



## PRIVATE SECTOR HOUSING

### HMO Licensing & Fees Policy

2024

## Contents

1.0	Introduction.....	4
2.0	Scope & Objectives of Policy.....	4
2.1	Objectives .....	4
3.0	Legislation, Regulations & Guidance.....	5
4.0	Licensing Scheme .....	5
5.0	Definition of House in Multiple Occupancy (HMO) .....	5
6.0	Exemptions.....	6
7.0	Fees .....	6
7.1	Adjustments .....	7
7.2	Discounts .....	7
8.0	Responding to Licence Applications.....	7
8.1	Inspections.....	7
8.2	Determining Applications .....	8
8.3	Management Requirements.....	8
8.4	Fit and Proper Person .....	8
9.0	Duration of Licence .....	9
10.0	Ongoing Monitoring of Compliance .....	9
11.0	Variations, Transfers & Revocations.....	9
11.1	Transfers.....	9
11.2	Variations.....	10
11.3	Revocations .....	10
12.0	Formal Proceedings .....	10
13.0	Register.....	11
14.0	Complaints .....	11
15.0	Exceptional Circumstances.....	11
Appendix 1.0	Legislation, Guidance & Regulations .....	12
1.1	Legislation .....	12
1.2	Orders & Regulations.....	12
1.3	Guidance.....	12
Appendix 2.0	Fees – permitted cost items .....	13
2.1	Application Fee .....	13
2.2	Housing Enforcement Fees & Enforcement Charges (2024) .....	15

Appendix 3.0	Licensing Determination procedure.....	16
3.1	Who will determine a HMO Licence application? .....	16
3.2	What matters are relevant to a HMO Licence determination? .....	16
3.3	When to grant or refuse a HMO Licence .....	16
3.4	Authorised Officer Discretion.....	17
3.5	Recording Determinations.....	17
Appendix 4.0	Fit & Proper Person Assessment procedure .....	18
4.1	Who will do the assessment? .....	18
4.2	What will be considered in the assessment? .....	18
4.3	What factors determine if previous notices or enforcement cases are relevant? .....	19
4.4	What means of collecting information will be used? .....	19
4.5	Decision Recording .....	20

## 1.0 Introduction

This policy looks at the licensing of houses in multiple occupancy (HMO) within private sector housing and the process and requirements involved.

The purpose of HMO licensing is to ensure the highest risk properties (typically occupied by some of the poorest and most vulnerable residents) meet the minimum accepted standards and are suitably managed. Licensing is aligned with ensuring residents have healthy places to live, work and enjoy leisure and cultural activities.

An individual's home environment has a significant influence on their overall health and wellbeing and this in part is related to the available access to reasonable standards of accommodation. Licensing of HMOs is aimed at better regulating the standard of accommodation in this part of the sector so as to lessen any contribution it could have on widening health inequalities for those vulnerable residents.

## 2.0 Scope & Objectives of Policy

This document outlines the policy adopted by Eastleigh Borough Council to address HMOs required to be licenced.

This policy is consistent with and complementary to the Private Sector Housing Enforcement Policy which was produced in accordance with the principles of good enforcement that were prescribed within the Enforcement Concordat produced by the Better Regulation Unit and to which we were a signatory in 1998.

This service shall include assistance, advice, education and the promotion of good practice to businesses, organisations and the public, in addition to statutory and enforcement actions where necessary and appropriate.

### 2.1 Objectives

The licensing of HMOs supports and contributes to delivery of the Corporate Action Plan 2023-2026, particularly the external theme of "Enabling a Healthier Eastleigh" through forming part of the delivery of vital statutory services linked with housing standards. By ensuring there is a robust and proportionate approach to HMO licensing it will help to contribute to the efforts to tackle health inequalities and deprivation and contribute to increased provision and an appropriate mix of housing across the borough.

The main objectives of this policy are:

- To provide a service that is consistent, transparent, and proportionate in its approach to HMOs in accordance with the Housing Act 2004 Part 2.
- To provide a service that complements and is consistent with our current policies and strategies and corporate themes.

- To ensure all charges related to the service are consistent, transparent and proportionate with due regard given to the specifics of each property licensed where appropriate.
- To encourage property owners and managers to maintain compliance with the conditions of the licence and to undertake a proactive approach to management to ensure provision of better standards of accommodation for residents.

### 3.0 Legislation, Regulations & Guidance

This policy has been written with consideration given to relevant national guidance, regulations & legislation, as have been set out in Appendix 1.

It is under these Acts and regulations that we have a statutory duty to licence HMOs which fall within the specified definition.

The aim of the guidance and legislation, which should be viewed as complementary to each other rather than in isolation, is to help ensure consistent and appropriate regulation of this part of the housing sector and thereby appropriate accommodation standards are met, and effective management is in operation.

### 4.0 Licensing Scheme

The Housing Act 2004, parts 2 & 3, give provisions to local housing authorities to operate licensing schemes to help regulate the standards and management of private rented accommodation. Three licensing schemes are available: mandatory HMO licensing, additional HMO licensing & selective licensing.

All local housing authorities have a statutory duty to operate mandatory HMO licensing. Additional & selective licensing schemes are discretionary functions which a local housing authority may operate should they be able to demonstrate the set criteria within the legislation have been met.

Eastleigh Borough Council currently operates only mandatory HMO licensing.

Additional & selective licensing schemes have been considered previously (most recently in 2019) but found at that time the circumstances in the borough did not meet the necessary criteria within the legislation for their implementation. We will keep these other licensing schemes under review and reserve the right to pursue implementation of either of these schemes where on review it is found that the necessary criteria can be met and it is considered appropriate to do so.

### 5.0 Definition of House in Multiple Occupancy (HMO)

The definition of a HMO is a property occupied by three or more people (including children) who form two or more households where the kitchen and/or bathrooms are shared.

It includes shared houses, bedsits and some flats. This includes houses rented by students.

A household may be:

- A single person
- A cohabiting couple
- Several members of the same family, all related by blood or marriage.

As an example, a house occupied by a brother, sister and one other unrelated occupant would form two households; three unrelated persons would form three households.

The number of tenancy agreements is not relevant in determining whether a house is an HMO.

Under the national Mandatory HMO Licensing Scheme, it is a legal requirement for all HMOs that consist of 5 or more persons<sup>1</sup> to hold a licence to operate.

## 6.0 Exemptions

Where a landlord is, or shortly will be, taking steps to make a property non-licensable, we may exercise discretion to serve a Temporary Exemption Notice (TEN).

A TEN can only be issued by a duly authorised officer and for a period no longer than 3 months and generally will only be provided once. A TEN will only be considered where we have received a statement in writing from the property owner that they are taking steps to make the property non-licensable, and these steps will be fully completed within 3 months.

A second TEN for the same property may be given but only in truly exceptional circumstances and to do so would be at the discretion of the Service Manager for the Housing Standards Team or the Service Director of People & Communities.

## 7.0 Fees

We are permitted<sup>2</sup> to charge for applications in respect of HMO licence. The fees shall be determined from a schedule of permitted cost items (Appendix 2) and shall be reviewed annually.

The fee for a HMO licence application is levied in two stages<sup>3</sup>.

1. The first payment is required to be paid at the point of submission of the application form and is non-refundable.

---

<sup>1</sup> [Section 55\(2\)](#) Housing Act 2004, Part 2 & the [Licensing of Houses in Multiple Occupation \(Prescribed Description\)\(England\) Order 2018](#)

<sup>2</sup> Housing Act 2004 – [Section 63\(3\)](#)

<sup>3</sup> In accordance with case law as set under R(Gaskin) v LB Richmond upon Thames [2018]

2. The second payment is only payable at the point where an application has been processed and the decision made to grant a licence. The licence will only be issued and sent out on receipt of the second payment in full.

Should any discounts or adjustments under the fee structure apply these will be applied to the second payment amount.

### 7.1 Adjustments

The charge for applications is calculated based on an average HMO for the Borough (i.e. for five persons) licenced for the maximum period of five years.

Where a property is licenced for a greater number than five, an adjustment will be applied to the second payment at the set rate specified in the fees structure for each additional person over five.

Where a licence is issued for a period fewer than five years the second payment would be adjusted to a pro-rata amount (having had any adjustment for number of occupants applied first) proportional to the actual period the licence is to be issued for.

### 7.2 Discounts

A reduction of 50% may be applied to the second payment for applicants that are a charitable organisation whose primary work is connected with supported housing specifically for disabled/vulnerable adults and/or those coming out of homelessness.

For an applicant to be eligible for the reduction they must be registered with the charity commission and directly operating within Hampshire.

This reduction is intended to be in recognition that such charities are not operating within the sector primarily for commercial gain and are providing much needed support and are essential in helping vulnerable residents who have traditionally found it otherwise very difficult to access and/or maintain accommodation within the private rented sector.

## 8.0 Responding to Licence Applications

We endeavour to provide an initial response to all licensing applications within 3 working days following the day of the receipt.

### 8.1 Inspections

All properties for which a licence application is submitted will receive a property inspection as part of the determination process and before any final decision on the application is made whether to grant a licence. No licence will be granted where an inspection has not taken place. We are committed to ensuring improved housing standards for our residents and maintaining a strong stance in enforcing this commitment. For this reason, all property inspections undertaken as part of determining an application will be undertaken by authorised officers of the Council.

## 8.2 Determining Applications

All licence applications will be determined by an authorised officer of the Council. We aim to process, decide and (where granted) issue a licence within 6 months from receipt of a valid application. An application will be considered duly valid at the point all the following has been received:

- A completed application form.
- Full payment of the stage 1 application fee.
- ALL supplementary paperwork as specified on the application form.

At the point an application is valid, acknowledgement of this will be provided to the applicant through their preferred means of contact.

Determinations will be done in accordance with Licensing Determination procedures (appendix 3) and have due regard to the following criteria which must be satisfied:

- Fit & Proper Person Assessment.
- Provision for Management of the Property.
- Suitability for occupation.

## 8.3 Management Requirements

We are required to assess whether the management structures and arrangements in place or proposed are suitable. Satisfactory provisions for management of a HMO principally consist of:

- A clear and accessible route in place for residents to report defects, including emergency repairs and at evenings/weekends (out of hours) and arrangements to remedy such defects reported.
- A procedure of periodic inspections by management to pro-actively identify repairs and maintenance matters.
- A declaration from the licence applicant, where they are not the manager, that adequate funding will be made available to the designated manager to deal with repairs.
- A declaration from the licence applicant, and designated manager (where applicable), as to the time periods which all standard repairs and emergency repairs will be endeavoured to be completed in.

It will also be an expectation that the licence application and/or designated manager have awareness and understanding of the HMO Management Regulations<sup>4</sup> and the requirement for compliance with these.

## 8.4 Fit and Proper Person

We are required to assess whether the licence applicant and any designated manager are fit and proper people to manage the property. This assessment will be

---

<sup>4</sup> [The Management of Houses in Multiple Occupation \(England\) Regulations 2006](#)



made by an authorised officer of the Council in accordance with our Fit & Proper Person Assessment procedure (appendix 4). Where an applicant or designated manager is found not to be a fit and proper person this will be grounds for either refusal of the application or, where agreed by the Service Manager of Housing Standards Team, for a reduced licence period with additional conditions requiring specified additional training to be undertaken by the applicant and/or designated manager.

## 9.0 Duration of Licence

A licence, where granted, shall always specify a maximum number of occupiers and households who can occupy the property and the date on which the licence will expire and cease to be in effect.

A licence would be issued for a period of five years in most circumstances but may, at the discretion of an authorised officer, be issued for a lesser period in the following circumstances:

- Requested in the application or by the applicant.
- Concerns or issues in relation to management arrangements or the property's condition have come to light while processing an application but which are considered insufficient grounds to warrant a refusal of the licence.

## 10.0 Ongoing Monitoring of Compliance

Where a HMO is granted a licence, it shall have a monitoring inspection at least once within the period the licence is issued for (exception being where a licence has been issued for a period of less than 2 years).

The inspection will be to check compliance with licence conditions, management regulations and assess the property for any disrepairs that may pose a Category 1 or 2 hazard under the Housing Health and Safety Rating System (HHSRS).

We are committed to ensuring improved housing conditions for our residents and maintaining a strong stance in enforcing this commitment. For this reason, all monitoring and enforcement of the licences issued and their conditions will only be undertaken by authorised officers of the Council.

It is our belief that by ensuring all monitoring and enforcement activities are retained internally we will be better able to ensure a consistent and high standard that licenced properties are held to. It will also be able to more easily complement and work alongside the PSH Enforcement Policy to take action where standards have failed to be met.

## 11.0 Variations, Transfers & Revocations

### 11.1 Transfers

A HMO licence cannot be transferred. If there is a change in ownership of the property or in the person that is considered the appropriate person to hold the

licence, a new licence MUST be applied for as soon as possible. The original holder of the licence will continue to be responsible for the management of the licence until such time as we either revoke the licence (as part of issuing new licence to the new owners/responsible party) or the existing licence expires.

## 11.2 Variations

A licence may be varied by us either:

- On our own initiative, or
- On the application of the licence holder or any relevant person; or
- With the agreement of the licence holder.

Where a licence holder wishes to request a variation, this must be done so in writing by completing the variation application form.

Any variations to a licence and/or its conditions will only be issued on our determination that it is appropriate to do so and, where requested by the licence holder or by our own initiative, will be consulted on with all relevant parties<sup>5</sup>.

## 11.3 Revocations

A licence may be revoked by us either:

- On our own initiative, or
- On application of the licence holder or any relevant person, or
- With the agreement of the licence holder.

Any request by a licence holder or relevant person to revoke a licence must be made in writing to the Housing Standards Team setting out who is making the application (and their standing in doing so) and the grounds on which the revocation is sought.

Any determination on a revocation, where requested by the licence holder or by our own initiative, will be consulted on with all relevant parties before a final decision is issued<sup>5</sup>.

## 12.0 Formal Proceedings

Having regard to the Private Sector Housing Enforcement Policy, formal action will be considered when a licensable property is found:

- Operating without a licence.
- Has been permitted to be occupied by a number of persons or households greater than that specified on the licence.
- Not operating in accordance with the licence conditions.
- Not operating in compliance with management regulations in respect of HMOs.

---

<sup>5</sup> In accordance with requirements of [Schedule 5, Part 2 of the Housing Act 2004](#).

## 13.0 Register

We are required to keep and maintain up to date registers of HMO licences granted and temporary exemption notices (TENs) issued. The registers are required to be publicly available and are published on our website.

The information that must be contained within the register is prescribed<sup>6</sup> and includes some personal details (specifically the name and correspondence address as provided on application) of the licence holder / person granted a TEN.

Entries will remain on the public register for the full duration of the relevant licence or TEN is in effect for.

## 14.0 Complaints

If you have a problem with the service provided, please contact the Case Officer in the first instance. If you remain dissatisfied with the service provided, a formal complaint can be made in accordance with Eastleigh Borough Council's Complaints Procedure. For details, please visit our website: <https://www.eastleigh.gov.uk/the-council/compliments,-complaints-comments.aspx>

## 15.0 Exceptional Circumstances

Should an occurrence or event lead to exceptional national circumstances (such as a pandemic), temporary adjustments to the delivery of provisions under this policy may need to be made. In such an instance any changes to service will be based on an assessment of risk to both staff, clients and external partners with due consideration as to those in society identified as more vulnerable and any government issued guidance or requirements/restrictions to be followed.

Where any adjustments to services have to be implemented all possible efforts will be made to find temporary alternatives or measures, using all available technology, to ensure we preserve as much continuity and access (albeit maybe with extended processing time) as can be reasonably achieved.

An equality impact assessment will be undertaken where any temporary adjustment to services is implemented. This will be carried out ideally prior to any changes but, where circumstances do not allow, will be as soon after implementation as is possible.

---

<sup>6</sup> [The Licensing and Management of Houses in Multiple Occupation and Other Houses \(Miscellaneous Provisions\) \(England\) Regulations 2006 \(legislation.gov.uk\)](#) – Sections 11 & 12

## Appendix 1.0 Legislation, Guidance & Regulations

Below are the main pieces of legislation, orders & regulations made there under, national guidance documents which relate to the licensing of HMOs and to which this policy has had consideration.

### 1.1 Legislation

- Housing Act 2004
- Housing and Planning Act 2016

### 1.2 Orders & Regulations

- Housing, Health & Safety Rating System Enforcement (England) Regulations 2005
- Management of Houses in Multiple Occupation (England) Regulations 2006
- Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)(England) Regulations 2006
- Licensing and Management of Homes in Multiple Occupation (Additional Provisions)(England) Regulations 2007
- Licensing of Housing in Multiple Occupation (Mandatory Conditions of Licences)(England) Regulations 2018
- Housing (Management Orders and Financial Penalties)(Amounts Recovered)(England) Regulations 2018
- Licensing of Houses in Multiple Occupation (Prescribed Description)(England) Order 2018

### 1.3 Guidance

- Houses in Multiple Occupation and residential property licensing reform: Guidance for Local Housing Authorities
- A guide to the licensing and management provisions in Part 2, 3 and 4 of the Housing Act
- Housing Act 2004: Explanatory Notes – chapter 35
- Housing Health & Safety Rating System (HHSRS) Operating Guidance
- LACORs Housing – Fire Safety Guidance

## Appendix 2.0 Fees – permitted cost items

### 2.1 Application Fee

Processing, Determination & Issue of Decision on Licence Application (stage 1)	Time	Hr. Rate	Total
Enquiry received and info provided	60mins		
Enters details of enquiry onto database	20mins		
Returned application form – Initial basic preparation	30mins		
Ownership details checked	60mins		
Check & determination of correct fee paid	15mins		
Generate acknowledgement letter	30mins		
Enter data from application form onto database	45mins		
Initial check of application & confirmation all information provided	60mins		
Check & review case history for property/applicant	60mins		
Review management and financial arrangements	60mins		
Examine gas safety and other certificates	30mins		
Liaise with HIWFRS	45mins		
Discuss application with senior officer/service manager	60mins		
Preparation for property inspection	30mins		
Property inspection	90mins		
Write up of report of inspection & update database	120mins		
Assess adequacy of amenities & space for occupiers	40mins		
Determine who is most appropriate licence holder	30mins		
Complete fit & proper person assessment	30mins		
Peer check by senior officer/service manager of assessments and determination	40mins		
Check & arrange peer review of drafted licence decision documents	30mins		
Peer check by senior officer/service manager of drafted documents	30mins		
Arrange & serve final documents	30mins		
Check by senior officer/service manager of service of documents	20mins		
Enter licence decision details on system & record proof of service	60mins		

Issue of Granted Licence and annual administration, operation & monitoring of licensing scheme (stage 2)	Time per year	Cost <sup>7</sup>	Licence rate <sup>8</sup>	Cost per licence <sup>9</sup> (for 5 years)
Update of public register	2000mins			
Chasing up applicants for missing documents & certificates	900mins			
General advice & response to enquiries over the phone	4500mins			
Enquiries and follow-ups about fit & proper checks	600mins			
Examining documents and certificates and associated follow-up work	600mins			
Inspecting properties during licence period	3000mins			
Dealing with incomplete applications	900mins			
Considering & responding to representations against proposals	600mins			
Consultations & case discussions on specific cases or issues identified internally with team members	420mins			
Searching activities to identify unlicensed HMOs	2000mins			
Specialist licensing training	1200mins			
IT development work on licensing system	500mins			
Review & revision of guidance notes for landlords	300mins			
Review & updating internal staff guidance notes & procedures	720mins			
Review & calculation of licence fees	180mins			
Publicising schemes & registers	90mins			

Providing plan drawings of HMO	Time	Hr Rate	Total
Arrange site visit & update system	30mins		
Site Visit <sup>10</sup>	30mins		
Preparation of drawings	90mins		
Liaise with HIWFRS	30mins		
Review by senior officer/service manager of drawings	30mins		

<sup>7</sup> Gives total estimated cost over a year - Time per year multiplied by hourly rate.

<sup>8</sup> Gives proportion of yearly cost approximately attributable per licence – Cost divided by average total number of active licences.

<sup>9</sup> Gives total amount over 5 year period – Licence rate multiplied by 5.

<sup>10</sup> This is the additional time added to site visit when required to take measurements for drawing up plans has been accounted for here.

## 2.2 Housing Enforcement Fees & Enforcement Charges (2024)

Housing (all inc. VAT)	Amount (£)
House inspection fee – immigration accommodation certificate request / compatibility check	325
Additional charge for revisit due to missed appointment by client	70
HMO Licence – upto 5 occupants	1400 total split as: Stage 1 (on application) - £700 Stage 2 (on decision if granted - £700
HMO Licence – over 5 occupants	37.50 per additional occupant (up to maximum of 1700)
HMO Licensing – supplying of property plans	115
Housing Health Check Visit	120
Fee for service of Improvement Notice	600
Fee for service of Prohibition Order	600
Fee for service of Emergency Prohibition Order	600
Fee for Service of Emergency Remedial Notice	600
Fee for reviewing Suspended Notice (prohibition or improvement)	200

## Appendix 3.0 Licensing Determination procedure

In accordance with the requirements specified in section 64 of the Housing Act 2004 all housing licence applications under this part must be determined by the Local Housing Authority (LHA) to one of two outcomes: Grant or Refusal.

### 3.1 Who will determine a HMO Licence application?

The determination of a HMO licence application will only be carried out by an authorised officer of the Council. All determinations will be peer reviewed by at least one other authorised officer.

### 3.2 What matters are relevant to a HMO Licence determination?

A HMO licence will be determined with reference to the following matters:

- The property is reasonably suitable for occupation by not more than the maximum number of households or persons mentioned in the application or as decided by the LHA.
  - A property cannot be considered suitable for occupation where we consider that it does not meet any prescribed standards for occupation by the maximum number of households or persons. However, we do still have discretion to find a property unsuitable for occupation even where it does meet prescribed standards <sup>11</sup>.
- There is no banning order in force against a person who owns or has interest in the property or part of it or against a lessor or licensor of the house or part.
- The proposed licence holder is the most appropriate person to be the licence holder.
- The proposed licence holder is a fit and proper person.
- The proposed manager (where different to the licence holder) is a fit and proper person.
- The proposed manager is either the person having control of the property or a person who is an agent or employee of the person having control.
- The proposed management arrangements for the property are satisfactory.

### 3.3 When to grant or refuse a HMO Licence

Where the authorised officer of the Council is satisfied all of the relevant matters outlined above are met, then the application determination must be to grant a licence.

Where the authorised officer of the Council finds any of the relevant matters outlined above not to have been met or is unsatisfactory this will be considered sufficient grounds that the authorised officer may determine to refuse the application for a licence.

---

<sup>11</sup>This discretion will be exercised where a property does not meet the local standards set by us where they are above any national prescribed standards (e.g. minimum room size).



### 3.4 Authorised Officer Discretion

Where the relevant matter(s) found unsatisfactory are relating to the proposed manager (where different to the licence holder) and/or the proposed management arrangements the authorised officer may choose to advise the applicant of this and provide an opportunity for them to put forward an alternative manager or management arrangements for consideration prior to the final decision. The authorised officer will decide whether to offer this opportunity on a case-by-case basis with reference to whether this has already been provided previously in relation to this or any other application submitted by the same applicant.

Where the relevant matter(s) found unsatisfactory are relating to the condition of the property it is at the authorised officer's discretion as to whether to refuse the licence or to grant the licence with added conditions requiring works to address these issues. This will be decided on a case-by-case basis and with due reference to the nature and severity of the disrepair/condition item(s) of concern and the ability to undertake reasonable works to mitigate or remove the hazard.

### 3.5 Recording Determinations

All determination outcomes will be duly recorded for the relevant licence application record. The decision record will include the following:

- Confirmation that each of the relevant matters has been duly considered and the outcome for each relevant matter;
- Which authorised officer peer reviewed the determination;
- Date determination was made;
- Date determination was peer reviewed;
- Where it is determined to refuse a licence, the grounds this refusal was based on;
- Where discretion has been applied and it is determined to grant a licence, the grounds on which the discretion was applied, and details of any additional conditions thus applied.

## Appendix 4.0 Fit & Proper Person Assessment procedure

In accordance with the requirements specified in section 64(3) of the Housing Act 2004 all determinations of applications for an HMO licence must include an assessment as to whether the licence holder and any proposed manager of the property are considered to be a fit and proper person.

### 4.1 Who will do the assessment?

The fit and proper person assessment will only be carried out by an authorised officer of the Council. Any assessment completed will be peer reviewed by at least one other authorised officer.

### 4.2 What will be considered in the assessment?

As specified<sup>12</sup> a person will be considered NOT to be a fit and proper person to hold a HMO licence or to manage the property where evidence is found that they have committed any offence involving:

- Fraud or other dishonesty;
- Violence or drugs;
- Any offence listed in schedule 3 to the Sexual Offences Act 2003;
- They have practiced unlawful discrimination on the ground of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;
- They have contravened a provision of the law relating to housing or of landlord and tenant law;
- They have acted otherwise than in accordance with any applicable code of practice approved under section 233 of the Housing Act 2004;
- There is a banning order under the Housing & Planning Act 2016 in force against them;
- Any person associated with them (whether on a personal, work or other basis) has done any of the above.

In addition to the above we are permitted<sup>13</sup> to consider any other matters that we consider relevant to the question whether the person assessed is a fit and proper person. Therefore, we will also give due consideration to the following:

- Whether they have had any enforcement notices under the Housing Act 2004 served against them;
- Whether there have been any previous housing related enforcement cases by the Council involving them as the responsible party for the property.

---

<sup>12</sup> [Section 66](#)(2) Housing Act 2004

<sup>13</sup> Section 66(3)(b) Housing Act 2004

### 4.3 What factors determine if previous notices or enforcement cases are relevant?

Only the listed enforcement notice types below will be relevant for consideration. This is due to these notice types in particular relating to hazards identified under the Housing Health & Safety Rating System (HHSRS) and requiring remedial action from the landlord.

- Improvement Notice
- Prohibition Order
- Emergency Remedial Action Notice
- Emergency Prohibition Order
- Demolition Order

It will be considered relevant where 3 or more notices of any of the above types, have been served on an applicant or proposed manager previously. Should a period of 5 years or more have elapsed between notices or since the most recent notice was served; any prior to this period will not be included for consideration.

Previous enforcement cases, even where notices were not served, will be considered relevant where 3 or more cases occur relating to the property to be licenced or where the applicant or proposed manager are recorded as the responsible party for a property (landlord) within a 2 year period. Should a period of 2 years or more have elapsed between enforcement cases or since the most recent case, those prior to this period will not be included for consideration.

Cases or enforcement notices that fall outside the parameters set above may still be included for consideration at the authorised officer's discretion, where the nature of an enforcement notice or case is considered to be of sufficient severity to still warrant inclusion. Those cases or enforcement notices relating to Category 1 hazards will be considered of greater relevance due to the higher risk/greater severity of the hazard in question.

### 4.4 What means of collecting information will be used?

The information on which the fit and proper person assessment will be based will be collected from the following:

- A signed self-declaration form from the applicant and/or proposed manager of the property;
- A check of the Rogue Landlord's database<sup>14</sup> to ascertain if any banning orders are in force;

---

<sup>14</sup> As co-ordinated by Department for Levelling Up, Housing & Communities (DLUHC) on the DELTA system.

- A check of any other intelligence databases for which the Housing Standards team has approved access<sup>15</sup>;
- A check of the internal back-office system within the Council against both the property address and the name of the applicant/proposed manager to identify any past enforcement notices or enforcement cases.

We retain the right to request from any applicant or proposed manager, where there is just cause for additional information, a copy of a Standard Disclosure & Barring Service (DBS) certificate for themselves.

We consider that the above checks are reasonable to enable the Council to undertake its duties in assessing whether an applicant or proposed manager is a fit and proper person.

#### 4.5 Decision Recording

All fit and proper person assessment outcomes will be duly recorded for the relevant licence application record. The decision record will include the following:

- Confirmation of the checks undertaken by the authorised officer.
- Outcome of the checks undertaken.
- Which authorised officer peer reviewed the assessment.
- Date when the assessment was completed and the date when the assessment was peer reviewed;
- Where the person assessed is stated to not be fit and proper, which of the information gathered (can be more than one) is the decision based on.

---

<sup>15</sup> This may include, but is not limited to, such databases as the Trading Standards Intelligence Database