

## EAST DORSET DISTRICT COUNCIL

### PRIVATE SECTOR HOUSING POLICY 2007/2008



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## **EAST DORSET DISTRICT COUNCIL**

### **PRIVATE SECTOR HOUSING POLICY 2007/2008**

#### **1 INTRODUCTION**

The Council's Housing Strategy 2004 – 2009 sets out the Council's plans for the improvement of housing services across East Dorset for the period 2004 – 2009. The Strategy takes into account national, regional and sub-regional priorities and is based upon the robust assessment of local needs. It is realistic, tailored to local circumstances and priorities as assessed through a district wide Housing Need and Stock Condition Survey (2002) and the work on the development of the Community Plan.

This Private Sector Housing Policy sets out how the Council intends tackling the maintenance and improvement of the district's housing stock and must be read in conjunction with the Housing Strategy.

The Policy is a development of the previous Private Sector Housing Policy taking into account legislative changes through the introduction of the Housing Act 2004, the challenges of ensuring a balanced housing market and making the most effective use of available resources. It has been developed to provide details of the assistance to be made available under Article 3 of the Regulatory Reform Order 2002. The document identifies the types and levels of assistance to be offered whilst initially describing its strategic setting.

The Policy will be kept under review and any private sector housing assistance provided by the Council will be in accordance with this policy.

Further copies of the Private Sector Housing Policy are available from: Public Health Services, East Dorset District Council, Furzehill, Wimborne, Dorset BH21 4HN, Tel: (01202) 886201 or on the internet at [www.dorsetforyou.com](http://www.dorsetforyou.com)

#### **2 INFORMING THE POLICY**

##### **National, Regional Policy Background**

The Government has a number of policies that relate to the condition of private sector housing. Its housing policy statement, published in December 2000, has as its key aim 'to offer everyone the opportunity of a decent home and so promote social cohesion, well being and self-dependence'. This was followed in February 2005 by the document 'Sustainable Communities: Homes for all', which contains its five year plan to deliver greater choice across all housing tenures.

The Department of Local Government and the Regions has targets that regions and local authorities are required to address. These are:

- Sustainable Communities – Tackling disadvantage and narrowing gaps between the most deprived areas and the rest of England in health, education, crime, worklessness, housing and liveability outcomes.
- Affordability and choice – Achieving a better balance between housing availability and demand, including improving affordability.

- Decent Homes – Bringing all social sector housing into a decent condition and for vulnerable households in the private sector.
- Respect agenda - Building respect in communities by tackling the causes of anti-social behaviour as well as the effects.

Our Strategy takes account of these national and regional priorities as well as dealing with local issues. It seeks to support other priorities where private sector housing renewal work can have a beneficial effect.

### **Legislative Constraints.**

The principal Acts and Guidance are:

The Housing Act 2004, The Housing Act 1985, Local Government and Housing Act 1989, Housing Grants, Construction and Regeneration Act 1996, The Housing Act 1996, Environmental Protection Act 1990, Building Act 1984, Landlord and Tenant Act 1985, The Regulatory Reform (Housing Assistance) (England & Wales) Order 2002, Caravan Sites and Control of Development Act 1960, Race Relations Amendment Act 2000, Disability Discrimination Act 2005, A Decent Home – The definition and guidance for implementation ODPM February 2004, ODPM Housing Act 2004 Part 1 Housing conditions: Enforcement Guidance.

The Government's Public Service Agreement target requires all local authorities 'by 2010, to bring all social housing into decent condition with most of its improvement taking place in deprived areas, and increase the proportion of private sector housing in decent condition occupied by vulnerable groups'

The UK Fuel Poverty Strategy, published as part of the Warm Homes & Energy Conservation Act 2000, has targets to eradicate all fuel poverty by 2016, where 'fuel poverty' is defined as 'a household that spends at least 10% of its income to heat their home to an adequate standard of warmth.'

The Housing Act 2004 introduced:

- A radical new Housing Health and Safety Rating System (HHSRS) which replaced the existing housing fitness standard and extended the powers of enforcement for local housing authorities to tackle poor housing conditions
- Licensing for certain types of high risk Houses in Multiple Occupation. This only applies where there are three or more storeys, and five or more occupants and where facilities are shared
- A discretionary power for local housing authorities to selectively license other types of residential accommodation. This is intended for areas of low housing demand and areas suffering from anti-social behaviour necessitating the imposition of certain requirements upon private landlords
- Management orders to secure occupation of long term empty private sector homes
- A number of requirements/amendments on housing issues such as a requirement for local housing authorities to assess the needs of gypsies and travellers in their areas, changes to the right to buy scheme and improves the rights of park home owners.

The South West Regional Housing Strategy 2005-2009 encourages local authorities to develop comprehensive renewal strategies that:

- Assist in meeting the Decent Homes Standard in the private sector
- Design programmes to address the needs of disabled and elderly people and enable them to stay in their own homes
- Work with local energy providers & local Home Improvement Agencies to tackle fuel poverty and promote energy efficiency
- Work with landlords to raise standards in private rented accommodation, and
- Work with partners to develop strategies for tackling empty homes.

The Regulatory Reform Order 2002 amended both legislative procedures and grant availability necessitating a review of policy. The main legislative amendments were:

- Mandatory Disabled Facilities Grants (DFGs) have been retained
- Considerable discretion has been given to local housing authorities to provide assistance in any form e.g.: loans, grants, advice, assistance to move etc so long as it is in accordance with an adopted policy.

### **Local Policy Background**

The Council has its corporate policies set out in its Best Value Plan, which provides the cornerstone of the Council's strategic aims and objectives. Housing plays a crucial part in ensuring that these aims are achieved and as such have played a key part in the development of this policy.

The Community Strategy aims to improve the economic, social and environmental well being of East Dorset. The Community Strategy Housing Theme group has been instrumental in the development of this policy which is seen as a key strategic component.

The Council's Housing Strategy 2004 – 2009 focuses on the need to:

- Improve strategic links with key partners
- Develop the provision of more effective and cost affordable choices for a wider range of home owners, tenants and landlords in the improvement, adaptation or selection of appropriate private sector housing,
- Support vulnerable people living in the private sector,
- Bring private sector housing stock up to the Government's definition of a decent standard, and
- Increase the take-up of measures to improve the energy efficiency of private sector housing.

### **Links to other Local Strategies and Plans**

Empty Homes Strategy 2006

The Council's Home Energy Conservation Report 2006

Joint Affordable Warmth Strategy 2005

Homelessness Strategy 2003 – 2008

Community Safety Strategy

East Dorset Social Inclusion, Diversity and Equality Strategy 2006

### **Housing Stock Condition Survey**

A comprehensive Housing Stock Condition carried out in 2002 provided a great deal of information to inform the further development of the Housing Strategy. It provided essential information in the development of this policy and highlighted a number of

specific issues that need to be addressed including; remedying poor quality housing in the owner occupied and private rented sectors, assisting landlords, and making further improvements in energy efficiency.

The study estimated that the cost to deal with general repair is in the region of £67.78 million. Simply tackling unfitness and the most urgent repairs will cost just over £36 million. The average cost to deal with unfitness alone equates to £7,356 per unfit dwelling. Unfitness is substantially restricted to the oldest stock but that there are now significant levels of unfitness found in inter war and immediate post war houses. The incidence of unfitness in the owner occupied sector is far below the national level for this tenure whilst the unfitness rate in the private rented sector is higher than the national position.

The survey data indicates that those living in the worst accommodation are likely to be either elderly, on low incomes or disabled. The Anchor Staying Put HIA will continue to be a key driver in developing new services to assist these groups and to help in the delivery of existing ones.

The rate of unfitness within East Dorset's private rented sector is worse than other tenure types with 23.4% of privately rented properties being unfit. With the current rates of enforcement activity the problems in the private rented sector are unlikely to be resolved.

The Council is increasing the resources devoted to dealing with enforcement activity, and in 2004 launched a voluntary landlord accreditation scheme in partnership with other Dorset local authorities and the Dorset Landlord's Association.

A further private sector housing stock condition survey is planned for 2007/2008 which will provide information on the rating of dwellings within the district based upon the new HHSRS, the Decent Homes standard and energy efficiency of the housing stock.

### **Housing Stock Energy Profile**

The overall energy efficiency of the housing stock is better than the national average. However, there is a clear correlation between energy efficiency and household income, with those households in the lowest income bands occupying homes having significantly worse energy ratings than average. The total number of homes estimated to be at risk of fuel poverty is 3,276, or 8.7% of the total number of households. It represents a significant number of residents and the Council is reviewing, in partnership with other agencies, its current Fuel Poverty Strategy to address this situation. The Council has been building upon its current partnerships to facilitate the promotion of these measures to householders. Limited financial assistance is offered through the private sector housing renewal grants to vulnerable groups on low incomes that may not be able to obtain assistance from alternative sources.

### **Decent Homes**

In 2003 the Government extended the Decent Home Standard to vulnerable households in the private sector. The definition of a Decent Home is:

- It meets the current statutory minimum standard for housing
- It is in a reasonable state of repair

- It has reasonably modern facilities and services, and
- It provides a reasonable degree of thermal comfort.

The Office of the Deputy Prime Minister's (ODPM) 'shortform assessment method' identifies that of the potential 3,537 vulnerable households in East Dorset, there is the probability that 33% or 1,165 of them will be living in non decent home.

A target has been set nationally of 65% of homes to meet the decent homes standard by 2010. The 'shortform assessment method' suggests that the properties in East Dorset are at or about that level at the moment. However, the Government expects Councils to aim to achieve or exceed the decent homes standard in every applicable case by offering tailored packages of advice or assistance.

The Council will ensure that vulnerable households are provided with good advice and made aware of the assistance offered by programs such as Warm Front and the services of the local Home Improvement Agency. The Council will also target resources at vulnerable households to encourage them to improve their homes towards meeting the Decent Homes Standard.

The proposed private sector housing stock condition survey planned for 2007/2008 will provide more accurate base line figure on the level on non-decent homes in the district.

### **3 AIMS OF THE PRIVATE SECTOR HOUSING POLICY**

To ensure that it remains in keeping with the scale of the levels of disrepair in private sector housing and having regard to the finance available and priorities in the approved Housing Strategy.

To provide a proper and proportionate response to the radical changes within the Regulatory Reform Order 2002, which provided the flexibility and opportunity to make that change and to the provisions of the Housing Act 2004.

To provide a policy framework for providing assistance to homeowners based on a mix of advice, private finance, equity release loans and grants.

To provide a transparent enforcement policy for dealing with properties that fall below acceptable standards.

The policy framework has regard to and is consistent with:

- government policy
- new legislation
- the approved housing strategy
- house condition survey information
- best value reviews
- existing commitments
- projected resource availability, and
- organisational capacity and flexibility to respond to devolution and local decision making.

The strategic aim has been to develop policies and support services that give all residents the opportunity of achieving decent housing with priority for support being given to the most vulnerable. In some cases this will include the provision of grant assistance.

The policy proposals also aim to make more effective use of resources by the Council by increasing the leverage of private finance to deal with unsatisfactory private sector housing.

The policy framework will ensure a grant 'safety net' for the poorest and most vulnerable people living in the worst housing and will include targeting grants to specific emergency repairs and improvements.

Those owners with high levels of free equity will be assisted to 'unlock' a proportion of this equity through subsidised or property appreciation loans before grant aid is offered.

This policy framework forms the basis for the development and introduction of future policies for priorities identified and driven by the Housing Strategy.

New client based policies for vulnerable people will also be developed to support 'Supporting People' strategy and ongoing development of programmes targeting the vulnerable elderly.

To effectively delivery the mandatory Disabled Facility Grant.

To help achieve these policy objectives it is proposed to continue to develop partnerships with organisations that can, responsibly and ethically, help homeowners gain access to private finance and release equity, grant assistance and advice. The aim is to provide information, advice, support and, where necessary, financial assistance to help give residents the opportunity of achieving decent housing.

#### **4 ACHIEVING THE AIMS OF THE POLICY**

##### **Direct Financial Assistance**

Funding for the Disabled Facilities Grant for 2007/08 is £401,666 plus £104,442 carried over from 2006/07.

Funding for private sector work for 2007/08 is £242,926 plus £86,028 carried over from 2006/07 making a total for £328,954 from the capital budget and £25,025 from revenue.

This means that in 2007/2008 a total of £669,617 new money will be invested in the delivery of this policy plus a carry over of £190,470 from 2007/08. This includes:

1. £506,108 to provide adaptations to the homes of people with disabilities
2. £80,000 to bring long term empty properties back into use
3. £128,954 to make non-decent homes occupied by vulnerable groups decent
4. £100,000 to provide a 'safety net' grant for those on low incomes whose homes need emergency type repairs/improvements
5. £20,000 to improve private sector rented accommodation

6. £10,000 towards a Handy Van service
7. £12,500 towards the annual funding of the Home Improvement Agency, and
8. £2,525 towards the funding of the HIA Housing Options Service.

Items 2 to 5 above give indications of how the resources for private sector renewal are likely to be allocated. In practice there will need to be some flexibility in this allocation to tailor resources to demand during the year.

Further details of the grants mentioned above can be found at Appendix 1.

### **Home Loans and Equity Release**

The Council supports the Government's view that owners of dwellings should be encouraged to become less dependant on grant assistance to maintain their homes. The Council recognises that the market for the provision of low cost home loans and equity release products is developing and the Council will monitor the availability of such products. It should be stressed that in taking out any loan, particularly one that is secured against the value of a property, it is recommended that borrowers obtain expert financial and legal advice. The Council's HIA will take a lead role in developing this area of the service.

### **Enforcement**

Local authorities have an enforcement responsibility to ensure that individuals keep their homes in good repair. There is a clear role to play by enforcement action in dealing with properties that fall below acceptable standards. This is particularly important in the case of rented properties and Houses in Multiple Occupation in the private sector, where some of the worst housing conditions are found.

Firm enforcement action to protect the health and safety of tenants and occupiers will sometimes be essential, but is viewed as a last resort and will be minimised, where possible, by properly engaging owners and landlords in a constructive dialogue.

The Council will ensure that sufficient resources are available to fulfil this role and will operate a robust enforcement policy. All enforcement work will be carried out in accordance with the enforcement policy attached as an Appendix to this Policy.

### **Housing Health and Safety Rating System (HHSRS)**

The 2004 Housing Act introduced a new HHSRS (rating system) which will form the basis of all housing inspections replacing the old fitness standard. The underlying principle of the rating system is that any dwelling should provide a safe and healthy environment for any potential occupier or visitor. It identifies the hazards that the dwelling presents to the occupier or visitor and the probability of that hazard actually causing harm.

Following inspection of a dwelling the Council has to consider what action it should take, the greater the risk rating the more pressure there is on the Council to take action. The enforcement framework associated with the rating system is much more flexible than that previously available and when considering which type of enforcement action to take the Council will seek to ensure that the action it takes produces the best outcome for the health and well being of the household concerned. In consequence the Council may take into account the;

- Wishes of the occupant and the owner
- Effect of any action on social exclusion and equalities
- Vulnerability of the household or members in it
- Particular hazard(s) associated with the dwelling, and
- Comments of any other agency or person as the Council may choose that will enable an appropriate decision to be made.

Enforcement action taken by this Council under the rating system is likely to be confined to the private rented sector rather than on owner occupied properties although the latter cannot be ruled out in exceptional circumstances.

The minimum requirements that the Council will expect to achieve through enforcement action will be to reduce the risks from the dwelling found to present;

- a high risk (category 1) hazard to as low a risk as is reasonably practicable and at least to a lower risk (category 2), and
- a lower risk (category 2) hazard to as low a risk as is reasonably practicable.

Charges have been made where formal notices have had to be served and will continue to be demanded as individual circumstances dictate.

### **Houses in Multiple Occupation (HMOs)**

HMOs are houses which are occupied by persons who do not form a single household e.g. not members of the same family or one carer or employee of the family. The person must occupy the premises as their only or main residence.

They tend to be at the bottom end of the market providing affordable housing options for some of the most vulnerable and disadvantaged groups in society including benefit claimants or those on low incomes. For many of these individuals HMOs represent the only housing option available. Unfortunately the rapid turnover of tenants in HMOs also means that poor standards and bad landlords can escape the attention of the local authority.

The Housing Act 2004 introduced the mandatory licensing of certain types of HMOs. The aim of the licensing regime is to provide greater protection to the health, safety and welfare of the occupants of this type of property. It should secure a reduction in death and injury from fire and other health and safety hazards, ensure adequate provision of amenities and, more generally, address poor management practices. Licensing will also ensure high risk properties are brought to the councils attention and dealt with accordingly.

A Licensable HMO must comprise of three storeys or more, be occupied by five or more persons and be occupied by persons living in two or more single households. A recent survey of HMOs in East Dorset indicates that approx. 3 HMOs will fall within the mandatory licensing scheme.

Standards in the remainder will be maintained through application of the HHSRS.

### **Landlord Accreditation**

The East Dorset Landlord Accreditation Scheme enables the Council to accredit the standard of rented accommodation, landlords and also tenants. It has been clearly

demonstrated by other local authorities that this type of scheme does, in time, result in significant improvements in this tenure type. It also has the benefit of the Council developing a less adversarial and more productive relationship with landlords.

The scheme lays the foundation for those properties that fall under the mandatory HMO licensing scheme and compliments that scheme by including all other private sector rented housing accommodation.

Details of the Accreditation Scheme can be obtained from the Council Offices and from the Residential Landlords Association.

### **Empty Properties**

In East Dorset there is a substantial need for rented accommodation at reasonable rental charges to help those with a low annual income remain in the area, to be close to family, employment, schools and support networks.

The Council's Empty Property Strategy aims to target long term empty properties with the aim of trying to bring them back into use. To do this the Council will normally seek to work in partnership with owners of empty dwellings. The offer of financial assistance to landlords will be made through a new Empty Property Grant to encourage the bringing of long term empty properties back into use. The use of nomination rights as a condition of assistance will further justify expense from public funds. Further details of this grant can be found at the Appendix to this Policy.

The Council will, however, make full use of its powers where circumstances permit and will consider applying for Empty Dwelling Management Orders to ensure that dwellings are brought back into use.

### **Private Sector Leasing**

It is intended to offer limited financial assistance to help increase the number of properties available for people on low incomes that are on the Council's housing waiting list. This assistance will be offered to help landlords improve the condition of their properties up to the Decent Homes Standard. In return the property will be leased to the Council for a minimum period of three years. Further details of this grant can be found at the Appendix to this Policy.

### **Home Improvement Agency (HIA)**

The Council's HIA partnership with Anchor Staying Put delivers a number of housing related services to the elderly and disabled residents. The service aims to improve the independence, inclusion and quality of life of isolated and vulnerable people. A full time case worker is based at East Dorset District Council offices with technical support being provided centrally from the HIA offices. The service offers support to people who have housing needs and link them to a wide range of information, services and support.

The HIA offers help with small home repairs and security measures, larger home repairs and adaptations, help to secure the necessary funding including facilitating access to financial advice, loans, equity release, grants and assisting applicants through the process. Other areas of support include;

- Enabling older people and people with a disability gain access to services, facilities and benefits through the provision of information and advocacy services
- Enabling older people and people with a disability have a real voice in the planning of their services and to raise awareness of their needs and rights
- Enabling and supporting the development and provision of practical support for older people and people with a disability as needs are identified, and
- Providing a wide range of information, specialist advice, practical support, activities and events.

It is anticipated that the services of the HIA will be expanded in 2007/08 with the introduction of a housing options service. Sometimes the most appropriate option for elderly people is a move to more appropriate accommodation. This process is daunting and may well prevent people making the right move. The service will provide impartial advice and information about possible alternative housing options, support, advocacy and also practical help. This will enable people to make informed choices about whether to move home or to stay put. Such a service enables the individual to make an informed decision about what is right for them.

Funding of the service in the short term is being sought from a variety of sources, principally Dorset Partnership for Older People Project (POPP), local charities and District and Borough partners within the Dorset Strategic Housing Group (DSHG).

The Anchor Staying Put Agency can be contacted by telephone on (01202) 862765 or e-mail CPEND@anchor.org.uk

### **Energy Conservation**

As an Energy Conservation Authority, the Council is committed to fulfilling its role in improving the energy efficiency of private sector housing in East Dorset. Reducing fuel poverty must remain a priority for the Council and we launched an Affordable Warmth Strategy with key partners including North Dorset District Council, Purbeck District Council, Christchurch Borough Council. We will continue to develop schemes to improve the energy efficiency of the housing stock and reduce the incidence of fuel poverty through partnership working.

The Council works in partnership with the Dorset Energy Advice Centre, the HIA and a number of other agencies to ensure that residents have access to up to date energy efficiency advice.

The Council will ensure that residents have access to:

- Free advice and guidance, including a detailed report, on measures which could be taken to improve energy efficiency in homes
- Free advice and guidance on a range of locally approved schemes, which provide grants for installation of cavity wall and loft insulation
- Free advice and guidance on other national schemes such as the Government's 'Warm Front' grants and Energy Efficiency Commitment schemes
- Local energy efficiency 'road shows' in partnership with local businesses including advice and guidance on energy efficiency grants and measures to improve energy efficiency in the home.

A referral scheme has been developed in partnership with the HIA, the Primary Care Trusts and Social Care and Health and a number of other organisations and charities to assist in the identification of those suffering 'fuel poverty' and to ensure that they have access to services, grants and other financial benefits to improve the energy efficiency of their homes.

The Council will constantly review methods of encouraging local private sector residents to improve the efficiency of their homes. Subject to resources being available the Council will, wherever appropriate, support innovative schemes and when resources allow, provide financial assistance to assist in the delivery of the Affordable Warmth Strategy.

### **Handy Van Scheme**

The Council continues to financially support the Handy Van service operated by Help and Care, a local housing charity. The service offers reliable and economic small repair and improvement works to the elderly and carers who live in the area. The service is to be enhanced in 2007/08 with the financial support of more local authorities in Dorset. The intention is to increase the number of residents using the scheme during 2007/08 through improved promotion and accessibility.

### **General Advice**

The Council acknowledges the need to provide sound impartial advice on all housing related matters to its householders to promote a culture of self sufficiency.

Council officers are tasked with giving advice on all issues relating to housing repair, improvement, overcrowding, energy efficiency, enforcement, fire safety and related matters. Site visits/inspections are made and basic schedules of works, priorities and likely costs are given. Advice is given on finding builders, employment of agents. This will continue to comply with the Council's statutory role to offer housing assistance and advice.

### **Accessible Services for All**

The Council has adopted an Social Inclusion, Diversity and Equality Strategy that commits it to reflecting the needs of all citizens in the policies it develops and the priorities it sets, and providing equal access to services.

To this end we will provide services that are accessible and in particular will:

- Make this document available in formats that meet the needs of people with sensory impairments.
- Offer translation or interpretation services so that people whose first language is not English may access this document and contribute to the development of services that will follow from it.
- Seek to engage with representatives of older people, minority ethnic communities, disabled people and those with sensory impairments in carrying forward the proposals set out here.
- Be committed to taking into account the special needs people may have when we draft literature, offer advice and deliver services.

## **Complaints**

The Council has a published procedure for dealing with complaints which can be found on its website. It describes the procedure for making a complaint about the standard of service, actions or lack of action by the Council or its staff, which affects an individual customer or group of customers.

We want to provide good-quality services for everyone. But we may do things from time to time that may disappoint you or leave you feeling dissatisfied. If so, we need to hear from you so we can address the issue and learn from it. A summary of the procedure is attached at the Appendix to this policy.

## **Arrangements where applications fall outside of the policy**

In our policy, we have been quite specific about the circumstances where an application for grant assistance will be considered. This has been done on the basis of trying to assist those most in need and assisting with our general housing strategy for the district when working with limited funding.

However, we will consider all applications on their individual merits and you are entitled to ask for our assistance, even if you think you fall outside our guidelines. As we have been careful to consider and balance the needs of all sections of the community, any application which is outside our priorities will normally only be approved if you can demonstrate exceptional hardship or provide a very strong justification on the basis of need can be demonstrated.

## **MANDATORY DISABLED FACILITIES GRANT (DFG)**

### **Legislative Controls**

These are contained within the Housing Grants, Construction and Regeneration Act 1996 Chapter 1 and more specifically sections 19-24. Guidance is provided in Delivering Housing Adaptations for Disabled People: A Good Practice Guide November 2004, Office of the Deputy Prime Minister.

In January 2007 the Department for Communities and Local Government published a consultation paper on the Government's proposals to improve the delivery of Disabled Facilities Grants. It is likely that this will result in some significant long term changes to the way in which the grant is delivered with some short term changes that may well occur in 2007/08. These short term measures may include raising the maximum mandatory grant, changing the test of resources and increasing the works that are eligible for mandatory assistance.

The purposes for which mandatory DFG are currently given are set out in section 23(1) of the 1996 Act and fall into a number of categories:

### **Facilitating Access and Provision**

These include works to remove or help overcome any obstacles which prevent the disabled person from moving freely into and around the dwelling and enjoying the use of the dwelling and the facilities or amenities within it. In particular:

- facilitating access to and from the dwelling
- facilitating access to a room used or usable as the principal family room
- facilitating access to a room used or usable for sleeping, or alternatively providing such a room for the disabled occupant
- facilitating access to a room in which there is a lavatory, a bath or shower (or both) and a wash basin or providing a room in which there is such a facility or facilities
- facilitating access for the preparation and cooking of food
- improving the heating system or providing a heating system suitable for the use of the disabled occupant
- facilitating the use by the disabled occupant of a source of power, light or heating
- facilitating access by the disabled occupant around the dwelling to enable him or her to care for a person who is normally resident and in need of such care, and
- making a dwelling or building safe in certain circumstances

In considering applications for grant towards such works, the presumption will normally be that the occupant should have reasonable access into his home, to the main habitable rooms within the home – namely the living room and bedroom, and to a bathroom or shower room in which there are suitable facilities for washing and/or showering.

## **Eligibility**

All owner-occupiers and tenants, licensees or occupiers who are able to satisfy the criteria in sections 19 to 22 of the 1996 Act are eligible for DFG. Landlords may also apply for a DFG on behalf of a disabled tenant but must also satisfy the requirements in those sections. Housing association tenants are eligible to apply for DFG and are assessed for needs on the same basis as private owners and tenants and under the same means testing arrangements.

## **Amounts of Assistance**

There is currently a limit of £25,000, less any assessed contribution as determined by the test of resources, on the amount of mandatory DFG which may be given in any one application.

## **Conditions Applying to Provision of Assistance**

All applications for DFG must be accompanied by a certificate relating to the future occupation of the property, and the Council may not entertain an application unless such a certificate is provided. There are three different types of certificate:

- Owner-occupiers
  - An 'owners certificate' certifies that the applicant has, or proposes to acquire, an owner's interest in the dwelling, and that he intends that the disabled occupant will live in the dwelling as his only or main residence.
- Tenants
  - A "tenant's certificate" certifies that the applicant is the tenant, and that he intends that the disabled occupant will live in the dwelling as his only or main residence.
- Occupier's certificates in relation to park home applications
  - An 'occupiers certificate' certifies that the applicant intends that the disabled occupant will live in the qualifying park home as his only or main residence. An 'occupier's application' must, however, normally be accompanied by a consent certificate from each person who owns the mooring or land on which the park home is stationed, or who owns the park home.

Additional conditions will also be applied to all Disabled Facility Grants including:

- the ability to recovery of specialised equipment
- ensuring adequate insurance of grant-aided property, and
- maintaining the repair of grant-aided property.

## **Financial means testing**

The test is carried out to determine what, if any, contribution the disabled person should make towards the cost of the works. It takes into account only the resources of the disabled person and their spouse or partner.

## **Successive application**

For those disabled people whose conditions are degenerative, further adaptations to their home to cater for their deteriorating condition may become necessary at a later date.

### **Procedures Relating to Payment of Grant**

All applications for grant must be accompanied by at least two estimates from bona fide contractors for the cost of the approved works. One of these contractors must carry out the works. Upon completion of the approved works, the applicant must submit an invoice from the contractor who carried out the work and the Council will then arrange payment directly to the contractor unless the grant assistance was provided for the purchase of materials only, in which case payment will be made to the applicant upon the Council having received a receipt for the materials from the supplier(s) upon whose estimate the grant was based.

However where the eligible works have not been executed to the satisfaction of the applicant or the Council, payment may be withheld from the contractor until the eligible works have been completed to the satisfaction of all parties concerned.

The Council will inform the applicant at the time their grant application is approved whether there is likely to be any significant delay in the Council paying for the grant aided works once completed. In the most extreme circumstances this delay could be as much as twelve months.

### **DISCRETIONARY DFG**

In certain circumstances and subject to the availability of funding the Council will consider giving discretionary grant assistance depending on the circumstances of each case following submission of a detailed report and consultation with Social Services.

The circumstances which will be considered include:

- Topping up mandatory DFGs in circumstances where works eligible for mandatory assistance exceed the maximum limit, and where the applicant, for good reason, cannot afford their required contribution or where no other funding source is reasonably available to pay the costs above the maximum limit
- Assisting the disabled person to move to a more suitable property where it is more cost effective than adapting the current home of a disabled person to make it suitable for his or her present and future needs, even though the new property may need some adaptation

There is no restriction on the amount of assistance that may be given and the relevant Council Committee will determine the type of and the amount of assistance. The procedures, certification, etc. relating to Discretionary Disabled Facilities Grant will be the same as for Mandatory Disabled Facilities Grant.

## **EMPTY PROPERTY GRANT (EPG)**

This assistance is provided on a discretionary basis to help owners fund essential works to bring long term empty properties (those that have been empty for a minimum of six months) and unused buildings back into use as affordable rented homes for tenants nominated by the Council. The Council must be satisfied that offering grant assistance is the best course of action in relation to the property in question.

### **Eligible Works**

The Council will consider offering assistance to help remedy the most serious problems with the property. Such works can include;

- repair or renewal to defective electrical wiring, gas or water supply and drainage
- repair or renewal relating to significant rising or penetrating damp affecting the internal fabric of the building
- repair or renewal to the external elements of a building to put right a leaking roof or defective guttering
- repair or renewal of a boiler or other element of a heating or hot water system
- provide a bath/shower, wash hand basin and lavatory where the current provision is inadequate (e.g. if your home only has an outside lavatory)
- providing adequate space and a safe layout for the storage, preparation and cooling of food
- prevent ongoing and significant structural movement (this would usually be achieved by assisting you with the 'excess' payment required by insurance works to proceed)
- repair or renewal of windows or doors that are so rotten or otherwise defective that they are liable to collapse or present a significant risk to you
- repair or renewal of floors, staircases, walls and ceilings that are liable to collapse or present a significant risk to your occupation
- provision of a fixed form of heating where there is no current provision
- renewal or provision of insulation and energy efficiency measures such as loft insulation, pipe and tank lagging

### **The Amount Payable**

The maximum assistance that can be given is 75% of the reasonable cost of the qualifying works, up to a maximum of £20,000.

### **Conditions relating to the EPG**

Applications for EPG;

- must be made on the Council's prescribed application form
- must be accompanied by at least two quotations from bona fide contractors or other appropriate service providers for the cost of the approved works. With the prior consent of the Grants Officer this can be reduced to one estimate in circumstances where the works are of a specialist nature or where the works are of an urgent nature and obtaining a second estimate would cause undue delay. Where applicable, the contractor or his representative shall sign the estimate and include details of his VAT registration number. The quotations

must include all of the works detailed in the schedule of works provided for the application by the Council

- can include the reasonable cost of fees and charges within the grant subject to the maximum grant level.

As a condition of receiving assistance, the owner will;

- sign an agreement ensuring that the property can be used by people living on a low income and nominated by the Council. This will usually be in partnership with a local housing association by way of a housing scheme, although a tenancy nomination agreement can be considered
- enter into such an agreement for a minimum period which is dependant upon the level of grant funding provided. In circumstances where grant assistance is provided up to the value of £10,000 the minimum period is 3 years, for grant assistance of £10,001 to £15,000 the minimum period is 4 years and for grant assistance of £15,001 to £20,000 the minimum period is 5 years
- restrict the rent levels to an amount that can be met by housing benefit
- repay the amount of the assistance in full should the agreement be terminated within the first 2 years. Beyond 2 years, a sliding scale of repayments will be operated dependent on the length of the lease or agreement left, and
- ensure that the schedule of grant aided works is carried out to the satisfaction of the Council.

The Council grant will be entered on the Council's land charge register as the monies are repayable in certain circumstances.

### **Procedure relating to payment of assistance**

The Council require that as a condition of the grant;

- the eligible works are carried out in accordance with the schedule of works that accompanied the Empty Property Grant Approval
- the eligible works are carried out within six months from the date of approval of the application. This period may, however, be extended if the Council thinks fit, particularly where they are satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen when the application was made
- upon completion of the approved works, the applicant must submit an invoice from the contractor upon whose estimate the grant assistance was based. The Council will then arrange payment directly to the contractor. However where the eligible works have not been executed to the satisfaction of Council or the applicant the Council may, if they consider it appropriate to do so, withhold payment from the contractor until the eligible works have been completed to the satisfaction of all parties concerned
- the payment of grant or part of a grant is conditional on the eligible works being carried out to the satisfaction of the Council and the Council being provided with acceptable invoices, demand or receipt for the repayment for the works and any preliminary or ancillary services or charges. An invoice, demand or receipt will not be acceptable if it is given by the applicant or a member of the applicant's family.

## **LANDLORD ACCREDITATION GRANT**

To gain accreditation status a landlord must ensure that his property complies with the property standards within the Council's Landlords Accreditation Scheme.

As part of the application for accreditation the landlord must supply a valid electrical safety certificate/report. The safety certificate/ report must be issued following inspection of the installation by a competent person and be valid for a period of 5 years unless otherwise specified by the competent person.

Electrical certification is an essential element of the accreditation scheme but the cost of a safety inspection and report is considerable and is an additional burden on the landlord over and above his legal responsibilities.

To encourage landlords to become accredited the Council will offer a grant to a landlord who has provided such a certificate as part of his application for accredited status to cover the cost of its provision. The grant will be provided upon application on the prescribed form subject to subsequent accreditation. The grant will be based upon the reasonable cost of the provision of the report given the nature and size of the property(ies) concerned subject to a maximum level of £200.00 per property which are subject to the application for accreditation.

## **DECENT HOMES GRANT (DHG)**

### **General**

A decent home is one which is wind and weather tight, warm and has modern facilities.

The DHG will be provided to make decent non-decent private sector owner occupied homes that are occupied by vulnerable households. Vulnerable households have been defined as those in receipt of at least one of the principal means tested or disability related benefits.

The property that is the subject of the grant must be the only or main residence of the applicant.

Grant will not be payable unless the applicant is aged 18 or over on the date of the application. In the case of a joint application, any applicant under the age of 18 years on the date of the application shall be left out of account.

### **Decent Homes Standard**

A home is not decent if it;

- does not meet the current statutory minimum standard for housing
  - dwellings below this standard are those defined as having a high risk (category 1) hazard as determined under the HHSRS
- is not in a reasonable state of repair, either
  - one or more of the key building components are old and, because of their condition, need replacing or major repair; or
  - two or more of the other building components are old and, because of their condition, need replacing or major repair.
- does not have reasonably modern facilities and services and lacks three or more of the following
  - a reasonably modern kitchen (20 years old or less)
  - a kitchen with adequate space and layout
  - a reasonably modern bathroom (30 years old or less)
  - an appropriately located bathroom and WC
  - adequate insulation against external noise (where external noise is a problem)
  - adequate size and layout of common areas for blocks of flats.
- provides a reasonable degree of thermal comfort
  - this criterion requires dwellings to have both effective insulation and efficient heating.

Building components are the structural parts of a dwelling (e.g. wall structure, roof structure), other external elements (e.g. roof covering, chimneys) and internal services and amenities (e.g. kitchens, heating systems). Key building components are those which, if in poor condition, could have an immediate impact on the integrity

of the building and cause further deterioration in other components. They are the external components plus internal components that have potential safety implications and include;

- external walls
- roof structure and covering
- windows/doors
- chimneys
- central heating boilers
- gas fires
- storage heaters, and
- electrics.

Other building components are those that have a less immediate impact on the integrity of the dwelling. Their combined effect is therefore considered, with a dwelling not in a reasonable state of repair if two or more are old and need replacing or require immediate major repair.

A component is defined as 'old' if it is older than its expected or standard lifetime. Components are in poor condition if they need major work, either full replacement or major repair.

One or more key components, or two or more other components, must be both old and in poor condition to render the dwelling non-decent on grounds of disrepair. Components that are old but in good condition or in poor condition but not old would not, in themselves, cause the dwelling to fail the standard.

The component lifetimes and the definitions used for different components are detailed in the ODPM 'A Decent Home' definition and guidance for implementation document February 2004.

### **Eligible Works**

Works that are considered necessary by the Council to make the home decent.

A landlord's application will not be entertained for works that are included within his or her legal responsibilities under the Housing Act 2004.

### **Eligibility**

The property that is the subject of the grant must be the only or main residence of the eligible household.

Applications for a DHG will be considered from;

- an owner occupier
- a leaseholder with at least five years unexpired lease at the time of the application
- a landlord, or
- a tenant with a full repairing obligation

Applications will be considered from owners and tenants who are receiving an income related benefit.

### **Relevant Income Related benefits**

The relevant income related benefits referred to above are:

- income support, housing benefit, council tax benefit, income based job seekers allowance, pension credit, households in receipt of either working tax credit or child tax credit providing the person entitled to the tax credit has a relevant income of less than £15,460, as defined for the purpose of determining eligibility for the tax credit.

### **Amount of Assistance**

The DHG will be subject to a maximum grant limit of £20,000 per application.

### **Conditions relating to the DHG**

Applications for DHG;

- must be made on the Council's prescribed application form
- owner/occupiers, leaseholders or tenants with a full repairing obligation, must have lived in the property for a minimum of three years as their only or main residence prior to application
- must be accompanied by at least two quotations from bona fide contractors or other appropriate service providers for the cost of the approved works. With the prior consent of the Grants Officer this can be reduced to one estimate in circumstances where the works are of a specialist nature or where the works are of an urgent nature and obtaining a second estimate would cause undue delay. Where applicable, the contractor or his representative shall sign the estimate and include details of his VAT registration number. The quotations must include all of the works detailed in the schedule of works provided for the application by the Council
- can include the reasonable cost of fees and charges within the grant subject to the maximum grant level
- a landlord's application must be accompanied by a certificate of intended letting confirming that the dwelling will be available for letting for a minimum period of three years from the date of completion of the grant aided works to someone who is not a member of his family
- a tenant's application must be accompanied by an owner's certificate from the landlord giving his or her consent to the work being carried out. It must also be accompanied by a certificate of intended letting signed by the landlord confirming that the dwelling will be available for letting for a minimum period of three years from the date of completion of the grant aided works to someone who is not a member of his family
- the applicant will be required to repay the amount of the assistance in full should the dwelling be sold within the first 2 years after completion of the works in the case of landlords or owner/occupiers applications. This will be reduced during the third year to 50% of the amount of assistance. In the case of a tenant's application, if the dwelling is no longer available for letting in accordance with the certificate of intended letting signed by the landlord as part of the grant application, the landlord will be required to repay the amount of the assistance in full should this occur within the first 2 years after completion of the works. This will be reduced during the third year to 50% of the amount of assistance.

### **Procedure relating to payment of assistance**

The Council require that as a condition of the grant;

- the eligible works are carried out in accordance with the schedule of works that accompanied the DHG approval
- the eligible works are carried out within six months from the date of approval of the application. This period may, however, be extended if the Council thinks fit, particularly where they are satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen when the application was made
- upon completion of the approved works, the applicant must submit an invoice from the contractor upon whose estimate the grant assistance was based. The Council will then arrange payment directly to the contractor. However where the eligible works have not been executed to the satisfaction of Council or the applicant the Council may, if they consider it appropriate to do so, withhold payment from the contractor until the eligible works have been completed to the satisfaction of all parties concerned
- the payment of grant or part of a grant is conditional on the eligible works being carried out to the satisfaction of the Council and the Council being provided with acceptable invoices, demand or receipt for the repayment for the works and any preliminary or ancillary services or charges. An invoice, demand or receipt will not be acceptable if it is given by the applicant or a member of the applicant's family.

## **LANDLORD GRANT (LG)**

Subject to the availability of funding the Council will provide assistance to private sector owners who wish to lease a dwelling to the Council who will then manage the property on their behalf. It will help owners fund essential works to bring the dwelling up to the Decent Homes Standard. Tenants will be selected by the Council and the lease will be for a minimum 3 years and there will be repayment conditions attached.

### **Eligible Works**

Works that are considered necessary by the Council to make the dwelling decent.

### **Eligibility**

The applicant for a LG must be the owner of the dwelling.

### **Amount of Assistance**

The LG will be subject to a maximum grant limit of £6,000 per application.

### **Conditions relating to the LG**

Applications for LG;

- must be made on the Council's prescribed application form
- must be accompanied by a suitable quotation from bona fide contractors or other appropriate service provider for the cost of the approved works. Where applicable, the contractor or his representative shall sign the estimate and include details of his VAT registration number. The quotations must include all of the works detailed in the schedule of works provided for the application by the Council
- can include the reasonable cost of fees and charges within the grant subject to the maximum grant level
- must be accompanied by a completed East Dorset District Council Leased Property Agreement confirming that the dwelling will be leased to the Council for a minimum period of three years for use by tenants who are selected by the Council
- the applicant will be required to repay the amount of the assistance in full should the Lease Agreement be terminated by the applicant within the first 2 years after completion of the works. This will be reduced during the third year to 50% of the amount of assistance.

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### **Procedure relating to payment of assistance**

The Council require that as a condition of the grant;

- the eligible works are carried out in accordance with the schedule of works that accompanied the LG approval
- the eligible works are carried out within three months from the date of approval of the application. This period may, however, be extended if the Council thinks fit, particularly where they are satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen when the application was made
- upon completion of the approved works and receipt of an invoice from the contractor upon whose estimate the grant assistance was based, the Council will then arrange payment directly to the contractor. However where the

eligible works have not been executed to the satisfaction of Council or the applicant the Council may, if they consider it appropriate to do so, withhold payment from the contractor until the eligible works have been completed to the satisfaction of all parties concerned

- the payment of grant or part of a grant is conditional on the eligible works being carried out to the satisfaction of the Council and the Council being provided with acceptable invoices, demand or receipt for the repayment for the works and any preliminary or ancillary services or charges. An invoice, demand or receipt will not be acceptable if it is given by the applicant or a member of the applicant's family.

## **HOME ASSISTANCE GRANTS (HAG)**

### **General**

Subject to the availability of funding the Council will provide assistance to fund emergency repairs or improvements where the safety or welfare of the occupier or the public will be put at risk if the item remains unattended or the ability of the occupier to maintain their independence would be compromised. This includes assisting those at risk of slips, trips and falls.

The property that is the subject of the grant must be the only or main residence of the applicant.

Grant will not be payable unless the applicant is aged 18 or over on the date of the application. In the case of a joint application, any applicant under the age of 18 years on the date of the application shall be left out of account.

The HAG will also cover essential repair or improvement work where items are identified as required as an adjunct to work being financed through a Disabled Facilities Grant.

### **Eligibility**

Applications for a Hag will be considered from owners/occupiers and tenants

- with a repairing obligation who are in receipt of one of the income related benefits, or
- that occupy homes that while meeting the decent homes standard, have one or more building components that are not old but could have an immediate impact on the integrity of the building or the occupier's ability to remain in occupation and are in receipt of one of the income related benefits, or
- that have received a Warmfront Grant but who have a contribution to make towards the works

### **Relevant Income Related Benefits**

The relevant income related benefits referred to above are:

- income support, housing benefit, council tax benefit, income based job seekers allowance, pension credit, households in receipt of either working tax credit or child tax credit providing the person entitled to the tax credit has a relevant income of less than £15,460, as defined for the purpose of determining eligibility for the tax credit

### **Amount of Assistance**

The HAG will be subject to a maximum grant limit of £6,000 and only one application can be approved in any three year period following completion of the works to the satisfaction of the Council.

### **Conditions relating to the HAG**

Applications for HAG;

- must be made on the Council's prescribed application form
- must be accompanied by at least two estimates from bona fide contractors or other appropriate service providers for the cost of the approved works. With the prior consent of the Grants Officer this can be reduced to one estimate in

circumstances where the works are of a specialist nature or where the works are of an urgent nature and obtaining a second estimate would cause undue delay. Where applicable, the contractor or his representative shall sign the estimate and include details of his VAT registration number. The quotations must include all of the works detailed in the schedule of works provided for the application by the Council

- the reasonable cost of fees and charges can be included within the grant subject to the maximum grant level, and
- a tenant's application must be accompanied by a certificate signed by the landlord giving consent to the works being carried out.

### **Procedure relating to payment of assistance**

The Council require that as a condition of the grant;

- the eligible works are carried out in accordance with the schedule of works that accompanied the HAG approval
- the eligible works are carried out within three months from the date of approval of the application. This period may, however, be extended if the Council thinks fit, particularly where they are satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen when the application was made
- upon completion of the approved works, the applicant must submit an invoice from the contractor upon whose estimate the grant assistance was based. The Council will then arrange payment directly to the contractor. However where the eligible works have not been executed to the satisfaction of Council or the applicant the Council may, if they consider it appropriate to do so, withhold payment from the contractor until the eligible works have been completed to the satisfaction of all parties concerned
- the payment of grant or part of a grant is conditional on the eligible works being carried out to the satisfaction of the Council and the Council being provided with acceptable invoices, demand or receipt for the repayment for the works and any preliminary or ancillary services or charges. An invoice, demand or receipt will not be acceptable if it is given by the applicant or a member of the applicant's family.

## **PRELIMINARY INVESTIGATION GRANT (PIG)**

Subject to the availability of funding the Council will provide a Preliminary Investigation Grant. PIGs are intended to fund preliminary investigations, such as reports by Structural Engineers, Electrical Safety checks, preparation of plans, and similar cases, where an application for other assistance cannot proceed without them and no means of funding the preliminary investigation can be found.

### **Eligibility**

Applications for a PIG will be considered from owner-occupiers or tenants with a repairing obligation to maintain the property.

Applications will be considered from owners or tenants of dwellings who are receiving an income related benefit.

Grant will not be payable unless the applicant is aged 18 or over on the date of the application. In the case of a joint application, any applicant under the age of 18 years on the date of the application shall be left out of account.

### **Relevant Income Related Benefits**

The relevant income related benefits referred to above are;

- income support, housing benefit, council tax benefit, income based job seekers allowance, pension credit, households in receipt of either working tax credit or child tax credit providing the person entitled to the tax credit has a relevant income of less than £15,460, as defined for the purpose of determining eligibility for the tax credit.

### **Eligible Works**

The carrying out of preliminary investigation by a suitably qualified professional such as a Surveyor, Architect or Architectural Technician, Structural Engineer, Electrical Engineer or the like.

### **Amounts of Assistance**

The maximum amount that will be payable by the Council under a preliminary investigation grant will be £2,000.

### **Conditions Applying to Provision of Assistance**

The Council will not entertain a tenant's application for a preliminary investigation grant unless it is accompanied by a certificate signed by the landlord under the tenancy giving consent to the works being carried out.

### **Recovery of Grant**

Where the provision of a report funded by this grant leads to a successful application for a grant by the Council to fund substantive works, and the capacity exists to recover the cost of the preliminary investigation within that arrangement, then the Council shall recover from the applicant such sum by deduction from the amount paid in any substantive grant.

## FEES AND CHARGES

Where an applicant for any form of grant assistance submits with their application particulars of any fees or charges incurred in the making of their application or appoints an approved agency service to assist them in making an application, subject to the application being approved by the Council, the Council will reimburse the reasonable fees or charges incurred subject to the maximum amounts of assistance applicable. The types of fees and charges for which the applicant is liable in respect of their grant application that will be considered are as follows:

- confirmation, if sought by the local authority, that the applicant has an owner's interest
- technical and structural surveys
- design and preparation of plans and drawings
- preparation of schedules of relevant works
- assistance in completing forms
- advice on financing the costs of the relevant works which are not met by grant
- applications for building regulations approval (including application fee and preparation of related documents)
- applications for planning permission (including application fee and preparation of related documents)
- applications for listed building consent (including application fee and preparation of related documents)
- applications for conservation area consent (including application fee and preparation of related documents)
- obtaining of estimates
- advice on contracts
- consideration of tenders
- supervision of the relevant works
- disconnection and reconnection of electricity, gas, water or drainage utilities where this is necessitated by the relevant works, and
- payment of contractors.

## HOUSING ENFORCEMENT

The Council will ensure compliance with the law by carrying out its enforcement duties, without fear or favour, so that individuals, organisations or businesses fulfil their legal responsibilities. The Council has signed the Enforcement Concordat which is promoted by the Cabinet Office. The procedures in this policy reflect the principles of the Concordat.

The principles guiding the policy are;

- **Consistency** - to ensure similar issues are dealt with in the same way, making full use of guidance produced by Government and other national agencies
- **Fairness** - to ensure a fair and even handed approach
- **Proportionality** - to ensure that action taken relates directly to the actual and potential risk to health, safety and the environment
- **Transparency** – to ensure the enforcement action taken by the Council is easily understood. Clear distinctions will be made between legal requirements and recommendations about good practice which are not compulsory
- **Objectivity** – to ensure that decisions are not influenced by the ethnic origin, gender, religious or political beliefs or sexual preferences of the offender, complainant or witnesses
- **Targeting** – to ensure the division’s resources will be targeted primarily on those activities by individuals, organisations or businesses giving rise to the most serious risks to health and safety, the environment or the extent of statutory nuisance to the public.

### Enforcement Methods

A variety of enforcement methods may be employed including informal approaches such as verbal or written advice, formal means such as the service of statutory notices, the issue of formal caution or ultimately the investigation of proceedings leading to prosecution.

### Level of enforcement action

Council officers will seek compliance with legislation by one or a combination of methods set out below:

Level 1 – Advice and guidance - to assist individuals, existing and prospective businesses and other organisations to comply with their legal obligations. This will be achieved by providing both information leaflets and the opportunity for face-to-face contact to discuss and help resolve potential problems.

Level 2 – Informal enforcement – these will be used to reinforce advice and guidance where minor breaches of the law may have been discovered but it was not thought appropriate to take formal action. These warnings can be oral or written and are often selected as the most appropriate course of action when minor contraventions are discovered. Where warnings are issued, follow-up visits are often made to ensure steps are being taken to rectify the problem. Warnings issued in respect of significant breaches of the law will include timescales within which the breaches should be remedied and will always result in follow-up visits to ensure compliance.

Level 3 – Formal enforcement – this include the use of statutory (legal) notices, formal cautions and prosecution. Enforcement will normally move from level 1 through to level 3 although in very serious cases it may be appropriate to commence proceedings at level 3. The following guidance will be followed where formal enforcement options are being considered.

### **Statutory (Legal) Notices**

Some legislation provides for the service of statutory notices, which require a person, business or organisation to comply with specific requirements. Generally, the notice will explain;

- What is wrong
- What is required to put things right
- The timescale in which to put things right, and
- What will happen if the notice is not complied with.

In some circumstances where a formal notice has been served there might be a right of appeal against the Council's decision. In such cases an explanation of the method of appeal will be provided at the time the notice is issued.

In general, it is Council policy to either formally caution or prosecute individuals, organisations or businesses who do not comply with a properly written and served statutory notice.

### **Formal Cautions and Prosecutions**

In determining whether or not to issue a formal caution, or instigate legal proceedings the following criteria shall be used;

- the advice in the 'The Code for Crown Prosecutors', particularly relating to 'the evident test' and 'the public interest test', and
- Home Office, other public body or professional guidelines on the cautioning/prosecution of offenders
- the seriousness of the alleged offence. In determining the 'seriousness' regard shall be made to;
  - whether any injury has resulted or there is a potential for injury to occur (the nature of the injury or possible injury and the degree of risk are also considerations)
  - whether the environment or health and safety of the public or employees has been disregarded for financial regard or other gain
  - whether a statutory nuisance has been caused or permitted to continue for financial reward or other gain
  - whether there is reckless disregard for the law which places at risk the health and safety of the public or employees, results in a nuisance to the public or endangers the environment
  - where the alleged offence has caused legitimate serious public alarm, and
  - where there is a failure to comply, without reasonable excuse, with a statutory notice.
- The previous history of the individuals, organisations or businesses concerned and in particular;
  - whether there is a history of similar offences or failures

- any previous responses to advice, warnings and enforcement action
- whether the confidence in the individuals, or management of the organisations or businesses' ability to take positive effective action to remedy the situation is poor.
- Any explanation offered by the alleged offender and their willingness to take action within a reasonable period to prevent a recurrence of the problem
- The perceived public benefit of a prosecution. A prosecution may be considered to be in the public interest when its outcome impacts upon a section of the community whose protection, health, safety, well being, legal rights or the environment as a whole, was placed at risk of being affected or was adversely affected.

Additionally, the importance of a prosecution in establishing an important precedent or drawing public attention to national or local campaigns or issues, may be considered. (See also the 'The Code for Crown Prosecutors').

- The suitability of witnesses and their willingness to give evidence. Where a prosecution may result in unjustified risk or harm to witnesses or complainants, advice shall be sought on whether or not to proceed with Legal Services and relevant external bodies
- Whether there is evidence that a defendant may be able to rely on a statutory defence
- Where precedents have been set revealing reluctance to impose reasonable penalties in relation to similar matters or to award prosecution costs
- The professionalism with which the investigation has been conducted and whether any unreasonable delay has occurred in completing the investigation or the commencement of proceedings.

In any event legal proceedings will be instigated where there has been any illegal obstruction or assault of any officer in the course of their duty.

The procedural requirements of production of prosecution reports shall be followed by officers and in particular the necessity to refer to senior management within the Public Health Section for ratification, any decision to instigate proceedings.

All authorised officers shall abide by this policy and appendices when making enforcement decisions. Unless it is considered there would be significant risk to the public or the environment, any department from this policy must be exceptional, capable of justification and be fully considered by the Head of Public Health Services.

The Head of Public Health Services will ensure that officers who are authorised to initiate enforcement action are competent to do so, are suitably qualified and possess relevant experience as determined by any available guidance whether statutory or non statutory and regular managerial control.

All authorised officers will be fully acquainted with the requirements of this policy and appendices relevant to their operational duties. Initial and periodic training of officers will be undertaken and their activities will be monitored to ensure compliance with this policy and relevant appendices. This will be through regular management supervision and the enforcement panel review of prosecution reports.

Where appropriate and necessary for any enforcement activities requiring an inter agency approach, officers shall ensure that liaison is made with those bodies in accordance with national and local guidelines

The Head of Public Health Services shall carry out or cause to be carried out a review of this policy on a 12 monthly basis. The review shall incorporate any significant legal precedents, reassessment of needs, where appropriate and consistent with national guide lines any public comments.

Any complaints relating to this policy or the application of it shall be dealt with in accordance with the Councils complaints procedure a copy of which is available on request. (A summary of the complaints procedure follows on the next page of this document).

## **PROCEDURES FOR MAKING A COMPLAINT**

The Council has a published procedure for dealing with complaints which can be found on its website. It describes the procedure for making a complaint about the standard of service, actions or lack of action by the Council or its staff, which affects an individual customer or group of customers.

We want to provide good-quality services for everyone. But we may do things from time to time that may disappoint you or leave you feeling dissatisfied. If so, we need to hear from you so we can address the issue and learn from it.

It is our aim to resolve your complaint as quickly as possible and it is for this reason that we have split the procedure into three stages which are described below.

STAGE 1 - Initially your complaint will be dealt with by an officer of the section or department that is the subject of the complaint. The benefit of this is that it is dealt with close to its source and, hopefully, can be resolved quickly, either by immediate action or a course of action suitable to you. If, however, the complaint cannot be resolved to your satisfaction, you can ask that the matter be referred to the appropriate manager (see Stage 2).

STAGE 2 - Any complaint that cannot be resolved satisfactorily in Stage 1, or one that involves a member of staff, will be referred to Stage 2. The Head of Service, or a Senior Officer appointed by him or her will consider your complaint and, within fifteen working days, write to you to inform you either of the outcome of his or her findings or how the investigations are proceeding.

STAGE 3 - If you are still unsatisfied, you may write to the Chief Executive. The role of the Chief Executive is as an arbiter. A member of his staff will be allocated your complaint and, in close liaison with the Chief Executive, conduct the investigation on his behalf. This may involve reviewing the files and correspondence and undertaking interviews as necessary. On being satisfied that a full investigation has been made, the Chief Executive will then draw his conclusions from the information submitted and will notify you of these in writing.

If however your complaint concerns your dissatisfaction with a decision made by the Council in relation to a grant enquiry, grant application or other private sector housing related decision, a simple appeal procedure has been developed. This appeal procedure involves the complaint being presented to the Head of Public Health Services and the Private Sector Housing Manager who will act as arbiters to ensure that any decision is in line with the Council's Private Sector Housing Policy. The complainant will be notified in writing of the appeal outcome within fifteen working days of receipt of the complaint.