement activities.

When to apply for a RRO

The Council will consider applying for a RRO in all cases where the landlord has been convicted of a relevant offence and some or all of the rent was paid through housing benefit/universal credit.

Where a landlord has not been convicted, the Council will take the following factors into account in deciding whether a RRO is appropriate and how much should be recovered:

Punishment of the offender – RROs should have a real economic impact on the offender. The Council will consider the conduct of the landlord and tenant, the financial circumstances of the landlord and whether the landlord has been convicted of similar offences

Deter the offender from repeating the offence – the level of the penalty should be set at a high enough level to deter the offender from repeating the offence

Dissuade others from committing similar offences – the issue of a RRO will be in the public domain therefore robust and proportionate use of the orders is likely to help others comply with their responsibilities

Remove any financial benefit the offender may have obtained as a result of committing the offence

Who is named on the RRO?

A RRO can only be applied for in the name of the landlord of the property.

Civil Penalty and RRO

The Council can impose a Civil Penalty and apply for a RRO for the following offences:

- Failure to comply with an Improvement Notice (s.30 Housing Act 2004)
- Offences in relation to licensing of HMOs (s.72(1) failure to licence)
- Offences in relation to licensing of houses under Part 3 of the Housing Act 2004 (s.95(1), selective licensing)

Prosecution and RRO's

The Council can prosecute a landlord and seek a RRO for the same offence.

Process for applying for a RRO

Stage 1 – serve a notice of intent

Before applying for a RRO, the landlord must be served with a Notice of Intent. The notice must be served within 12 months of the date on which the landlord committed the offence to which it relates.
The notice must:

- Inform the landlord the Council is proposing to apply for a RRO and the reasons why
- State the amount the Council is seeking to recover
- Invite the landlord to make representations within a period specified in the notice which must be at least 28 days

Stage 2 – right to submit written representations

The landlord may make written representations to the Council about the intention to apply for a RRO. Any representations must be made within 28 days from when the notice was given. The Council cannot apply for a RRO during this period.

Stage 3 – end of written representation period

Once the 28 day period for receiving written representations has expired, the Council can apply for the RRO.

Stage 4 – right of appeal

The landlord can appeal against the decision of the First-tier Tribunal to the Upper Tribunal provided permission to appeal has been given by either the First-tier or Upper Tribunal.

Refusal to Pay

Where the landlord fails to pay the RRO, the Council or tenant can refer the case to the County Court for an Order of that Court. County Court bailiffs can be used to enforce the Order and recover the debt.

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Tenants and RROs

Tenants can apply directly for a RRO providing that:

- The offence relates to housing that was occupied by the tenant at the time of the offence; and
- The application for a RRO is made within 12 months of the date that the offence has been committed

The tenant does not have to go through the same process as the Council. The tenant only needs to submit a claim form to the First-tier Tribunal which sets out the reasons for the claim and the dates to which it relates.

There is no statutory obligation on the Council to support the tenant in making a claim, however, where the Council has evidence in support of the tenant's case, it will make this available to the tenant for the purposes of the claim.

RROs and Universal Credit

The Council will not have access to UC data, therefore, where the Council wishes to apply for a RRO and some or all of the rent has been paid via UC, the tenant will need to provide the information from their benefit statements or request the information required direct from the DWP.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/606654/Rent_Repayment_Orders_guidance.pdf

7 Smoke and Carbon Monoxide Alarms

From 1 October 2015 it was a requirement for all landlords/letting agents/property managers of certain residential properties to ensure that smoke alarms are fitted on each floor of any rented property and that any living spaces with solid fuel appliances have a carbon monoxide alarm. In terms of the Council's policy approach, fire safety in residential accommodation is one of the Council's priority concerns. As a consequence, the Council requires all privately rented accommodation to meet the relevant standards set out in the LACORs guidance document, Housing – Fire Safety. In summary, the Council requires all single occupancy privately rented homes to meet the relevant standards described in case examples D1 – D3 and that **all HMO's** meet the relevant standards described in case examples D7 – D9.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 are linked to Section 150 of the Energy Act 2013 and Schedule 4 of the Housing Act 2004 and can be found at http://www.legislation.gov.uk/ukdsi/2015/9780111133439/contents

The duties of the landlord in relation to prescribed alarms are summarised as;

A smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
A carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance and
Checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day any new tenancy starts.

Under the regulations Boston Borough Council are the enforcement body within the borough of Boston. The process for ensuring compliance is summarised below. Full details are available via the following link:
https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-local-authorities

Step 1.

If Boston Borough Council has reasonable grounds to believe a landlord is in breach of the requirements it will serve a remedial notice on the landlord. Reasonable grounds could include being informed by the tenant, letting agent or a housing officer. The Council is not required to enter the property to prove non-compliance.

Step 2.

The landlord has 28 days to comply with the remedial notice. If a landlord does not prove they have taken all reasonable steps to comply Boston Borough Council could decide on the balance of probabilities that the landlord is in breach of the duty to comply. In the absence of evidence such as dated photographs, copy installation records or confirmation by the tenant Boston Borough Council will consider the landlord to be in breach.

Step 3.

Where the landlord has not complied within 28 days and Boston Borough Council is satisfied that the duty has been breached it will arrange (with the occupiers consent) for remedial action to be taken. This will be to ensure that the tenants are protected by working alarms. The Council will use a suitably qualified contractor to undertake the works to either install an alarm or repair/check an existing installation.

In the event of having to take this course of action the Council will impose a Civil Penalty of up to £5,000 in line with the prevailing statement of principles as published by the Council at the time.

The Council will issue a penalty charge notice in writing along with any other information as required within the regulations.

Step 4.

If a landlord does not agree with a penalty charge notice it can be appealed in writing to Boston Borough Council within the time period specified in the notice. The Council will consider the representations made and decide whether to confirm, vary or withdraw the notice. This will be confirmed to the landlord in writing along details of the appeals process to the First Tier Tribunal

8 Minimum Standard for the Energy Efficiency of Private Rented Properties

Energy efficiency regulations[1] ("the Regulations") establish a minimum standard for domestic privately rented property, subject to certain requirements and exemptions:

- From 1st April 2018, landlords of relevant domestic private rented properties may not grant a tenancy to new or existing tenants if their property has an Energy Performance Certificate (EPC) rating of band F or G.
- From 1st April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating of F or G (as shown on a valid EPC for the property).

Where a landlord wishes to continue letting property which is sub-standard, they will need to ensure that energy efficiency improvements are made which raise the EPC rating to a minimum of E.

Under prescribed circumstances within the Regulations, the landlord may claim an exemption from prohibition on letting a sub-standard property. **Where a valid exemption applies the landlord must register the exemption on the national Private Rented Sector Exemptions Register**.

The minimum standard will apply to any domestic privately rented property which is legally required to have an EPC and which is let on certain tenancy types. Landlords of property for which an EPC is not a legal requirement are not bound by the prohibition on letting sub-standard property.

The Council may:

- Check that properties in the district falling within the scope of the Regulations meet minimum levels of energy efficiency.
- Issue a compliance notice requesting information where it appears that a property has been let in breach of the Regulations.
- Serve a penalty notice where satisfied that the landlord is, or has in the past 18 months, been in breach of the requirement to comply with a compliance notice or has provided false or misleading information on the exemptions register.

The Council will have regard to the guidance[2] in the application of this legislation, the level of any financial penalty imposed and the

[1] Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

[2] https://www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents

publication of the penalty.

9 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

The above regulations place a responsibility on landlords to ensure that Electrical Safety Standards within rented properties are met during any period that the property is occupied. This includes a requirement that the installation is inspected/tested by a suitably qualified person at intervals of no more than 5 years (or less if specified within the previous report), and to undertake such further investigative or remedial work as may be identified within that report.

Copies of the report must also be provided to new occupants before that tenant occupies the property, to existing tenants within 28 days of the inspection and test, and to the Council within a period of 7 days of receiving a request to do so.

Where the Council has reasonable grounds to believe that a landlord has failed to fulfil their duties under these regulations, the Council must serve on that landlord a Remedial Notice requiring the landlord to take remedial action within 28 days.

Should a landlord fail to comply with this notice, the Council may arrange for a suitable contractor to carry out the work, and in addition may require the landlord to pay a financial penalty of such amount as the authority may determine. The amount of the penalty charge must not exceed £30,000.

The Council will have regard to the guidance in the application of this legislation, the level of any financial penalty imposed and the publication of the penalty.

10 Disabled Facility Grants

Mandatory Grants

Mandatory DFGs will be awarded in accordance with the Housing Grants, Construction and Regeneration Act 1996 which determines the maximum amount of grant, the type of work which may be funded and the test of resources which may be required to be applied. Section 23 (1) of the above Act identifies the mandatory works eligible for assistance. The **maximum** amount of assistance is £30,000.

Purpose

To adapt the home of a disabled person to meet their needs in providing access to and from the dwelling; facilitating access to a room used or usable as a principal family room; facilitating access to a room used or usable for sleeping; facilitating access to toilet and bathing facilities or for the preparation of food and to improve access to and from the garden where feasible.

Eligible Persons

To qualify for assistance the applicant must be the disabled person, an owner occupier, a tenant or responsible person for a disabled child under 19 and have been referred to the Council by the Lincolnshire County Council Occupational Therapy Service or other qualifying organisation. The grant is available to help the home to be adapted to meet the needs of any disabled person living in the property and enable them to continue living there.

The Property

To qualify for assistance the property must be the primary or sole residence of the applicant and must be reasonably and practicably capable of being adapted to meet the needs of the disabled person, having regard to the age and condition of the dwelling.

Details of the Assistance

- The owner's or applicant's contribution will be determined by a means test called the 'Test of Resources', however this is not required for applications made on behalf of children under the age of 19.
- The maximum grant will be £30,000 on any one application. (This is subject to any changes made by legislation). At the Council's sole discretion, it may accept a single fixed price quotation provided by an applicant where the cost has been

established using a compliant schedule of rates. Compliant schedules of rates may include any schedule of rates negotiated through Lincolnshire's Better Care Fund arrangements or other competitively tendered schedules that accord with the Council's Contract and Procurement Procedure requirements.

- The grant will pay for the works required to meet the need of the disabled person as assessed and recommended by an Occupational Therapist from Lincolnshire County Council.
- Where the Council provides a DFG of more than £5,000 to an owner occupier, it will register a local land charge of **up to**
- £10,000 (capped by the total DFG value exceeding or above £5,000) under the Disabled Facilities General Consent 2008 **where** it would recover more than £1,000. Where the Council could recover less than £1,000 the cost of registration, monitoring and recovery would outweigh any repayment

The local land charge will be repayable, subject to the considerations set out within the Disabled Facilities Grant General Consent 2008, if the property is sold or otherwise disposed of within **10 years** (the maximum period set out in Regulation) of the grant works being completed**.**

If equipment e.g. portable ramps and stairlifts are no longer required, an assessment will be made to determine if it is possible to recycle them for another application.

Please note that any change to the law or legal framework governing the use, value or other qualification to DFG will take immediate precedence over the detail set out in this Framework.

~~**Discretionary DFG**~~ Discretionary Housing Assistance

Please refer to the Lincolnshire Discretionary Housing Financial Assistance Policy for further details

~~**Purpose**~~

~~Discretionary DFG **MAY** be awarded for a wide range of purposes that support the Better Care Agenda including but not being limited to: moving to a suitable home, topping up mandatory DFG, helping reduce delayed transfers of care, helping people stay safe, warm and well and providing dementia aids and adaptations~~.

~~**The maximum assistance normally available is £8,000.**~~

~~**The Council is however under absolutely NO obligation to award Discretionary DFG; in considering any award, the individual's/household's ability to pay will be taken into account and could be subject to DFG means testing.**~~

Eligible Persons

To qualify for assistance the applicant must be the disabled person, an owner occupier, a tenant or responsible person for a disabled child under 19 and have been referred to the Council by the Lincolnshire County Council Occupational Therapy Service or other qualifying organisation. The grant is available to help the home to be adapted to meet the needs of any disabled person living in the property and enable them to continue living there or to assist with a move to a more suitable property.

The Property

To qualify for assistance the property must be the primary or sole residence of the applicant and must be reasonably and practicably capable of being adapted to meet the needs of the disabled person, having regard to the age and condition of the dwelling.

Where the Council provides a discretionary DFG to an owner occupier for adaptations, it will register a local land charge where it would recover more than £1,000. Where it would recover less than £1,000 the cost of registration, monitoring and recovery would outweigh any repayment. Where any discretionary DFG is linked to a registered mandatory DFG, the **full value** of the discretionary grant will be registered and recoverable as a land charge.

ALL applications for discretionary DFG will be subject to the test of resources regardless of the age of the beneficiary.

This assistance is provided subject to the availability of funding and will be judged on a case by case basis.

The approval of any additional discretionary assistance can only be given by the relevant Head of Service, Director of Chief Executive who must secure consent from the relevant portfolio holder and retain a full audit trail of the circumstances and decision process.

Further information on disabled facilities grants can be found on the Lincolnshire County Council website www.lincolnshire.gov.uk or Boston Borough Council's website at www.boston.gov.uk

11 Small Works Loan Scheme for Vulnerable Households

Our Small Works Loan Scheme is designed to assist the removal of Category 1 hazards from the homes of vulnerable households who do not have the resources to pay for urgent remedial works themselves.

Please refer to the Lincolnshire Discretionary Housing Assistance Policy for further details.

Purpose

Subject to available resources, provide loans to vulnerable homeowners or long leaseholders (in occupation) to improve their living conditions and safeguard their health safety and wellbeing by removing serious Category 1 hazards. The normal loan limit under this **discretionary** policy is £5,000. However in exceptional circumstances the Council has sole discretion in making a higher award where it considers it to be reasonable, justified and proportionate to do so. In such circumstances the Head of Service, Director or Chief Executive responsible for housing renewal shall secure consent from the relevant portfolio holder and retain a full audit trail of the circumstances and decision process.

Eligible persons

The applicant must own and occupy the property (or have at least 10 years remaining on a leasehold for the property) as their sole residence and have lived there for a minimum of 3 years. The applicant must be in receipt of one or more of the following benefits; income support, income based jobseeker's allowance, pension guarantee credit, housing benefit, universal credit and income related employment and support allowance. Please note that as resources for this loan scheme are limited anyone with savings of £6,000 or greater will not be eligible for a loan even if they receive one of the benefits listed above.

The Property

Eligible works to the property must be directed towards reducing or removing Category 1 (serious) hazards as identified by a suitably qualified officer from Boston Borough Council. Where the Council does not feel that grant assistance can have a significant effect upon reducing or removing Category 1 hazards, it will refuse support and retains sole discretion to do so.

Details of the assistance

The assistance is to cover cost of works to remedy Category 1(serious) hazards as identified using the Housing Health and Safety Rating System (HHSRS).

The normal loan limit is up to a maximum of £5,000 (see below) and will be registered as a local land charge on the property as prescribed under the Regulatory Reform Order (Housing Assistance) Order 2002. Loans will be interest free with the principal sum only recoverable through a repayment plan or as a registered land charge to which all owners must agree to be eligible (All applicants seeking assistance via a loan from the Council are recommended to take independent legal and financial advice before entering into any repayment plan with the Council or accepting the registration of a local land charge).

Applicants will be required to obtain at least two fixed price quotations acceptable to the Council for the works and are responsible for ensuring that any professional advice necessary is sought and obtained (e.g. planning permission, buildings regulation approval etc). In cases where the applicant is particularly vulnerable the Council may be able to signpost individuals to a range of organisations who may be able to provide assistance with obtaining quotes and overseeing any works. Such services could attract a fee. The Council consider up to 10% of the total loan amount to be reasonable. Where the works and fee total more than £5,000 the applicant will be required to pay the difference to the Council before any works commence.

The applicant will be responsible for the supervision of the works and all completed works will be inspected by the Council to ensure that they accord with the works specified.

Payment of any loan will only be made when the applicant **and** the Council are happy that all the works have been completed satisfactorily and all relevant invoices, guarantees and certificates etc have been received.

In certain cases it is recognised that more than £5,000 might be needed to remedy serious Category 1 hazards in a property. The approval of any additional discretionary assistance can only be given by the relevant Head of Service, Director or Chief Executive who must secure consent from the relevant portfolio holder and retain a full audit trail of the circumstances and decision process. Boston Borough Council reserves the right to award or refuse any application for a discretionary loan and can withdraw this policy option at any time. Please contact the Council's Private Sector Housing Team for further advice and information on this assistance.

12 Empty Homes Assistance and Enforcement

Empty homes represent a wasted housing resource, are unsightly and can attract crime and anti-social behaviour and can contribute to the overall decline of an area. Maximising the number of empty homes brought back into use not only helps to increase housing supply and reduce the problems associated with them, it also currently assists the Council to attract New Homes Bonus from the government (which has been used to support some of the initiatives within this Framework. Alongside advice and information, discretionary enforcement action can assist empty dwellings to be returned into good quality homes for our residents. Options to return homes back into viable use include:

Boston Borough Council Empty Homes Loan

Boston Borough Council, may, subject to the availability of resources, be able to support an Empty Homes Loan of up to **£6,000** to eligible home owners for eligible properties. The aim of the loan is to assist owners of empty homes within Boston Borough to return their property back into use as a home by facilitating the funding necessary for repair works that make the property safe and habitable.

A brief summary of requirements for the empty home loan are as follows:

Eligible Persons

The owner must be a private individual and not a company. Where the Council is **not** satisfied that the loan, either on its own or as part of a wider funding package proposed by the owner would enable a property to be safely re-occupied then it will **not** support any application.

Details

The Council will conduct a full inspection of the empty home to identify any works required to satisfactorily remove Category 1 hazards that enable the property to be bought back into use safe use.

Empty Homes Loans will only be approved where the owner(s) of an empty home agree to a repayment plan or, where this is not affordable, agree to the Council registering a charge against the property.

Advice and information about this scheme can be obtained from Boston Borough Council on 01205 314200.

Enforcement Action

Whilst Boston Borough Council prefers to work proactively and productively with the owners of empty homes to explore how they might bring their property back into use and statutory guidance is very clear about this, sometimes advice, support and financial assistance alone are not enough. Where an owner(s) fails to engage with the Council or has not taken reasonable action or made reasonable progress to return the property back into use, the Council has a range of **discretionary** enforcement powers available to it that it **may** use to seek resolution to the matter including the use of Community Protection Warnings and Community Protection Notices. It should however be highlighted that the use of such powers are discretionary and not mandatory and the cost to the public purse will always be a relevant and material consideration.

In accordance with our Corporate Enforcement Policy we are likely to take action in the first instance to ensure empty properties remain safe and secure where problems arise. Any input beyond this will be considered on a case by case basis and may include:

Empty Dwelling Management Orders (EDMOs)

The Housing Act 2004 allows councils to temporarily take ownership of a property with the intent to bring it back into use as a rented home. Properties must have been empty for over 2 years and any leasing arrangement can last for up to 7 years. (Interim EDMOs are valid for up to 12 months and full EDMOs for up to 7 years) This type of action is best suited to properties requiring minor repairs as the Council would need to arrange for refurbishment works to be carried out and for the property to be let out with any costs being recovered from the rental income. Property ownership is not affected by EDMOs.

Enforced Sales Procedures

The Enforced Sales Procedure is a power under Section 103 of the Law of Property Act 1925. An enforced sale can only be carried out where the Council has placed a local land charge on a property for works in default (i.e. the Council has paid for works to done) because the owner cannot be traced or is unwilling to act. With an Enforced Sale the Council is able to recover reasonable costs through the sale of the property and any remaining funds after paying all the charges are paid to the owner.

Compulsory Purchase Order (CPO)

Mostly used as the last resort option where all other routes have failed. The Council can apply to acquire the property where there is a justified cause e.g. A CPO will ensure that a property is sold on, but is it a legal process that can take between 6 and 18 months. It must be noted that the Council is under NO obligation to use any discretionary power and that the use of discretionary action will be influenced by the availability of the Council's resources in the widest sense.

13 Property Redress Scheme

From 1 October 2015 it was a requirement for all letting agents and property managers to join a Government approved redress scheme. **The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc (England) Order 2014** can be found at http://www.legislation.gov.uk

These regulations do not provide any new powers for enforcement as these are already covered in existing consumer protection powers. However the requirement to be registered is enforceable by a Local Housing Authority.

The enforcement authority can impose a fine of up to £5,000 where it is satisfied, on the balance of probability that someone is engaged in letting or agency work and is required to be a member of a redress scheme, but has not joined. Boston Borough Council will monitor registrations to the approved schemes and where it finds agents or managers that are not registered it will contact them and give a 14 day, period of grace, for a registration to be made. If this is not done enforcement action may commence in line with the Council's Corporate Enforcement Policy.

A £5,000 will be the normal fine value with a lower amount only being charged where the Council consider there are reasonable, justifiable and proportionate extenuating circumstances. In taking any action, the Council will follow the enforcement process set out as follows:

Step 1: Notice of Intent

Boston Borough Council will give written notice of their intention to impose a penalty, setting out:

- the reasons for the penalty;
- the amount of the penalty; and
- that there is a 28 day period to make written representations or objections, starting from the day after the date on which the notice of intent was sent.

Boston Borough Council may withdraw the Notice of Intent or reduce the amount specified in the notice at any time by giving further notice in writing.

Step 2: Representations and Objections

The person who the Notice of Intent is served on has 28 days starting from the day after the date the Notice of Intent was sent to make written representations and objections to Boston Borough Council in relation to the proposed fine.

Step 3: Final Notice

At the end of the 28 day period Boston Borough Council will decide, having taken into account any representations received, whether to impose the fine and, if so, give at least 28 days for payment to be made. When imposing a fine, Boston Borough Council will issue a final notice in writing which explains:

- why the fine is being imposed;
- the amount to be paid;
- how payment may be made;
- the consequences of failing to pay;
- that there is a right to appeal against the penalty to the First-tier Tribunal and that any appeal must be made within 28 days after the imposition of the fine.

Boston Borough Council may withdraw the final notice or reduce the amount specified in the notice at any time by giving further notice in writing.

Step 4: Appeals

If an appeal is lodged the fine cannot be enforced until the appeal is disposed of. Appeals can be made on the grounds that:

- the decision to impose a fine was based on a factual error or was wrong in law;
- the amount of the fine is unreasonable; or
- that the decision was unreasonable for any other reason.

A First-tier Tribunal may agree with an enforcement authority's Notice to issue a penalty or may decide to quash or vary the Notice and fine. Appeals will be heard by the General Regulatory Chamber, further details on the appeals procedure can be found on the HM Courts website.

Step 5: Recovery of the penalty

The penalty fines received by Boston Borough Council may be used for any of its functions.

If the lettings agent or property manager does not pay any fine imposed within the 28 day period the Council can recover the fine with the permission of the Court as if payable under a Court Order. Where proceedings are necessary for the recovery of the fine, a certificate signed by Boston Borough Council's Chief Finance Officer stating that the amount due has not been received by a date stated on the certificate will be taken as conclusive evidence that the fine has not been paid.

APPENDIX A – Minimum HMO Licence Conditions and Minimum Amenity Standards

In addition to the **Mandatory** HMO Licence Conditions prescribed by the Government, Section 67 of the Housing Act 2004 provides that a '*licence may include such conditions as the local housing authority consider appropriate for regulating the management, use and occupation of the house concerned and its condition and contents'*.

This template sets out the Licence Conditions that are applicable and will be prescribed within all HMO **licenses** issued by Boston Borough Council; any additional Licence Conditions considered necessary by the Council will be bespoke to individual applications and prescribed from Condition 14 onwards. **Schedule 1** prescribes the Council's adopted Amenity Standards that will to be applied to **ALL** Houses in Multiple Occupation.

1 NUMBER OF OCCUPANTS

The maximum number of occupants who can reside in the **DWELLING** is XXX people. **Only the rooms listed below can be used for sleeping**. The maximum number of people who can occupy each room licensed as sleeping rooms are set out below.

(Clearly identify each room licensed for rooms used for sleeping and prescribe the maximum number of occupants accordingly)

The maximum number of occupants has been set in relation to the amenities available within the dwelling. The number of people who occupy rooms licensed as sleeping rooms <u>MUST NOT EXCEED</u> the maximum number of occupants who can reside in the DWELLING.

COMPLIANCE: This must be complied with from the date of the Licence and during the period of the Licence

AUTHORITY: Section 67(1)(a) of the Housing Act 2004 and **2018 No. 616 -** The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.

2 WRITTEN TERMS OF OCCUPANCY

The licence holder must supply the occupiers of the property, on commencement of their occupancy, with a written statement of the terms in which they occupy the house. The Licence Holder must, on demand, provide the Council with a copy of the written

statement.

COMPLIANCE: This must be complied with from the date of the Licence and whenever there is a change of occupants.

AUTHORITY: Paragraph 1(5) of Schedule 4 (Housing Act 2004)

3 INVENTORY OF HOUSE CONTENTS AND STATEMENT OF CONDITION

The Licence holder must supply the occupiers of the house, on the commencement of their occupancy, with:

(1) a written inventory of the contents of the house, and
(2) a written statement of the condition of each room and its fittings.

The Licence Holder must, on demand, provide the Council with a copy of the inventory of contents and a copy of the statement of condition.

COMPLIANCE: This must be complied with from the date of the Licence and whenever there is a change of occupants.

AUTHORITY: Paragraph 1(5) of Schedule 4 (Housing Act 2004)

4 FIRE ALARMS AND FIRE SAFETY

The licence holder must ensure that fire alarms and fire precautions within the property meet the relevant standards set out in the LACORs guidance document, Housing – Fire Safety, 2008. The Licence Holder must comply with the relevant standards described LACORs case examples D7 – D9.

The Licence Holder must keep all alarms in proper working order and supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm.

COMPLIANCE: This must be complied with from the date of the Licence and during the period of the Licence

AUTHORITY: Paragraph 1 of Schedule 4 (Housing Act 2004), as amended by the Smoke and Carbon Monoxide Alarm (England) Regulations 2015. Schedule 3 of the Licensing of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)

(England) Regulations 2006.

5 FURNITURE SAFETY

All furniture made available to the occupants of the property must be kept in a safe condition and must comply with the Furniture and Furnishings (Fire) (Safety) Regulations 1988. On demand, the Licence Holder must submit a declaration concerning the safety of the furniture to the Council.

COMPLIANCE: This must be complied with from the date of the Licence and during the period of the Licence

AUTHORITY: Paragraph 1(3) of Schedule 4 and Section 67(1) (Housing Act 2004)

6 CARBON MONOXIDE ALARM

The licence holder must ensure that a carbon monoxide alarm is installed in any room in the property which is used wholly or partly as living accommodation and contains a gas or solid fuel burning combustion appliance and to keep any such alarm in proper working order and to supply to the Council, on demand, with a declaration by him as to the condition and positioning of any such alarm. The term room also includes a hall, landing, bathroom or water-closet compartment.

COMPLIANCE: This must be complied within 28 days from the date of the Licence

AUTHORITY: The Housing Act 2004 Schedule 4 Paragraph (4A).

7 LANDLORD'S GAS SAFETY CERTIFICATE - SUBMIT ON EXPIRY

Within twenty-eight (28) days of the expiry of the current landlord's gas safety certificate (or within 28 days of the date of the licence if already expired), obtain and submit to the Council a new certificate issued by a recognised engineer approved under regulation 3 of the Gas Safety (Installation and Use) Regulations 1998.

Carry out any remedial recommendations made and submit a new gas safety certificate issued by a recognised engineer upon completion.

A copy of the certificate must be provided to all assured shorthold tenants at the property whose tenancies began on or after 1st

October 2015.

COMPLIANCE: This must be complied with from the date of the Licence.

AUTHORITY: Paragraph 1(2) of Schedule 4 (Housing Act 2004) and the Management of Houses in Multiple Occupation (England) Regulations 2006 Regulation 6; Section 38 Deregulation Act 2015.

8 DEPOSIT PROTECTION CERTIFICATE

The licence holder must provide a copy of the deposit protection certificate (or other proof that the deposit is protected in a government approved deposit protection scheme which contains all the information prescribed by the Housing Act 2004) to all tenants in assured shorthold tenancies within 30 days of receipt of their deposit.

Copies of all current deposit protection certificates for any deposits taken at the licensed property must be provided within seven (7) days of receiving a request in writing from the Council.

COMPLIANCE: This must be complied with from the date of the Licence and whenever there is a change of occupants.

9 CHANGES TO PERSONAL CIRCUMSTANCES

The Licence Holder must advise the Councils Private Sector Housing Section in writing of any change to the circumstances of each person (except any mortgage provider) named on the licence application form if the new circumstances are likely to affect the ability of such a person to carry out any function concerning the operation or management of the HMO.

COMPLIANCE: This must be done within fourteen (14) days of a permanent change occurring.

AUTHORITY: Section 67(1)(a) of the Housing Act 2004

10 CHANGES WITHIN THE PROPERTY

The Licence Holder must advise the Council's Private Sector Housing Team in writing of any change in the property (apart from the change of occupants) that is likely to affect the operation or management of the HMO.

COMPLIANCE: This must be done within fourteen (14) days of a permanent change occurring.

AUTHORITY: Section 67(1)(a) of the Housing Act 2004

11 DISPLAY A COPY OF THE LICENCE

The Licence Holder must prominently display a copy of the HMO Licence in the property. It shall be located adjacent to the Notice containing the name, address and telephone contact number of the person who manages the

12 REFUSE STORAGE FACILITIES AND PRESENTATION

Provide suitable storage facilities for refuse and recycling both **in and outside the property**. The number and type must be adequate for the requirements of each household pending disposal of the waste.

The presentation of waste and provision for its collection must comply with the requirements published on Boston Borough Councils website/Waste and Recycling Policy, further details can be found at www.boston.gov.uk . At no time should the waste or the waste receptacles from the licensed property obstruct the free passage along a highway and it is an offence under Section 137 of the Highways Act, 1980 to obstruct such free passage. Allowing any refuse or refuse receptacles to cause an obstruction may constitute a breach of this condition.

COMPLIANCE: This must be done from the date of the Licence and during the period of the Licence

AUTHORITY: The Management of Houses in Multiple Occupation (England) Regulations 2006 and **2018 No. 616 -** The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.

13 MANAGEMENT

The Licence Holder MUST, throughout the duration of the licence period, be able demonstrate to the Council that they and/or their agent and/or their manager have sufficient competence and finance to effectively manage the property and address ALL management, maintenance, responsive repairs and emergency repairs within appropriate timescales. Failure to be able to demonstrate these requirements upon demand could result in, but are not limited to, the issue of a Civil Penalty, the addition of further licence conditions or the revocation of the Licence.

COMPLIANCE: Satisfactory arrangements must be in place prior to the grant of a Licence and throughout its duration. Evidence of these requirements shall be submitted to the Council within 21 days of any request.

AUTHORITY: Section 66(6)(a-c) of the Housing Act 2004

14 ADDITIONAL CONDITIONS

(INSERT ALL RELEVANT ADDITIONAL CONDITIONS HERE)

Notes: Despite these licence conditions being prescriptive, they do not preclude assessment of the property under Part 1 of the Housing Act 2004 (Sections 4, 5 and 7) nor do they have any bearing on the need to comply fully with the Management of Houses in Multiple Occupation (England) Regulations 2006 and **ALL** other prevailing requirements.

Schedule 1 – Minimum Amenity Requirements for Houses in Multiple Occupation

Bathroom Requirements

<table>
<tr><th>Occupiers:</th><th>3-5</th><th>6</th><th>7 - 9</th><th>10</th><th>11-12</th><th>13-15</th></tr>
<tr><td>Shared wash Hand Basins (with splash back)</td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>5</td></tr>
<tr><td rowspan="2">Shared WCs</td><td>1</td><td>2</td><td>2</td><td>2</td><td>3</td><td>3</td></tr>
<tr><td></td><td colspan="3">At least one WC should be in its own room (or in an additional bathroom)</td><td colspan="2">At least two WCs should be in their own room (or in additional bathrooms)</td></tr>
<tr><td rowspan="2">Shared Baths or Showers</td><td>1</td><td>2</td><td>2</td><td>2</td><td>3</td><td>3</td></tr>
<tr><td colspan="2">-</td><td colspan="4">Need to be in separate bathrooms or shower rooms.</td></tr>
<tr><td>Ventilation</td><td colspan="6">A mechanical extraction fan in accordance with Building Regulation requirements</td></tr>
</table>

The above table relates to numbers of occupants **sharing an amenity**, which may not necessarily be the same as the total number of occupiers. For example, if there are five occupiers but one has a basin in their unit for their exclusive use, a single shared basin for the remaining four occupants would meet the standard.

All rooms in which a toilet is located shall have a wash hand basin in the same room. This wash hand basin shall not be included in the calculation above unless it is of a size that is suitable for personal washing (minimum 500mm x 400mm)

Kitchen Requirements:

Kitchen size:
3-5 occupants – 7m^2
6-7 occupants – 9m^2
8 to 10 occupants – 11m^2

No kitchen shall be shared by **more than 10 occupants** irrespective of its total floor area.

Kitchen Facilities

Item	Shared House HMO
Cooker	One oven, grill and 4 ring cooker for 3 to 5 occupants. Two oven, grill and 4 ring cookers for 6 to 10 occupants.
Microwave/Mini Cookers	Optional - ***may*** allow extra sharing of cooking facilities for up to six occupants at the Council's discretion.
Kitchen sink	Sink and drainer with hot and cold water supply for 3 to 5 occupants. Two Sinks and drainers with hot and cold water supply for 6 to 10 occupants. Provision of a Dishwasher may allow additional people to share one set of sink and drainer facilities at the Council's discretion.
Worktop	Depth - min 500mm. Length - 0.5m per person for first 3 occupants plus 0.25m for each additional occupant as a minimum.
Electrical sockets over worktop	Two twin power outlets located in a safe position for 3-5 occupants (excluding those in use for fixed appliances eg cooker, fridge, freezer, fridge freezer, dishwasher, washing machine or tumble dryer). Two additional twin power outlets, excluding those for fixed appliances, for 6-10 occupants.
Dry Food storage (ie unopened foods not requiring refrigeration)	Minimum 500mm x 700mm x 290 mm storage unit for each occupant **appropriately located**.
Fridge (with freezer compartment or separate freezer)	Appropriately sized fridge with freezer compartment for every 5 occupants.
Ventilation	A mechanical extraction fan in accordance with Building Regulation requirements.

Dining Provision

The Council will consider the location and suitability of dining space on a case by case basis. Licence conditions may be applied to control provision of dining space in licensable HMOs and other enforcement routes may be used in other HMOs.

Note: Whilst consideration will be given to the circumstances of each case, these standards will generally be enforced as the minimum acceptable. Even where these minimum standards are exceeded, Category 1 or 2 Hazards may still exist and the Council may still take reasonable, justified and proportionate action.

APPENDIX B - Fees and Charges

Houses in Multiple Occupation Charging Policy

The Council's HMO Licence Fee from the date this Policy Framework is adopted is set out below. This fee will be reviewed at least annually and published by the Council. Such publication will supersede the fee below. In order for the Council to be able to accord to the requirements of the European Services Directive , the fee can be paid in two parts, the Part 1 fee must be paid at the point of application for it to be valid, and the Part 2 fee paid prior to the issue of a Licence. In the event the Council refuse an application, the Part 2 payment will not be levied. No refunds will be given for either Part of the payment once received.

The fee calculation is set out below:

Action or activity	Administration time in Hours of pre-determination processes	Technical Time in Hours of pre-determination processes	Administration time in hours of post-determination processes	Technical Time in Hours of post-determination processes
Advice, guidance, web updating and general promotion	0.33			
Receive and validate application - check all supporting evidence is present and valid, reference address against the LLPG, check Rogue Landlord database, check Home Office Civil Penalty database, validate all application codes into IT system, Process receipt of payment and align to payee account, refer valid applications to case officer for technical assessment of documentation, plans and fit and proper person..	2			

Request and process any outstanding information to the point of making the application valid; referring to case officer upon validation.	0.5			
Assess technical compliance of certification, assess management arrangements and undertake compound fit and proper person test.		1		
Schedule and confirm inspection arrangements and appointment time with applicant, agent and officer.	0.5			
Carry out whole house inspection including ACCURATELY measuring all rooms used for sleeping (time includes travel time)		3		
Determine intention to licence/refuse; Determine licence conditions including assigning occupancy levels to each room used for sleeping, prepare draft licence with all conditions and serve Notice of Intention Licence/Refuse		2		
Receive and consider representations to Notice of Intention to Licence - if it is to be granted, pass to Support team to raise Invoice, if not, issue refusal clearly setting out all grounds.		0.75		
Require Part B payment, monitor payment.	0.5			

Complete licence documentation and issue after Part B payment received.		0.5		
Update Public HMO Register			0.25	
Desktop monitoring of certification years 2-5 (includes time obtaining certification etc)			4	4
2 X compliance Inspections - years 2 and 4				5
Other Compliance and monitoring over the period of the licence				
Total Hours	**3.83**	**7.25**	**4.25**	**9**
Additional Costs per application assuming 500 Applications	**Total**	**Per Application**		
IT Costs over 5 years	40,000.00	80.00		
Time spent by 'management' not included within recharges including scheme development, review, reporting and oversight:				
Pre determination (75 hours Housing Strategy Manager; 50 Hours Head of Service) PER ANNUM	27,961	56.00		
Post determination (75 hours Housing Strategy Manager; 50 Hours Head of Service) PER ANNUM	27,961	56.00		
Process of initial application cost – Part 1 fee	**£479**			
Post approval application costs – Part 2 fee	**£469**			

Total licences assumed to be issued over five years - 500		
	TOTAL LICENCE FEE	**£948**

There are no discounts available. No refunds will be given if the property is disposed of during the term of the licence. Should the property pass into new ownership and a licence is still required a new full licence fee will be chargeable.

In addition to requirements set out within the Housing Act 2004 and other legislation, the Council may be asked to inspect properties for a range of other purposes. Where such requests can be accommodated and are not in conflict with the Council's role and purpose, properties may be assessed in accordance with HHSRS and relevant report made for a fee of **£95.00 per** hour or part thereof. This fee will be reviewed at least annually and published by the Council. Such publication will supersede this published fee.

Penalty Charge Notice- Failure to comply with the requirements of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

These regulations place a responsibility on landlords to ensure that domestic rental properties let on a new tenancy after 1st April 2018 have an Energy Efficiency Certificate (EPC) rating of not less than an E. Properties with EPC rating of F & G should not be let until suitable remedial works have been undertaken. In addition from 1st April 2020 it is an offence to continue to let such a property, even where a tenancy is already in place. However both are subject to certain exemptions.

Where the Council has reasonable grounds to believe that a landlord has failed to fulfil their duties under these regulations, the Council can take the following action.

Compliance Notice – this notice can be used in circumstances where the Council requires the landlord to provide specified documents in order to determine the current efficiency banding and tenancy.

Penalty Notice – where the Council is satisfied that an offence has been committed, a notice can be issued requiring the landlord to pay a financial penalty of such amount as decided by the Council, and to carry out such works as may be required in order to ensure the regulations are being complied with.

Boston Borough Council has determined that the following amounts will be charged.

Where a landlord fails to comply with a Compliance Notice:-
First occasion – £ 500
Second occasion - £ 1000
Third and any subsequent occasions - £ 1500

Where a landlord has registered false or misleading information:-
First occasion – £ 500
Second occasion - £ 750
Third and any subsequent occasions - £ 1000

Where a landlord has let a property in contravention of these regulations:-
If the breach is for less than 3 months –
First occasion – £ 1000*

Second occasion - £ 1500*
Third and any subsequent occasions - £ 2000*

If the breach is for 3 months or more –
First occasion – £ 1500*
Second occasion - £ 2500*
Third and any subsequent occasions - £ 4000*

(*A 50% discount will be offered where a landlord completes any specified work by the required date)

Penalty Charge Notice- Failure to comply with The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

The above regulations place a responsibility on landlords to ensure that Electrical Safety Standards within rented properties are met during any period that the property is occupied. This includes a requirement that the installation is inspected/tested by a suitably qualified person at intervals of no more than 5 years (or less if specified within the previous report), and to undertake such further investigative or remedial work as may be identified within that report.

Copies of the report must also be provided to new occupants before that tenant occupies the property, to existing tenants within 28 days of the inspection and test, and to the Council within a period of 7 days of receiving a request to do so.

Where the Council has reasonable grounds to believe that a landlord has failed to fulfil their duties under these regulations, the Council must serve on that landlord a Remedial Notice requiring the landlord to take remedial action within 28 days.

Should a landlord fail to comply with this notice, the Council may arrange for a suitable contractor to carry out the work, and in addition may require the landlord to pay a financial penalty of such amount as the authority may determine. The amount of the penalty charge must not exceed £30,000.

Boston Borough Council has determined that where a landlord fails to fulfil his obligations under these regulations, the following Financial Penalties will be applied.

Failure to supply a certificate to the Council following a formal request to do so - £360

Failure to ensure that an inspection/test was carried out by the required date (as specified within Section 3(1)(c) of the Act - £500

Failure to comply with the requirements of a Remedial Notice –
First occasion – £1000
Second occasion - £2500
Third occasion - £5000
Fourth and any subsequent occasions - £7500

Failure to carry out Urgent Remedial Action within the specified period –
First occasion – £3000
Second occasion - £6000
Third occasion - £10000
Fourth and any subsequent occasions - £20000

Charging for Enforcement Action

Under Section 49 of the Housing Act 2004, the Council may make a reasonable charge for enforcement action as a means of recovering the expenses incurred in serving a Hazard Awareness Notice, an Improvement Notice, a Prohibition Order or a Demolition Order (including suspended orders). The charges in force at the point of publication are set out below. Charges will be reviewed at least annually and published accordingly. Published figures will supersede those set out here.

Relevant enforcement charges are:

Notice/Order	Charge	Based on
Hazard Awareness Notice (owner occupier)	No charge	N/A
Hazard Awareness Notice (private rented sector)	**£100**	Inspection; HHSRS scoring, drafting notice

Improvement Notice; Prohibition Order; Demolition Order;	**£200** (Notice/Order for one hazard)	Inspection; HHSRS scoring, drafting notice and schedules, serving notice and securing payment
As above	**£60** (for each additional hazard included within the Notice/Order)	Calculating HHSRS score and drafting schedules

APPENDIX C - Table of Financial Assistance and Conditions

Local Housing Authorities have a general power to give financial assistance for home repair, improvement and adaptation. In accordance with the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 councils are able to give assistance under these powers and in accordance with a published policy.

Boston Borough Council's financial assistance policy promotes the property owners responsibility to repair and improve their homes while providing support to vulnerable homeowners, the disabled and those committed to bringing empty properties back into use. A summary of the financial assistance options that may be available is shown on the following pages:

Assistance Type	Summary Criteria	Who can apply	Eligible work	Amount eligible	Repayment Conditions
Empty Homes Loan **(See Section 7 for more details)**	Residential property must have been empty at least 6 months at the point of grant application	Owner of the property	Capital repairs to remedy Category 1 Hazards that enable a home to be safely reocupied	Maximum eligible - £6,000	Repayment Plan/Registered Charge against property where this is not affordable
~~Small Works Loan Scheme~~ ~~**(See Section 6 for more details)**~~	~~Residential property must present one or more serious Category 1 hazards as assessed under the HHSRS~~	~~Owner occupiers or long leaseholders in occupation. Eligible occupants must have been in residence for at least 3 years prior to application~~	~~Works of repair or improvement to remove serious Category 1 hazards~~	~~Up to normal maximum of £5,000 per grant (although the Council can consider additional funding in exceptional circumstances)~~	~~Repayment Plan/Registered Charge against property where this is not affordable~~

Mandatory Disabled Facilities Grant **(See Section 5 for more details)**	A permanent legal residence which is the primary or sole residence of the applicant(s)	Any disabled person who is an owner occupier, tenant or licensee, or the person responsible for a disabled child under 19. All applicants must be subject to a qualifying referral from the Lincolnshire County Council Occupational Therapy Service. Relevant applications are subject to a means test.	Essential work to provide access to facilities for personal care, including bedroom and kitchen facilities and works to improve safety and accessibility	Maximum eligible grant by regulation is £30,000	Where the Council provides a DFG of more than £5,000 to an owner occupier, it will register a local land charge of **up to** £10,000 (capped by the total DFG value) under the Disabled Facilities Grants Regulations2008 **where** it would recover more than £1,000. Where the Council could recover less than £1,000 the cost of registration, monitoring and recovery would outweigh any repayment.

~~Discretionary Disabled Facilities Grant Assistance~~ **~~(See Section 5 for more details)~~**	~~A permanent legal residence which is the primary or sole residence of the applicant(s)~~	~~Any disabled person who is an owner occupier, tenant or licensee, or the person responsible for a disabled child under 19. Applications may be subject to a means test~~	~~Discretionary DFG **MAY** be awarded for a wide range of purposes that support the Better Care Agenda including but not being limited to: moving to a suitable home, topping up mandatory DFG, helping reduce delayed transfers of care, helping people stay safe, warm and well and providing dementia aids and adaptations.~~	~~Maximum eligible grant is normally £8,000~~	~~Where the Council provides a discretionary DFG to an owner occupier for adaptations, it will register a local land charge where it would recover more than £1,000. Where it would recover less than £1,000 the cost of registration, monitoring and recovery would outweigh any repayment. Such registration may be additional to any charge registered in relation to Mandatory DFG.~~

It must be noted that any discretionary assistance identified in this policy framework will be subject to the availability of funding and other resources and can be withdrawn at anytime by the Council.

Other forms of assistance

Where we are unable to provide financial assistance to occupiers and where there is no imminent risk to health and safety to the individual we will provide advice and guidance about other agencies/organisations that may be able to provide support or assistance. There are sometimes Government led initiatives aimed at improving housing standards e.g. energy efficiency.

General Conditions of Assistance

The term assistance means any form of financial assistance approved for the purpose of housing renewal, maintenance, improvement and adaptation. This may include a grant, an improvement scheme in which people are invited to participate, a loan of other form of financial assistance, whether provided directly or indirectly. Condition means any condition(s) attached to the assistance.

Where stated, any financial assistance and any related conditions will be secured as a legal charge against the property (in the case of disabled facilities grants this would not apply to the tenant of a registered housing provider).

Any charge will not be removed until either all the conditions expire or until the assistance is repaid, together with any interest or additional charges apply. A breach of any conditions could also see the Council using existing powers and remedies to enforce the charge and secure payment of any amount due.

A charge against the property is binding on any person who is for the time being an owner of the premises concerned. Where any condition(s) is in force the Council may require the person responsible to provide any information to satisfy the Council that the condition(s) is being complied with. Failure to comply with a request for information within a reasonable time period and in the form required by the Council will be deemed a breach in itself and thus any assistance must be repaid to the Council. It is the responsibility of the person responsible to prove the condition is being complied with to the Council's satisfaction. Failure to do so will be treated as a failure to comply with the condition. The Council does not therefore have the burden of having to prove that any condition is not being complied with.

No applications for financial assistance will be considered where the relevant work has been started or completed. The approval of assistance does not imply or give the Council's approval of any other consents that might be required. e.g. planning permission or building regulations. It is the responsibility of the applicant to obtain any consents that are required.

Conditions will generally be enforced in all cases. Any money repaid or recovered will be recycled into the Council's capital programme for private sector housing renewal.

Glossary to Boston Borough Private Sector Housing Policy Framework

Better Care Fund	The **Better Care Fund** (BCF) is a programme spanning both the NHS and local government which seeks to join-up **health** and **care** services, so that people can manage their own **health** and wellbeing, and live independently in their communities for as long as possible
Category 1 hazards	The most serious hazards as identified using the Health and Housing Safety Rating System. Councils are required to act if they find Category 1 hazards in or around a property
Disabled Facilities Grants	A grant from a local authority to help towards the costs of adapting a property to meet the needs of a disabled person. A person could be classed as disabled and thus eligible for a grant if they are substantially physically disabled, have a mental disorder or impairment, or a substantial impairment of hearing, speech and sight
HHSRS	The Housing Health and Safety Rating System is a method for assessing hazards in 29 different categories that could affect the health, safety and wellbeing of occupiers and visitors in and around a property.
Household	One person living alone or a group of related people living together
House in Multiple Occupation (HMO)	A dwelling house occupied by more than one household
Licensable HMO	A dwelling house containing 5 or more people forming 2 or more households who share basic amenities
Local Land Charge	A charge binding on owners/occupiers in relation to a particular property or piece of land

New Homes Bonus	Government Grant scheme incentivising councils to increase the number of homes in their area by giving the equivalent of 6 years council tax as a grant for each extra dwelling developed, created by conversion or brought back into use
Redress Scheme	Introduced in October 2014 by Government requiring letting agents and property managers to register. Anyone who feels they get a poor deal from their letting agent will then be able to take their complaint to the redress scheme, and could receive compensation.
Regulatory Reform Orders	Secondary legislation using authority delegated to a MP Committee usually used to amend primary legislation passed by an act of parliament

Version Control

VERSION SERIALISATION	REASON:	EFFECTIVE FROM:	AMENDED BY: POSITION AND DATE	APPROVED BY: POSITION AND DATE	PUBLISHED ON:
Version 1.0	Implementation of Version 1.0	9 July 2018		Cabinet, 27 June 2018	9 July 2018
Version 1.1	Addition of Banning Order section at Section 5, page 19.	17 September 2018	Head of Regulatory Services	Head of Regulatory Services and Housing Portfolio	17 September 2018
Version 1.2	Addition of fees and charges for Energy Efficiency Regulation 2015 & Electrical Safety Standards Regulations 2000	7th December 2022	Service Manager – Safer Communities	Cabinet, 7th December 2022	8th December 2022
Version 1.3	Adoption of the Lincolnshire Discretionary Housing ~~Financial Assistance~~ Policy	TBC - on adoption of the Lincolnshire DHFA Policy	Strategic Housing Manager for the SELCP	TBC - Cabinet	TBC