

## WEST NORTHAMPTONSHIRE SHADOW EXECUTIVE

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Report Title	West Northamptonshire Place Policies (Tranche 1)	
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### List of Appendices (Combined PDF)

**Appendix A: Waste Management Policy (West Northants) Policy and Service Standards for Environmental Services: Refuse Collection, Recycling and Street Cleansing**

**Appendix B: Enforcement Policy**

**Appendix C: Private Sector Housing Enforcement and Civil Penalties Policy for the Regulation of Housing Standards**

**Appendix D: Private Sector Housing Assistance Policy**

**Appendix E: Housing Allocation Policy (Position Statement)**

### **1. Purpose of Report**

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- 1.1. This report introduces a suite of policy documents covering a range of statutory responsibilities across various Place service areas that are presented for approval and adoption by the new West Northamptonshire Unitary Authority. In most cases the policy harmonisation across District and Borough (and where relevant, County Council) services is not extensive at this stage. Where policies have been significantly altered or harmonised this is highlighted at Section 5 although this is not extensive for Day One.

### **2. Executive Summary**

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- 2.1 This report presents five policies that are recommended for adoption for the Day One operations of West Northamptonshire Council. These are set out in the accompanying appendix.

### **3. Recommendations**

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- 3.1 It is recommended that the Shadow Executive Committee:
- a) Reviews and agrees adoption of the policy documents set out in the Appendices to this report.
- 3.2 *(Reason for Recommendations)*
- The policies set out herewith will ensure safe and legal operations in key Place services in West Northamptonshire and compliance with MHCLG expectations for policy reviews in the transition to unitary local government.

### **4. Report Background**

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- 4.1 With the eight authorities in Northamptonshire reorganising into a new two – unitary configuration, there is an expectation from MHCLG for unitary authorities to harmonise policy over time. This is set out within the Structural Change Order. With the current COVID-19 Regulations enacted Northamptonshire Unitaries have in most cases been given an additional 12, 24 or 36 months on top of the usual harmonisation period given the unprecedented disruption to local government services and the Future Northants Programme preparations for vesting the new authorities.
- 4.2 The Legal Enabling Lead for the Future Northants Programme has developed an approach to policy adoption by the new Unitary authorities. This in summary consists of a tiered approach to adoption of policies based on statutory necessity for a new policy for West Northamptonshire Council, aligned or harmonised policies for West Northamptonshire or operational policies that are not required to be reviewed and updated for Vesting Day and must be reviewed and harmonised up to 36 months after formation of the new Council.
- 4.3 Members can expect to participate in development of harmonised policy proposals at regular junctures over the coming years but the policies set out herewith are viewed as being either mandatory for early adoption or tactical alignment of policy to move local district and borough areas to more common approach where this is possible without either consultation or disruption to services.

### **5. Overview of Policies**

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- 5.1 The following policies and plans are presented for review and approval:

#### **Appendix A: Waste Management Policy (West Northants)**

*Policy and Service Standards for Environmental Services: Refuse Collection, Recycling and Street Cleansing* (Please see appendix for full document)

- 5.2 West Northamptonshire Council's approach to environmental services aims to ensure that refuse, recycling and street cleansing services are provided in an effective, efficient and equitable manner. We aim to maximise recycling; reduce the amount of residual waste requiring treatment or disposal and to comply with the Code of Practice on Litter and Refuse.
- 5.3 The intention of this document is to ensure that there are clearly defined service standards in relation to the collection, treatment and disposal of waste (including material for recycling), Household Waste Recycling Centres and street cleansing services provided by West Northamptonshire Council.
- 5.4 The policy drafted and provided at Appendix A contains recommended policy based on options drawn together from members of the project steering group within the Place West programme. These are summarised in the table below:

<b>Table 1: Key policy choices</b>			
<b>Issue</b>	<b>Choices</b>	<b>Proposed action</b>	<b>Comments</b>
Basic service patterns	<ul style="list-style-type: none"> <li>• No change.</li> <li>• Harmonise to an existing or a new arrangement.</li> <li>• Timing.</li> </ul>	Retain existing arrangements in the three predecessor districts, except where changed under this report.	It would be impracticable to harmonise the services by vesting day, and there is no business or customer benefit to doing so.
Free recycling service for schools, currently provided in Northampton and South Northamptonshire	<ul style="list-style-type: none"> <li>• No change</li> <li>• All charged</li> <li>• All free</li> <li>• Timing</li> </ul>	All free, from vesting day	This would support good environmental outcomes and have minimal cost effects.
Food waste services for primary schools who take the residual waste service (currently provided by SNC only)	<ul style="list-style-type: none"> <li>• No change</li> <li>• Cease providing</li> <li>• Provide everywhere</li> </ul>	Retain existing provision and extend to other areas when it is practical to do so.	This would support good environmental outcomes and have minimal cost effects.
Garden waste charges (currently NBC £42, DDC £37, SNC free for first bin, £30 for second and subsequent bins)	<ul style="list-style-type: none"> <li>• Charge all from vesting day.</li> <li>• Charge all from future date.</li> <li>• Free all</li> <li>• Level of charges.</li> <li>• Timing.</li> </ul>	<ul style="list-style-type: none"> <li>• From vesting day, NBC charges set at £42 per bin, DDC charges set at £35 per bin (for 10 months to 31<sup>st</sup> March 2022).</li> </ul>	Charging for garden waste is well established and is necessary in the current was to maintain the Council's current financial

		<p>SNC – no charge over 2021/22</p> <ul style="list-style-type: none"> <li>Review charging across all three district areas during 2021/22.</li> </ul>	<p>position. However full consideration is needed on the right approach for the longer term. Transitional provision is necessary to bring the Daventry charging cycle into line with the Northampton charging cycle, in order to align with the financial year.</p>
<p>Bulky waste charges (currently varied)</p>	<ul style="list-style-type: none"> <li>Cease charging.</li> <li>Keep current charges.</li> <li>Set new consistent charges.</li> <li>Timing.</li> </ul>	<ul style="list-style-type: none"> <li>Charge £25 for up to 3 items and £40 for up to 6 items.</li> <li>Apply from vesting day</li> </ul>	<ul style="list-style-type: none"> <li>. These are reasonable rate charges for these services</li> <li>Setting consistency in the charge gives equity across the area without high detrimental affect to any area residents.</li> </ul>
<p>Garden waste charges for village and community halls which are charities (currently provided free by DDC)</p>	<ul style="list-style-type: none"> <li>No change.</li> <li>All free.</li> <li>All charged.</li> <li>Timing.</li> </ul>	<ul style="list-style-type: none"> <li>Charge village and community halls if residents in the area are charged.</li> <li>From vesting day.</li> </ul>	<ul style="list-style-type: none"> <li>It is reasonable to charge for this service on the same basis as residents.</li> </ul>
<p>Kerbside waste electrical and electronic equipment (WEEE) (currently provided by SNC and</p>	<ul style="list-style-type: none"> <li>No change.</li> <li>Cease service.</li> <li>Provide in Daventry.</li> </ul>	<ul style="list-style-type: none"> <li>Retain existing provision and extend to Daventry</li> </ul>	<p>Recycling WEEE is appropriate and supports good environmental</p>

NBC, but not DDC)	<ul style="list-style-type: none"> <li>• Timing.</li> </ul>	when it is practical to do so.	outcomes.
Kerbside collection of textiles (currently provided in South Northants, by the Air Ambulance and by Veolia in Northampton)	<ul style="list-style-type: none"> <li>• No change.</li> <li>• Cease service.</li> <li>• Provide in all.</li> <li>• Provider.</li> <li>• Timing.</li> </ul>	<ul style="list-style-type: none"> <li>• Retain existing provision and extend Air Ambulance model to other areas when it is practical to do so.</li> <li>• Subject to any procurement issues.</li> </ul>	Collection and recycling of textile waste would support good environmental outcomes and have minimal cost effects. Any cost or procurement issues would be addressed prior to implementation.
Farthinghoe Reuse and Recycling Centre (operated by SNC; contact expires August 2021)	<ul style="list-style-type: none"> <li>• No change.</li> <li>• Cease service.</li> <li>• Extend contract to match NCC HWRCs (2025).</li> <li>• Timing.</li> </ul>	Seek to extend current contract to up to 2025 in one year increments.	This would allow the Council to plan its course of action and review and transform all such centres together.

- 5.5 There are no changes to household collection frequencies or collection dates proposed from the 1<sup>st</sup> April 2021 so residents will see no changes to their regular service when the new authority goes live. They do attempt to align elements of the service where a common approach can be taken to provide some degree of equity of service for residents and reduce the risk of confusion or challenge in areas such as bulky (paid for) waste collections.
- 5.6 Where optimal service proposals cannot be achieved in time for Vesting Day, or what those would be is not yet established, proposals are provided for what could be undertaken and when are provided. The proposals made all aim to increase recycling, reduce residual waste, which in turn would improve environmental outcomes and should bring about savings.
- 5.7 Work has been undertaken across the three collection authorities in the West, (NBC, DDC and SNC) to harmonise certain fees and charges such as bulky household waste charges to ensure there is no disparity in service charges where it is uncontentious to do so.
- 5.8 Any work to further harmonise collection of household waste and recycling services would happen after Vesting Day and in consultation with Members of West Northamptonshire Council.

## **Appendix B: Enforcement Policy**

- 5.9 West Northamptonshire Council's Enforcement Policy provides an overarching framework under which the Council carries out its enforcement investigations and action. All staff employed and contracted by the Council are expected to follow this policy.
- 5.10 Whilst this policy seeks to explain key themes and general principles, members of the public and businesses are advised that detailed service-specific enforcement arrangements exist including those in the schedule to this policy.
- 5.11 The purpose of the policy is to secure an efficient and effective approach to all council regulatory inspection and enforcement functions and improve compliance with legislation whilst minimising the burden on businesses, individuals, organisations, and the Council. This is in accordance with the Regulator's Code, published by the Better Regulation Delivery Office (BRDO).
- 5.12 It explains the approach that will be adopted when carrying out West Northamptonshire Council's duty to enforce a wide range of legislation and is written in general terms to accommodate this.

### **Appendix C: Private Sector Housing Enforcement and Civil Penalties Policy for the Regulation of Housing Standards**

- 5.13 West Northamptonshire Council will have statutory powers and duties to regulate private sector housing and these are assisted by the Housing Health and Safety Rating System (HHSRS), the Mandatory Licensing of Houses in Multiple Occupation and, in designated parts of the district, the Additional Licensing of Houses in Multiple Occupation.
- 5.14 West Northamptonshire Council will be committed to improving standards in private sector housing, bringing empty homes back into use and ensuring that all private rented accommodation is well managed, properly maintained, energy efficient and safe. This policy governs the approach to enforcing standards in private sector housing.
- 5.15 In order to improve standards in private sector housing, the Council's Private Sector Housing Service will request information, carry out inspections, process licence applications, provide owners and landlords with advice and information, encourage and promote good practice, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders or issue financial penalties.
- 5.16 Although West Northamptonshire has many excellent landlords, it also has a significant number of criminal and irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard and/or unsafe.
- 5.17 This Private Sector Housing Enforcement and Civil Penalties Policy describes the Council's approach to enforcement, including serving statutory notices, making orders, issuing financial penalties, carrying out works in default and pursuing enforced sales, compulsory purchase and prosecution.

### **Appendix D: Private Sector Housing Assistance Policy**

- 5.18 Under the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002, the Council will have the power to provide assistance for the purpose of ensuring the provision of suitable home adaptations to ensure that properties remain safe, and provide an environment that promotes independent living for their owners or tenants. Adaptations can include repairing, improving, , , adapting, or supporting the relocation to a new home in West Northamptonshire.
- 5.19 The Council can offer this assistance in the form of grants or loans. This policy sets out what assistance the Council is able to offer: who can apply, whether it is a loan or a grant, what it can be used for and any conditions attached to receiving this assistance.
- 5.20 The Council also offers assistance under the Housing Grants, Construction and Regeneration Act 1996.
- 5.21 The purpose of this policy, therefore is to provide a formal framework within which the new Council can deliver mandatory disabled facilities grants and exercise its discretion in providing financial assistance under the Regulatory Reform Order 2002.
- 5.22 This framework is designed to ensure the fair, equitable and consistent treatment of residents of West Northamptonshire Council who require the Council's financial assistance to adapt their home or relocate to another, more suitable home.

### **Appendix E: Housing Allocation Policy (Position Statement)**

- 5.23 An Allocation Policy sits within a legal framework which includes the Housing Act 1996 (as amended by the Homelessness Act 2002 and the Localism Act 2011) the homelessness Reduction Act 2017 and regulations issued by Government relating to Allocations.
- 5.24 The Housing Act 1996 (S166A) requires all local housing authorities (LHA) to have an Allocation scheme to determine the priorities and define the procedures that will be followed when allocating housing accommodation.
- 5.25 The three Councils, Daventry (DDC), Northampton (NBC) and South Northants (SNC) are the designated Local Housing Authorities (LHAs). These three LHAs will be replaced by West Northants Council (WNC) as the new single LHA from the 1 April 2021.
- 5.26 The Local Government (Structural Changes) (Coronavirus) (Amendment) Regulations 2020 came into force on the 24 August 2020. These regulations make provision that certain plans, reports, reviews, schemes, statements and strategies which are inherited from predecessor councils can be revised and harmonised across the new unitary authority within 36 months of the new unitary council being established. This regulation includes the allocation schemes under section 166a of the Housing Act 1996.

- 5.27 The Allocation Policy harmonisation will not be completed, formulated or prepared (and published where this is required) before 1 April 2021 but there is no legal requirement to have done so. The service proposes to take such steps as are necessary to secure this is done as soon as practicable and not later than the 1 April 2024.
- 5.28 Until the new WNC allocation scheme is prepared and published the allocation schemes prepared by DDC, NBC and SNC will be treated as if they had been prepared and published by WNC. The schemes will apply for such part of the area (of the new West Northamptonshire Council) that corresponds to the area covered by the respective former District and Borough Councils.

## **6. Implications (including financial implications)**

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### **6.1 Resources and Financial**

- 6.1.1 There are no resources or financial implications arising from the proposals other than changes to locally set fees and charges that are integrated with the budget setting process for West Northamptonshire Council.

### **6.2 Legal**

- 6.2.1 The policies included at the appendix help to ensure that the Council is compliant with the over-arching national legislation. Failure to have clear policies in place that are compliant with regulations could result in legal challenges being brought against West Northamptonshire Council. Adoption of these policies for Vesting Day help to mitigate the risk of legal challenge from residents or third parties.
- 6.2.2 *Private Sector Housing Enforcement & Civil Penalties Policy:* There is no statutory requirement to conduct a consultation exercise when adopting a Private Sector Housing Enforcement and Civil Penalties Policy. Case law makes it clear that there is no legitimate expectation that the public will be consulted about policy proposals for the exercise of local authority regulatory enforcement functions. Accordingly, there is a low risk that the amended policy could be successfully challenged by way of judicial review on the ground of a lack of public consultation if approved.
- 6.2.3 *Housing Allocations:* Specific legal advice has been requested by the Subject Matter Expert steering group around the options set out in the Housing Allocation Policy Position Statement regarding the intention to run three separate allocation policies from Vesting Day. The advice that follows will give direction to future policy development in this area as full consultation with residents would be required to deliver a fully harmonised policy in this area.

### **6.3 Risk**

- 6.3.1 There are no significant risks contained within the suite of policy documents set out at the appendix. The policies ensure that the West Northamptonshire



Council is compliant with MHCLG requirements and that the Council has clear policies in place for Vesting Day.

#### **6.4 Consultation**

6.4.1 No public consultation has been undertaken on these policies. This is because there are only minor/limited changes to policy across the three current district areas set out. Where fees and charges are applicable any changes to locally set fees and charges formed part of the consultation on the now approved 2021/22 budget for West Northamptonshire Council.

#### **6.5 Consideration by Overview and Scrutiny**

6.5.1 N/A

#### **6.6 Environmental Impact**

6.6.1 N/A

#### **6.7 Community Impact**

6.7.1 N/A

#### **6.8 Equalities**

6.8.1 N/A

### **7. Background Papers**

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7.1 N/A

# Appendix A:



## **Policy and Service Standards for Environmental Services: Refuse Collection, Recycling and Street Cleansing**

## Document Control

The distribution of this document is controlled and the current version is available on the Council's website. Any printed copies of this document will no longer be controlled.

## Document Details

Document Title	West Northamptonshire Council Service Standards for Environmental Services
Purpose of document	To detail service standards for Environmental Services, including refuse collection, recycling and street cleansing for West Northamptonshire.
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## **1. Introduction**

### **1.1 Approach**

West Northamptonshire Council's approach to environmental services aims to ensure that refuse, recycling and street cleansing services are provided in an effective, efficient and equitable manner. We aim to maximise recycling; reduce the amount of residual waste requiring treatment or disposal and to comply with the Code of Practice on Litter and Refuse.

### **1.2 General Data Protection Regulation (GDPR)**

The process of managing household, bulky, clinical and other waste types, residents may be asked to provide some personal data. For full details about how we use personal information and how we comply with the GDPR, please see the council website, [www.westnorthants.gov.uk/xxxx](http://www.westnorthants.gov.uk/xxxx)

## **2. Objectives**

The intention of this document is to ensure that there are clearly defined service standards in relation to the collection, treatment and disposal of waste (including material for recycling), Household Waste Recycling Centres and street cleansing services provided by the Council.

## **3. Residual Waste Collection**

### **3.1 Residual Capacity and Frequency**

In West Northamptonshire, residual refuse is collected weekly, fortnightly or three weekly, depending on where you live. Residents can use the postcode checker on the West Northamptonshire Council website to find out what service operates in their area.

The intention is to provide a consistent capacity of around 80 litres for residual waste per week on average (for example, a 240 litre bin collected three-weekly or a 180 litre bin collected bi-weekly). However, this will vary depending on the particular circumstances of properties and the time it takes to bring properties in line with a common approach. Existing arrangements inherited by the Council in April 2021 may take some years to change.

Where it is practical to do so, the Council will provide smaller bins where residents want this.

### **3.2 Residual Waste**

The residual waste bin is for household waste which is non-recyclable and non-compostable. Examples of residual waste include; polystyrene, plastic bags, nappies and incontinence pads, cat and dog waste, polythene items, etc. Below is a list of items which should not go into the residual bin:

- Dry recyclables and compostable organic waste (that is accepted in the co-mingled recycling bin, garden waste bin or food waste caddy).
- Hot ashes
- Car parts
- Builder's rubble
- Stones
- Corrosive materials and liquids such as oil and paint
- Soil and turf
- Fluorescent tubes



- Low energy bulbs
- Electrical and electronic equipment
- Pesticides
- Batteries

### 3.3 Bin Allocation and Collection Arrangements.

Most properties are issued with a 240 litre black wheeled bin with a black lid, although there are some properties in the former South Northamptonshire District which have 180 litre residual bins. There are other arrangements in place for properties which cannot store a wheeled bin and for flats. Containers need to be presented for collection at the kerbside, on the scheduled day by 6.30 am. Collection days can be found on the West Northamptonshire Council website's postcode look up.

Where space is limited or if a resident requests it, a smaller 140 litre wheeled bin for residual waste, recycling or garden waste will be provided.

Checks will be made on properties that frequently request replacements wheeled bins.

Some 20,000, mainly terraced, properties in Northampton use green sacks supplied by the Council for residual waste disposal. Sacks are currently delivered on twice a year basis and properties are allocated the equivalent of two sacks per week. The Council will not issue any additional sacks if these are used up before the next delivery is due.

### 3.4 Communal Properties

The preferred method of refuse collection is for individual bins, which enables residents to fully participate in the Council's recycling schemes. If communal properties are low rise or maisonette in style, communal bins will only be considered on a case by case basis where the circumstances require this.

For larger numbers of flatted properties, communal bins are often necessary. Where this is the case 1100 litre bins are the standard bins used. Alternatives will be considered if due to reasons of storage capacity or access, it is not possible to provide or safely empty communal bins.

Communal waste bins are collected on a varying frequency – weekly, fortnightly or three-weekly, depending on need, with the aim to provide an equitable level of capacity to other households in the area. The standard residual waste capacity provided per flat will be 80 litres per week on average, which is consistent with individual properties as detailed in section 3.1.

Due to the benefits of individual bins the Council will consider over time where more flatted properties can be provided with these.

### 3.5 Houses of Multiple Occupancy (HMOs)

Residual bin capacity will be provided on the basis of a standard household allocation. Where there are markedly in excess of a typical single household, the property will be assessed as a communal property.

### 3.6 Large Households

For properties with five or more permanent residents or two or more children using nappies, consideration will be given to providing additional residual waste capacity if it is required. Each case will be assessed on an individual basis, a waste audit carried out and if additional capacity is required, will be subject to annual

review and may be removed at any point if it is abused or the property is no longer eligible. Residents who believe that they need additional residual waste capacity should contact a customer services representative at West Northamptonshire Council on 0300 xxxx xxxxx.

### 3.7 Excess Residual Waste

The collection crews will only collect the contents of the wheeled bin provided. No residual waste left with the bin, or piled on top will be collected.

### 3.8 Assisted Collections

Help with moving the wheeled bin to the collection point is given to those who cannot physically move a wheeled bin by virtue of age or disability and no other members of the household can undertake the task. To apply for an “assisted collection” residents must contact West Northamptonshire Council on 0300 xxx xxxx or use the self-service function at [westnorthants.gov.uk/xxxxxx](http://westnorthants.gov.uk/xxxxxx).

### 3.9 Missed and Heavy Bins

We will only return for missed bins reported within 48 hours of your scheduled collection day, but residents should wait until 4:30 pm on the day of collection before reporting, as crews are out working until this time. Missed collections will be collected within 48 working hours of report.

Any missed collections reported after 48 hours will not be collected until the next scheduled collection day. If the collection crews have reported the bin as “not out” at the time of collection or the bin was at the incorrect collection point, then we will not return to collect it before the next scheduled collection day.

If the bin has been tagged or reported by the crew as “too heavy” we will not return to empty until the next scheduled collection day and the householder must have removed sufficient material to allow the bin to be safely emptied.

### 3.10 Stolen, Missing or Damaged Bins

Where possible, West Northamptonshire Council will repair Council issued damaged bins (wheels, lids, hinges), to enable them to remain in use. Residents can request a repair to a bin online by completing a self-service form on the West Northamptonshire Council website [westnorthants.gov.uk/xxxxxx](http://westnorthants.gov.uk/xxxxxx) or by contacting a customer services representative on 0300 xxxx xxxxx. Repairs will normally be carried out within 10 working days and may require the bin to be swapped with a replacement, which will not necessarily be a new one. Repairs are free of charge, unless the damage is not deemed “fair wear and tear”.

Bins will not be replaced due to being dirty. The householder is responsible for ensuring cleanliness of the bin.

### 3.11 Replacement, New Bins and Food Waste Caddies

Requests for new or replacement bins can be made by completing self-service form on the West Northamptonshire Council website or by contacting a customer services representative. Bins and caddies will normally be delivered within 10 working days. Residents are responsible for keeping bins safe. A charge may be applied for repeatedly lost or damaged bins, the charges for which are available on the West Northamptonshire Council website.

### 3.12 Additional Properties

As new properties are built or converted they will be added to the collection round which is considered by the Council to offer the best solution, operationally and economically, regardless of which former council area they are located in. Any container requirements above the standard allocation, offered to households in the area should be paid for by landlords/developers, in accordance with local planning policy.

### 3.13 Access Issues

Where we are unable to access a road for issues such as parked cars, roadworks, building works, road closures etc., we will attempt to return and collect the bins when we next have a collection crew in the area.

### 3.14 Severe Weather

During severe weather we will continue to undertake the regular scheduled collection of waste wherever it is deemed safe to do so. If it is not safe to collect bins, we will try to return to collect those that have been missed as soon as practical after the scheduled collection date. If this is not practical due to continuing bad weather conditions, we may suspend some collections to enable us to prioritise collection of residual waste.

Arrangements for services during severe weather will be communicated to residents via the Council's website and social media channels.

## 4. Recycling Service

### 4.1 Description of the Service

A fortnightly, co-mingled, collection service of mixed, dry recyclable materials operates for the vast majority of households across West Northamptonshire. Depending on where you live, either a 240 litre black wheeled bin with a blue lid or a blue wheeled bin is provided for this service. In the future, new recycling bins will be black with blue lids. There are around 20,000, mainly terraced, properties that have recycling boxes or single use sacks, as they have no space to store a wheeled bin.

### 4.2 Materials Collected for Recycling

West Northamptonshire Council offers a comprehensive dry recycling service, which collects the following materials in the one co-mingled bin, box or sack:

<b>Paper/Card</b>	<b>Plastics</b>	<b>Metals</b>	<b>Glass</b>
Cardboard	Plastic bottles	Food and drink cans	Bottles
Cartons (juice, milk soup etc.)	Trays	Clean foil	Jars
Paper	Punnets	Empty Aerosols	
Newspapers	Yoghurt pots		
Magazines	Margarine tubs		
Flyers and leaflets			
Envelopes			

Greetings cards  
Telephone directories  
Wrapping paper (no foil or  
glitter)

#### 4.3 Materials Not Collected for Recycling in the Co-mingled Service

The following items are not collected for recycling in the co-mingled scheme and should be placed in the black residual or alternative recycling arrangements sought.

##### **Not Recycled in the Co-Mingled Scheme**

Sacks (with or without recyclable items in them)

Carrier bags\*

Flower pots

Plastic film and wrappings

Nappies

Incontinence pads

Textiles (clothes, bedding, duvet etc.)\*

Food Waste \*

Polystyrene

Broken toys

Broken window/pyrex glass

Drinking glasses

Batteries\*

Black plastic food trays

Crisp packets\*

Waste electrical and electronic equipment (WEEE)\*

\*For items with an asterisk, alternative recycling schemes may be available either provided by the Council, or within the community.

#### 4.4 Recycling Bin Allocation and Collection Arrangements

Most properties are issued with a 240 litre wheeled bin. There are other arrangements in place for properties which cannot store a wheeled bin, or flats. As with residual waste, bins need to be presented for

collection at the kerbside, on the scheduled day by 6.30 am. Collection days can be found on the West Northamptonshire Council website's postcode look up.

#### 4.5 Recycling From Communal Properties

The preferred method of recycling collection is for individual bins, which enables residents to fully participate in the council's recycling schemes. If communal properties are low rise or maisonette in style, individual bins will be looked at on a case by case basis.

For larger numbers of flatted properties, communal, co-mingled recycling bins are necessary and 1100 litre bins are the standard bins provided, depending on the available bin storage space. Alternatives will be considered if due to reasons of storage capacity or access it is not possible to provide or safely empty communal bins.

Communal recycling bins are collected on a weekly, fortnightly or three-weekly basis (depending on need) and additional bin capacity can be provided if it is needed and there is a suitable space for it. The standard recycling capacity provided per flat will be as 80 litres per week on average, which is consistent with individual properties as detailed in section 4.1.

#### 4.6 Additional Co-mingled Recycling Bins/Boxes and Excess Material

Additional materials for recycling that will not fit into the wheeled bin or box provided will be collected as long as they are contained within a see-through sack, placed next to the wheeled bin, or in the case of flattened cardboard, placed next to the wheeled bin. An additional recycling bins/box can be provided. If more than 1 extra container is required, this will be looked at on a case by case basis. Recycling from businesses should not be put into household recycling services.

#### 4.7 Assisted Collections and Missed, Heavy, Damaged and Replacement Recycling Bins/Boxes

All arrangement for assisted collections and missed, heavy, damaged and replacement bins are the same for residual bins in sections 3.8 – 3.11 above.

#### 4.8 Contaminated Recycling Bins

Any bins, boxes or sacks which contain non-recyclable material will not be collected. A bin tag or sticker will be left to explain the reason for non-collection and advising the resident of the action they need to take.

### 5. Food Waste Collections

#### 5.1 Food Waste Collection Service

A weekly collection of food waste is collected from the vast majority of properties in West Northamptonshire. The food waste is collected for anaerobic digestion, to produce electricity and a compost like material for use on local farms.

#### 5.2 Food Waste Collected

The following food wastes are accepted for collection in this service

- Meat and fish – raw and cooked including bones
- Fruit and vegetables – raw, cooked and peelings
- All dairy products, such as cheese, butter and yogurt
- Bread, cakes and pastries

- Rice, pasta and beans
- Uneaten food from plates and dishes
- Out of date or mouldy food
- Tea bags and coffee grounds
- Eggs and egg shells
- Fats, solid and semi solid – but not liquid

### 5.3 Food Waste Not Collected

The following wastes are **not** accepted for collection in this service:

- Packaging of any sort
- Liquids

### 5.4 Caddy Liners

West Northamptonshire Council does not provide residents with kitchen caddy liners. Residents can use a plastic bag or a compostable liner available for purchase in supermarkets and local shops. Alternatively, caddies can be lined with newspaper.

### 5.5 Food Waste Caddy Provision

Two food waste caddies are provided, one 5 or 7 litre caddy for the collection of food waste in the kitchen and a larger 23 litre caddy in which to put the food waste out for collection each week. Most of the caddies are brown, with silver caddies historically used in the south of West Northamptonshire. In future, brown caddies will be issues to all new properties or as replacements. Additional outdoor food wastes caddies are available to large families, or for those for whom one is not sufficient.

### 5.6 Flats and Communal Properties

This service is not currently available for flats or communal properties. The Council aims to provide food waste collection services for flats and communal properties where practical, at some time in the near future.

### 5.7 Assisted Collections and Missed, Damaged and Replacement Caddies

All arrangement for assisted collections and missed, heavy, damaged and replacement caddies are the same for residual bins in sections 3.8 – 3.11 above.

## 6. Garden Waste Collections

### 6.1 Description of the Service

Currently there are two different garden waste services operating in West Northamptonshire. All are fortnightly and collect the same materials for composting. The compost produced is used as a soil conditioner on local farmers' fields.

### 6.2 Garden Waste Service Charges

In the former Northampton Borough and Daventry District the garden waste service is an opt-in one for which a charge is levied. The charge is an annual one and when it has been paid, a permit is sent to the resident to attach to their garden waste bin. Currently the charges in the two former council areas differ, but there are plans to bring these into line. Between April 2021 and March 2022 the charges will be:

- £42 in the former Northampton Borough, for 12 months April – March.
- £35 in the former Daventry District, for 10 months June – March (the previous Daventry District Council scheme will run until the end of May 2021).

Further details of how the chargeable scheme works can be found on the West Northamptonshire Council website.

In the former South Northamptonshire District area the garden waste collection is currently free of charge, with plans to review the charging policy during 2021/22.

### 6.3 Garden Waste Sacks

In some areas of terraced housing in Northampton, garden waste is collected in sacks as there is no space to store a wheeled bin. Residents provide their own sacks for collection and pay the same annual fee as a wheeled bin collection. A sheet of garden waste stickers is provided, to attach to the sacks, the equivalent volume of a 240 litre wheeled bin collected fortnightly. Collections must be booked in.

### 6.4 Materials Collected for Composting

Hedge and shrub cuttings

Twigs and small branches

Cut flowers

Grass Cuttings, plants and weeds

Leaves

Wood shavings

Hutch bedding

Straw

### 6.5 Material Not Collected for Composting

Green waste contained in any type of plastic bag (unless on a designated garden sack collection)

Any type of degradable/biodegradable bag/sack (including corn starch bags)

Garden items such as plastic flower pots/trays

Any items that should be in the recycling or residual domestic bins/boxes

Soil, turf, stones, hard-core and rubble

Large branches (over 10 cm/4" in diameter)

Pieces of wood or fence panels

Dog or cat waste

## 6.6 Bin Allocation and Collection Arrangements

Residents who pay for their garden waste collections can pay for up to 5 garden waste bins, for each of which the subscription fee applies. If the householder requires more than 5, then this will be looked at on a case by case basis.

For residents where the collection of garden waste bins is currently free of charge, one bin is allocated per property. If further bins are required a fee of £42 per year per bin is charged if the service is required between April 2021 and March 2022. From April 2022 this will increase to £45 per bin.

Garden waste bins are normally collected throughout the year with a pause over the Christmas and New Year period, of which residents will be notified.

## 6.7 Assisted Collections, Missed, Damaged and Replacement Bins

All arrangement for assisted collections and missed, heavy, damaged and replacement bins are the same for residual bins in sections 3.8 – 3.11 above.

## 7. Other Refuse and Recycling

There are several other materials which are collected for recycling in areas of West Northamptonshire.

### 7.1 Schools Recycling

Schools are entitled to a weekly free of charge collection of recyclable materials from their premises, as long as they have a trade waste agreement with West Northamptonshire Council. This is usually co-mingled dry recycling, collected in blue or blue lidded wheeled bins. Larger bins can be supplied depending on size of the school. In the south of West Northamptonshire, some primary schools can also have their waste food collected for anaerobic digestion, and there are plans to introduce this to all West Northamptonshire primary schools in due course. Schools need to contact the council via the Customer Services Centre to discuss this.

### 7.2 WEEE and Batteries

Small items of waste electrical and electronic equipment (WEEE) and batteries are collected from areas of the District which were South Northamptonshire and Northampton Borough. Items that will fit into a carrier bag can be left out for collection on the recycling bin day. We aim to introduce this service into the former Daventry district as soon as practical after April 2021.

### 7.3 Textiles

Textiles are collected for recycling in the kerbside service in urban area of Northampton. In the former District of South Northamptonshire there is a partnership with a textiles collection company and the Northamptonshire Air Ambulance. Bags are delivered to household every two months and collections take place a few days later. There are currently no textile collection arrangements in the former Daventry District, but plans are in place to include this area in the Northamptonshire Air Ambulance scheme in the future.

### 7.4 Waste For Which A Charge for Collection and Disposal Can be Levied



Under the Controlled Waste Regulations of 2012 there are specific types of waste for which a local authority can make a charge for collection and disposal. Examples include waste from holiday homes, schools, residential homes, charity shops, campsites and premises used by clubs and societies. In West Northamptonshire, a charge is levied for both collection and disposal for waste from these premises.

No charge is made to collect or dispose of waste from sheltered accommodation as long as individual Council Tax is paid on each dwelling.

For village and community halls, a full set of the standard household waste bin provision will be provided. If there is a charge for garden waste collection operating in the locality, then this will be levied. If the village hall requires any further waste collections over and above what is provided free of charge, then the commercial rate will apply.

## 7.5 Commercial Waste and Recycling Collection Services

West Northamptonshire Council offers a commercial waste service to businesses operating in the council area, for which a charge is levied. The services offered differ, depending on where the business is, as they are provided by the local waste collection teams. More information is available on the website or by contacting the Council.

In the former Northampton Borough and Daventry District the collection will be undertaken on the Council's behalf by Veolia or Norse, respectively. In the former South Northamptonshire, it is undertaken by Council teams. These arrangements may change in the future, but in any event the contract is with the Council.

Collection of commercial recycling is also available, again with services varying depending on location and provider.

Commercial waste collection is an area to be developed once the new councils have been established, with the intention of harmonising and expanding the services offered.

Certain charities are entitled to free collection and/or disposal of commercial waste under the Controlled Waste Regulations 2012. For more information on this, please see the Council's website at [www.westnorthants.gov.uk/xxxxx](http://www.westnorthants.gov.uk/xxxxx)

## 8. Bulky Waste Collections

### 8.1 Bulky Waste Collection Service

West Northamptonshire Council operates a collection of large and bulky items of household waste that cannot fit into your bin, for which a charge is levied. We do not currently collect bulky waste from businesses or commercial properties.

### 8.2 Bulky Waste Charge

There is a charge for this service as follows:

- £25 for up to 3 items
- £40 for up to 6 items.

There are no concessions and all items must be left outside for collection. Collections can be booked and paid for online by visiting the West Northamptonshire Council website.

### 8.3 Items Collected on the Bulky Waste Collection Service

Examples of items collected on a bulky waste collection include those which a householder would normally take with them when they move house. A full list of items which are collected on the bulky waste services is on the Council's website.

### 8.4 Items Not Collected on the Bulky Waste Collection Service

A list of items are not collected on this service is found on the Council's website. Alternative arrangements must be found for responsible disposal. Options would include taking to a Household Waste Recycling Centre, giving to a friend or neighbour, donating to charity or paying a licenced waste carrier to collect and dispose of the item.

### 8.5 Collection Arrangements

A collection slot will be issued once the bulky waste collection is booked and paid for.

## 9. Clinical Waste Collections

### 9.1 Outline of the Service

The Council runs a clinical waste collection service for infectious household waste and medical 'sharps' (for example, needles). This service is free of charge to members of the public and requires a referral from a healthcare professional. It is strictly limited to items which cannot be put into the normal waste services.

### 9.2 'Offensive' Hygiene Waste

Offensive hygiene waste such as, outer dressings, hygiene and sanitary protection like nappies, sanitary towels and incontinence pads do not require separate collection or disposal. They can be double wrapped and placed into the residual waste bin for collection on the normal round. If capacity within the bin becomes an issue, additional storage capacity can be provided to residents upon application. This will be managed in the same way as requests for additional capacity from larger households.

### 9.3 Infectious Clinical Waste

The Council operates a free of charge, weekly collection of infectious clinical waste which has been produced by patients, treating themselves, in their own homes. This service should be requested by a doctor, nurse or other healthcare practitioner on behalf of the patient. Yellow clinical waste sacks are provided to the resident, which are collected one per week, and replaced on a one for one basis. They are taken for high temperature incineration. This service is very expensive for the Council and therefore only waste which needs treating in this way should be put into the yellow sacks.

Residents will be advised of their collection day when they start on the service. Sacks are collected from the door step, and do not have to be place at the kerbside.

If the waste arises as a result of a healthcare professional visiting and treating the patient in their home, then the healthcare professional should take the waste away with them, for safe disposal.

### 9.4 Sharps Boxes

West Northamptonshire Council operates a free of charge collection service for sharps boxes, which have been issued to the resident on prescription. It should be noted that sharps boxes can also be returned to a

GPs surgery by the patient. Collections can be booked online at [westnorthants.gov.uk/xxxxx](http://westnorthants.gov.uk/xxxxx) or by telephoning a customer services representative on 0300 xxx xxxx.

Sharps boxes are collected on request and need to be booked in advance. Replacement boxes are not provided – these must be obtained from the patient’s GP surgery. The boxes are taken to a facility for high temperature incineration.

## 10. Household Waste Recycling Centre Services for West Northamptonshire’s residents

### 10.1 Site Locations and Hours of Opening

There are five HWRCs in West Northamptonshire; Brixworth, Daventry, Ecton Lane (Northampton), Sixfields (Northampton), and Towcester.



All sites are open 5 days a week (2 days closed on a rota), all sites are open on a Friday, Saturday and a Sunday.

Centre	Address	● = Open ● = Closed						
		Mo	Tu	We	Th	Fr	Sa	Su
Brixworth	Scaldwell Road, Brixworth, NN6 9YE	●	●	●	●	●	●	●

Sixfields	Walter Tull Way, Northampton, NN5 5QL	●	●	●	●	●	●	●
Towcester	Old Greens Norton Road, Towcester, NN12 8AX	●	●	●	●	●	●	●
Daventry	Browns Road, Daventry, NN11 4NS	●	●	●	●	●	●	●
Ecton Lane	Lower Ecton Lane, Great Billing, Northampton, NN3 5HQ	●	●	●	●	●	●	●

All sites are open 10:00 – 18:00 (summer and winter). If residents arrive before a site opens, they may be asked to move their vehicle if a traffic queue forms which blocks the highway.

Sites are normally open every day except Christmas Day, Boxing Day and New Year's Day. All sites are open on a bank holiday except where these fall on the centre's closed days (see table above).

## 10.2 Safety at Household Waste Recycling Centres

The HWRCs are operational sites which are open to members of the public. Therefore, appropriate health and safety rules are enforced to ensure the safety of staff and residents.

Site rules for residents / visitors to site require people to:

- Wear suitable clothing (no open toe footwear)
- Use gloves when handling sharp or heavy items
- Place all items in the correct containers
- Co-operate with staff and ask for assistance if needed
- Bring someone along to the site if they are bringing heavy or awkwardly sized items
- Keep children and animals inside your vehicle at all times
- Observe the 5mph speed limit
- Respect staff and other customers
- Comply with all policies such as the e-permit and DIY waste restrictions
- Pay for all commercial and chargeable household waste
- Only park in marked bays or as directed by staff
- Be alert when at a HWRC, and do not use mobile phones or cameras

Site staff will assist members of the public who request assistance provided that providing assistance will not put either the member of staff, the member of public or other site users at risk.

## 10.3 Vehicles Access

Commercial-type vehicles and cars towing a trailer (under 1.8m in length) require a free waste e-permit to use waste recycling centres. Please see section 10.7 for more information.

All vehicles over 3.5 tonnes laden weight and trailers over 1.8m in length **are not allowed** at any of the recycling centres.

## 10.4 Pedestrian access

For safety reasons pedestrian access is not permitted at any of the recycling centres.

## 10.5 Materials Accepted at the HWRCs

The HWRCs are provided for the primary purpose of enabling Northamptonshire’s residents the free disposal of household waste from their homes (i.e. their normal place of residence).

The following waste types are accepted at the HWRCs:

Foil	Scrap Metal	Aerosols	Food tins & drinks cans
Garden Waste	Plastic bottles	Hard Plastics	Mixed Glass Bottles and jars
Shoes	Textiles	Car batteries	Used Engine Oil
Small Appliances	TVs and Monitors	Batteries	Mixed Light Bulbs
Large Appliances	Fridges and Freezers	Books	Cardboard
Paper	Cooking Oil	Cartons	Paint
Soil*	Plasterboard*	Wood and Timber*	Hardcore and Rubble*
Household waste	Gas Bottles		

\*DIY restrictions apply – see section 10.6.7.

To reduce queues and to maximise recycling residents are asked to pre-sort their waste before visiting the HWRC.

Cooking oil - Small amounts emptied into a 500ml bottle can also be put into the general waste bin at home.

Residual household waste is any household waste that cannot be recycled. This waste will be sent to landfill or treatment which costs more money than recycling.

The HWRC site staff may require additional verification about the source of waste brought to site for free disposal and they may ask residents to complete a declaration form.

The site staff have discretion to refuse free disposal of waste at the HWRCs.

Intimidating, threatening or abusive behaviour towards staff or other site users will not be tolerated. Action may be taken to pursue offenders and prevent a recurrence.

## 10.6 Materials that are restricted or NOT accepted at HWRCs

<b><u>Item</u></b>	<b><u>Accepted at all sites</u></b>
Asbestos	No

Plasterboard	Yes NB Separate policies apply to DIY waste and there are restrictions.
Chemical and radioactive hazardous waste*	No
Paint	Yes
Fire Extinguishers	No – accepted at Daventry, Sixfields and Towcester.
Weed Killer	No
Antifreeze	Yes Residents are advised to seek a member of staff for help. Must be domestic waste.
Oil Filters (automotive)	Yes Residents are advised to seek a member of staff for help. Must be domestic waste.
Used engine oil	Yes
Caravans and Trailers	No
Car Tyres	No
Gas Bottles	Can be disposed of at selected sites only: <ul style="list-style-type: none"> <li>• Daventry</li> <li>• Towcester</li> <li>• Sixfields</li> </ul>
Clinical Waste and Sharps	No
Landlord’s waste	No Landlord’s waste is Trade Waste (see below).
Trade Waste	Yes – selected sites
DIY Waste	Details of the restrictions at household waste recycling centres are available on the West Northamptonshire Council website. Details of restrictions at household waste recycling centres are on the West Northamptonshire Council Website.

### 10.6.1 Asbestos

Asbestos and asbestos bonded materials cannot be disposed of at any of the HWRCs. Asbestos is a dangerous substance that can cause severe respiratory illness or cancer and must be **disposed of with care**. If a resident discovers asbestos or asbestos bonded materials in their home during building work or DIY activities the general advice is to leave it and consult with specialist companies. If the material is damaged or you have to remove it, you must make arrangements for its **safe removal and disposal**.

There are licensed, specialist asbestos removal companies that will arrange for the safe removal and disposal of asbestos.

Alternatively small quantities of ‘bonded asbestos’, arising from household maintenance and repairs, can be taken by residents to the council’s waste transfer station operated by Suez, located on the Brackmills Industrial Estate (Liliput Road) in Northampton under the Asbestos Disposal Scheme.

Depending on the type of asbestos, a charge may be applied (see below for details).

There are strict guidelines for using the Asbestos Disposal Scheme which restrict the amount of asbestos waste that can be disposed using the scheme and the way in which it is presented. Waste will **not** be accepted if it does not fall within these guidelines:

Only one trip per household is permitted.

Each individual bonded asbestos sheet/pipe must be wrapped in clear thick gauge polythene sheeting (available from DIY stores) and sealed with tape to prevent the release of dust (maximum length per piece = 1.8 metres).

#### 10.6.1.1 Asbestos Scheme Charges

Charges are in place for the disposal of household asbestos, such as sheets, pipe/gutting and a water tank. The disposal charges are reviewed annually and current prices are available on the Council's website: [www.westnorthatnsn.gov.uk/xxxxxx](http://www.westnorthatnsn.gov.uk/xxxxxx)

Items for which **no charge** is made:

- Ironing boards with asbestos iron rest pad (do not remove the pad from the ironing board)
- Small domestic asbestos fire blankets

If a resident has more than the maximum quantities shown, the whole amount is charged at the transfer station's commercial rate and none of the resident's waste will be eligible for disposal under the Scheme at any time.

This scheme is only available for asbestos removed by residents from their own home and is not for trade waste which includes asbestos that residents have paid to have removed from their home.

#### 10.6.2 Plasterboard

There are plasterboard recycling facilities at all of the HWRCs. However, there are restrictions about how this waste is presented.

Residents should ensure that any plasterboard brought to a HWRC for disposal is:

- stripped of any contaminating material such as wood, tiles and bricks;
- removed from bags and wrappers.

If plasterboard is not completely free of contaminating material it may be refused. Residents should use the checklist below:

Acceptable	No thank you
Plasterboard with wallpaper or paint	Tiles
Plasterboard with foil backing	Bricks and breeze blocks
	Batting and fixings

#### 10.6.3 Hazardous Waste

Hazardous Waste is any liquid or solid material that may cause harm to people or the environment if not disposed of correctly. The following are examples of hazardous waste that people may have at home (refer to the table above on whether the waste will be accepted):

Household products	Garden products	Car products
Paint	Weed killers	Antifreeze
Oven cleaner		Oil filters
Fire extinguishers		Used engine oil

#### 10.6.4 Clinical Waste and Sharps disposal

Clinical waste classed as hazardous and clinical sharps cannot be accepted for disposal at the HWRCs.

#### 10.6.5 Landlord’s Waste

Landlords should note that any waste from a property that they own but do not live in, or if waste is created by someone who has been paid to complete the work, is considered to be trade waste and must be paid for. Further details of the Council’s arrangements for trade waste disposal can be found on the West Northamptonshire Council website at [westnorthants.gov.uk/xxxxx](http://westnorthants.gov.uk/xxxxx).

#### 10.6.6 Trade Waste

All residents should note that if waste is generated as a result of paying for a tradesperson to do work on their house, then the waste is considered to be trade waste and must be paid for. Further details of the Council’s arrangements for trade waste disposal can be found on the West Northamptonshire Council website at [westnorthants.gov.uk/xxxxx](http://westnorthants.gov.uk/xxxxx).

#### 10.6.7 DIY Waste

The maximum number of trips permitted to dispose of DIY waste produced by residents as a result of DIY work on their own home is determined by the type of vehicle.



Vehicle type	Number of free DIY waste trips per 2 months (60 days)
Small cars	8 trips
Large cars	4 trips
Estate cars	
MPVs	
People carriers	
4x4s without pickup	
Campervans or minibuses with rear seats and fittings (used for passenger transport)	

  

Vehicle type	Number of free DIY waste trips per 12 months (365 days)
Cars towing trailers under 1.8m in length	6 trips (as per <a href="#">e-permit allowance</a> )
Pick-ups and crew cabs under 3.5 tonnes gross laden weight	
Vans under 3.5 tonnes gross laden weight	
Campervans and minibuses with rear seats and fittings removed	
Horseboxes under 3.5 tonnes gross laden weight	
Any medium vehicle towing trailers under 1.8m in length	

DIY waste (or construction and demolition waste) is large amounts of waste that is generated through building or renovation work in a home or garden.

By law waste types, such as DIY waste, that may be produced through building or renovation work in a resident's own home or garden are classed as 'non-household waste' and the Council does not have to accept these waste types free of charge.

Examples of DIY waste (not a comprehensive list):

- Hardcore, rubble and bricks
- Tiles and ceramics
- Paving slabs
- Plasterboard
- Roofing materials
- Soil, turf and tree trunks from landscaping activities
- Baths, toilets and basins
- Fitted carpets and underlay
- Doors, windows and frames
- Kitchen units and work surfaces
- Built in wardrobes and cupboards
- Shed and fence panels
- Laminate flooring
- Timber and MDF hardboard
- Central heating system components

If a resident wants to make more than the permitted number of visits to dispose of DIY waste then they will be directed you to one of the HWRCs that has a weighbridge and the waste will be treated as chargeable.

The HWRC site staff may require additional verification about the source of waste brought to site for free disposal and they may ask residents to complete a declaration form.

## 10.7 HWRC e-permit scheme

The electronic permit (e-permit) scheme which is in force at all HWRCs applies to residents taking household waste to the sites in a car towing a trailer or a commercial-type vehicle: residents will require an e-permit to access the HWRCs. The waste e-permit scheme limits a car towing a trailer or commercial-type vehicles to 6 visits over a 12-month period. Residents can apply for a free e-permit, or renew or edit an existing e-permit online (insert link).

Note as a part of the application process, residents must agree to the terms and conditions, of the e-permit scheme, which is strictly for household waste only.

## 10.8 Charity Waste Recycling Permits (CWRP)

Organisations that meet the following criteria may request a Charity Waste Recycling Permit (CWRP) by completing an on-line application form issued by West Northamptonshire Council.

Criteria –

- A place of worship, or
- A charity shop selling donated goods originating from domestic property;
- A premises occupied by —
  - a community interest company (being a company which is registered as such with the registrar of companies) which collects goods for re-use or waste to prepare for re-use from domestic property, or
  - a charity or other not for profit body, which collects goods for re-use or waste to prepare for re-use from domestic property.

There is an administration fee for each application based upon the costs incurred by the Council and its contractors in administering this system. This fee is currently set at £50.00. Permits are linked to specific vehicles and a Permit is required for each vehicle that uses the site. Permits are valid for twelve months.

Only recyclable waste is permitted to be taken into either Sixfields or Ecton Lane Household Waste Recycling Centres in the West Northamptonshire area and it must be weighed separately. Non-recyclable waste must be taken to Brackmills Waste Transfer Station.

Restrictions

Waste that cannot be disposed of using a Charity Waste Permit includes –

- Construction, demolition, maintenance or refurbishment waste
- Packaging waste
- Waste from garden clearances
- Waste generated outside Northamptonshire
- House clearance waste
- Any waste items that have been collected in return for a sum of money

- Any items that have been donated by businesses or not directly from a householder
- Any waste that is being delivered to either an HWRC or Brackmills Waste Transfer Station by a company that has been paid.

## 10.9 Farthinghoe Reuse and Recycling Centre

In addition to the four household waste recycling centres, West Northamptonshire Council also runs a Reuse and Recycling Centre on the A422, near the village of Farthinghoe in the south west of the District.

Here residents can bring a wide range of materials for recycling, but no waste which requires disposal. The same restrictions that apply to HWRCs, with respect to trade waste, apply at Farthinghoe and the e-permit system is also in operation for commercial type vehicles or trailers.

### 10.9.1 Material Accepted for Recycling At Farthinghoe

The following materials are accepted for recycling at Farthinghoe Reuse and Recycling Centre:

Aerosol cans	Batteries	Beds	Books
Bric a Brac	Car batteries	Cardboard	Cooking Oil
Cookers	Drinks Cartons	DVDs and CDs	Electricals (broken or working)
Exercise Equipment	Foil	Fluorescent Tubes	Food and drink cans
Fridges and Freezers	Furniture*	Games and puzzles	Glass bottles
Green garden waste	Mattresses*	Microwaves	Ovens
Paper	Plastic pots, tubs and trays	Rubble, bricks, slabs and tiles	Scrap Metal
Soil	Sports Equipment	Toilets, baths, sinks	Toys
Textiles	Tumble Dryers	Vinyl Records	Washing machines

\*Soft furnishings and mattresses will only be accepted if they have a fire label and are free of stains

### 10.9.2 Materials Not Accepted At Farthinghoe

The following materials are not accepted at Farthinghoe Reuse and Recycling Centre:

Asbestos	Carpets	Food waste	Gas cylinders
General Rubbish	Hazardous waste	Kitchen Units	Paint

Plasterboard                      Polystyrene                      Pyrex                      Video tapes  
Wood/Timber

### 10.9.3 Opening Days and Times

The site is open seven days a week, 9:00am to 5:00pm. The site closes at mid-day on Christmas Eve and is closed Christmas Day, Boxing Day and New Year's Day.

## 11. Street Cleansing Services

### 11.1 Principal Litter Authority

West Northamptonshire Council is a principal litter authority under the Environmental Protection Act 1990. As such it has a duty to keep public highway and land it controls clear of litter and refuse, and to keep paved surfaces clean, where it is practical to do so. What is practical and how cleaning should be done is set out in the Code of Practice on Litter and Refuse issued by the Department of the Environment, Food and Rural Affairs (DEFRA). This was last modified in September 2019.

### 11.2 Routine Cleansing Activities

The Council has a range of street cleansing resources deployed across the council area to remove litter and detritus from the public highway. These include large and small mechanical sweepers and operatives for manual cleansing work. They are deployed across the area on the basis of need – typically, more resources and more frequent cleansing in town centre and urban areas, less in residential and rural areas. Cleansing schedules are designed to meet the standards set out in the Code of Practice on Litter and Refuse, with a rapid deployment team available if necessary.

### 11.3 Cleansing of Major Roads

West Northamptonshire is responsible for keeping high speed roads (but not motorways) clear of litter and refuse in accordance with Code of Practice on Litter and Refuse. This potentially highly dangerous operation is tightly regulated to avoid incidents and is carried out according to a cleansing schedule determined by need and the ability to work safely. On trunk roads (the A14, A5, etc.) we aim to work with the road operator, Highways England, to ensure a clean and tidy environment.

### 11.4 Litter and Dog Waste Bins

Litter bins are provided and emptied by West Northamptonshire Council in locations near or next to the public highway or on land owned by the Council. Officers of the Council will assess any requests for new litterbins before approval and installation. The Council also collects waste from some bins provided by town and parish councils.

West Northamptonshire does not provide dog waste bins as bagged dog waste can be placed in an ordinary litter bin or taken home for disposal in the residual waste bin. However, some dog bins remain in place from previous arrangements.

### 11.5 Removal of Fly-tipping

Incidents of fly-tipping are reported to the Council by members of the public or seen by our staff members. Fly tipping is illegal and where there may be evidence of who deposited the fly-tipping or where the waste originated, evidence is collected prior for collection and disposal. Incidents will be investigated and offenders may be issued a fixed penalty notice or prosecuted. Collection of fly-tipping should normally take place within two working days of report.

#### 11.6 Removal of Dead Animals, Fly-posting and Graffiti

West Northamptonshire will remove dead animals from the highway and fly-posting and graffiti from Council owned buildings, when reported by members of the public or seen by officers. Timescales for removal depending on location and whether the graffiti is offensive or not.

#### 11.7 Public Conveniences

West Northamptonshire Council has five sets of public conveniences, one of which is currently mothballed. They are opened, cleaned and maintained by the local teams of staff. Opening times are dependent on their location.

### **12. Waste Education and Promotions**

#### 12.1 Overview

Waste education and promotion activities go hand in hand with the physical provision of the waste collection, recycling, treatment and disposal services. Residents need to be aware of how and why they are participating in such schemes to support them in doing this effectively. Regular reminders, delivered in a variety of different ways, help people reduce waste and recycle correctly.

#### 12.2 Waste Education in Schools

One aspect of the service is waste education sessions in schools, which have been running for many years and will continue to be provided by West Northamptonshire Council. The sessions aim to teach each cohort of children about the importance of resource efficiency and how they can make a difference locally. They will be the citizens of the future, and in the meantime they can inform their parents how to take part in the locally provided recycling schemes.

#### 12.3 Campaign and Promotion Work

Regular and co-ordinated campaign and promotion work will become an increasingly important aspect of West Northamptonshire's waste service. Markets for recyclable materials are increasingly challenging, and so the material must be as uncontaminated as possible in order to minimise the costs of having the material taken for recycling.

Furthermore, there are likely to be some changes to services needed as service improvements and harmonisation across West Northamptonshire takes place. These changes will need to be accompanied with an effective communications plan to ensure they are properly understood and acted upon by residents. There are also likely to be further changes to services required as a result of the national Resource and Waste Management Strategy from 2023 onwards, which again have to be effectively communicated to stakeholders.

# Appendix B:



**Enforcement Policy: Regulatory Services (inc. Trading Standards)**

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This policy was approved by **WEST** NORTHAMPTONSHIRE COUNCIL Cabinet on the **XX\_XXX\_2021**, minute 100 and applies to all Council services that have a responsibility for enforcing legislation, including services commissioned or contracted on behalf of the Council or hosted by the Council.

## 1. Introduction

- 1.1 West Northamptonshire Council's Enforcement Policy provides an overarching framework under which the Council carries out its enforcement investigations and action. All staff employed and contracted by the Council are expected to follow this policy.

Whilst this policy seeks to explain key themes and general principles, members of the public and businesses are advised that detailed service-specific enforcement arrangements exist including those in the schedule to this policy.

- 1.2 The Council is committed to maintaining and developing good enforcement policies and procedures and carrying out enforcement functions in an equitable, practical, and consistent manner, which helps to promote a thriving economy.

- 1.3 The purpose of this policy is to secure an efficient and effective approach to all council regulatory inspection and enforcement functions and improve compliance with legislation whilst minimising the burden on businesses, individuals, organisations, and the Council.

This is in accordance with the Regulator's Code, published by the Better Regulation Delivery Office (BRDO)<sup>1</sup>.

- 1.4 In certain instances, the Council may conclude that a specific provision of the Code is either not applicable or is outweighed by another consideration. The Council will ensure that any decision to depart from the Code will be properly reasoned, documented, and based on material evidence.

- 1.5 This policy explains the approach adopted when carrying out the Council's duty to enforce a wide range of legislation and is written in general terms to accommodate this.

- 1.6 The Council will endeavour to serve residents, businesses, and consumers by working with the business community to ensure healthy, fair and safe trading, and a thriving economy. The Council will take particular care to help compliance focused small businesses, individuals, voluntary and community organisations to meet their legal obligations at minimal or proportionate cost.

- 1.7 The Council recognise that the public have a responsibility as guardians of their own community and locally decided remedies are encouraged to build stronger communities. This extends to providing authority for enforcement, on request and subject to controls, to town and parish councils and other agencies, where appropriate.

- 1.8 When the Council takes enforcement action, it will take account of national priorities alongside local priorities that exist at the time of any intervention, investigation, or offence.

- 1.9 Enforcement interventions may be targeted according to Council, neighbourhood or area priorities.

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<sup>1</sup> [www.gov.uk/government/organisations/better-regulation-delivery-office](http://www.gov.uk/government/organisations/better-regulation-delivery-office)



## 2. Scope

- 2.1 This policy relates to all Council services which operate a regulatory function within or on behalf of the Council.

Examples of service areas which enforce legislation and have a regulatory function include:

- Environmental Health (food safety, health and safety, environmental protection, public health environmental crime and nuisance)
- Trading Standards (doorstep crime, fraud, animal health, counterfeiting, underage sales, weights and measures, food labelling, rogue trading)
- Planning and Building Control
- Private Sector Housing
- Unauthorised Traveller Encampments
- Licensing (alcohol, hackney carriage and private hire, gambling, street trading and caravan site licensing)
- Council Tax, Benefit and Blue Badge fraud
- Waste management and street scene/environmental quality including, but not limited to fly-tipping, littering and other waste offences
- Anti-social behaviour
- Parking Services
- Highways
- Animal Welfare

**Please note that this list is not exhaustive and refers to the 'traditional' name of the service area/function for simplicity.**

- 2.2 This policy provides an overarching framework for Council employees, contractors, and hosted services to operate within but is also designed to provide those people who may be affected by regulatory decisions (members of the public, commercial businesses or voluntary organisations) with an overview of the Council's approach and general operating principles.
- 2.3 Local task specific enforcement procedures, for example for planning, trading standards and parking enforcement exist as part of this policy to provide further detail to the public. These can be accessed on the Council's website or obtained in hard copy format by contacting the relevant service area.

### **Compliance with the Primary Authority Principle**

- 2.4 The Regulatory Enforcement and Sanctions Act 2008 introduced Primary Authority Partnerships. A Primary Authority is a local authority registered by Office for Product Safety and Standards (OPSS), as having responsibility for providing advice and guidance to a particular business or organisation. and this business is subject to regulation by more than one local authority.
- 2.5 We will give due consideration to any business, that wishes to enter into Primary Authority Partnership arrangement with West Northamptonshire. We are committed to communicate with other Primary Authorities at an early stage whenever the circumstances require it.

If we come to a decision to take enforcement action against a business that has a Primary Authority Partnership with another regulator; we will notify the Primary Authority of the action, we propose to take or have taken.

The Primary Authority has the right to object to our proposed action and they or we may refer the matter to the Regulatory Delivery Team for their adjudication and final decision.

### **3. Standards**

- 3.1 All officers engaged in enforcement functions are appropriately trained and authorised to ensure the highest standards of service delivery.
- 3.2 The Council expects residents and businesses to act on its officers' advice when given. If a resident or business operator chooses not to act on this advice, an enforcement intervention should be expected.
- 3.3 Enforcement action relies upon sufficient evidence to prove or support action being taken. The Council cannot act formally in any case where there is insufficient evidence. In such cases, details will be used for intelligence purposes and may be used to support informal action.
- 3.4 In cases where there is an imminent risk to health or the environment, enforcement action may be taken before the right of challenge can be heard.
- 3.5 Section 19 of this policy provides details on how to appeal or challenge an enforcement decision and Section 28 of this policy provides details of the Council's complaints procedure.

### **4. Openness**

- 4.1 The Council will provide information and advice in plain language and will seek to explain clearly how it undertakes its work. The Council will discuss general issues, individual compliance failures or problems with anyone experiencing difficulties on request.
- 4.2 A business or individual, will be notified of intended enforcement action as soon as is feasible, unless this could hamper an investigation or pose a safety risk to those concerned, the environment or the general public.

### **5. Helpfulness**

- 5.1 The Council believes prevention is better than cure and therefore encourages businesses and others to seek advice to assist with compliance. The Council provides a range of chargeable complementary services including Primary Authority partnerships to help with this.
- 5.2 In correspondence, the Council will identify named contacts for service-related queries or complaints. Written correspondence will contain a unique reference number which can be quoted when contacting the Council.
- 5.3 The Council makes businesses and customers aware of the enforcement policy and changes to the enforcement policy during site visits, through correspondence and consultation

processes, and will provide a printed copy of this policy on request. The enforcement policy will be made available on the council website.

## **6. Proportionality**

- 6.1 The Council will endeavour to ensure that any action it requires an individual or business to take, is proportionate to and balanced against the risks. As far as the law allows, the Council will take account of the individual circumstances of each case when considering action. This includes the seriousness of the offence, past history, confidence in management, the consequences of non-compliance and the likely effectiveness of the various enforcement options.

## **7. Consistency**

- 7.1 The Council will carry out its duties in a fair, equitable and consistent manner. Whilst officers are expected to exercise judgement in individual cases, the Council has arrangements in place to promote consistency, including effective liaison arrangements with other authorities and enforcement agencies which may have a shared enforcement role.

All investigations are undertaken in accordance with legal requirements and relevant government guidance.

The Council maintains management systems to monitor the quality and nature of enforcement activity undertaken so as to ensure, as far as is practicable, uniformity, consistency in approach and a quality service in general.

- 7.2 The Council ensures that where supplementary decision-making policies and tools exist, for example, the Health and Safety Executive's (HSE) Enforcement Policy<sup>2</sup> and Enforcement Management Model (EMM), they are used;

- to provide a framework for making consistent enforcement decisions
- to monitor the fairness and consistency of inspectors' enforcement decisions in line with policy
- to assist offenders in their understanding of the principles which inspectors follow when deciding on a particular course of action

## **8. Levels of enforcement action**

- 8.1 The Council takes an incremental approach to non-compliances which may amount to contraventions of legislation. Before formal enforcement action is taken, the Council will provide an opportunity to the individual to discuss the circumstances of the case and take these into account when deciding on the most suitable approach. However, this will not apply when immediate action is required to prevent or respond to a serious breach, or where to do so is likely to defeat the purpose of the proposed enforcement action. When an officer is investigating possible criminal offences, any discussion of the case may need to be by way of formal interview, in accordance with the Police and Criminal Evidence Act 1984.

- 8.2 Legislative compliance will be secured by one or a combination of the following methods:

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<sup>2</sup> [www.hse.gov.uk/enforce/enforcepolicy.htm](http://www.hse.gov.uk/enforce/enforcepolicy.htm)

**Promotion:** to raise awareness about legal standards and promote good practice. This is typically achieved by the issuing of press releases, website information, distributing leaflets, signage and other forms of guidance available to the public and businesses, by face-to-face contact and schemes to enhance compliance and self-regulation. Advice will normally be given through access to written information although this can be varied if it is more easily understood another way.

**Informal warnings:** these will be used to reinforce promotional activities where, whilst the law may have been broken or standards not met, it was not thought appropriate to take more formal action. An informal warning can be oral or written and will be a matter of record. If it is believed by the recipient that such a warning is inappropriate or unjustified then they may request for the decision to be reviewed by a senior officer.

Isolated minor infringements are unlikely to lead to formal action. However, if the incident is repeated, or if previous advice has been ignored, formal action may follow.

**Formal enforcement:** this includes but is not limited to the use of statutory (legal) notices, written undertakings and civil enforcement orders, revocation of a licence or registration, cautions, fixed penalty notices, penalty charge notices, administration penalties, powers of seizure, the use of injunctions, restorative justice and prosecution.

Enforcement action is taken following procedures laid down in legislation, codes of practice and professional guidance notes. Where members of the public need protecting from behaviour that is likely to cause harassment, alarm or distress, the Council may seek to use a range of anti-social behaviour enforcement tools, independent action, or action in consultation with the police and or the Crown Prosecution Service following conviction.

In each case, which has the potential to result in prosecution, the investigating officer will compile a report objectively setting out the facts of the matter.

Consideration will be given to factors which will be ultimately relevant when considering whether to prosecute, such as, whether it is expedient for the promotion or protection of the interests of the inhabitants of the particular area. The report will be used when considering whether to prosecute or to use an alternative formal route.

- 8.3 There may be cases where the local authority cannot act due to the absence of independent evidence.

## **9. Statutory (legal) notices**

- 9.1 Many Acts of Parliament enforced by the Council allow for, or require the service of statutory notices, which require a person, business or organisation to comply with specific legal requirements within a specified time period. Where a formal notice is served, the method for appealing against the notice will be provided in writing at the same time.

The notice will explain what legislation has been breached, how to comply with the notice and the consequences of not complying with a notice.

- 9.2 In general, failure of a person to comply with a properly written and served statutory notice makes the person or business named in the notice (the recipient of the notice) liable to prosecution. In some cases, the Council is able to, and will carry out works to comply with

the notice and recover the cost to the Council from the recipient(s) of the notice.

- 9.3 In some circumstances both prosecution and carrying out works in default to comply with the notice may be appropriate.

## **10. Written undertakings and enforcement orders**

- 10.1 Where an individual or organisation persistently fails to comply with the law, the Council may seek a written undertaking from that person that they will cease the action. In such circumstances, and as a proportionate measure, the Council may decide that no further formal action will be taken unless the agreement is breached.

- 10.2 In cases where an individual or organisation has breached an undertaking or has refused to provide a written undertaking to cease an action, or committed a relevant offence, an application to a court or tribunal may be made for an enforcement, repayment or banning order, or for other formal action in accordance with the relevant legal provisions.

## **11. Injunctions and other civil actions**

- 11.1 In certain circumstances the Council may consider it necessary or expedient to seek an injunction to restrain or compel behaviour or activity. Injunctions are orders of the court, breach of which are punishable as a contempt of court by imprisonment or a fine.

- 11.2 The Council can also apply for Criminal Behaviour Orders.

- 11.3 As an alternative to an injunction order the Council may accept a written undertaking.

## **12. Fixed Penalty Notices**

- 12.1 A Fixed Penalty Notice may be used as a means of dealing with an offence instead of prosecution. Certain 'low level' offences such as littering, dog fouling and smoking in prohibited places are subject to Fixed Penalty Notices and they enable the offender to avoid a criminal record. Fixed Penalty Notices can also be issued to companies where they fail to comply with permit or other statutory requirements.

- 12.2 The Council will comply with any relevant guidance on the use of Fixed Penalty Notices. This includes:

- a) There must be sufficient evidence for a realistic prospect of conviction.
- b) The offence is not too serious and is of a nature suitable for being dealt with by a Fixed Penalty Notice.

- 12.3 The Council follows specific guidance on issuing Fixed Penalty Notices to juveniles. In particular, a Fixed Penalty Notice issued to a juvenile aged 10-15 years must be issued in front of his or her parent or legal guardian. The procedure for issuing Fixed Penalty Notices to young people aged 16 and 17 is the same as for adults.

- 12.4 Where there is doubt as to whether an offender is aged 16 or 17, the procedure for issuing Juvenile Fixed Penalty Notices to persons aged between 10 to 15 year olds will be followed.

- 12.5 A Fixed Penalty Notice will not be issued to a juvenile between 10 and 17 years of age for a first offence.
- 12.6 A Fixed Penalty Notice may only be issued to a juvenile for a second (or subsequent) offence and then only if it is considered an appropriate course of action after the case has been referred to the Youth Offending Team and considered for an alternative appropriate intervention.
- 12.7 Where an adult recipient (i.e. a person 18 years of age or above) does not pay the penalty offered, or is a repeat offender, there will be a presumption that prosecution will follow in relation to the actual offence.

### **13. Penalty Charge Notices**

- 13.1 Penalty Charge Notices are issued in relation to breaches of parking restrictions.
- 13.2 The method and circumstances for issuing Penalty Charge Notices is prescribed by specific legislation and is used as a method of enforcement whereby an individual pays an amount of money as a consequence of breaching a parking restriction. Failure to pay a Penalty Charge Notice may ultimately result in the relevant individual being pursued by the Traffic Enforcement Centre, Northampton County Court for non-payment of the debt.
- 13.3 A Penalty Charge Notice does not result in the creation of a criminal record and it is common practice for a Penalty Charge Notice to be issued without first issuing a warning.

### **14. Revocation, suspension and withdrawal of licences and permits**

- 14.1 Where the council has issued a permit, approval, licence or other form of permission, removal of that permission, in line with the relevant guidance or legislation will be considered as an enforcement remedy.

### **15. Forfeiture**

- 15.1 In certain cases, the Council may seek an order of the court for forfeiture of goods, equipment, materials or vehicles it has seized either as part of a criminal investigation or in the exercise of its enforcement functions.

### **16. Alternative sanctions**

- 16.1 In certain circumstances alternative sanctions may be offered. Alternative sanctions include paying to attend a training or awareness-raising event linked to the offence as an alternative to prosecution or any other enforcement measure.

### **17. Simple cautions**

- 17.1 As an alternative to prosecution, in appropriate circumstances a simple caution may be considered in accordance with the guidelines relevant to the cautioning of adult offenders. The issuing of a caution is subject to the individual's admission of the offence.
- 17.2 A simple caution is not a criminal conviction but will form part of an offender's criminal record and may be referred to in any subsequent proceedings.

- 17.3 For a simple caution to be issued the following are required:
- a) sufficient evidence to provide a realistic prospect of conviction and in the public interest to caution
  - b) a reliable admission by the offender
  - c) the offender must be over 18 years of age

17.4 The refusal of an offender to accept a simple caution will not prevent the matter from being prosecuted.

## **18. Prosecutions**

18.1 The Council has a power to institute proceedings under section 222 of the Local Government Act 1972 where it considers it expedient for the promotion of the interests of the inhabitants of its area.

18.2 Each case is unique and must be considered on its own facts and merits. The Council will use its discretion when deciding whether to initiate a prosecution.

18.3 Any decision to prosecute will take account of the criteria set down in the Code for Crown Prosecutors issued by the Director of Public Prosecutions.

18.4 Before deciding to prosecute there must be sufficient evidence for a realistic prospect of conviction taking account of any defence that may be available, and it must be in the public interest.

18.5 The following public interest criteria will normally be taken into account when deciding on the relevance of legal proceedings, although this list is not exhaustive:

- The prevalence of the type of offence
- The need for a suitable deterrent
- The risk of danger or injury to the public
- Significant impact in the environment and/or community
- The failure to comply with a statutory notice or respond to advice about legal requirements
- The disregard of legal requirements for financial reward
- Significant financial loss, potential or actual, to a third party
- A history of similar offences
- Persistent breaches of legislation
- Where fraud, gross negligence or guilty knowledge is a factor
- Minor breaches of a number of statutes

18.6 Where possible an offender will be told as soon as sufficient evidence is obtained that a prosecution may follow.

18.7 All prosecutions will be brought without unnecessary delay. The length of any investigation will be proportionate to the complexity and extent of material under examination and the time constraint set out in the applicable legislation.

- 18.8 The Council will aim to maximise its effectiveness by working with other authorities and other agencies, sharing intelligence where it is lawful to do so and mounting joint operations where that would bring benefits.

Outside agencies include:

- Police
- Environment Agency
- Health and Safety Executive
- Food Standards Agency
- Northamptonshire Fire and Rescue Service
- HM Revenue and Customs
- DEFRA / Animal Health and Veterinary Laboratories Agency
- Office of Product Safety and Standards
- Serious Organised Crime Agency
- Department for Work and Pensions
- Registered Social Landlords
- The enforcement arms of trade protection organisations such as the Federation against Copyright Theft
- DVLA
- DVSA
- Other local authorities

- 18.9 Where there has been a work-related death, or there is a strong likelihood of work-related death, the Council will liaise and work jointly with the Police, Coroner and the Crown Prosecution Service in accordance with the joint Work-Related Death Protocol. <http://www.hse.gov.uk>

- 18.10 After prosecution the Council may consider preventative action to protect the public from further harm. This can include adding a name to a national prohibited persons/rogue landlord data base, or similar, to prevent trading.

## **19. Appeals, challenges and making representation about an enforcement decision**

- 19.1 Appeals, challenges and making representation about an enforcement decision should not be confused with complaints about an officer or the service.

- 19.2 Where statutory appeal processes exist, guidance on how to appeal will be provided at the time of enforcement action.

- 19.3 Where no statutory appeal process exists, for example in the case of a Penalty Charge Notice issued for a parking offence, guidance on how to challenge or make a representation is provided at the time of issue and on the Councils website.

## **20. Proceeds of Crime**

- 20.1 In appropriate cases, an application will be made under the provisions of the Proceeds of Crime Act 2002 for confiscation of assets to recover the financial benefit an offender has obtained during the course of their criminal conduct.



Advice should be sought from the Accredited Financial Investigator at an early stage of a criminal investigation so that the Financial Investigation can be progressed without delay.

- 20.2 Notice of the application to proceed to confiscation must be made after a conviction has been secured but prior to sentencing.

## **21. Charges and costs**

- 21.1 Certain enforcement activities incur a charge. Any charges made are to recover costs, not to make a profit. Some charges are set by statute; others are determined by the Council.

When setting fees and charges the authority must be able to demonstrate they are fair, reasonable, transparent, and consistent.

In certain exceptional cases the Council has discretion to take into account the personal circumstances of the recipient of the charge for enforcement action. Fees and charges are set annually and can be viewed on the Council website.

- 21.2 Where possible the fee must be paid before receipt of the service.
- 21.3 Where appropriate, the Council will seek to recover from the offender or perpetrator the reasonable cost it incurs in pursuing a particular enforcement route including prosecution, injunctive action or appeal.

## **22. Enforcement in local authority-run establishments**

- 22.1 Where the Council is the Enforcing Authority for its own premises, steps are taken to ensure that enforcement decisions are free from any conflict of interest.
- 22.2 Serious breaches of law are brought to the attention of the relevant Head of Service and Chief Executive without undue delay.

## **23. Gathering evidence**

- 23.1 Regulatory bodies are empowered to gather evidence by various means, this can include overt methods i.e. where the subject is aware or where appropriate, covert methods, where the subject is unaware.
- 23.2 The Regulation of Investigatory Powers Act 2000 and the Investigatory Powers Act 2016 provide a framework for public bodies, including local authorities, to use 'covert surveillance' to gather information about individuals without their knowledge for the purposes of undertaking statutory functions in connection with the prevention or detection of crime.
- 23.3 This 'covert surveillance' can include the use of photography or video to record persons suspected of being engaged in criminal activity. The Council may covertly obtain communications data such as telephone subscriber details and service use.
- 23.4 In such cases of directed surveillance or obtaining communication data, appropriate authorisation is sought in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA) and the Protection of Freedoms Act 2012.

23.5 Authorisation may be sought for directed surveillance if the offence in question could result in a sentence of six months or more imprisonment. There are however exemptions to these criteria, for example, if the investigation concerns the sale of alcohol and tobacco to children. Covert surveillance is used in cases where it is important to obtain information to support potential criminal proceedings, and only where that information cannot be obtained by other means.

23.6 Council officers carrying out enforcement duties may not always conduct their duties in Council issue uniform.

For example, in areas of concern where high levels of littering and dog fouling have been reported, it may be necessary for plain clothed enforcement officers to undertake patrols. This will only occur when residents in the area have been made aware of in advance by one or more of the following methods: Letter / leaflet; community notice board; local newspaper; on street signage or other locally agreed method.

The types of police powers used by uniformed community/neighbourhood safety wardens include the requiring persons under 18 to surrender alcohol and powers to request names and addresses of persons acting in an anti-social manner together with the associated power to issue a Fixed Penalty Notice for failing to comply.

23.7 During an investigation, we may gather one or more of the following:

- Paper records
- Computer records
- Photographs
- CCTV and information from personal observations
- Body camera footage
- Samples (food, water, environmental, faecal, pests)
- Counterfeit goods
- Witness statements
- Test purchases
- Invoices
- Dangerous equipment
- Noise monitoring equipment / recordings
- Plans / sketches
- Information available on social networking websites and other open source data
- Communications data
- Information from other agencies such as the police or Health and Safety Executive

**This list is not exhaustive.**

23.8 Material may be retained so long as is necessary in all the circumstances. The Council considers each case on its own individual facts at each stage of the investigation and prosecution. In certain circumstances, where there is a potential risk to health, the Council may seek to destroy equipment that has been seized. This would include, for example, the destruction of tattooing and body piercing equipment used by an unlawful operator, to prevent the spread of blood borne disease.

23.9 Failure to assist an investigation and / or obstruct an officer is an offence under many pieces

of legislation. The Council expect co-operation and will take action in the event of non-co-operation. If an individual fails to give their personal details during an investigation, this may be considered an additional offence.

- 23.10 In gathering evidence, the Council routinely undertake recorded investigative interviews under caution in accordance with the rules set out in the Police and Criminal Evidence Act 1984 and associated Codes of Practice. The aim of the interview is to obtain an honest and accurate account about the matter under investigation and allows the individual or business the opportunity to convey their version of events as part of an investigation.

Attendance in person at an interview under caution is expected on the grounds of gathering best evidence and efficiency of the investigation process. This process assists the individual or business in the 'right to a fair trial' in accordance with the Human Rights Act 1998.

An individual is entitled to be legally represented at the interview.

- 23.11 Information on the conduct of the interview and rights of an individual or business will be explained before the interview in accordance with the Codes of Practice.
- 23.12 In some circumstances a caution may be issued on site if the officer believes an offence has been committed and questions need to be asked at that time. The officer will then record, normally in a pocket note book, contemporaneous notes of the following conversation and request a signature in this pocket note book entry

## **24. Equality and diversity**

- 24.1 Procedures developed under this policy and the policy itself are subject to an Equality Analysis to ensure that all aspects of Equality and Diversity are considered in its production.
- 24.2 All Equality Analyses are subject to regular review to ensure a continuing commitment to be inclusive and are available on the Council's Website.
- 24.3 This policy and service standard documents can be provided in other formats such as audio, large print, on CD or can be translated on request.
- 24.4 Officers will visit customers with an access need where this is necessary.
- 24.5 Translation services are available to support investigations and, pictures and taped interviews can be used as an alternative to written exchange where a need is identified.

## **25. Protection of human rights**

- 25.1 This policy and all associated enforcement decisions take into account the provisions of the Human Rights Act 1998. In particular:
- The right to a fair trial (article 6)
  - The right to respect for private and family life, home and correspondence (article 8)

## **26. General principles of officer conduct**

- 26.1 In addition to the principles set out in this policy, officers will be professional and courteous.

- 26.2 Officers will, as the circumstances allow, announce who they are and in what capacity they are acting. However, there may be occasions when officers legitimately delay identifying themselves until a later stage of the investigation.
- 26.3 Officers will carry and show their identity card or authorisation as appropriate.
- 26.4 Officers must be fair, independent and objective and must not let any views about ethnic or national origin, sex, religious beliefs, sexual orientation or political views, influence decisions. They must not be affected by improper or undue pressure from any source. Authorised officers will act in the interests of justice.

**27. Complaints, compliments, and suggestions**

- 27.1 Complaints, compliments, or suggestions on any aspect of the services the Council provides, should, in the first instance, be directed to the Service Manager of the relevant service area.
- 27.2 Details of the Council’s corporate complaints procedure is available as follows: On the web at:

Via email on:

By telephone on: **XXXX XXX XXXX**

Or, by writing to:

Or visit a customer service centre and ask to make a comment, compliment, or complaint.

If the Council’s response to a complaint about the service fails to resolve the matter, you may lodge a formal complaint. The issue will then be investigated through the Council’s corporate complaint procedure.

- 27.3 Where a complaint is received about the conduct of an officer, an investigation will be conducted in parallel to the enforcement action and will not delay the enforcement process.

**28. Review of this enforcement policy**

- 28.1 Changes to this policy will be considered annually, and a formal review process will be carried out every five years.
- 28.2 If you have any queries regarding the content of this policy, please contact **XXXX XXX XXXX**.

## **29. Enforcement Policy Schedule: Trading Standards**

This schedule sits as part of the Council's Enforcement Policy and contains further detail to set out the functions of both regional and local trading standards teams. This schedule should be read in conjunction with the broader Enforcement Policy.

### **Introduction:**

1. The Council is committed to the aims of the Enforcement Policy and to maintaining a fair and safe trading environment.
2. The Council supports the Local Government Home Authority Principle and the Office for Product Safety and Standards (OPSS) Primary Authority Scheme. The Council places special emphasis on goods and services originating in its area and providing businesses with a source of guidance and advice.
3. The Council will work closely with both regional and national teams where their activities are complementary or have a significant influence in relation to issues in **WEST** Northamptonshire. It recognises that there will be several occasions when business activities conducted in one region will directly affect the inhabitants of another region, such as a business located in one area trading with consumers at a national or international level.
4. The Council will also have regard to national policy and strategic objectives as set out by National Trading Standards Board such as ensuring effective delivery and co-ordination of national and cross boundary enforcement projects in relation to serious consumer protection crime (including eCrime and business to business fraud) and mass marketing scams.

### **Compliance with the Primary Authority Principle:**

5. The Regulatory Enforcement and Sanctions Act 2008 introduced Primary Authority Partnerships. A Primary Authority is a local authority registered by Regulatory Delivery (RD), as having responsibility for providing advice and guidance to a particular business or organisation and this business is subject to regulation by more than one local authority.
6. We will give due consideration to any business, that wishes to enter into Primary Authority Partnership arrangement with West Northamptonshire Trading Standards Service.
7. We are committed to communicate with other Primary Authorities at an early stage whenever the circumstances require it.
8. If we come to a decision to take enforcement action against a business that has a Primary Authority Partnership with another regulator; we will notify the Primary Authority of the action we propose to take or have taken.
9. The Primary Authority has the right to object to our proposed action and they or

we may refer the matter to the Regulatory Delivery Team for their adjudication.

#### **Provision of Advice to Businesses**

10. We will provide advice to businesses based in Northamptonshire in accordance with our Business Advice Policy. Basic “Compliance Advice” will be offered free of charge to all businesses regardless of size, as required by the Regulators’ Code. More detailed ‘Comprehensive Advice’ may be subject to a fee.

#### **Information Sharing:**

11. The Council also works closely with regional and national enforcers, such as Regional Investigation Teams, Illegal Moneylending Team, the National Scams Hub and National Trading Standards. This is in accordance with regional and national priorities and objectives to ensure effective and efficient investigation and enforcement action.

**This schedule must be read in conjunction with the Council Enforcement policy.**

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# APPENDIX C



**West  
Northamptonshire  
Council**

## **Private Sector Housing Enforcement and Civil Penalties Policy**

**for the Regulation of Housing Standards**

**1 April 2021**

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## **1. Introduction**

- 1.1 West Northamptonshire Council is committed to improving standards in private sector housing, bringing empty homes back into use and ensuring that all private rented accommodation is well managed, properly maintained, energy efficient and safe.
- 1.2 In order to improve standards in private sector housing, the Council's Private Sector Housing Service will request information, carry out inspections, process licence applications, provide owners and landlords with advice and information, encourage and promote good practice, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders or issue financial penalties.
- 1.3 The Council has statutory powers and duties to regulate private sector housing and these are assisted by the Housing Health and Safety Rating System (HHSRS), the Mandatory Licensing of Houses in Multiple Occupation and, in designated parts of the district, the Additional Licensing of Houses in Multiple Occupation.
- 1.4 Although West Northamptonshire has many excellent landlords, it also has a significant number of criminal and irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard and/or unsafe.
- 1.5 The Council regards managing and letting rented housing as a business and expects everyone involved in it to be familiar with their legal obligations. It also believes that it should be the offender (rather than good, responsible landlords or the local council taxpayers) who pays for the cost of housing enforcement, and that no-one who breaks the law should gain a financial advantage over someone who does not.
- 1.6 This approach enjoys widespread support from local landlords who want the Council to create a level playing field for all landlords by dealing robustly with criminal and irresponsible landlords who flout the law and try to profit from their non-compliance.
- 1.7 The Council welcomes the action that the Government is taking to crack down on criminal and irresponsible landlords and it is committed to making full use of its powers to improve standards in West Northamptonshire's private rented sector.
- 1.8 The Council's intelligence-led, targeted approach to housing enforcement, together with its expectation that all members of its Private Sector Housing Team will maintain their professional competencies, means that the Council is well placed to detect and investigate possible offences and, where appropriate, to impose a civil penalty as an alternative to prosecution.
- 1.9 This Private Sector Housing Enforcement and Civil Penalties Policy describes the Council's approach to enforcement, including serving statutory notices, making orders, issuing financial penalties, carrying out works in default and pursuing enforced sales, compulsory purchase and prosecution.
- 1.10 Note – In this Policy, the term "landlords" also includes "property agents", "managing agents" and "letting agents" unless otherwise specified

## **2. Guidance and Legislation**

- 2.1 A wide range of guidance on enforcement has been issued by the Government and other agencies, and the Council will continue to have regard to all relevant statutory guidance when reviewing its policies and procedures and updating as appropriate.

2.2 This Private Sector Housing Enforcement and Civil Penalties Policy has been developed with specific regard to:

- The Housing Act 2004
- The Housing and Planning Act 2016
- Civil penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities - Department for Communities and Local Government published April 2017
- Statutory guidance that has been issued by the Government under Schedule 13A of the Housing Act 2004 and Schedule 9 of the Housing and Planning Act 2016

### **3. Private Sector Housing Team**

3.1 The Private Sector Housing Team's multi-agency approach to housing enforcement is intelligence-led, risk-based and targeted.

3.2 Working closely with other local authorities, HMRC and a diverse range of regulatory and law enforcement services – including the Police, Trading Standards, the Gangmasters & Labour Abuse Authority and the Fire & Rescue Service – the Private Sector Housing Team strives to improve landlords' awareness of their duties and is responsible for the administration and enforcement of HMO licensing, and ensuring that individuals, businesses and organisations comply with their legal obligations in relation to housing conditions, overcrowding, energy efficiency, illegal eviction, harassment and aspects of public health.

3.3 All of the Officers in the Private Sector Housing Team will be fully trained, competent and authorised by West Northamptonshire Council. Authorised Officers will carry an Identity Card (displaying their name and photograph) and, where appropriate, a Warrant Card (displaying their name, job title and a list of the legislation in respect of which they are authorised to act).

3.4 The Private Sector Housing Team may use all available powers to achieve its objectives, including powers of entry, the power to require a person to produce documents and/or information about their identity and interest in property or land, and the power to require certificates regarding gas and electrical safety. This list is not exhaustive and other powers may be utilised where appropriate.

3.5 Although the Private Sector Housing Team will work with owner-occupiers and registered social landlords to ensure that their homes meet minimum standards and are not causing a danger or statutory nuisance to other households in the area, it will prioritise and target resources to raise standards in the private rented sector.

### **4. Purpose of this Housing Enforcement and Civil Penalties Policy**

4.1 The purpose of the Private Sector Housing Enforcement and Civil Penalties Policy is to provide transparency and ensure that everyone who is affected by the Council's housing enforcement and civil penalties process understands what action the Council may take and when.

4.2 Most importantly, this Policy also aims to ensure that:

- Tenants of private landlords and registered social landlords live in homes that are free of unacceptable hazards and risks to their health and safety and landlords comply with their duties in relation to gas, electrics and energy performance certificates, etc.

- All Houses in Multiple Occupation are safe and well managed, and all relevant Management Regulations are adhered to;
  - All licensable Houses in Multiple Occupation are licensed, and all licensing conditions are met;
  - Private housing is not left empty for an unreasonable amount of time and/or becomes an eyesore and nuisance to neighbouring properties;
  - Privately owned property and land does not present a statutory nuisance to other landowners, and does not directly or indirectly present an unacceptable risk to the occupier, public health, safety or the environment;
  - Lettings and property management businesses are registered with a government-approved redress scheme and comply with relevant legislation and codes of practice; and
  - The Council meets its statutory obligations in relation to private housing.
- 4.3 The Private Sector Housing Enforcement and Civil Penalties Policy is designed to ensure transparency, consistency and fairness in the way in which decisions are made on whether to prosecute or impose a civil penalty and, if a civil penalty is to be imposed, how it will determine the size of each civil penalty.
- 4.4 Further information about the Council's approach to civil penalties – including its 9-stage assessment process which strikes the balance between harm, culpability, punishment and deterrent – is provided in Sections 10 – 18 of this Policy.

## **PRIVATE SECTOR HOUSING ENFORCEMENT**

### **5. Principles of Good Enforcement**

- 5.1 When discharging its duties in relation to private sector housing, the Council will take into account the principles of good enforcement set out in:
- Part 2 of the Legislative and Regulatory Reform Act 2006; and
  - The Regulators' Code
- 5.2 Although the list is not exhaustive and the Council may consider other relevant legislation and any updates of the legislation listed, the Council will have regard to the following when exercising its enforcement powers:
- The Human Rights Act 1998
  - The Equality Act 2010
  - The Police and Criminal Evidence Act 1984 and the Codes of Practice issued under sections 60, 60A and 66.
  - The Criminal Procedure and Investigations Act 1996

- The Regulation of Investigatory Powers Act 2000
- The Code for Crown Prosecutors
- Civil Penalties under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities
- Housing Health and Safety Rating System (HHSRS) - Enforcement Guidance Housing Act 2004

5.3 The Private Sector Housing Team will enforce the law efficiently and effectively without imposing unnecessary burdens on responsible owners and occupiers, and will take into account the impact on tenants. In doing so, it will have regard to the role of inspections, compliance visits and advice and guidance, and the principles underpinning its advisory and regulatory activities.

### **Benefits to the Local Economy**

5.4 West Northamptonshire Council aims to create neighbourhoods of choice: areas where people want to live, bring up their children and work. Maintaining healthy housing and attractive neighbourhoods will benefit the local economy.

### **Property Inspections and Compliance Visits**

5.5 The Private Sector Housing Team will undertake proactive property inspections, based on risk and intelligence, and ensure that its resources are targeted at the worst properties first including, for example, licensable Houses in Multiple Occupation that are operating without a licence.

5.6 Officers will target empty properties in order to end the blight that those properties have on neighbourhoods and increase the supply of good quality, affordable housing that meets the needs of local people.

5.7 The Private Sector Housing Team will respond to residents' complaints on a risk assessed basis about substandard, unsafe and problematic private housing and adopt an escalating regulatory approach to enforcement.

### **Advice and Guidance**

5.8 Wherever possible, the Private Sector Housing Team will work with landlords to resolve problems before escalating the situation to more formal enforcement action. This may not be possible in the more extreme circumstances and where progression to enforcement cannot be avoided

5.9 The Council will provide clear, accessible advice and guidance to make it easier for landlords and agents to understand and meet their responsibilities.

5.10 Although the Council's website [www.westnorthamptonshire.gov.uk](http://www.westnorthamptonshire.gov.uk) contains key information about private rented housing, the Council will also continue to liaise with landlords and agents through the landlord forum, emails and social media etc.

### **Principles underpinning Enforcement Action**

5.11 The Private Sector Housing Team's enforcement activity will be:

- **Targeted** – Enforcement action will target the properties and people that pose the greatest risk, including the owners and landlords that evade licensing and regulation, and those whose properties cause a nuisance or put people’s health and safety at risk.
- **Proportionate** – Enforcement action will be proportionate and reflect the nature, scale and seriousness of any breach or non-compliance.
- **Fair and objective** – Enforcement action will be based on the individual circumstances of the case, taking all available facts into account. Officers will carry out investigations with a balanced and open mind.
- **Transparent** – Enforcement action will be undertaken in accordance with clearly defined policies and procedures that are readily available. All communications will be easy to understand, with clear reasons being given for any enforcement action taken.
- **Consistent** – Enforcement action will be undertaken by well-trained investigators, and the Private Sector Housing Team will ensure consistency in the interpretation and enforcement of legislation, work with other regulatory agencies and share and develop good practice.
- **Accountable** – Enforcement action will be undertaken in a responsible manner that has a clear purpose. Where appropriate, the Private Sector Housing Team will work closely with landlords, tenants and other stakeholders that have an interest in private sector housing.

## 6. Regulation of Private Sector Housing

### Dealing with Complaints

- 6.1 The Private Sector Housing Team will respond to complaints from tenants and other residents about private housing, prioritising the complaints on the basis of an assessment of the risk and seriousness. If enforcement action is necessary, a variety of regulatory powers may be used to address and resolve the problem.

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

- 6.2 The HHSRS is set out in Part 1 of the Housing Act 2004. It is a risk-based assessment that is used to determine the level of risk (from 29 defined hazards) that residential property poses to the health and safety of the occupants and visitors.
- 6.3 There are two categories of possible hazards:
- **Category 1 hazards** represent a serious risk to health and safety. The Council has a legal duty to take appropriate action to deal with these.
  - **Category 2 hazards** represent a lesser risk and, although it has no legal duty to take action, the Council will exercise its power to reduce category 2 hazards where appropriate.
- 6.4 In most cases, the Council will follow a pre-formal process in which it will seek to work with landlords to reduce hazards. However, it will avoid actions that may encourage owners, landlords and agents to be non-compliant, such as carrying out costly works in default where it may be difficult for the Council to recover its costs.

- 6.5 When considering what action should be taken in relation to Category 2 hazards, the Council will have regard to national guidance and take into account whether or not there are also any Category 1 hazards present. It will also consider the presence of two or more Category 2 hazards which, when taken together, amount to neglect of the property or disregard for the tenant's health, safety and wellbeing.
- 6.6 Where the responsible person has a history of disregarding previous enforcement advice or action, this will be taken into account when determining an appropriate course of action.
- 6.7 Reasonable charges will be made for any formal enforcement action that the Council takes under Part 1 of the Housing Act 2004, as provided for by section 49 of that Act. (see separate Private Sector Housing Fees & Charges Policy for further information).

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

- 6.8 In West Northamptonshire, there are many hundreds of Houses in Multiple Occupation: properties that are occupied by more than one household that share facilities.
- 6.9 As HMOs are higher risk than single family homes, the conditions, facilities and management are regulated. Some HMOs are subject to licensing:
- **Mandatory HMO Licensing** – An HMO licence is required for HMOs that are occupied by 5 or more persons where there is some sharing of facilities and comprise 2 or more households.
  - **Additional HMO Licensing** – An HMO licence is required for HMOs that are situated in the Additional HMO area, are occupied by at least 3 persons who are sharing facilities and comprise 2 or more households or are self-contained units that are not compliant with Building Regulations 1991 or later.
- 6.10 The HMO licensing regime includes arrangements for assessing the suitability of the premises for the number of occupants, including the adequacy of the amenities. It also provides for the assessment of the fitness of a person to be the licence holder and the potential management arrangements of the premises.
- 6.11 It is a criminal offence if a person controlling or managing a licensable HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence. The Council will consider all available enforcement options when dealing with unlicensed HMOs and breaches of the licence conditions.

#### Licensable HMOs operating without a licence

- 6.12 The Council has an intelligence-led, targeted approach to housing enforcement and the identification of licensable HMOs that are operating without a licence. It will work to safeguard and improve the living conditions of the occupiers and ensure that properties are appropriately licensed and that the conditions are suitable. It will also pursue anyone who is controlling or managing a licensable HMO without a licence and, where appropriate, it will prosecute them or impose a civil penalty.
- 6.13 Consideration will be given to any representations that are received from landlords in relation to exceptional circumstances that may have resulted in a 'duly made' HMO licence application not being submitted on time.
- 6.14 If a landlord responds quickly to the Council's notification that an HMO requires an HMO licence and they co-operate fully with the Council to ensure that the HMO is licensed as soon as practicable, the



Council may decide (at its sole discretion) not to prosecute the landlord or impose a civil penalty. Each case will be determined on its individual merits and circumstances.

- 6.15 Where a licensable HMO is operating without a licence, any eviction notice that is served on the tenants under Section 21 of the Housing Act 1988 will be invalid. Such notices will continue to be invalid for as long as the HMO remains unlicensed.
- 6.16 The Council will provide tenants with information and advice on how and when they can apply to the First Tier Tribunal for a rent repayment order.

#### Renewal of HMO licences

- 6.17 It is the responsibility of the landlord to ensure that their HMO licence is renewed on time. Failure to do so will result in the loss of any 'early bird' discount and may result in prosecution or the imposition of a civil penalty.
- 6.18 The Council will provide tenants with information and advice on how and when they can apply to the First Tier Tribunal for a rent repayment order.

#### HMO licence fees

- 6.19 The Council charges fees for licensing HMOs.
- 6.20 The HMO licence fees cover the administration and enforcement of the licensing schemes and are subject to regular review. For further information, please refer to the Private Sector Housing Fees & Charges Policy.

#### Duration of HMO licences

- 6.21 HMO licences will normally be granted for the full 5-year period.
- 6.22 The length of the HMO licence may be reduced, from 5 years to an appropriate lesser period, where any of the following apply:
- To allow time for the owner to resolve outstanding planning or building control matters before the property can be used as an HMO;
  - Where there are concerns that the proposed management arrangements may not be satisfactory and evidence is required to show that management is satisfactory before a longer licence period can be agreed;
  - Where it is necessary to remove any advantage that the applicant might gain over those licence holders who applied at the appropriate time.
  - Where a scheme, for example, an additional or selective HMO licensing requirement, is time limited by law.
  - In line with the Private Sector Housing Fees and Charges Policy, where additional reductions are applied where properties are found to be operating without a licence.
- 6.23 Following the expiry of an HMO licence, a new application and fee will be required.

### The 'fit and proper person' test

- 6.24 In deciding to grant an HMO licence, the Council must be satisfied that the proposed licence holder is a 'fit and proper person' to be the licence holder, the proposed manager of the HMO is a 'fit and proper person' to be the manager of the HMO, and everyone involved in the management of the property are 'fit and proper persons' to be involved in its management.
- 6.25 This requirement is to ensure that those responsible for operating the licence and managing the HMO are of sufficient integrity and good character to be involved in the management of the residential property and as such they do not pose a risk to the welfare or safety of persons occupying the property. The Council would expect that property managers are resident of the UK.
- 6.26 The licence holder and the manager can be two different people. Where this is the case, a decision must be made for each individual about whether they are a 'fit and proper person'. When making this decision, the Council will take into account their fitness to hold the licence or to manage the property.
- 6.27 When considering whether a person is 'fit and proper', the Council will consider each case on its merits and must have regard to whether the applicant has:
- Previous convictions involving fraud or other dishonesty, violence, drugs or sexual offences;
  - Practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying out of any business;
  - Been served with a Banning Order in accordance with Part 2, Chapter 2 of the Housing and Planning Act 2016, or any amendment thereof;
  - Contravened any provision of housing or landlord and tenant law; and
  - Acted otherwise than in accordance with an approved code of practice with regard to the management of HMOs or of excepted accommodation.
- 6.28 When considering whether a person is 'fit and proper', the Council must also have regard (among other things) to the following:
- The nature of any convictions and the relevance of those convictions to the management of the HMO. (Convictions relating to fraud, running unlicensed HMOs or violence, for example, may affect someone's 'fit and proper' status, and a conviction based on the existence of a Category 1 hazard would give an indication of an applicant's approach to health and safety in a property).
  - The weight of any convictions. (An administrative breach of the HMO Management Regulations, such as not displaying the Code of Good Management Practice, is unlikely to affect a person's 'fit and proper' status).

- 6.29 When considering whether a person is 'fit and proper' the Council may also take into account whether any person associated or formerly associated with the applicant, licence holder or manager has done any of the things identified in 5.27 and 5.28, if it considers this information relevant.
- 6.30 The Council is entitled to take into account other factors in so far as they are relevant to the fitness and propriety of the relevant person. It would not normally consider a landlord with a criminal record for unlawful evictions and harassment of tenants to be 'fit and proper person'.
- 6.31 Although discretion may be appropriate if an offence is isolated and there are mitigating circumstances, multiple offences – or a series of offences over a period of time – are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which should be taken into account. A particularly serious view may be taken where the victim is vulnerable.
- 6.32 A person's 'fit and proper' status may be reviewed at any time. Removal of the status, by the Council or any other relevant authority may lead to a refusal and/or revocation of the HMO licence(s).
- 6.33 The Council will also share information with other authorities in making a determination regarding the 'fit and proper' status of licence holders and managers, or allowing other authorities to make such a determination.

#### HMO Management Regulations

- 6.34 The HMO Management Regulations place obligations on landlords and managers of HMOs to maintain and manage the HMOs they run.
- 6.35 The Regulations also place obligations on occupiers of HMOs to not obstruct or interfere with the management and maintenance of the HMO.
- 6.36 There are two sets of Regulations:
- The Management of Houses in Multiple Occupation (England) Regulations 2006
  - The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007.
- 6.37 Although both sets cover the same requirements, they relate to different types of HMOs. The Regulations cover the following:
- Duty of the manager to provide information to occupier.
  - Duty of the manager to take safety measures.
  - Duty of the manager to maintain water supply and drainage.
  - Duty of the manager to supply and maintain gas and electricity.
  - Duty of the manager to maintain common parts, fixtures, fittings and appliances.

- Duty of the manager to maintain living accommodation.
- Duty to provide waste disposal facilities.
- Duties of occupiers of HMOs.

6.38 Breaching any of the Regulations is an offence under section 234 of the Housing Act 2004, which carries an unlimited fine or the imposition of a civil penalty of up to £30,000 for each breach.

6.39 If the HMO is licensed, the Council will inform the landlord and/or manager of the breaches of the HMO Management Regulations and provide them with a reasonable amount of time (usually 10 days) to remedy the breaches. Formal enforcement action will then be considered if the breaches are not remedied. Formal enforcement action may be considered immediately if the HMO is unlicensed.

### Overcrowding

6.40 Overcrowding is a difficult issue to deal with because, unlike other hazards, there is often very little that the landlord can do to resolve the problem unless the tenant has moved other people into the accommodation since the start of the tenancy.

6.41 In cases of severe overcrowding, the Council will explore the housing options available to the tenant, including a move to alternative accommodation.

6.42 When a tenancy expires, the Private Sector Housing Team may require the landlord to reduce or limit the number of people living in the property when it is re-let.

### **Empty Properties**

6.43 There is a high demand for accommodation in West Northamptonshire. As well as being a wasted source of housing, empty properties can be an eyesore, damage adjoining properties, blight neighbourhoods and attract anti-social behaviour.

6.44 The Council will identify, risk assess and prioritise long-term, problematic and nuisance empty properties, using the full range of informal and formal action (including enforced sales and compulsory purchase) to bring them back into use.

### **Illegal eviction and harassment**

6.45 The Council is committed to enforcing tenants' rights under the Protection from Eviction Act 1977, and it will work proactively to prevent illegal evictions and harassment, reinstate tenants who have been evicted illegally and, where tenants are unable to return, investigate alleged offences.

6.46 Depending on their tenant's security of tenure, most landlords are normally required to give notice and obtain a court order for possession after the notice has expired.

6.47 Illegal eviction occurs when the tenant is unlawfully prevented from entering all or part of their accommodation. Examples include:

- The use of violence (or threats of violence) to force the tenant to leave;

- Preventing the tenant from entering accommodation they have the right to occupy;
- Changing the locks while the tenant is out; and
- Evicting a tenant before the proper legal procedures have been followed.

6.48 Harassment occurs when a landlord (or someone acting on their behalf) does something that is likely to interfere with the tenant's peace and enjoyment or persistently withdraws or withholds services that the tenant reasonably requires for the occupation of the premises in the knowledge that this is likely to cause them to leave the property or refrain from exercising their tenancy rights. Examples include:

- Forcing the tenant to sign agreements which take away their legal rights;
- Removing or restricting essential services such as hot water or heating, or failing to pay bills in order that these services are cut off;
- Constant visits to the property (especially if late at night or without sufficient or reasonable notice);
- Entering the accommodation when the tenant is not there, or without the tenant's permission; and
- The use of violence or threats of violence.

6.49 The Council will work closely with the Police to investigate and prosecute offences of illegal eviction and harassment. They will also provide tenants with support in applying for injunctions, compensation and rent repayment orders.

### **Charging for Enforcement**

6.50 The Housing Act 2004 allows local housing authorities to make a reasonable charge to recover administrative and other expenses incurred when taking certain enforcement action. Other legislation allows them to recover the cost of Officers' time and expenses incurred when determining what works need to be carried out as works in default.

6.51 The Private Sector Housing Team will recover all costs and fees when formal action is taken and it is satisfied that it is reasonable for the responsible person to bear the cost. The full costs (Officers' time, expert reports and overheads, etc) will be charged and, in some cases – where it is reasonable and proportionate – the enforced sale of the property will be considered in order to recover costs.

### **Deciding on an Appropriate Sanction**

6.52 The criminal standard of proof is required to be met in order to justify either the imposition of a civil penalty or a prosecution in the Magistrates' Court for a relevant housing offence. This means that, before taking formal action, the Council needs to satisfy itself beyond reasonable doubt that, if the case were to be prosecuted in the Magistrates' Court, a person's conduct amounted to a relevant housing offence described in Paragraphs 6.13 of this Enforcement Policy.

6.53 To achieve a conviction in' Court, the Council must be able to prove beyond reasonable doubt that a relevant housing offence has been committed by the accused. The same principle applies in respect of civil penalties issued in accordance with section 249A and Schedule 13A of the Housing Act 2004 so, where a civil penalty is imposed and an appeal is subsequently made to the First-Tier Tribunal Property Chamber, the Council will need to be able to prove to the Tribunal that the relevant housing offence has been committed beyond a reasonable doubt.

6.54 Prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past. However, that does not mean that civil penalties may not be issued in cases where serious offences may have been committed and the Council believes that the most disruptive sanction to impose on a criminal, rogue or irresponsible landlord is a financial penalty (or penalties if there have been several breaches) rather than prosecution.

## 7. Options to Regulate and Ensure Compliance

7.1 The following table contains some examples of situations where different types of action may be taken. Decisions are made, however, on a case-by-case basis.

ACTION	GENERAL CIRCUMSTANCES
<b>No Action</b>	Where formal action may not be appropriate.  In such cases, customers may be directed to other sources of advice and support.
<b>Informal Action and Advice</b> includes verbal advice and advisory letters	Where it may be appropriate to deal with the issues through informal action and advice.  In such cases, the pre-formal stage of the HHSRS may be followed, with the Council working collaboratively with responsible landlords and owners to address and resolve any problems.
<b>Hazard Awareness Notice</b>	Where a landlord or owner has agreed to take remedial actions and the Council is satisfied that the work will be completed within a reasonable time,  where the Council considers this to be a reasonable response to less serious hazards, or where improvement or prohibition of use may not be practicable or reasonable in the circumstances  These notices are advisory only, but do not prevent the Council from taking further action later if an unacceptable hazard remains
<b>Service of Enforcement Notices</b> informing of	Where a person refuses or fails to carry out works through the pre-formal HHSRS process;

<p>or requiring repairs or specific legal requirements</p>	<p>Where there is a lack of confidence or there is positive intelligence that the responsible individual or company will not respond to a pre-formal approach;</p> <p>Where there is risk to the health, safety and wellbeing of a household or a member of the public (dangerous gas or electrical services; no heating in the winter; no hot water for personal hygiene or to wash and prepare food safely; etc);</p> <p>Where standards are extremely poor and the responsible individual or company shows little or no awareness of the management regulations or statutory requirements;</p> <p>Where the person has a history of non-compliance with the Council and/or other relevant regulators;</p> <p>Where the person has a record of criminal convictions for failure to comply with the housing requirements (which may include housing management);</p> <p>Where it is necessary to safeguard and protect the occupiers' future health and safety; and/or</p> <p>Where it is necessary to bring an empty property back into use and informal requests either fail or are not appropriate.</p>
<p><b>Powers of Entry</b> (for more information, see Paragraphs 7.2 - 7.5 below)</p>	<p>Where it is necessary to carry out a statutory duty or power;</p> <p>Where it is necessary to investigate an offence;</p> <p>Where it is necessary to prevent the obstruction of Officers; and/or</p> <p>Where it is necessary to protect the health and safety of any person, or to protect the environment, without delay.</p>
<p><b>Powers to Require Information and/or Documents</b></p>	<p>Where it is necessary for information to be provided to enable Officers to carry out their powers and duties;</p> <p>Where it is necessary for documents to be provided to enable Officers to carry out their powers and duties under the Housing Act 2004;</p> <p>Where it is necessary to prove the tenancy of a property, for example, assured shorthold tenancies, bank statements, rent books or equivalent; or where it is necessary to determine the relationships of tenants, for example, birth certificates, passports, marriage certificates etc.</p> <p>Where it is necessary for, for example, electrical certificates, gas safety certificates, fire risk assessments and fire detection certificates to be provided in relation to HMOs;</p> <p>Where it is necessary for insurance documents and energy performance certificates to be provided in relation to privately rented properties; and/or</p>

	Where it is necessary for any person with an interest in a property to provide details about its ownership and occupation, etc.
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ACTION	EMERGENCY SITUATIONS
<b>Emergency Remedial Action / Emergency Prohibition Order</b>	Where there is an imminent risk of serious harm to the health and safety of any occupiers of the premises or any other residential premises
<b>Works in Default for failing to comply with a Notice</b>  (for more information, see Paragraphs 7.6 - 7.9 below)	Where works are required – in accordance with a Notice – to address a serious hazard, but these are not carried out within the permitted time.  In such cases, these works may be carried out by the Council, as works in default, prior to any prosecution.
<b>Injunctive Action</b>  (for more information, see Paragraph 7.10 below)	Where the situation is dangerous and/or there is significant public detriment, and the offenders have repeatedly been found guilty of similar offences; and/or  Where it is necessary to prevent further offences and/or the harassment of tenants, witnesses or other people.
<b>Revocation of HMO Licenses and Approvals</b>  (for more information, see Paragraph 7.11 below)	Where the Manager is not a “fit and proper person”; and/or  Where there are serious breaches of the licensing conditions and/or serious management offences.
<b>Civil Penalties</b>  (for more information, see paragraphs 7.12 – 7.19 below)	Where an individual or company has endangered the health, safety or wellbeing of occupiers, visitors or members of the general public;  Where an individual or company has deliberately, negligently or persistently breached their legal obligations, especially where the economic advantages of breaking the law are substantial and, compared to them, those businesses that comply with the law are disadvantaged;  Where an individual or company has deliberately or persistently ignored written warnings or formal notices / orders or no reasonable



	<p>progress has been made in relation to the carrying out of the requirements;</p> <p>Where the alternative means of achieving compliance (works in default, for example) are considered inappropriate;</p> <p>Where the defendant has assaulted or obstructed an Officer in the course of their duties or provided false information.</p>
<p><b>Simple Caution</b></p> <p>(for more information, see Paragraphs 7.20 - 7.22 below)</p>	<p>Where an offence is less serious and the person who has committed the offence has admitted their guilt.</p> <p>In such cases, a Simple Caution may be offered (as an alternative to Court or Civil Penalty action, and on the understanding that the Council's costs will be paid by the offender) where it is likely that they will heed a warning about their behaviour and the legal consequences if they commit further offences.</p>
<p><b>Prosecution</b></p> <p>(for more information, see Paragraphs 7.23 – 7.26 below)</p>	<p>Where the offence is not covered by applying a Civil Penalty.</p> <p>Where the case also involves offences applied by other agencies i.e. Trading Standards, Northamptonshire Fire and Rescue Service etc. as well as Private Sector Housing Offences and the case is multi agency set of prosecutions heard on the same day.</p> <p>Where an individual or company has endangered the health, safety or wellbeing of occupiers, visitors or members of the general public.</p> <p>Where an individual or company has deliberately, negligently or persistently breached their legal obligations, especially where the economic advantages of breaking the law are substantial and, compared to them, those businesses that comply with the law are disadvantaged.</p> <p>Where an individual or company has deliberately or persistently ignored written warnings or formal notices / orders or no reasonable progress has been made in relation to the carrying out of the requirements;</p> <p>Where the alternative means of achieving compliance (works in default, for example) are considered inappropriate;</p> <p>Where a simple caution is considered inappropriate or the defendant has refused to accept a simple caution; and/or</p> <p>Where the defendant has assaulted or obstructed an Officer in the course of their duties or provided false information.</p>

## **Powers of Entry**

7.2 In certain circumstances, Powers of Entry into a property are provided to authorised Officers in accordance with the legislation. In general, the powers will allow an Officer at any reasonable time to:

- Enter a property to carry out an inspection
- Take any appropriate persons with them
- Take equipment or materials with them
- Take measurements, photographs or make recordings
- Take samples of articles or substances
- Sometimes carry out works

7.3 In many cases, prior notice will be given to owners and to occupiers. Although the notice will normally be given in writing or by e-mail, it may sometimes be given verbally, depending on the relevant statutory notice. The amount of notice given will depend on the legislation being enforced and can range from 24 hours to 7 days.

7.4 Powers of Entry can (and, in some circumstances, will) be enforced with a Warrant, obtained from a Magistrate. Police and/or other regulatory agencies – including but not limited to Planning Enforcement, the Immigration Service, the Fire Service, the Gangmasters & Labour Abuse Authority and Trading Standards – will often accompany Council Officers when they enforce Power of Entry.

7.5 It is an offence to obstruct an Officer in the course of their duty. Officers exercising their Power of Entry will carry identification and details of their authorisation to carry out their action.

## **Carrying out Works in Default**

7.6 The Council has been given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to do works but has failed to do so, or carry out emergency remedial action where there is imminent risk to occupants.

7.7 In most circumstances, a person will be given notice of the Council's intention to carry out works in default. As soon as the Council has commenced the works, it is an offence for any person to obstruct the Council or any of the contractors or agents that have been employed to carry out the works.

7.8 The full cost of the works will be recovered in accordance with the relevant statutory provisions. A Charge will be placed on the property and the debt will be pursued if timely payment is not made. If interest can be charged while the debt remains unpaid, this will be added to the debt. (For further information, see the Private Sector Housing Fees & Charges Policy).

7.9 The Council is not obliged to carry out the works and reserves the right not to do so in certain circumstances.

## **Revocation of HMO Licences and Approvals**

7.10 The Council may revoke an HMO licence or the approval of an HMO licence in the following circumstances:

- Breach(es) of licence condition(s).
- Where the licence holder and/or the manager are no longer considered 'fit and proper' person(s).
- By agreement with the license holder because, for example, they have disposed of their interest in the property.

## **Civil Penalties**

- 7.11 The power given to local authorities to impose a civil penalty as an alternative to prosecution for certain specified housing offences was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016.
- 7.12 The Council's use and calculation of civil penalties is described in Sections 10 – 18 of this Housing Enforcement and Civil Penalties Policy.

## **Simple Cautions**

- 7.13 Where someone has committed an offence or offences and fully accepts responsibility for the offence(s), Officers may offer a Simple Caution where the circumstances suit a Simple Caution rather than a prosecution or civil penalty.
- 7.14 Simple Cautions will be considered where:
- The defendant has admitted their guilt; and
  - The defendant is aged 18 or over; and
  - The defendant agrees to be given a Simple Caution; and
  - Civil Penalties are not appropriate or cannot be applied
- 7.15 If the defendant agrees to receive a Simple Caution, the Council will seek to recover the costs of the investigation as part of the Simple Caution process. If they do not agree to receive a Simple Caution, they will be prosecuted.

## **Prosecution**

- 7.16 When deciding whether to prosecute, the Council must take account of the Code for Crown Prosecutors and be satisfied that there is sufficient, admissible and reliable evidence beyond all reasonable doubt that an offence has been committed by an identifiable individual company or representative of that company. It must also be satisfied that there is a realistic prospect of conviction.
- 7.17 The Code also requires that a decision must also be made as to whether a prosecution would be in the public interest. Where there is evidence, Officers will consider prosecution and, as part of their investigation, they will take into account, amongst other things, the following:
- Any reasonable explanation provided by the individual or company.
  - Evidence that the individual or company intends to prevent any recurrence of the problem.

- An individual's state of health.
- The offender's attitude to the offence.

- 7.18 Any decision to prosecute will initially be considered at a case conference attended by the Officers and either the Housing Enforcement Manager and/or Private Sector Housing Manager. If a prosecution is deemed appropriate, then the case will be fully prepared and referred to the Council's in-house legal service for consideration of the evidence with a view to prosecuting.
- 7.19 Prosecutions will be brought without unavoidable delay and generally there is a requirement to lay an Information for summary only offences at the Magistrates' Court within six months of the offence being committed. To ensure fair and consistent decisions in relation to prosecutions, any decision to prosecute will take into account the Code for Crown Prosecutors.

## **8. Management Orders**

### **Interim Management Orders (HMOs)**

- 8.1 If the Council is satisfied that there is no reasonable prospect of a licensable HMO being licensed (with appropriate conditions) in the near future, or if it is necessary to take immediate steps to protect the health, safety or welfare of the occupiers of the property or properties in the vicinity, it must make an Interim Management Order in respect of the HMO. These Orders also enable the Council to take any other appropriate steps to ensure the management of a licensable HMO.
- 8.2 The Council must also make an Interim Order if it has revoked an HMO licence, but that revocation has been appealed or not yet come into force and, if it were in force, there will be no reasonable prospect of the house being licensed in the near future or if it would be necessary to protect the health, safety or welfare of the occupiers of the property or properties in the vicinity if it were in force.
- 8.3 Although the Council may delegate the management of the HMO to another agency or partner – and there are provisions to vary, revoke and appeal against an Interim Management Order – an Interim Management Order will be in force for 12 months or until an HMO licence is granted if this happens within 12 months.
- 8.4 An Interim Management Order allows the Council to manage the property with many of the rights of a landlord, including the right to collect rent and to use that rent to pay for work to the property.

### **Special Interim Management Orders (All privately rented dwellings including HMOs)**

- 8.5 Where the Council is satisfied that a significant and persistent problem of anti-social behaviour in an area is attributable, in full or in part, to the anti-social behaviour of an occupier of an HMO or other privately rented dwelling and that the landlord is failing to take appropriate action to combat the problem and the making of a Special Interim Order will lead to its reduction or elimination, it can apply to the First Tier Tribunal for a Special Interim Management Order for that dwelling.
- 8.6 The Council must also be satisfied that a Special Interim Order is necessary for protecting the health and safety or welfare of persons occupying, visiting or otherwise engaging in lawful activities in the vicinity of the house before making an application to the Tribunal.
- 8.7 These Orders operate in the same way as Interim Management Orders (see Paragraphs 7.1 – 7.4).

## Final Management Orders (HMOs)

8.8 If the Council is satisfied (on the expiry of any Interim Management or Special Management Order) that the HMO still requires a licence but it is still not able to grant the HMO a licence, it must make a Final Management Order in order to secure the proper management of the house on a long term basis in accordance with a management scheme.

8.9 A Final Management Order is similar to an Interim Management Order in that there are provisions to vary, revoke and appeal against a Final Management Order, the Council may delegate the Management of the HMO to another agency or partner, and the Council continues to manage the property with many of the rights of the landlord. However, it must review the arrangements from time to time but Final Orders may last up to 5 years. If the conditions that led to it being made still apply, then the Council may have to make a new Final Order for another maximum period of 5 years.

## 9. Rent Repayment Orders

9.1 A rent repayment order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent.

9.2 The Housing Act 2004 introduced rent repayment orders to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed, specifically the offences in relation to licensing of HMOs.

9.3 The Housing and Planning Act 2016 extended rent repayment orders to cover a much wider range of offences, described below:

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

9.4 Rent repayment orders can be granted to either the tenant or the local housing authority. If the tenant paid their rent themselves, then the rent must be repaid to the tenant. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority. If the rent was paid partially by the tenant with the remainder paid through Housing Benefit/Universal Credit, then the rent should be repaid on an equivalent basis

9.5 A rent repayment order can be made against a landlord who has received a civil penalty in respect of an offence, but only at a time when there is no prospect of the landlord appealing against that penalty.

9.6 The Council must consider a rent repayment order after a person is the subject of a successful civil penalty and in most cases the Council will subsequently make an application for a rent repayment order to recover monies paid through Housing Benefit or through the housing element of Universal Credit.

- 9.7 The Council will also offer advice, guidance and support to assist tenants to apply for a rent repayment order if the tenant has paid the rent themselves.

## **PRIVATE SECTOR HOUSING CIVIL PENALTIES**

### **10. The Government's Intentions and Expectations**

10.1 The Government has said that it wants to support good landlords who provide decent, well-maintained homes, and avoid unnecessary regulation which increases costs for landlords and pushes up rents for tenants.

10.2 However, it has also pledged to crack down on criminal and irresponsible landlords who flout the law and knowingly rent out unsafe and substandard accommodation.

10.3 The Housing and Planning Act 2016 introduced a number of measures to help local authorities deal more robustly with criminal, rogue and irresponsible landlords:

- **Civil penalties of up to £30,000** as an alternative to prosecution for certain specified offences;
- **Extension of rent repayment orders** to cover illegal eviction, breach of a banning order, failure to comply with an improvement notice and certain other specified offences;
- **Database of rogue landlords and property agents** who have been convicted of certain offences or received multiple civil penalties;
- **Banning orders** for the most serious and prolific offenders.

10.4 When introducing civil penalties through the Housing and Planning Act 2016, Government Ministers made it very clear that they expect local housing authorities to use their new powers robustly as a way of clamping down on rogue landlords.

10.5 In the House of Commons, Marcus Jones MP (Parliamentary Under Secretary of State at the DCLG) explained why the maximum penalty is £30,000:

**“ [it is necessary to] clamp down on rogue landlords, so the civil penalty [has been increased] up to a maximum of £30,000”.**

**“ It is important [to] raise the level of civil penalty to £30,000, because a smaller fine may not be significant enough for landlords who flout the law to think seriously about their behaviour and provide good quality, private sector rented accommodation for their tenants”.**

10.6 Although the Government states (in its guidance) that, generally, it would expect the maximum civil penalty of £30,000 to be “reserved for the very worst offenders”, it recommends that the actual amount imposed in any case should reflect the severity of the offence and take into account the landlord’s previous record of offending.

10.7 The Government recommends that, in order to ensure that the civil penalty is set at an appropriate level, local housing authorities should consider the following factors:

- 1 The severity of the offence

The more serious the offence, the higher the civil penalty should be.

**2** The culpability and track record of the offender

A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.

**3** The harm caused to the tenant

This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when the local housing authority imposes a civil penalty.

**4** The punishment of the offender

A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.

**5** Whether it will deter the offender from repeating the offence

The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

**6** Whether it will deter others from committing the offence

While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.

**7** Whether it will remove any financial benefit the offender may have obtained as a result of committing the offence

The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

10.8 The Government's practice of empowering local authorities to impose financial penalties on offenders is reflected in other legislation and regulations as detailed in Section 11

10.9 This Private Sector Housing Enforcement and Civil Penalties Policy describes West Northamptonshire Council's approach to the imposition of financial penalties in respect of all regulatory matters relating to private sector housing.

## 11. Offences Covered by Civil Penalties

### Housing Act 2004

- 11.1 The power given to local authorities to impose a civil penalty as an alternative to prosecution for certain specified housing offences was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016.
- 11.2 Civil penalties are intended to be used against landlords who are in breach of one or more of the sections of the Housing Act 2004 listed below (“relevant offences” for the purposes of the Housing Act 2004):
- **Section 30** Failure to comply with an Improvement Notice
  - **Section 72** Offences in relation to licensing of Houses in Multiple Occupation
  - **Section 95** Offences in relation to licensing of houses under Part 3 of the Act
  - **Section 139** Offences of contravention of an overcrowding notice
  - **Section 234** Failure to comply with management regulations in respect of Houses in Multiple Occupation

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

- 11.3 Civil penalties are intended to be used against landlords who are required to belong to a Redress Scheme and are in breach of Article 3 and/or Article 5 of the above Order:
- **Article 3** Failure of the requirement to be a member of a Redress Scheme if undertaking lettings agency work.
  - **Article 5** Failure of the requirement to be a member of a Redress Scheme if undertaking property management work.
- 11.4 Failure to comply with the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 could result in the Council imposing a civil penalty of up to £5,000 for each offence.

### The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- 11.5 Civil penalties are intended to be used against landlords who fail to comply with a remedial notice requiring them to install appropriate smoke and/or carbon monoxide detection under the 2015 Regulations.
- 11.6 Failure to comply with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 will result in the Council imposing a financial penalty (or more than one penalty if there is a continuing failure) and, if necessary, the Council will undertake the installation of appropriate smoke and/or carbon monoxide detection as ‘works in default’.



- 11.7 Although it is for the Council to determine the size of the financial penalty imposed, the penalty must not exceed £5,000. This penalty is in addition to the costs the Council is entitled to recover in relation to the remedial action it has carried out.
- 11.8 The Regulations require the Council to issue a statement of principles regarding the determination of the financial penalty value. For the avoidance of doubt, this Private Sector Housing Civil Penalties Policy is the Council's statement of principles.

## The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

11.9 Civil penalties are intended to be used against landlord who let or continue to let properties covered by the Regulations if they have an Energy Performance Certificate (EPC) EPC rating below E, without a valid exemption being in place.

- Regulation 23 Renting a domestic property that fails to meet the minimum energy efficiency standard, and the breach at the time of the penalty notice being served is less than three months. The penalty must not exceed £2,000, in addition to any publication penalty.
- Regulation 23 Renting a domestic property that fails to meet the minimum energy efficiency standard, and the breach at the time of the penalty notice being served is more than three months. The penalty must not exceed £4,000, in addition to any publication penalty.
- Regulation 36 The registration of false or misleading information regarding the energy efficiency standard for a domestic property. The penalty must not exceed £1,000, in addition to any publication penalty.
- Regulation 37 The failure to comply with the requirements of a compliance notice served on a domestic property. The penalty must not exceed £2,000, in addition to any publication penalty

Notwithstanding at any financial penalties imposed on a landlord, relating to a single offence, under Regulation 23 and Regulation 36 or 37 must not exceed a cumulative value of £5,000

## Tenant Fees Act 2019

11.10 Civil penalties are intended to be used against landlords who are in breach of Section 8 and/or Section 12 of the Tenants Fees Act 2019:

- **Section 8** Failure to comply with Section 1 (prohibitions of landlords), Section 2 (prohibitions of letting agents) or Schedule 2 (the holding of deposits). The penalty must not exceed £5,000.
- **Section 12** A further breach of Section 1 (prohibitions of landlords), Section 2 (prohibitions of letting agents) or Schedule 2 (the holding of deposits) within five years. The penalty may exceed £5,000 but must not exceed £30,000.

## **The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019**

11.11 Civil penalties are intended to be used against landlords who are in breach of the requirement to belong to a Client Money Protection Scheme and/or ensure that information about the scheme is available to tenants and at properties:

- **Regulation 6** Failure of a property agent to belong to a Client Money Protection Scheme (regulation 3). The penalty must not exceed £30,000.
- **Regulation 7** Failure of a property agent to comply with requirements to ensure information regarding client money protection is available at private rented properties, and made available to tenants (regulation 4). The penalty must not exceed £5,000.

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

11.12 Civil penalties are intended to be used against landlords who fail to undertake the necessary inspections and repairs in relation to the electrical system in private rented accommodation.

11.13 Although it is for the Council to determine the size of the financial penalty imposed, the penalty must not exceed £30,000. More than one penalty can be imposed in the event of a continuing failure. Any financial penalty is in addition to the costs that the Council is entitled to recover in relation to the remedial action it has carried out.

## **12. The Council's Use of Civil Penalties**

12.1 West Northamptonshire Council will continue to take robust action against those landlords that flout the law, and it will ensure that its use of civil penalties is consistent, appropriate, proportionate and fair.

12.2 Civil penalties can only be used as an alternative to prosecution. This means that, if a civil penalty has already been imposed, the offender cannot be prosecuted for the same offence. Likewise, a person who has been (or is being) prosecuted for a particular offence cannot be issued with a civil penalty for the same offence.

12.3 Where the Council is in a position to prosecute a letting / managing agent and/or landlord for a relevant housing offence, it has the option of imposing a civil penalty on them as an alternative to prosecution.

12.4 Where a letting / managing agent and landlord have committed the same offence, the Council can impose a civil penalty on both of them, as an alternative to prosecution. The level of the civil penalty imposed on each offender may differ, depending on the circumstances of the case.

## **13. Consideration of a Civil Penalty**

13.1 The criminal standard of proof is required to be met in order to justify either the imposition of a civil penalty or a prosecution in the Magistrates' Court for a relevant housing offence (see paragraph 11.2).

13.2 This means that, before taking formal action, the Council needs to satisfy itself beyond reasonable doubt that, if the case were to be prosecuted in the Magistrates' Court, a person's conduct

amounted to a relevant housing offence for the purposes of the Housing Act 2004 or legislation identified in sections 11.3 – 11.10 of this Private Sector Housing Enforcement and Civil Penalties Policy.

- 13.3 To achieve a conviction in the Magistrates’ Court, the Council must be able to prove beyond reasonable doubt that a relevant housing offence has been committed by the accused. The same principle applies in respect of civil penalties issued in accordance with section 249A and Schedule 13A of the Housing Act 2004 so, where a civil penalty is imposed and an appeal is subsequently made to the First-Tier Tribunal Property Chamber, the Council will need to be able to prove to the Tribunal that the relevant housing offence has been committed beyond a reasonable doubt.
- 13.4 Prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past. However, that does not mean that civil penalties may not be issued in cases where serious offences may have been committed and the Council believes that the most disruptive sanction to impose on a criminal, rogue or irresponsible landlord is a financial penalty (or penalties if there have been several breaches) rather than prosecution.
- 13.5 Any decision to impose a civil penalty will be fully considered at a case conference attended by the relevant Officers and either the Housing Enforcement Manager or the Private Sector Housing Manager. Legal advice regarding the sufficiency of the evidence against an individual will also be sought from the Council’s in-house legal service prior to a decision being made whether to issue a penalty. If a civil penalty is deemed appropriate, the Council will adhere fully to the process as set out in section 249A and Schedule 13 of the Housing Act 2004.
- 13.6 Generally, the maximum civil penalties will be reserved for the very worst offenders. The actual amount levied in any particular case will reflect the severity of the offence and take account of any previous relevant housing offences committed by the landlord or letting / managing agent.
- 13.7 In order to ensure that the civil penalty is set at an appropriate level, the Council will consider the following factors (described in more detail in Paragraph 10.7 above) that the Government has identified, in its statutory guidance, as being pertinent:
- ① The severity of the offence
  - ② The culpability and track record of the offender
  - ③ The harm caused to the tenant
  - ④ The punishment of the offender
  - ⑤ Whether it will deter the offender from repeating the offence
  - ⑥ Whether it will deter others from committing the offence
  - ⑦ Whether it will remove any financial benefit the offender may have obtained as a result of committing the offence
- 13.8 The final factor is an overarching one and, after all the other factors have been considered and applied, the Council will need to ensure that the civil penalty that is set removes the financial benefit that has been gained from committing the offence and risking the safety of tenants.

- 13.9 The guiding principle will be to ensure that the offender does not benefit as a result of committing an offence: it should not be cheaper to offend than to ensure that a property is well maintained and properly managed.
- 13.10 In deciding the level of civil penalty that will be applied, the Council will use its 9-stage Civil Penalty Scoring Matrix which will take into account any reasonable adjustments for aggravating or mitigating factors.
- 13.11 Income received from civil penalties will be retained by the Council to support its statutory enforcement activities, and its efforts to raise standards, in West Northamptonshire's private rented sector.

#### **14. West Northamptonshire's 9-Stage Process**

- 14.1 After having regard to the Government's guidance on the methodology to use in setting the level of civil penalty, West Northamptonshire Council has devised its own 9-stage process for determining the level of civil penalty to impose.
- 14.2 The first seven stages in the Council's 9-stage process are included in a '**Civil Penalty Scoring Matrix**' (see Pages 34 - 37) and the last two stages relate to the handling of multiple offences and the checks that will be carried out before the 'Notice of Intent' is issued:

##### STAGE ONE – Culpability of the offender

When assessing the culpability of the offender, the Council will consider a range of matters, including (but not limited to) whether or not the evidence shows that the offence was committed deliberately, how long the offence continued, whether or not the offence was repeated and whether or not the offence was premeditated.

The Council will also take into account the fact that letting accommodation is a business activity that is designed to make a profit and it should therefore be treated like any other business. Ignorance of the law is not an excuse for non-compliance with statutory requirements and duties.

Letting / managing agents and landlords with large property portfolios – together with those who are accredited and/or are members of professional associations – will be expected to have more knowledge and experience, so will be considered to be more culpable. For this part of the 'Scoring Matrix', the Council will apply a double weighting for Stage One where the offence is committed by a letting agent, a managing agent or a portfolio landlord who has a portfolio of more than five properties.

As a successful prosecution of an offender who breaches a Banning Order can result in the most severe punishment, the offender's score for Stage One will also be increased by 10 if the offender has breached a Banning Order.

## STAGE TWO – Seriousness of the offence and the level of harm caused

When assessing the seriousness of the offence and the level of harm it has caused, the Council will consider the following:

- The number of people affected;
- The nature and extent of the actual or potential impact on the victim(s) and whether or not it is serious, long-term, life-changing or potentially fatal;
- The vulnerability of the victim(s): children, vulnerable adults and people with protected characteristics under the Equalities Act 2010);
- The actual or potential harm to the surrounding area or community; and
- The level of punishment that can be imposed under the law. All of the offences carry a potentially unlimited (maximum) fine and breaching a Banning Order may result in a prison sentence of up to 51 weeks.

As the Council considers this aspect of the assessment to be particularly significant, it has doubled the weighting for Stage Two in order to reflect its seriousness.

## STAGE THREE – Punishment of the offender

When considering the punishment that should be imposed on the offender, the Council will take the following into account:

- Any attempts that have been made to cover up evidence of the offence, mislead Officers or harass occupants and witnesses.
- The landlord and/or letting / managing agent's refusal to accept and/or act on the advice and recommendations of the Council or another enforcement agency in relation to their responsibilities as a landlord / agent; and
- The relationship between the offence and other crime (such as illegal eviction, harassment, environmental crimes, modern slavery, prostitution and the production and distribution of illegal drugs).

## STAGE FOUR – Removal of any financial benefit gained from committing the offence(s)

When assessing the financial benefit that the landlord and/or letting / managing agent has gained from committing the offence(s), the Council will take into account any financial benefit arising from the commission of the offence(s).

Subject to the maximum level of £30,000 per offence and providing there is evidence of such financial benefit, the Council will consider whether it would be appropriate to impose a level of civil penalty which would be greater than the financial benefit gained from committing the offence.

As the Council considers this aspect of the assessment to be particularly significant, it has doubled the weighting for Stage Four in order to reflect its significance.

### STAGE FIVE - Deterring the offender from repeating the offence and others from committing similar offences

When determining the level of the civil penalty, the Council will give consideration to whether or not the level of civil penalty that is imposed will act as a deterrent to the offender and others.

Where this is unlikely, the Council will consider whether it would be more appropriate to prosecute the offender instead.

### STAGE SIX – Assessment of assets and income

When determining the level of the civil penalty, the Council will take into account any representations made by the offender regarding their income, assets and ability to pay, adjusting the level of the penalty accordingly where appropriate.

However, where such representations are made, the penalty will not automatically be revised downwards simply because an offender has (or claims to have) a low income.

The value of an offender's assets (including their full rental portfolio) and income will be considered when determining an appropriate level of civil penalty.

A landlord who has a large property portfolio and a low income, for example, may initially be assessed as being able to afford to pay only a low level civil penalty. However, after taking into account the value of their assets, their civil penalty may be adjusted upwards.

### STAGE SEVEN – Mitigation

When determining the level of the civil penalty, the Council will consider any mitigating factors during the assessment process. Examples may include the following:

- The offender acts voluntarily to remedy the problem
- The offender co-operates fully with the investigation
- The offenders had a good track record of maintaining property and complying with legislation and statutory standards prior to the offence(s)
- The offender self-reports (for failing to license their HMO, for example), co-operates with the Council and accepts responsibility for the offence
- The offender has a mental disorder or learning disability and this is linked to the offence that has been committed
- The offender has a serious medical condition(s) that requires urgent, intensive or long-term treatment and this is linked to the offence that has been committed.

- The offender is young and lacks maturity
- Any other mitigating factors that the offender wants the Council to take into account when determining the level of civil penalty.

The offender will also have the opportunity to inform the Council (during the ‘Notice of Intent’ stage) of any other mitigating factors they believe are relevant. The Council expects all requests for mitigation to be accompanied by supporting evidence.

### STAGE EIGHT – Totality principle

When determining the level of the civil penalty, the Council will apply the principle of totality if there is a possibility that more than one civil penalty will be imposed.

Where there are multiple offences resulting from the same incident or conduct, the Council will assess each offence, using the ‘Scoring Matrix’. After aggregating the penalties, the Council may decide that it is appropriate in the circumstances to issue one civil penalty that reflects the most serious of the offences relating to the incident or conduct. Where the aggregate total exceeds the maximum civil penalty that can be imposed, the Council may find it appropriate to consider prosecution rather than issue a civil penalty.

Where there are multiple offences resulting from separate incidents or conduct, the Council will assess each offence individually, using the ‘Scoring Matrix’, and apply separate civil penalties where it is proportionate to do so.

### STAGE NINE – Review and check

Before a ‘Notice of Intent’ is issued, the process and level of civil penalty will be reviewed and checked with the Council’s in-house Legal Services team and the Housing Enforcement Manager.

The purpose of this review is to ensure that the process has been applied correctly and the level of civil penalty is reasonable and proportionate.

## **Relationship between ‘Scoring Matrix’ and the level of Civil Penalty**

- 14.3 Each offence will be assessed and the totality principle will then be applied.
- 14.4 An assessment will be carried out before the Notice of Intent is issued, and a reassessment will then be carried out following receipt of any representations.
- 14.5 The starting point for determining the civil penalty will be the scores from the Civil Penalty Scoring Matrix (see Appendix 1):

<b>Score range</b>	<b>Size of the civil penalty (where the penalty must not exceed £5,000)</b>	<b>Size of the civil penalty (where the penalty must not exceed £30,000)</b>
0 – 10	£40	£250

11 – 20	£80	£500
21 – 40	£125	£750
41 – 60	£160	£1,000
61 – 80	£400	£2,500
81 – 100	£800	£5,000
101 – 120	£1,600	£10,000
121 – 140	£2,500	£15,000
141 – 160	£3,300	£20,000
161 – 180	£4,100	£25,000
181 – 200	£5,000	£30,000

## 15. Financial Means to Pay a Civil Penalty

- 15.1 In setting a civil penalty, the Council should assume that the offender is able to pay any financial penalty imposed, unless the offender has supplied suitable and sufficient financial information to the contrary.
- 15.2 It is for the offender to disclose to the Council such data relevant to their financial position as will enable the Council to assess what s/he can reasonably afford to pay.
- 15.3 Where the Council is not satisfied that it has been given sufficient reliable information, it will be entitled to draw reasonable inferences as to the offender's financial means from the evidence it holds and from all of the circumstances of the case which may infer that the offender can afford to pay any financial penalty.
- 15.4 As many offenders may own one or more properties in West Northamptonshire, it is likely that they could have assets that they can sell or borrow against. After taking into account any mortgages on such properties, the Council may find it appropriate in the circumstances of the case to determine the amount of equity that could potentially be released from the property if it were to be sold on the open market. If an offender to whom this applies claims that they are unable to pay a financial penalty and demonstrates that they have only a low income, consideration will be given to the likely amount of equity that could be released, if any of the properties were to be sold or refinanced, when deciding upon an appropriate level of civil penalty.

## 16. Prompt Payment Discount for Paying Civil Penalty within 28 days

- 16.1 In order to encourage the prompt payment of civil penalties, the Council will offer a 20% discount to landlords and agents who pay the civil penalty in full within 28 days of the Final Notice being issued. The 2 amounts will be included in the Final Notice.



## **17. Other Consequences of Imposing a Civil Penalty**

- 17.1 Where a civil penalty has been imposed on a landlord or agent, this will form part of the Council's consideration when it reviews the HMO licence applications relating to properties in which that person has had some involvement.
- 17.2 Although the imposition of a civil penalty will not automatically preclude the Council from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person's involvement in the property will be considered when deciding whether or not to grant an HMO licence.
- 17.3 Where a landlord has two civil penalties imposed on them within a period of 12 months and each relates to a Banning Order offence for the purposes of the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018, the Council will register the landlord's details on the nationwide Database of Rogue Landlords and Property Agents.

## **18. Collection of Unpaid Civil Penalties**

- 18.1 It is the policy of West Northamptonshire Council to consider all legal options available for the collection of unpaid civil penalties and to pursue unpaid penalties in all cases through the County Court.
- 18.2 Some of the Orders available to the Council through the County Court are as follows:
- A Warrant of Control for amounts up to £5,000;
  - A Third Party Debt Order;
  - A Charging Order, and;
  - Bankruptcy or insolvency.
- 18.3 A Certificate, signed by the Council's Chief Finance Officer and stating that the amount due has not been received by the date of the Certificate, will be accepted by the Courts as conclusive evidence of the payment due.
- 18.4 Where a Charging Order has been made, and the amount of the Order is more than £1,000, the Council can consider applying for an Order for Sale against the property or asset in question. When considering which properties to apply for a Charging Order against, the Council can consider all properties owned by the landlord and not just the property to which the offence relates.
- 18.5 Where the civil penalty is appealed and the First Tier Tribunal confirms or varies the penalty, the decision will be automatically registered on the Register of Judgments, Orders and Fines when it is accepted by the County Court. Inclusion on the Register may make it more difficult for the Landlord to obtain financial credit.

# **PRIVATE SECTOR HOUSING FEES AND CHARGES**

## **19. Purpose of Private Sector Housing Fees & Charges**

- 19.1 The law allows Councils to charge for the licensing of Houses in Multiple Occupation and the cost of the enforcement action it takes in relation to private sector housing.

- 19.2 Although the Council values the very important role that the private rented sector plays in meeting the high demand for housing in West Northamptonshire, it also recognises the need to take robust action against those landlords whose selfish, anti-social and unlawful behaviour is putting tenants' health and wellbeing at risk, spoiling local neighbourhoods and placing an additional financial burden on public services.
- 19.3 The fees and charges reflect the current cost of enforcement actions and processes, and it sets out an approach that is designed to ensure transparency, consistency and fairness in how fees and charges are applied.

## **20. Principles underpinning the Charges**

20.1 West Northamptonshire's Private Sector Housing Fees & Charges are based on the following principles:

- The Council will enforce the law efficiently and effectively without imposing unnecessary burdens on responsible owners, landlords and occupiers;
- All fees and charges will be calculated on the basis of what it costs the Council to license HMOs, take enforcement action, carry out works in default and provide advice and written reports;
- All licensable HMOs will be subject to the same fees and charges arrangements, irrespective of whether they are affected by the Mandatory HMO Licensing regime or the Additional HMO Licensing regime;
- Owners and landlords who fail to license their HMOs on time will be required to pay more for their HMO licence and, when they are eventually issued with an HMO licence, the Council is likely to issue them with a shorter licence that lasts less than the standard term;
- Persons responsible for housing enforcement activities (including the owners of long-term and problematic empty properties) who are served with formal Notice(s) by the Council will be required to bear the full cost of enforcement in line with this Policy;
- Where it is necessary for the Council to carry out works in default, the Council will seek to recover all of its costs (including the cost of the works) from the person responsible at the earliest opportunity.

## **21. Calculating the Fees & Charges**

- 21.1 The Council will carry out an annual review of its fees and charges for Private Sector Housing to ensure they reflect the true cost of the work. Any changes will come into effect in the subsequent municipal year.
- 21.2 The revised fees and charges reflect the true cost of the work involved and have been calculated by determining all costs involved the licencing or enforcement activities.
- 21.3 The costs associated with maintaining the mandatory and additional House in Multiple Occupation licensing schemes, together with the ongoing staff costs in relation to administration and enforcement and the projected inflation over the 5 year licensing period have also been included in the calculations.

## **22. Licensing of Houses in Multiple Occupation**

- 22.1 Since introducing its Additional HMO Licensing Scheme on 3 November 2014, West Northamptonshire Council, previously Northampton Borough Council has licensed HMOs operating in the designated area.
- 22.2 Although a large proportion of licensable Mandatory and Additional HMOs are licensed, the Council is continually uncovering Mandatory and Additional HMOs that are being operated, unlawfully, without an HMO licence.
- 22.3 It is a criminal offence if a person controlling or managing an HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence. The Council will consider all available enforcement options when dealing with unlicensed HMOs and breaches of the licence conditions.
- 22.4 If a licensable HMO does not have a licence, any Section 21 Notice (a notice seeking possession) that the landlord serves on the tenants is likely to be invalid. Identifying and targeting licensable HMOs that are operating without a licence, therefore, will not only help the Council to tackle criminal and irresponsible landlords, but it also aims prevent homelessness.
- 22.5 Although enforcement action has an important role to play in ensuring that HMOs are properly managed and meet the required standards – and the Council is firmly committed to ensuring that the cost of such action is borne by the offenders – this Fees & Charges Policy includes a number of incentives and penalties that are designed to encourage good practice and the timely licensing of HMOs:
- 22.6 All licensable HMOs (Mandatory and Additional) will be subject to the same fees and charges arrangements, including incentives and penalties;
- 22.7 Owners and landlords who submit their completed licence application (for the initial HMO licence or the renewal of their HMO licence) in a timely manner will receive an ‘Early Bird Discount’ that will reduce the size of the licence fee they are required to pay.
- 22.8 Owners and landlords who fail to submit their completed licence application (for the initial HMO licence or the renewal of their HMO licence) in a timely manner will not receive an ‘Early Bird Discount’ and, when they are issued with an HMO licence, they may be issued with a shorter licence lasting less than 5 years.

### **Cost of the initial HMO Licence**

- 22.9 The cost of the initial licence fee will depend on the number of people that the HMO can accommodate and when the licence application is received by the Council.
- 22.10 A bigger licence fee will be charged if the HMO is able to accommodate more than 5 persons, and an ‘Early Bird Discount’ will be allowed if the completed licence application is received by the Council within the required timescales.
- 22.11 A HMO licence fee comprises a first payment for the processing of the licence application and a second payment of for the administration and enforcement of the licensing scheme
- 22.12 If the HMO can accommodate more than 5 persons, the size of the second payment (for the administration and enforcement of the licensing scheme) will be increased for each additional person (above 5 persons) that the HMO can accommodate. This reflects the increased time necessary for the effective inspection, administration and enforcement relating to these larger properties.

22.13 If an 'Early Bird Discount' is appropriate, the size of the second payment (for the administration and enforcement of the licensing scheme) will be reduced.

### **Award of an 'Early Bird Discount' for initial Licences**

22.14 An 'Early Bird Discount' will be awarded, at the discretion of the Council, where the completed HMO licence application (including the licence fee) is received:

- within 8 weeks of the HMO becoming licensable; or
- within 8 weeks of the owner completing the purchase of an existing, licensable HMO

22.15 In order to determine whether or not an 'Early Bird Discount' should be awarded, the Council may ask the applicant to provide evidence to confirm the date of purchase or support their claim that the HMO has only recently become licensable.

22.16 Where the Council is satisfied that the applicant has withheld relevant information or provided misleading information – especially in relation to the way in which the HMO is being (or has been) occupied – it will not award an 'Early Bird Discount'.

### **Length of the initial HMO Licence**

22.17 The length of the initial licence will depend on when the completed licence application (including the licence fee) is received by the Council.

22.18 A licence of up to 5 years – which, in the case of an Additional HMO licence, shall expire no later than the end of the Additional Licensing Scheme approval – will be issued if the completed licence application is received:

- within 13 weeks of the HMO becoming licensable; or
- within 13 weeks of the owner completing the purchase of an existing, licensable HMO

22.19 If a licence application is submitted more than 13 weeks after becoming licensable and the Housing Enforcement Team is not satisfied that the delay is justified, a housing enforcement report will be produced and the Council will consider its various options, including prosecution and the imposition of a civil penalty.

### **Cost of renewing an HMO Licence**

22.20 The cost of renewing an HMO licence will depend on the number of people that the HMO can accommodate and when the licence application is submitted.

22.21 HMO licence renewal fees comprises a first payment for the processing of the licence application and a second payment of for the administration and enforcement of the licensing scheme.

22.22 If the HMO can accommodate more than 5 persons, the size of the second payment (for the administration and enforcement of the licensing scheme) will be increased for each additional person (above 5 persons) that the HMO can accommodate. This reflects the increased time necessary for the effective inspection, administration and enforcement relating to these larger properties.

22.23 If an 'Early Bird Discount' is appropriate, the size of the second payment (for the administration and enforcement of the licensing scheme) will be reduced.

### **Award of an 'Early Bird Discount' for the renewal of Licences**

22.24 An 'Early Bird Discount' will be awarded, at the discretion of the Council, if a duly completed renewal application (including the licence fee) is received by the Council at least 28 days before the existing HMO licence expires.

### **Purchase of an existing licensed HMO**

22.25 Although an existing HMO licence cannot be transferred to the new owner when the HMO is sold, the fee that is charged for the new HMO licence may, at the Council's discretion, for example transfer of ownership following the death of the licence holder, be treated as a licence renewal and qualify for an 'Early Bird Discount'.

22.26 To be treated as a licence renewal and qualify for an 'Early Bird Discount', the HMO that has been sold must have had a valid HMO licence at the time the transfer was completed, the new owner must have completed a licence application (including the licence fee) must have been received by the Council within 8 weeks of the transfer being completed.

### **Licence Fee Refunds**

22.27 You will only be entitled to a refund if:

- Your property does not need a licence at the time of application, for example it falls under one of the exemptions, or
- You make a duplicate application

22.28 You're not entitled to a refund if:

- Your property needs to be licensed at the time of application, or
- You subsequently sell the property, both whilst the application is being processed or during the licence term

### **Additional charges**

22.29 In order to improve efficiency and keep its HMO fees and charges as low as possible, the Council require all HMO licence applications (including licence renewals) and payments to be made online.

22.30 Where it is necessary for an Officer to sit with the applicant to complete their licence application online or where, at its discretion the Council accepts a paper application the Council will normally charge an additional processing fee.

22.31 A charge of will normally be made if the landlord / owner / applicant fails to attend an arranged inspection or cancels it with less than 24 hours' notice.

## **23. Housing Enforcement**

## **Formal Enforcement Notices**

- 23.1 The Council's Private Sector Housing Team will respond to complaints from tenants and other residents about private housing and it will prioritise the complaints on the basis of an assessment of the risk and seriousness.
- 23.2 The Housing, Health and Safety Rating System (HHSRS), set out in Part 1 of the Housing Act 2004, is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s) of the property or neighbouring properties.
- 23.3 Where enforcement action is necessary, the Council will use a variety of regulatory powers and will normally charge offenders for the cost of preparing and serving Statutory Notices. The amount charged reflects the true cost of the work and takes into account the average number of hours taken to complete the task, the hourly rate of the Officers involved and the service on-costs.
- 23.4 In exceptional circumstances, the Council may exercise its discretion and decide not to charge for the cost of enforcement. Such decisions will be made by the Council's Assistant Director Housing & Communities or their authorised nominee and will be based on the individual circumstances and merits of each case.

## **Carrying out Works in Default**

- 23.5 The Council has been given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to do works but has failed to do so.
- 23.6 In most instances, a person will be given notice of the Council's intention to carry out works in default. As soon as the Council has commenced the works, it is an offence for any person to obstruct the Council or any of the contractors or agents that have been employed to carry out the works.
- 23.7 The full cost of the works will be recovered in accordance with the relevant statutory provisions. A Charge will be placed on the property and the debt will be pursued. If interest can be charged while the debt remains unpaid, this will be added to the debt.
- 23.8 In order to encourage owners and landlords to undertake the work themselves, the Council's charges for arranging works in default reflect the true cost of organising and paying for the work.
- 23.9 The Council is not obliged to carry out the works and reserves the right not to do so where the cost of the works is likely to be high or there may be difficulties recovering the costs. Works may be considered to remove serious hazards only.

## **24. Discretionary Services**

- 24.1 Where the Council is asked to provide a discretionary service in relation to private sector housing – such as an Immigration Compliance Visit & Report – it will make a reasonable charge that reflects the true cost of the work.
- 24.2 Although the Council will continue to provide owners and landlords with advice and guidance, this will be provided mainly through the Council's website.

## **25. Debt Recovery**

- 25.1 Where a charge is made for enforcement action, the debt will be registered as a local land charge against the property. This means that, when the property is sold, the whole debt (including the interest that has accrued) will have to be repaid.
- 25.2 The Council will not, as a matter of course, allow a land charge to sit against a property until it is sold. It will vigorously pursue all debts that are owed to it in relation to its enforcement activity, works in default and other charges.
- 25.3 In order to recover outstanding debts, the Council may:
- Use databases and tracing agencies to track down debtors with a view to securing money judgments against them and appointing court bailiffs to recover the debt.
  - Demand that rents are paid to the Council, rather than the landlord, where the law allows and it is appropriate to do so
  - Use the enforced sale procedure under the Law of Property Act 1925, where appropriate, to force the sale of the property in order to recover the money that is owed.

## **26. Guidance**

- 26.1 A wide range of guidance on licensing and enforcement has been issued by the Government and other agencies, and the Council will continue to have regard to all relevant guidance when formulating its policies and procedures.

## APPENDIX 1 - CIVIL PENALTY SCORING MATRIX

STAGE ONE – CULPABILITY OF THE OFFENDER					
(Double the score if the offender is a letting agent, managing agent or a portfolio landlord with more than 5 properties. Add 10 if the offender has breached a Banning Order)					
Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
Short term offence, no premeditation and no previous history.	First time offence. The offence has been ongoing for a short time. Minor previous breaches which may include a repeat of the current offence.	Second or third time offender. No premeditation. The offence has been ongoing for a moderate period of time. A case history of non-cooperation and relevant prior offending which may include a repeat of the current offence.	Multiple offender. Some premeditation. The offence has been ongoing for a significant period of time. A case history of non-cooperation and relevant prior offending including a repeat of this offence.	Serial offender (10 or more times). Premeditation. The offence has been ongoing for a significant period of time. A case history of non-cooperation and relevant prior offending including a repeat of this offence.	
Breach of Banning Order?					
TOTAL					

STAGE TWO – SERIOUSNESS OF THE OFFENCE AND THE LEVEL OF HARM CAUSED					
Not applicable (Score = 0)	Minor (Score = 10)	Moderate (Score = 20)	Serious (Score = 30)	Severe (Score = 40)	TOTAL
Very little or no harm caused. One victim	Low-level health risk(s) / harm(s)	Moderate-level health risk(s) / harms(s)	Severe level health risk(s) / harm(s)	Severe level – health risk(s) identified. Five	



household. No vulnerable occupants.	identified. One victim household. No vulnerable occupants.	identified. Two to four victim households. Vulnerable occupants potentially exposed.	identified. Two to four victim households.	or more victim households.	

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**STAGE THREE – PUNISHMENT OF THE OFFENDER**

Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
No other crime, no attempt to pervert the course of justice, and a willingness to adhere to advice.	Minor previous breaches, no attempt to pervert the course of justice, and a willingness to adhere to advice.	Minor previous breaches. Offender made attempt(s) to pervert the course of justice and is unwilling to cooperate.	Significant other crime. Offender made attempts to pervert the course of justice and is hostile to cooperation.	Severe harm resulting from other crime. Offender made attempts to pervert the course of justice, and is hostile to cooperation.	

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**STAGE FOUR – REMOVAL OF ANY FINANCIAL BENEFIT GAINED FROM COMMITTING THE OFFENCE(S)**

Not applicable (Score = 0)	Minor (Score = 10)	Moderate (Score = 20)	Serious (Score = 30)	Severe (Score = 40)	TOTAL
Negligible financial impact.	Low to moderate financial impact.	Medium level financial impact.	Large financial impact.	Maximum financial impact available.	

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**STAGE FIVE – DETERRING THE OFFENDER FROM REPEATING THE OFFENCE AND OTHERS FROM COMMITTING SIMILAR OFFENCES**

Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
Little or no deterrence likely. Repeat offending possible.	Low ass level offence, unlikely to be reported on. Mild deterrence.	Some publicity may result. Will act as a deterrent from repeating offence(s).	Publicity will be sought. Large deterrence to offender and landlord community.	Publicity inevitable via numerous methods. Massive deterrence to re-offending and to wider landlord community.	

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**STAGE SIX – ASSESSMENT OF ASSETS AND INCOME**

Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
No demonstrable or significant assets. Does not apply to agents.	Low asset value (single property landlord, for example). Does not apply to agents.	Small portfolio / agent (5 properties or less) and /or moderate assets / income.	Small / medium portfolio landlord / agent (3-10 properties) with other assets / income. Two or more major mitigating factors.	Large portfolio landlord / agent. Wider assets / income considered.	

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**STAGE SEVEN – MITIGATION**

(This score will be subtracted from the overall matrix score)

Not applicable (Score = 0)	Minor (Score = 5)	Moderate (Score = 10)	Serious (Score = 15)	Severe (Score = 20)	TOTAL
None.	Minor mitigating factors.	One major mitigating factor or multiple minor mitigating factors.	Two or major mitigating factors.	Multiple major mitigating factors.	

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## APPENDIX 2 - CIVIL PENALTY FINANCIAL STARTING POINTS

Where a Civil Penalty is being proposed, the maximum value is provided in the relevant statutory provisions, but the table below will be used to convert the score from the assessment (Appendix 1) to a financial value for the civil penalty.

Score range	Size of the civil penalty (where the penalty must not exceed £1,000)	Size of the civil penalty (where the penalty must not exceed £2,000)	Size of the civil penalty (where the penalty must not exceed £4,000)	Size of the civil penalty (where the penalty must not exceed £5,000)	Size of the civil penalty (where the penalty must not exceed £30,000)
0 – 10	£10	£20	£35	£40	£250
11 – 20	£20	£35	£70	£80	£500
21 – 40	£25	£50	£100	£125	£750
41 – 60	£35	£65	£135	£160	£1,000
61 – 80	£85	£165	£332	£400	£2,500
81 – 100	£170	£335	£670	£800	£5,000
101 – 120	£335	£670	£1350	£1,600	£10,000
121 – 140	£500	£1000	£2000	£2,500	£15,000
141 – 160	£670	£1350	£2700	£3,300	£20,000
161 – 180	£840	£1700	£3400	£4,100	£25,000
181 – 200	£1000	£2000	£4000	£5,000	£30,000

# APPENDIX D



**West  
Northamptonshire  
Council**

## **Private Sector Housing Assistance Policy**



**1 April 2021**

**DRAFT**

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## 1. Introduction

- 1.1 Under the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002, the Council has the power to provide assistance for the purpose of repairing, improving, acquiring, demolishing, adapting, or providing housing accommodation in West Northamptonshire
- 1.2 The Council can offer this assistance in the form of grants or loans. This Policy sets out what assistance the Council can offer: who can apply, whether it is a loan or a grant, what it can be used for and any conditions attached to receiving this assistance.
- 1.3 Note: In this Policy the reference to Officer Job Titles, or Teams and Services within the overall operational structure of the Council may be subject to change as the Council completes its Local Government Reorganisation programme.

## 2. Purpose of the Private Sector Housing Assistance Policy

- 2.1 The purpose of this Policy is to provide a formal framework within which the Council can deliver mandatory disabled facilities grants and exercise its discretion in providing financial assistance under the Regulatory Reform Order 2002.
- 2.2 This framework is designed to ensure the fair, equitable and consistent treatment of residents of West Northamptonshire Council who require the Council's financial assistance to adapt their home or relocate to another, more suitable home.
- 2.3 The key objectives of this Housing Assistance Policy are:
  - To help disabled people to maintain their independence by enabling them to adapt their existing homes to meet their needs or move to an alternative, more suitable home that meets their needs;
  - To tackle fuel poverty and improve the energy efficiency of people's homes;
  - To support and facilitate West Northamptonshire resident's hospital discharge arrangements, by ensuring that the Council's residents are able to return home quickly in a manner that enables them to live safely and independently at home, making it easier for carers to provide support; and
  - To provide quick support to people receiving palliative care, and their carers, enabling them to return or remain at home safely and independently, and
  - To prevent acute admissions to a clinical setting, care homes or residential schools, enhanced access to a holistic range of housing options and reduce higher expenditure elsewhere in the health and/or social care system.

### **3. Role of the Home Adaptions Service**

- 3.1 The Council's Home Adaptions Service will help, where possible, people to apply for grants and they will, where possible, design and organise works, obtain quotations, monitor the works on site and provide all the administrative support required to enable people to achieve their independence.
- 3.2 To enable the disabled person to make an informed choice about their future housing, the Home Adaptions Team will provide them with advice on the full range of housing options available to them. This may include signposting to other agencies and or referral to other relevant departments of West Northamptonshire Council including supported living, affordable rented housing and the purchase and adaptation of alternative accommodation.
- 3.3 Members of the team will work with Council Officers, Occupational Therapists, contractors and other professionals to ensure the best possible outcome for the applicant, whilst working within the legislative and financial constraints.

### **4. The financial assistance available**

- 4.1 Disabled facility grants and home adaptations are provided by the Council, using the money that it receives from the Government's Better Care Fund.
- 4.2 In 2020/21, the three former Councils that now make up West Northamptonshire Council received a total of £2.2 million Better Care funding (Northampton Borough Council £1.4 million, South Northamptonshire Council £0.4 million and Daventry District Council £0.4 million)
- 4.3 With a growing demand for disabled facilities grants and home adaptations from an ageing population, it is essential that West Northamptonshire Council effectively and appropriately administers the financial resources available in order to achieve positive outcomes.
- 4.4 Apart from mandatory disabled facilities grants, all the financial assistance described in this Policy is discretionary. The Council will not approve any discretionary assistance or commit spending on any discretionary assistance where the budget available has been exhausted. Consequently, the Council reserves the right to defer approval and/or payments, in line with the statutory framework. This is to ensure that budgets are managed effectively.
- 4.5 At the discretion of the Council's Assistant Director Housing & Communities or their authorised nominee, funds may be used for other schemes or forms of assistance which are consistent with the achievement of the outcomes sought by the Better Care Fund.

4.6 Subject to the financial resources being available, the following types of financial assistance may be provided under this Housing Assistance Policy:

- Mandatory disabled facilities grants
- Discretionary disabled facilities top-up grants
- Discretionary disabled persons resettlement grants
- Discretionary hospital discharge and palliative care grants
- Discretionary dementia friendly homes grants
- Discretionary special purpose grants
- Discretionary funding for partnership work and other services

4.7 The Care Act 2014 includes duties to provide equipment and adaptations, free of charge, where there is an assessed need. These duties are outside of the scope of this Private Sector Housing Assistance Policy.

## **5. Mandatory disabled facilities grants**

### **Purpose**

- 5.1 Mandatory disabled facilities grants are available to help with the cost of providing adaptations and facilities that enable a disabled person to continue living in their home.
- 5.2 The Council will award mandatory disabled facilities grants in accordance with the national legislation and guidance in force at the time. This determines, amongst other things: who is eligible, the maximum grant payable, the type of work that can be funded and the test of financial resources that must be applied to determine how much the applicant should contribute to the cost of the works.

### **Eligibility**

- 5.3 An applicant must either be the owner of the dwelling or be a tenant (this includes licensees) or occupier in the case of houseboats and be able to provide the Council with the necessary

'owner's certificate' or 'tenant's certificate'. This may not be the person for whom the works are required.

- 5.4 Occupiers of all types and tenures of residential properties – including park homes and houseboats – are eligible to apply, and eligibility extends to a range of licensees, including agricultural workers and service employees.
- 5.5 Applications for a grant in relation to a dwelling owned by a trust will be considered on a case by case basis and tenants of a Registered Provider or Housing Association should apply, in the first instance, to their Registered Provider or Social Landlord
- 5.6 In assessing whether an applicant is eligible for a disabled facility grant, the Council is required to consult with the Social Services Authority to determine whether the work is necessary and appropriate to meet the needs of the disabled occupant.

### **Determining whether works are necessary and appropriate**

- 5.7 The Council's Home Adaptations Team will consider all enquiries for DFG funded adaptations and ensure they are necessary and appropriate and reasonable and practicable
- 5.8 The presence of steps will be taken into consideration at an early stage and, in consultation with the applicant, a decision will be made on whether moving to alternative accommodation might be a better option. In these circumstances, a range of potential housing options will be discussed including signposting to internal and external partners as required.
- 5.9 The nature and extent of the works will be determined through an assessment of the client and their home environment by an Occupational Therapist, Trusted Assessor or other suitably qualified professional. The assessment will concentrate on the disabled person's ability to continue living safely and independently, or supporting their caring needs in their own home against their current and long term medical and functional needs and will distinguish between the works that are desirable and the works that are necessary and appropriate, reasonable and practicable
- 5.10 Where relocation to more suitable property is necessary, a discretionary disabled person's resettlement grant may be available (See Section 7, below).
- 5.11 In order to determine whether adaptations are necessary, appropriate, reasonable and practicable, and whether they are likely to meet the person's current and long-term needs, an assessment of the internal and external layout of the existing dwelling will be carried out.



- 5.12 Consideration may be given to the provision of additional sleeping and/or bathing by way of an extension to the existing dwelling where rearrangement of the existing home or moving to an alternative property are unreasonable.

### **Maximum grant payable**

- 5.13 For major works, the maximum amount of grant payable is £30,000. This figure is determined by central government and may be amended from time to time.
- 5.14 Where the eligible works, including the Home Adaptations Services fees (if its services have been used) exceed the maximum grant available, the applicant will need to secure any additional funding either themselves, seek an external funding source for example a charity or apply to the Council for a discretionary disabled facilities top-up grant (See Section 6, below).
- 5.15 The applicant should not commence the works until formal written approval has been received. Grant funds cannot be released retrospectively.

### **Amount of grant payable**

- 5.16 If the applicant is renting their home from a housing association or private landlord, the Council may be able to negotiate with the landlord to secure a contribution toward the cost of the necessary work.
- 5.17 If the work is arranged through the Council's Home Adaptations Service, the cost of the work along with any ancillary services will be assessed, and the contractors will be appointed in accordance with the Council's rules on procurement and tender awards. However, as the funding is provided to the applicant, the contract for the works remains between the applicant and the contractor.
- 5.18 If the applicant wishes to arrange the work themselves, the Council will fund up to the lowest quote received. The Council reserves the right to request further quotations from its own contractors to support this evaluation.
- 5.19 Payments will be made on approved grant schemes on completion of the works. Where works are considered by the Occupational Therapist's referral to be critical or urgent, an assessment can be based on the submission of two quotations. The Assistant Director Housing & Communities, or his delegated Officer as appropriate, may authorise works on a single quotation where further quotations cannot be reasonable obtained.
- 5.20 Where the applicant or a member of their family intends to carry out the work themselves rather than use the Home Adaptations Service or independent contractors, the mandatory

disabled facilities grant assistance will cover the reasonable cost of materials, subject to suitable invoices or receipts being provided. Labour costs will not be covered in these circumstances.

## **The means test**

- 5.21 Some applicants may be eligible for a mandatory disabled facility grant but are required to contribute toward the cost of work based on their financial circumstances. All applicants will be required to evidence their ability to access the necessary funds and provide signed documentation to agree to pay the contribution in the first instance before any grant funding will be released.
- 5.22 Applications for mandatory disabled facilities grants for adults will be subject to a financial means test to assess income and savings levels, using the national Financial Test of Resources. (See Appendix 3 for more details).
- 5.23 The means test will not apply to mandatory disabled facilities grant applications that relate to the needs of children and young people (see definition of 'children' in the Glossary in Appendix 5).
- 5.24 If the person who requires the mandatory disabled facilities grant is an adult and is in receipt of a 'qualifying benefit', they will be 'passport' through the means test and, as long as they are eligible for the grant, full grant funding of up to the maximum of £30,000 will be available to them without them needing to make a financial contribution.
- 5.25 More information on how the means test will be carried out, and the definition of 'qualifying benefits', is contained in Appendix 3.
- 5.26 Where applicants are not eligible for assistance or their financial circumstances mean that they are unable to meet any assessed contribution towards the cost of the works, the Council may be able to provide them with advice on how to access other sources of funding, such as charitable contributions, interest-only loans, etc.

## **Carrying out the works**

- 5.27 Applicants are encouraged to have the works supported by, and delivered through, the Home Adaptations Service. A fee is charged for this service and this will be included in the calculation of the mandatory disabled facilities grant award.
- 5.28 Where someone requires assistance to carry out adaptations that would enable them to meet the objectives of this Policy and they are not eligible for a grant or loan, the Home

Adaptations Service can help them to organise the work, as a private customer, for the Council's standard fees and charges which will be confirmed at the point of initial enquiry.

## **Works that are funded by the applicant**

5.29 Some applicants may wish to carry out works above and beyond those that can be grant funded. Alternative schemes are acceptable, but subject to the following conditions:

- The scheme must meet all the mobility needs that the grant would have met. To ensure that this happens, the plans must be agreed by the overseeing Occupational Therapist, Trusted Assessor or other suitably qualified professional.
- The grant will be based only on the works that West Northamptonshire Council has agreed are necessary and appropriate;
- The applicant will be responsible for any unforeseen works or items;
- No interim payments will be made, as it is not possible to assess the correct levels of interim payments, based on the work in progress; and
- Full and final payment of the grant will only be made when all the works relating to the alternative scheme have been completed and the Council is satisfied the completed works meet the disabled person's identified needs.

## **Repayment of the grant**

5.30 All grant approvals contain grant conditions that the applicant must be aware of and agree to before accepting the grant.

5.31 Following the award of a grant, a local land charge will be placed on the property for a period of 10 years to show that a grant has been provided in relation to that property.

5.32 If the mandatory disabled facilities grant awarded exceeds £5,000 and the property is sold within the grant condition period, a proportion of the grant funding will need to be repaid to the Council. The maximum amount the Council will recover is £10,000.

5.33 The requirement to repay all or part of the grant funding is at the discretion of the Assistant Director Housing & Communities, or his delegated Officer as appropriate, on a case by case basis in accordance with the presenting circumstances.

- 5.34 All grant conditions, including the repayment conditions, will be explained to the applicant in full during the application process. A grant will not be approved if the applicant has not signed to confirm that all the conditions have been read and understood. This applies throughout where the application is referred to.
- 5.35 Further information is included in the Housing Grants, Construction and Regeneration Act 1996: Disabled Facilities Grant (Conditions relating to approval or payment of Grant) General Consent 2008.

## **Future applications**

- 5.36 Where an applicant is assessed as being required to make a financial contribution to the cost of work and their circumstances change necessitating in a further application, the previous assessed contribution will be considered within future means tests.

## **Smaller adaptations**

- 5.37 Some minor adaptations, often costing less than £1,000, may be supported directly by Adult or Children's Social Service. Those that are eligible for a mandatory disabled facilities grant may be offered as discretionary special purpose grants if the Council is satisfied that funding it in this way will significantly speed up the process improve the outcome for the applicant and reduce the risk of further deterioration in their health and well-being. (See Section 10, below).
- 5.38 In such a situation, the Council will explore the options with the applicant and, if this option is pursued, it will not affect their right to apply for a disabled facility grant.

## **6. Discretionary disabled facilities top-up grants**

### **Purpose**

- 6.1 Discretionary disabled facilities top-up grants are available to help with the cost of home adaptations and disabled facilities (to enable a disabled person to continue living in their home) where the cost of the works agreed through a mandatory disabled facilities grant application exceeds the mandatory maximum grant limit (currently £30,000).

### **Eligibility**

- 6.2 Discretionary disabled facilities top-up grants are available to those applicants who have an owner's interest in their home and have been assessed as being eligible for a mandatory disabled facility grant.
- 6.3 As the top-up grant is discretionary, the decision on whether it is awarded will depend on the individual's needs and the financial resources available.
- 6.4 Discretionary disabled facilities top-up grants may be considered, however, where:
- The option to move to more suitable accommodation has been explored fully but found not to be feasible; and
  - Having taken all reasonable steps, funding cannot be found from any other sources; and
  - Not carrying out the works would mean that:
    - a) the applicant would be unable to continue living in the community; or
    - b) the applicant or their carer would be at significant risk; or
    - c) the opportunity to achieve significant savings in other areas of public provision (including health, social care and education) would be lost.

### **Maximum grant payable**

- 6.5 The maximum amount payable for a discretionary disabled facilities top-up grant is £15,000, including the Home Adaptations Team's fees if its services have been used.

### **Amount of grant payable**

- 6.6 Applications for discretionary disabled facilities top-up grants for adults will be subject to a means test to assess income and capital using the national Financial Test of Resources. (See Appendix 3 for more details).
- 6.7 Where an application for a discretionary disabled facilities top-up grant is being made to meet the needs of children or young people (see definition of 'children' in the Glossary in Appendix 5), the Council will not apply the Financial Test of Resources, to either the children or their parent(s) or legal guardian. Instead, the Council will look at each family's financial circumstances (including, for example, any rent, mortgage and childcare costs they incur) into account when considering the request for a discretionary disabled facilities top-up grant.

## **Carrying out the works**

- 6.8 The Council expects all discretionary work to be managed through the Home Adaptations Team.

## **Repayment of the grant**

- 6.9 All grant approvals contain grant conditions that the applicant must be aware of and agree to before accepting the grant.
- 6.10 Following the award of a discretionary disabled facilities top-up grant – a local land charge will be placed on the property throughout the grant condition period (currently ten years) to show that a grant has been provided in relation to that property.
- 6.11 If the property is disposed of within the grant condition period (currently ten years) of the grant-assisted works being completed, the grant will be required to be repaid in full.
- 6.12 The requirement to repay all or part of the grant funding can be waived, at the discretion of the Assistant Director Housing & Communities, if this is requested by the applicant or homeowner and there are good grounds for waiving repayment.
- 6.13 All grant conditions, including the repayment conditions, will be explained to the applicant fully during the application process. A grant will not be approved if the applicant has not signed to confirm all the conditions have been read and understood.

## **Future applications**

- 6.14 Where a discretionary disabled facilities top-up grant has already been awarded to a disabled person, a future application will only be considered for the same person in very exceptional circumstances.

## **7. Discretionary disabled persons resettlement grants**

### **Purpose**

- 7.1 Discretionary disabled persons resettlement grants are available to help disabled people who are eligible for a mandatory disabled facilities grant to move to another, more suitable home

and, in doing so, provide a better, more cost effective solution than if they had remained in their existing home and it was adapted to meet their assessed needs.

## **Eligibility**

7.2 Applications for a discretionary disabled persons resettlement grant can be considered from home owners and tenants of private landlords, registered providers and housing associations who are residents of West Northamptonshire and have identified a more suitable property to meet their current and long term needs and meet at least one of the following criteria:

- a) The disabled person is eligible for a mandatory disabled facility grant, but resettlement offers a more cost-effective option, considering the cost of adapting the person's existing home and level of funding required in order to adapt the property in order to meet their needs; or
- b) It is not reasonable or practicable to adapt the existing home or permission from the landlord has been refused, or
- c) Resettlement of the disabled person is likely to result in savings to the wider public purse and/or the person, resolving issues which are proven to impact adversely on their health and wellbeing.

7.3 Tenants of a Registered Provider, in this situation should approach their landlord requesting a transfer to a more suitable home.

7.4 In each case, West Northamptonshire Council expect any suitable alternative property to have been identified before a formal application for a resettlement grant is submitted. The Council must also be satisfied that the property into which the disabled person is planning to move, more closely meets their needs (and their family's needs, where appropriate) than their existing home.

7.5 Applications for discretionary disabled person's resettlement grants will not be approved retrospectively and only be considered if they are received before the person has relocated. A representative of the Council may visit the property prior to resettlement and make any enquiries they deem necessary in order to assure themselves that it is suitable and will meet the current and long-term needs of the disabled person.

## **Maximum grant payable**

7.6 The maximum discretionary disabled persons resettlement grant payable is £10,000.

## **Amount of grant payable**

7.7 The discretionary disabled person's resettlement grant is designed to help with the reasonable costs of moving to a more appropriate property.

7.8 Although the resettlement grant will not cover the cost of adapting the disabled person's new home, it can cover the following:

- Removal expenses
- Estate agent fees
- Legal fees
- Other resettlement expenses that are reasonably incurred.

7.9 As the disabled persons resettlement grants are discretionary, applications will be determined based on a comprehensive assessment of the individual's needs and the financial resources that are available. Details on how discretionary cases may be prioritised is shown in Paragraph 13.3.

## **The means test**

7.10 Applications for disabled person's resettlement grants will not be means tested.

## **Repayment of the grant**

7.11 The grant will only be repayable if the payment is made before the disabled person moves and, subsequently, the planned move does not take place.

## **Future applications**



- 7.12 If the applicant receives a disabled persons resettlement grant and then applies for a subsequent grant to move again, the Council will only consider that application if the disabled person's needs have changed significantly since moving into the property for which the original grant was given and is now deemed to be an unsuitable home. This will be at the Council's discretion.

## **8. Discretionary hospital discharge grants**

### **Purpose**

- 8.1 Discretionary hospital discharge grants are available to help disabled people to pay for minor works that will enable them to be discharged, quickly and safely, from hospital to their home.

### **Eligibility**

- 8.2 Applications for a discretionary hospital discharge grant can be considered from homeowners and tenants of private landlords, registered providers and housing associations who are living in West Northamptonshire and are disabled.

### **Maximum grant payable**

- 8.3 The maximum discretionary hospital discharge grant payable will be £10,000, including the Home Adaptations Service's fees where its services have been used.

### **Amount of grant payable**

- 8.4 The discretionary hospital discharge grant can be used to meet the cost of any assessed works that support the applicant's discharge from hospital. This includes minor works such as:
- The urgent provision of ramps, stairlifts and level access showers to support hospital discharge,
  - Urgent home improvement works
  - Equipment (internal rails, for example)
  - The removal of any hazards, including the cleaning or decluttering of the property to ensure that the accommodation is suitable

- Heating systems improvements or the provision of emergency heating

### **The means test**

- 8.5 Applications for discretionary hospital discharge grants will not be means tested.

### **Carrying out of works**

- 8.6 The Council expects all discretionary work to be managed through the Home Adaptations Team

### **Repayment of the grant**

- 8.7 There are no repayment conditions attached to the hospital discharge grant.

### **Future applications**

- 8.8 Unless there are exceptional circumstances, fresh applications for discretionary hospital discharge grants will not normally be considered from the applicant within three years of the works being completed in relation to their previous award.

- 8.9 An exception may be made, however, if refusal of the hospital discharge grant will result in a significant health impact or the delayed transfer of care.

## **9. Discretionary palliative care grants**

### **Purpose**

- 9.1 Discretionary palliative care grants are available to help people undergoing palliative end of life care to pay for minor works that will enable them to be accommodated at home, or near their family.

## **Eligibility**

- 9.2 Applications for a palliative care grant can be considered from homeowners and tenants of private landlords, registered providers and housing associations who are living in West Northamptonshire and are medically determined as needing palliative care.

## **Maximum grant payable**

- 9.3 The maximum palliative care grant payable will be £10,000, including the Home Adaptations Service's fees where its services have been used.

## **Amount of grant payable**

- 9.4 The discretionary palliative care grant can be used to meet the cost of any assessed works that support the applicant's palliative care needs and wishes to return home, or to the home of immediate family. This includes minor works such as:

- The urgent provision of ramps, widened access and internal adjustments to support the palliative care needs,
- Equipment (internal rails, for example)
- The removal of any hazards, including the cleaning or decluttering of the property to ensure that the accommodation is suitable
- Heating systems improvements or the provision of emergency heating

## **The means test**

- 9.5 Applications for discretionary palliative care grants will not be means tested.

## **Carrying out of works**

- 9.6 The Council expects all discretionary work to be managed through the Home Adaptations Team

## **Repayment of the grant**

- 9.7 There are no repayment conditions attached to the palliative care grant.

## **Future applications**

- 9.8 Unless there are exceptional circumstances, fresh applications for discretionary palliative care grants will not normally be considered from the applicant within three years of the works being completed in relation to their previous award.
- 9.9 An exception may be made, however, if refusal of the palliative care grant will result in a significant health impact.

## **10. Discretionary dementia friendly, or other long-term cognitive impairment grant**

### **Purpose**

- 10.1 Discretionary dementia friendly, or other long term cognitive impairment grants are available to help people who have been diagnosed with dementia or cognitive impairment to pay for minor works and adaptations to their home in order to improve their independence and create a safe environment for their continued health and wellbeing.

### **Eligibility**

- 10.2 Applications for a discretionary dementia friendly homes grant can be considered from homeowners, tenants of private landlords and, tenants of registered providers / housing associations who have been diagnosed with dementia. Diagnosis needs to be supported by a statement from a medical practitioner or other dementia specialist, and funding will be considered in line with the applicants approved care plan from Adult or Children's Social Services.

### **Maximum grant payable**

- 10.3 The maximum discretionary dementia friendly homes grant will be £5,000, including the Home Adaptations Service fees where the services have been used.

## **Amount of grant payable**

10.4 The discretionary dementia friendly homes grant can be used to meet the cost of any minor works and adaptations to the person's home that will assist with maintaining their independence and creating a safe environment for them or their carers. This may include, for example:

- Door intercom and door entry systems
- Assistive and non-assistive technology
- Telecare monitoring systems and support

## **The means test**

10.5 Applications for discretionary dementia friendly homes grants will not be means tested.

## **Carrying out of works**

10.6 The Council expects all discretionary work to be managed through the Home Adaptations Team

## **Repayment of the grant**

10.7 There are no repayment conditions attached to the dementia friendly homes grant

## **Future applications**

10.8 Unless there are exceptional circumstances, fresh applications for discretionary dementia friendly homes grants will not normally be considered from the applicant within three years of the works being completed in relation to their previous award.

10.9 An exception may be made, however, if refusal of the dementia friendly homes grant will result in a significant health impact or the delayed transfer of care.

## 11. Discretionary special purpose grants

### Purpose

- 11.1 Discretionary special purpose grants are available to help people to pay for repairs, or other minor works or interventions in the home, which the Council is satisfied are reasonable and practicable and will help to meet one or more of the Policy's objectives.

### Eligibility

- 11.2 Applications for a discretionary special purpose grant can be considered from people who are living in West Northamptonshire, and are living in the property for which they are seeking a grant and are home owners, tenants of private landlords or, in certain circumstances, are tenants of registered providers / housing associations.
- 11.3 Unless the special purpose grant relates to home adaptations or the provision of disabled facilities, applicants will normally be required to have resided in the property for at least two years prior to the date of application.
- 11.4 Applications from tenants will normally only be considered for work which is not the responsibility of the landlord.

### Maximum grant payable

- 11.5 The maximum discretionary special purpose grant will be £10,000 per household, including the Home Adaptations Team's fees where its services have been used.

### Amount of grant payable

- 11.6 A discretionary special purpose grant will not normally be offered for interventions which are readily available through other services, such as Millbrook, or local Care and Repair Services; or where work is covered under a warranty.
- 11.7 The grant may not be used, either, to pay for repairs to disability equipment, such as stairlifts and ceiling track hoists, because any ongoing maintenance that is not covered by the warranty will generally be the responsibility of the owner.
- 11.8 Examples of the types of work that can be funded by the grant include the following:

- Work (such as damp treatment or the installation of new electrical wiring) that is not eligible for a mandatory disabled facility grant but needs to be carried out to enable the disabled facilities work to proceed;
- Works that are not eligible for a mandatory disabled facility grant but will help prevent people from being admitted to hospital or residential care, speed up transfers of care, and/or save money elsewhere in the health, social care and/or education system;
- Home adaptations which would normally be funded through a mandatory disabled facility grant, but the Council is satisfied that funding it through a discretionary special purpose grant will significantly speed up the process and improve the outcome for the applicant. (The Council will also need to be satisfied that the circumstances are so exceptional that waiving the mandatory disabled facilities process is justified);
- Any other request deemed by the council to be reasonable & practicable, and necessary & appropriate to meet the objectives of the Policy.

### **The means test**

- 11.9 Some applicants may be eligible for a discretionary special purpose grant but are required to make a financial contribution, based on their financial circumstances.
- 11.10 Applications for discretionary special purpose grants for adults will normally be subject to a means test to assess income and capital using the national Financial Test of Resources. (See Appendix 3 for more details).
- 11.11 If the person who requires the discretionary special purpose grant is an adult and is in receipt of a 'qualifying benefit', they will be 'passported' through the means test and, as long as they are eligible for the grant, full grant funding of up to the maximum of £10,000 will be available to them without them making a financial contribution.

11.12 More detail on how the means test will be carried out, and the definition of 'qualifying benefits', is contained in Appendix 3.

11.13 Where applicants are not eligible for assistance or their financial circumstances mean that they will need to make a contribution to the cost of the works, the Council can provide them with advice on how to access other sources of funding, such as charitable contributions, interest-only loans, etc.

### **Carrying out of works**

11.14 The Council expects all discretionary work to be managed through the Home Adaptations Team

### **Repayment of the grant**

11.15 Where a discretionary special purpose grant is awarded, a local land charge will be registered against the property in order to secure the grant. The grant will be required to be repaid, in line with the Council's repayment conditions, if the property is disposed of within 10 years of completion of the works.

11.16 The Council's decision to demand repayment all or part of the grant is at the discretion of the Assistant Director Housing & Communities, and only if there proven exceptional grounds for waiving repayment. The Council will make any enquiries it deems necessary in order to reach a decision.

11.17 All grant conditions including the repayment conditions will be explained to the applicant fully during the application process. A grant will not be approved if the applicant has not signed to state that all the conditions have been read and understood.

### **Future applications**

11.18 Unless there are exceptional circumstances, fresh applications for discretionary special purpose grants will not normally be considered from the applicant or their household within three years of the works being completed in relation to their previous award.

11.19 An exception may be made, however, if refusal of the special purpose grant will result in a significant health impact or the delayed transfer of care. The Council will make any enquiries it deems necessary in order to reach a decision.



## 12. Discretionary funding of partnership work and other services

- 12.1 This Housing Assistance Policy allows for West Northamptonshire Council's Disabled Facilities Grant funding allocation from the Government's Better Care Fund to be made available to contribute to wider partnership projects or other services where it can be clearly demonstrated that they would be beneficial to help meet the objectives of this Policy.

## 13. Access to the service

### How to apply for housing assistance and who to contact for information

- 13.1 The Council is still undertaking a programme of transformation following Local Government Reorganisation on 1<sup>st</sup> April 2021. For the time being, contacts should be made based on the previous District Council boundaries as provided below:

- 13.2 For the Daventry locality teams

Housing Options

Housing and Communities Directorate

West Northamptonshire Council

Lodge Road

Daventry

Northamptonshire

NN11 4FP

Tel: 0300 126 7000

Email [homeadaptations.DDC@westnorthants.gov.uk](mailto:homeadaptations.DDC@westnorthants.gov.uk)

- 13.3 For the Northampton locality teams

Home Adaptations Service

Housing and Communities Directorate

West Northamptonshire Council  
The Guildhall  
St Giles Square  
Northampton  
NN1 1DE

Tel: 0300 126 7000

Email: [homeadaptations.NBC@westnorthants.gov.uk](mailto:homeadaptations.NBC@westnorthants.gov.uk)

13.4 For the South Northamptonshire locality teams

Private Sector Housing  
Housing and Communities Directorate  
West Northamptonshire Council  
The Forum  
Moat Lane  
Towcester  
Northamptonshire  
NN12 6AD

Tel: 0300 126 7000

Email: [pshousing.snc@westnorthants.gov.uk](mailto:pshousing.snc@westnorthants.gov.uk)

**Valid applications**

13.5 For an application to be valid, it must be in writing, and the applicant must provide the Council with all the information it requires. Amongst other things, this may include:

- Details of why the work is needed
- Details of the relevant works
- Estimates of the cost of the works

- Any financial information that is required to enable a financial assessment (the means test) to be carried out, including documentary evidence to support any benefits entitlements
- Written documentation evidencing a legal interest in the property, and that the occupant on behalf of whom the application is made intends to live there as their only or main residence throughout the grant/loan condition period.
- If the application is for a property that is held in trust or is occupied under another licence (as in the case of agricultural workers) it will be for the Council to determine (at its discretion) the appropriateness or otherwise of requiring sight of the written documentation.
- For works to be carried out for the benefit of a tenant, a statement of consent to the works signed by the person who at the time of the application is the landlord under the tenancy.
- Any other information the Council determines is relevant to make an informed decision on the application.

13.6 Exactly what information is required in each case will depend on the type of financial assistance being applied for and the individual circumstances of the applicant. More information is available on request.

13.7 Where the applicant is using the services of the council, the Home Adaptations Service can help with completing the application.

13.8 Further information on the types of legal interest and occupancy documentation required is contained in Appendix 4.

### **Details of the fees charged**

13.9 The Housing Renewal Grants (Service and Charges) Order 1996, details and amends the Housing Grants, Construction and Regeneration Act 1996 in establishing the costs that can be legitimately applied to the capital funding under the Better Care Fund.

13.10 These costs include a range of service charges, such as assistance in the completion of forms, the preparation of plans and drawings, technical and structural surveys, and the supervision of the relevant works.

- 13.11 It is at the discretion of the Council to determine the level of professional fees that are deemed reasonable and can be included in the calculation of financial assistance. Where an applicant uses the Home Adaptations Service then the Council will generally include the fees in the calculation of financial assistance.
- 13.12 The fees charged may vary from time to time, and applicants will be advised of the current rate when they instruct the Home Adaptations Service to act for them. The team's fees are subject to VAT. A fee, currently 15% of the final value of the adaptation works for this service will be included in the grant award.

### **Terms and conditions**

- 13.13 Information on grant/loan conditions are available from the Council. These conditions remain in force throughout the relevant grant/loan condition period.
- 13.14 Specific conditions will relate to any requirements on the repayment of the grant.
- 13.15 In making an application for financial assistance, the applicant agrees to the terms and conditions attached to the provision of that assistance.

## **14. Additional information**

### **How the funding is prioritised**

- 14.1 Although this Policy is designed to encourage flexible use of West Northamptonshire's disabled facilities grant allocation from the Better Care Fund, mandatory disabled facilities grants will generally need to be given priority over discretionary assistance when there is not enough funding available to meet demand.
- 14.2 Where the Council considers there will be sufficient funding to provide discretionary assistance on top of mandatory disabled facilities grants, applications for discretionary assistance will be dealt with on a first come, first served basis while there is on the condition that , so long as sufficient funding remains available.
- 14.3 If several applications are being considered at one time, mandatory disabled facilities grants will be prioritised ahead of the discretionary assistance and the applications for discretionary assistance will generally be prioritised in the following order:
- 1) Special purpose grants for applicants who would be eligible for a mandatory disabled facility grant but need to complete the works quickly;

- 2) Works (such as damp treatment or the installation of new electrical wiring) that are not eligible for a mandatory disabled facility grant but need to be carried out to enable the disabled facilities work to proceed;
- 3) Disabled persons resettlement grants;
- 4) Disabled facilities top-up grants;
- 5) Dementia
- 6) Other special purpose grants; and
- 7) Discretionary partnership projects and/or other services.

14.4 The Council reserves the right to amend this priority ordering if the need arises. It may do this, for example, where changes in legislation enable or require it to do so or, additional funding becomes available but needs to be spent in a particular way.

14.5 When considering whether to provide financial assistance for other purposes (in addition to mandatory disabled facilities grants) and what priority should be given to each purpose, the Council will consider the following:

- a) The extent to which providing assistance will meet the objectives of this Housing Assistance Policy;
- b) Whether or not the need for assistance is considered serious and urgent, both in its own right and relative to any other current applications and enquiries for assistance that the Council is considering;
- c) Whether or not the work to which the application relates is considered serious and urgent both in its own right and relative to the general state of repair of homes in West Northamptonshire
- d) The extent to which the applicant can resolve the problem and/or pay for the work themselves; and
- e) Any other circumstances which may be relevant at the time.

## **Approval of applications and the payment of grant**

- 14.6 Before approving an application, the Council will need to be satisfied that the application is complete and that it accurately reflects the applicant's circumstances. It will also need to be satisfied that the applicant clearly understands and accepts the conditions of any financial assistance being provided.
- 14.7 Where the financial assistance is being provided to pay for work that is to be carried out:
- The Council must be satisfied that the cost of the works is reasonable and that all the appropriate notifications and/or permissions have been obtained, such as Building Regulations, Planning Permission etc.
  - If the applicant is arranging the work themselves, they should not make any arrangements for the work to start until they have received the grant/loan approval in writing from the Council.
  - If the applicant is carrying out the work themselves, they must notify the Council when the work is completed. A Council representative may need to visit the property to inspect the works before arranging payment. No payment will be made until the relevant work is completed to the Council's satisfaction. The applicant will be responsible for ensuring that any defects are remedied.
  - Unless otherwise specified, payment will be made direct to the contractor.
  - Where the approved work has not been carried out to the satisfaction of the applicant, the Council may withhold payment if the applicant requests this and the request is considered reasonable.
- 14.8 Other than in exceptional circumstances it is expected that works will be completed within 12 months of the grant/loan being approved.
- 14.9 Further conditions may apply to the payment of any financial assistance under this Policy. Applicants will need to formally agree to these conditions before any application can be approved. Full details are available from the Council.

## **Maintenance of equipment**

- 14.10 On completion of the grant works, any ongoing maintenance or guarantees become the responsibility of the grant recipient. Any equipment that is provided through the grant will be covered by the standard warranty and, when the warranty period expires, all maintenance and repairs will become the responsibility of the applicant.
- 14.11 When determining the grant award, the Council will have regard to the funding of additional periods of warranty. However, this will only be considered prior to completion of any works. The applicant can extend the manufacturer's warranty at their expense.

### **Local authority decision-making and appeals**

- 14.12 All applications for assistance contained within this Policy are subject to the local authority's decision-making processes.
- 14.13 If an applicant wishes to appeal against a decision under this Policy, they should contact:

Assistant Director of Housing and Communities

Housing and Communities Directorate

West Northamptonshire Council

One Angel Square

Angel Street

Northampton

NN1 1ED

Tel: 0300 126 7000

- 14.14 The Manager will advise the applicant of how their appeal will be dealt with.
- 14.15 The Assistant Director Housing & Communities has the authority to make exceptions to the Housing Assistance Policy, based on the merits and circumstances of each case, in exceptional circumstances, and each case will be considered on its merits.

### **Equalities**

14.16 The public sector equality duty under the Equality Act 2010 requires public bodies, in exercising their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

14.17 The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

### **Safeguarding**

14.18 There are national requirements for safeguarding and protecting people at risk of abuse or neglect. The Council is committed to safeguarding and promoting the welfare of children and adults who may be at risk, and their policies and processes reflect the direction of West Northamptonshire Council or Children's Trust in relation to safeguarding. All key staff are trained in safeguarding issues.

### **Complaints, compliments and comments**

14.19 Customer care is of utmost importance. Staff are trained in their area of work and most are experienced at supporting disabled and vulnerable people. Contractors are required to act in accordance with a code of conduct, and health and safety is taken seriously.

14.20 Unfortunately, sometimes things do go wrong. Customers who wish to make a complaint should speak, in the first instance, to the Private Sector Housing Manager who will explain how to make a complaint and to whom it should be addressed,

### **Recourse to public funds**

14.21 Assistance will not be available to individuals who have no National Insurance number or recourse to public funds. Further details are available from the government's website.



## **VAT on works**

- 14.22 The cost of carrying out works for the benefit of a disabled person through a disabled facilities grant are normally exempt from Value Added Tax (VAT) if the applicant signs a certificate for the contractor / supplier confirming that the works are for a disabled person for their own domestic use. It is the responsibility of the contractor to arrange for the VAT exemption form to be completed and signed

## **Review of the Private Sector Housing Assistance Policy**

- 14.23 This Policy will be implemented from 1 April 2021, and will be reviewed at least every five years, or earlier if any changes to legislation or guidance required.

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## APPENDIX 1 - Legislative Framework

### **Housing Grants, Construction and Regeneration Act 1996**

This legislation provides requirements for grants within private sector housing such as HMO grants, common parts grant and renovation grants along with group repair schemes, home repair assistance and deferred action notices. All the grants listed in this legislation are discretionary except for Disabled Facilities Grants (DFGs), which are mandatory.

DFGs are provided to adapt a person's home to ensure that they can live independently, to enable them to use their bathroom and kitchen as well as getting in and out and around the property. The amount of grant required depends on the needs of the person living in the property; the needs are assessed by the occupational therapist following a means test of resources to determine if they are eligible for a grant. Grants are provided for any disabled person, but they must have first been assessed and deemed in need. Typical works under the DFGs include stair lifts and hoists, level access showers to full ground floor extensions.

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

The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 became law on 18 July 2002. The Order gives local authorities greater discretionary powers to provide assistance to private homeowners in the form of low-cost loans and equity release as well as grants to help them to renovate, repair or adapt their home. The Order also enables authorities to provide other sorts of assistance, for example helping someone move to more suitable accommodation where this is a better option than repairing or adapting their existing home.

Local authorities have the flexibility to determine eligibility criteria, whether to perform a means test and the type of assistance available (e.g. grant, loan advice, works). Use of this new power is subject to the authority formulating and publishing a policy setting out how it intends to use the new power to give assistance. Mandatory Disabled Facilities Grants are outside the scope of the new reforms, but the Order does extend eligibility to those living in park homes and houseboats.

### **The Housing Renewal Grants (Amendment) (England) Regulations 2008, Disabled Facilities Grant (Conditions relating to approval or payment of Grant) General Consent 2008**

In May 2008, this legislation amended previous legislation enabling councils to apply conditions to grant approvals to protect their position and recover grant monies in excess of £5,000 paid to applicants with an owner's interest up to a maximum repayment of £10,000.

Grant conditions will now be applied to all DFG approvals, enabling the Council to recover a proportion of grant monies paid to owner occupiers. These grant conditions last for 10 years and are registered with the Land Charges Team.

### **Care Act 2014**

The Care Act 2014 focuses on prevention.

Guidance states “Local authorities must provide or arrange services, resources or facilities that maximise independence for those already with such needs, for example interventions such as rehabilitation/reablement services, e.g. community equipment services and adaptations.” The guidance goes on to state “Integrated services built around an individual’s needs are often best met within the home. The suitability of living accommodation is a core component of an individual’s wellbeing and when developing integrated services, local authorities should consider the central role of housing within integration.”

The Public Health Outcomes Framework “Healthy Lives, Healthy People: Improving Outcomes and Supporting Transparency” (Dept of Health, 2013) sets out desired outcomes for public health and how they will be measured. Many of the outcomes have links to housing including prevention of falls and injuries in over 65s, Fuel Poverty and Excess Winter Deaths.

## APPENDIX 2 - Mandatory Disabled Facilities Grants - Further Information

The provisions governing mandatory disabled facilities grants are set out in the Housing Grants, Construction and Regeneration Act 1996, as amended by the Regulatory Reform (Housing Assistance) (England & Wales) Order 2002.

The following summarises the purposes for which disabled facilities grants can be given:

### a) 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. Such works may include:

- Ramps
- Handrails
- Widening of internal and external doors
- Creating manoeuvring space for wheelchairs
- Stairlifts to common stairs
- Widening of steps
- Modification of steps
- Provision of access to the garden

### b) Making a dwelling or building safe

Adaptations to the dwelling or building to make it safe for the disabled person and other persons residing with them. Such works may include:

- Toughened or shatterproof glass

- Fixed fire and radiator guards
- Fixed stair and access guards
- Protective wall coverings
- Alarm systems

c) Room usable for sleeping

The provision of a room usable for sleeping should only be undertaken if the council is satisfied that the adaptation of an existing room in the dwelling (upstairs or downstairs) or the access to that room is unsuitable in the particular circumstances. Such works may include:

- Through floor lifts
- Stairlifts
- Handrails
- Creating manoeuvring space for wheelchairs
- Widening internal doors
- Hoists

d) Bathroom

A disabled person should have access to a wash hand basin, a WC and a shower or bath. Such works may include:

- Through floor lifts and stairlifts
- Replacement of bath with shower or provision of an over bath shower, or wetroom to replace the existing bath with shower provision
- Downstairs WC/Bath/Shower/wash basin

- Thermostatic controls for showers
- Raising of toilet pedestal
- Hoists and other fixed bathing aids
- Bath lifts

e) Facilitating preparation and cooking of food

A wide range of works are available to enable a disabled person to cater independently. Such works will include:

- Modification of work units
- Alteration of kitchen for wheelchair use
- Enlargement of a kitchen
- Alterations to gas, electric and plumbing installations
- Purposely designed cooker

f) Heating, lighting and power

The improvement of an existing heating system in the dwelling to meet the disabled occupant's needs. Where there is no heating system or where the existing heating arrangements are unsuitable to meet his needs, a heating system may be provided. Such works will include:

- Replacement of coal fire with gas fire
- Provision of central heating for those parts of the accommodation normally used by the disabled person
- Where extra rooms are provided and the existing boiler cannot cope with the extra demand, separate local heating for the extension

- Relocation of power sockets and switches
- Electric radiators

g) Dependent residents

Works to a dwelling required to enable a disabled occupant better access and movement around the dwelling in order to care for another person who normally resides there whether or not they are related to the disabled person.

h) Access to garden

Works for facilitating access to and from a garden by a disabled occupant or making access to a garden safe for a disabled occupant.

Further details are available, on request, from the Council.

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## APPENDIX 3 - Financial Test of Resources (Means Testing)

Where required under this Policy, a test of resources will be carried out in order to determine what amount, if any, the applicant must contribute to cost of the works. If the applicant is not in receipt of a 'passporting benefit' they will need to provide details of income and capital.

'Passporting benefits' are:

- Working Tax or Child Tax Credits (calculated on earnings of less than £15,050 per annum)
- Universal Credit
- Housing Benefit
- Income Support
- Income-based Job Seekers Allowance
- Income based Employment Support Allowance (Not Contribution based)
- Guarantee Pension Credit

For those in receipt of one or more of the 'passporting benefits' or any equivalent or successor benefits at the time of the application, there will be a 'NIL' contribution.

For those who are not in receipt of one or more of the 'passporting benefits' listed above, a full means test will be carried out under the national Test of Resources in accordance with the Housing Renewal Grants Regulations 1996 (as amended) or any future legislation that replaces it. This means test will calculate the applicant's contribution and assess how much assistance may be given up to the maximum eligible expenses limit.

### Test of Resources

Where an application is subject to a financial assessment, there are four principal stages within the means testing process:



Stage	Description
Stage 1: Calculation of household income requirement	This is referred to as 'allowable income' and is calculated using a set of standard allowances for living costs using basic amounts of income support/pension credit and a flat rate allowance for housing costs. These figures are set by Central Government.
Stage 2: Assessment of actual household income	The actual income of the applicant's household income is then established. A 'tariff' income is then added in order to take into account any savings over £6,000. If the household is already in receipt of any means tested benefits, they are automatically 'passported' through and awarded a 100 per cent grant, even if they have some small surplus income according to this calculation.
Stage 3: Affordability of a loan	For those applicants not in receipt of a means tested benefit, a calculation is undertaken to establish whether the household has sufficient 'surplus' household income to be able to afford a loan to fund the agreed adaptations and any associated fees. The calculations assume a loan

	period of 10 years for owner-occupiers and 5 years for tenants at a standard rate of interest and incorporate 'tapers' (see above).
Stage 4: Calculation of grant value	The final stage of the process is to compare the agreed cost of the adaptations and any associated fees and the ability (or otherwise) of the household to finance these via a loan. If the calculated loan amount is the same or greater than the cost of the adaptations and fees, the applicant is not eligible for financial assistance. If the loan amount is less than the cost of the adaptations and fees, the amount of grant that is awarded will be the difference between the total cost of the works (including any fees) and the size of the loan.

#### Notes

- The means test does not apply where an application for a grant is made by the parent or guardian of a disabled child (who is up to, and including, 16 years of age) or a young person (who is in full time education and under 19 years of age).
- The cost of the works/adaptations is obtained from the agreed quotations/costs for the eligible work plus any reasonable ancillary costs or expenses incurred solely as a part of the application. These can include, but are not limited to:
  - Agency Service fees
  - Architect or surveyor's fees
  - Solicitor's fees

If a contribution is required from the relevant person, this must be deducted from the amount of grant which would otherwise have been paid. For example, if the cost of the works exceeds the maximum £30,000 limit the grant will be £30,000 less the contribution. If the cost of the works is less than the £30,000, the grant will be the agreed cost of the works less the contribution.

#### Successive Applications

Where a previous application has been approved for the same applicant(s), any financial contribution required at that time can be considered for subsequent applications, where they are agreed, providing the new application is made within five years (for a tenant) or ten years (for an owner occupier) from the previous application(s) where works were completed and the grant paid.

The applicant's contribution will be taken into account within any new application and a reduction will be calculated.

For example, where an applicant made a £5,000 contribution to a previous DFG and the test of resources for the subsequent DFG shows the contribution to be £8,000, this amount would be reduced to £3,000 due to the applicant's previous contribution.

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## APPENDIX 4 - Documentation regarding occupancy

The documentation that is required to demonstrate a legal interest in the property and the intention to remain in the property is as follows:

### a) Owner-Occupiers

An owner's certificate which certifies that the applicant has or proposes to acquire an owner's interest in the dwelling, and that the applicant intends that the person requiring financial assistance will live in the dwelling as their only or main residence throughout the relevant grant/loan condition period, or for such shorter period as their health and other relevant circumstances permit. The Council retains the discretion to demand repayment of the grant or loan if this condition is breached.

### b) Tenants

A tenant's certificate which certifies that the person requiring financial assistance is a tenant, and that they intend that the occupant for whom the assistance is being sought will live in the dwelling as their only or main residence throughout the relevant grant/loan condition period, or for such shorter period as their health and other relevant circumstances permit.

The Council retains the discretion to demand repayment of the grant or loan if this condition is breached. It will be at the Council's discretion whether an application should also be accompanied by an owner's certificate from the landlord.

### c) Occupiers (in relation to houseboats and park homes)

An occupier's certificate that states the applicant intends that the occupant for whom assistance is being sought will live in the qualifying houseboat or park home as their only or main residence throughout the relevant grant/loan condition period or for such shorter period as their health and other relevant circumstances permit. The Council retains the discretion to demand repayment of the financial assistance if this condition is breached. A consent certificate must also accompany an occupier's application, from each person with an interest in the land or mooring, or in the park home site or boatyard itself.

If none of the above certificates are appropriate to the applicant's situation then signed documentation shall be provided by either the owner or the occupier to confirm the intention for future occupation of the property by the person for whom financial assistance is being sought.

### d) Availability for letting

In a case where a certificate of intended letting accompanies the application:

- It is a condition of any financial assistance under this Policy that, throughout the relevant grant/loan condition period the dwelling will be let or available for letting to the applicant as

a residence. Being available as a holiday letting will not satisfy compliance with this requirement.

- It is also a condition of the financial assistance that the Council, may, by written notice require the owner to provide, within 21 days of that notice, a statement showing how the property is occupied and by whom.

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## APPENDIX 5 - Glossary

TERM	DEFINITION
Assistance	Any form of financial assistance approved under this Policy
Better Care Fund	<p>The Better Care Fund (BCF) is a programme spanning both the NHS and local government which seeks to join-up health and care services, so that people can manage their own health and wellbeing and live independently in their communities for as long as possible.</p> <p>The BCF has been created to improve the lives of some of the most vulnerable people in our society, placing them at the centre of their care and support, and providing them integrated health and social care services, resulting in an improved experience and better quality of life.</p>
Category 1 Hazards	Hazards in the home as assessed as ‘serious’ through the Housing Health & Safety Rating System.
Children	<p>For mandatory disabled facilities grant applications the relevant person is a child if;</p> <ul style="list-style-type: none"> <li>• they are under the age of 16</li> <li>• a person who is 16 or over but not yet 20 and is still in full-time non-advanced education (‘A level’ and below) and not getting Income Support, income-based Job Seekers’ Allowance, income-related Employment and Support Allowance or Universal Credit.</li> </ul>
Condition	Any condition attached to financial assistance approved under this Policy. Details of conditions are available on request.
Council	Any reference to the Council means West Northamptonshire Council or an authorised representative of the Council. An authorised representative could include, for example an Occupational Therapist, a Trusted Assessor, etc.

Disabled person	<p>For the purposes of this policy, a person is disabled if:</p> <ul style="list-style-type: none"> <li>• their sight, hearing or speech is substantially impaired;</li> <li>• they have a mental disorder or impairment of any kind; or</li> <li>• they are physically substantially disabled by illness, injury, impairment present since birth, or otherwise.</li> </ul> <p>(s100 Housing Grants, Construction and Regeneration Act 1996)</p>
Discretionary assistance	<p>Grants and/or loans which the Council may make available to applicants, subject to having a policy in place, and to having sufficient funding available to offer that assistance. The extent to which discretionary assistance may be available to an applicant may also be subject to how the Council concerned interprets and/or implements financial regulations – e.g. use of capital grant funding for revenue purposes.</p>
Disposal of a property	<p>Any reference to ‘disposal’ of a property means:</p> <ul style="list-style-type: none"> <li>• A conveyance of the freehold</li> <li>• An assignment of the lease – where the lease was used to qualify for the assistance: e.g. a long lease that was treated as effective ownership</li> <li>• The grant of a lease, other than a mortgage term, for a term of more than 21 years otherwise at a rack rent</li> <li>• In the case of a mobile home or a houseboat, the sale, pledge or assignment of the mobile home or houseboat.</li> </ul>
Home Adaptations Service	<p>The team responsible for delivering West Northamptonshire Council’s Home Adaptations Service, a discretionary service established to provide additional support to enable people to remain independent at home. The role of the Home Adaptations Team is described in Section 1.4 of this Policy.</p>
Household	<p>The person or persons who occupy a dwelling as their only or main residence.</p>

Housing Health and Safety Rating System (HHSRS)	National system for assessing risks in residential properties. Replaced the old housing fitness standard.
Mandatory assistance	Disabled Facilities Grants are 'mandatory' in that local authorities are legally required to provide them to applicants who meet national eligibility requirements.
Maximum grant amount for DFGs	At the time of writing this policy, the government instructs that a council can award a mandatory Disabled Facilities Grant up to the value of £30,000. This amount is subject to change as ordered by the Secretary of State at any time
Means Test / Test of resources	As part of an application for some forms of assistance under this Policy, a test of resources must be carried out in order to assess the amount, if any, that the applicant must contribute to the cost of the works. If the applicant is not in receipt of a 'passporting benefit' they will have to provide details of income and capital. More information is available in Appendix 3 to this Policy
Owner's interest	Where an application for a DFG (or other works to the home) has been made by an owner-occupier the applicant must provide proof of ownership. Under the 1996 legislation : An owner's certificate' certifies that the applicant has, or proposes to acquire, an owner's interest (as defined in section 21(2)) in the dwelling, and that he intends that the disabled occupant will live in the dwelling as his only or main residence'. For more information see Appendix 4 to this Policy
Regulatory Reform Order Repair & Renewal policies	Councils have powers to provide financial assistance to individuals to help them improve living conditions. In order to be able to use those powers they need to have a published policy detailing how they will use those powers.



# Appendix E



**West  
Northamptonshire  
Council**

## **Policy position statement – Housing Allocation Policy**

**1 April 2021**

## **Statutory Framework**

An Allocation scheme sits within a legal framework which includes the Housing Act 1996 (as amended by the Homelessness Act 2002 and the Localism Act 2011) the homelessness Reduction Act 2017 and regulations issued by Government relating to Allocations.

The Housing Act 1996 (S166A) requires all local housing authorities (LHA) to have an Allocation scheme to determine the priorities and define the procedures that will be followed when allocating housing accommodation.

S166A(5) of the Housing Act 1996 states that the LHA can take account of any local connection that exists between the person and LHA's district when determining the priorities for allocating a tenancy.

The Housing Act 1996 requires that the allocation scheme must give reasonable preference to certain groups of people reg. These groups include:

People who are homeless (within the meaning of the Homelessness Act), members of armed forces, people with medical or welfare issues and people living in insanitary or overcrowded housing.

## **Structural Change Regulations 2020**

The three Councils, Daventry (DDC), Northampton (NBC) and South Northants (SNC) are the designated Local Housing Authorities (LHAs). These three LHAs will be replaced by West Northants Council (WNC) as the new single LHA from the 1 April 2021.

The Local Government (Structural Changes) (Coronavirus) (Amendment) Regulations 2020 came into force on the 24 August 2020. These regulations make provision that certain plans, reports, reviews, schemes, statements and strategies which are inherited from predecessor council's can be revised and harmonised across the new unitary authority within 36 months of the new unitary council being established. This regulation includes the allocation schemes under section 166a of the Housing Act 1996.

Where a scheme has not been completed, formulated or prepared (and published where this is required) before 1 April 2021:-

- WNC shall take such steps as are necessary to secure this is done as soon as practicable and not later than the 1 April 2024.

- Until the new WNC allocation scheme is prepared and published the allocation schemes prepared by DDC, NBC and SNC will be treated as if they had been prepared and published by WNC
- The schemes will apply for such part of the area (of the new West Northamptonshire Council) that corresponds to the area covered by the respective former District and Borough Councils.

### **Allocation schemes across West Northants - current position**

- Allocation scheme approaches

Currently, the three LHAs operating across West Northants, operate separate schemes and approaches. DDC and NBC operate choice based lettings schemes, although in response to increased demand for and reduced supply of housing since April 2020 DDC has continued to extend temporary emergency changes to its scheme (under urgent powers) to allow direct lettings to homeless clients before offering properties via choice based lettings. SNC operate a traditional direct lettings scheme.

NBC out-source the implementation and operation of their Allocations scheme to the ALMO, Northampton Partnership Homes.

- ICT systems

Each of the LHAs use different ICT systems for their Allocation schemes.

- DDC – use CIVICA for their Allocations module
- NBC (NPH) use Capita OPEN housing
- SNC use Capita academy, however this will change to MRI Software (Jigsaw Enhanced Housing Register (EHR) from March 2021.

It has not deemed feasible or practicable for a new harmonised West Northants Allocations Scheme with an appropriate ICT system to be in place prior to / on vesting day.

Developing a good harmonised Allocations scheme which accurately reflects and meets local needs requires dedicated time.

Any changes to an Allocation scheme that are considered to be a major policy change, for example an amendment that would affect the relative priority of a large number of applicants or significant change to a qualification criteria or procedure, would need to follow due democratic process and consultation with

stakeholders. In addition, the LHAs must ensure that those affected by a change are made aware, this could include applicants reapplying to determine their qualification /priority under a new Allocations Scheme.

The formation and adoption of a new West Northants allocation scheme will also require a new configured ICT system that reflects the new allocation scheme. The configuration of a new ICT system and the drafting of a new allocation scheme cannot be done concurrently. Any changes to a draft allocation scheme (qualification criteria/banding etc), through consultation or the democratic process would affect the ICT configuration. It takes approximately 6 months to configure/implement a new ICT system.

The implementation of any Allocations system is complex as the logic behind the policy has to be setup on a bespoke basis

**Key differences between the current allocation schemes**

The Future Northants Task and Finish group for Allocations have identified the key differences and similarities between the current allocation schemes operating across West Northants area.

Table 1 sets out the key differences in the allocation scheme approaches. If changes to these were made, this would potentially be deemed a major change in policy that would require a formal stakeholder consultation, in line with the Housing Act 1996.

**Table 1: Differences between Allocation schemes**

Qualification criteria	Local Connection	The existing schemes have distinct geographical local connection criteria. The length of the local connection also varies greatly, with NBC having an extended LCC.
	Income and financial assets	The existing schemes use different income/financial asset thresholds to assess financial resources.

	Owner occupiers	There are differences with the existing schemes with SNC and DDC excluding homeowners (with some exemptions) from being eligible, with NBC's approach looking at overall asset ownership to determine qualification
	Ineligible due to rent arrears	Both SNC and DDC uses different units of measuring the threshold for rent arrears to determine disqualification. NBC will allow applicants with housing related debt but with reduced priority.
	Bedroom requirement calculation	There are differences in age thresholds for children when assessing bedroom needs.
	Local Housing Need	DDC allows households without a housing need on the housing register in order to provide nominations for S106 local connection properties.
Additional preference	Working households	NBC awards an additional level of priority in respect of working households.
	Community contribution	NBC awards an additional level of priority in respect of a household that meets

		the community contribution criteria.
Cumulative Preference		Both DDC and NBC calculate preference on the housing register by allowing two awards in the same band to count as an award of the band above
Banding structure		SNC and NBC operate a 4 band tier system. NBCs lowest band 'reduced priority band' is used either as a sanction or on a discretionary basis. DDC has a five tier structure for prioritisation – Emergency Band, A, B, C and D.
Medical and welfare		The existing policies all contain medical and welfare assessments and bands. SNC have four assessment bands, NBC have two assessment bands and DDC have 3 assessment bands.

### **How will the Allocations Schemes operate from the 1<sup>st</sup> April 2021**

The transitional regulations (structural change) contains the provision that allows 36 months for West Northants Council to implement a new Housing Allocation scheme, it also allows West Northants Council as the LHA after 1 April 2021 to operate 3 geographical (previous LA boundary allocations scheme) allocation schemes.

Until a new harmonised West Northants Allocation scheme has been adopted, there will be no change to how applicants apply for social housing or the criteria

that needs to be met to decide a local connection. Applications for social housing will therefore be considered under the separate council geographical boundaries that were present before 1 April 2021.

There are, however some operational arrangements that will need to be managed on a unitary basis across the three former districts. These are as follows:

### **Local Connection - Homelessness (Part 7)**

A local authorities allocation scheme must give reasonable preference to certain categories of people. This includes homeless people, as defined in Part 7 of the Housing Act 1996.

We need to give consideration on how we treat Part 7 households, when we become a unitary authority. Part of a homelessness assessment, is the verification of local connection. Under Homelessness legislation, local connection normally requires the applicant to live/work in the District/Borough for 6 out of the last 12 months or 3 out of the last 5 years.

The new unitary authority will form a single LHA and as such a person will simply have to demonstrate a local connection with some part of the local housing area and the duties owed to homeless persons will have to be managed on a unitary basis across the three former districts.

Where an applicant has been accepted under Part 7 of the Housing Act 1996 (as amended by the Homelessness Act 2002 and Homelessness Reduction Act 2017) by one of the former councils and is owed a full duty to house under the homelessness legislation, our policy options are as follows:

**Option 1: The applicant is only permitted to join ONE of the three housing registers operating within the district covered by the Council.**

The band in which the applicant is placed will be determined by the housing allocations scheme that is operating in that area. However, all applicants for whom a full housing duty is owed will receive the same priority under the scheme, irrespective of whether they have a local connection with that area.

*Issue: If implemented, this arrangement will leave the Council extremely vulnerable to a successful legal challenge by applicants who are owed a full housing duty by the new Council and wish to have access to all of the affordable rented housing in the new district*

**Option 2: The applicant is permitted to join ANY OR ALL of the three housing registers operating within the district covered by the new Council but, if they do not have a local connection with that area, they will be placed in a band that is one band lower than other applicants who are owed a full housing duty and have a local connection with that area.**

The band in which the applicant is placed will be determined by the housing allocations scheme that is operating in that area. However, where an applicant is owed a full housing duty but does not have a local connection with that area, they will not receive the same priority under the scheme.

*Issue: If implemented, this arrangement will leave the Council extremely vulnerable to a successful legal challenge by applicants who are owed a full housing duty by the new Council but are disadvantaged by being placed in a band with other applicants who have been assessed as a lower priority.*

**Option 3: The applicant is permitted to join ANY OR ALL of the three housing registers operating within the district covered by the new Council.**

The band in which the applicant is placed will be determined by the housing allocations scheme that is operating in that area. However, all applicants for whom a full housing duty is owed will receive the same priority under the scheme irrespective of whether they have a local connection with that area.

*Issue: If implemented, this arrangement is the most equitable way of dealing with applicants for whom a full housing duty is owed by the new Council. Although many applicants will only want to apply for affordable rented housing in a particular locality – so will only join the housing register(s) covering those areas – some will wish to exercise choice in relation to the areas in which they are rehoused. Where it is necessary or desirable to offer particular properties to applicants who reside in, or have a local connection with, the area in which the properties are situated, this can be achieved by selective use of a local lettings policy and by ensuring that all lettings are compliant with rural exception site / s106 agreement conditions.*

### **Local Connection – Homelessness Prevention and Relief**

As applicants who are granted a S.195 (2) Prevention or S.189B (2) Relief duty under the homelessness legislation will not be owed a full housing duty, they



will only be able to join the housing register(s) for the areas with which they are able to establish a local connection.

### **Implications/Considerations**

If Options 2 or 3 are agreed, consideration will need to be given to whether or not applicants are automatically placed on the 3 housing registers or need to ask to join a second or third housing register.

As much of the information that applicants will need to provide to join the 3 housing registers will be the same, consideration will need to be given to the merits of producing a standard application form that can be used by applicants wishing to join more than one of the 3 housing registers.

One of the unintended consequences is that, unlike Part 7 applicants, Part 6 applicants will have to wait until the new housing allocations scheme is introduced before they have the opportunity to apply for all affordable rented housing in the new district.

Options 2 and 3 may increase the number of households applying through the homelessness route due to the opportunity to join all 3 housing registers.

### **Preferred option:**

Option 3 is the preferred option, as this is considered the option that reduces the risk of legal challenge.

*Need a legal view of these options*

### **Timeframe for a new West Northamptonshire Allocations Scheme**

West Northants Council will be committed in allocating housing in a fair and transparent way and use its scarce housing resources to meet the needs of its vulnerable residents and those in the greatest need of housing.

Therefore it will be important that a new Allocation Scheme for West Northants is adopted and operational as soon as practicably possible after vesting day.

It is important that a new Allocation scheme for West Northants is evidence based, a review and a 'health-check' of the 3 current allocation schemes is important. This work will assist in:

- Understanding how each of the schemes are functioning and inform changes required;
- Do they meet housing need

- Identify aspects of the schemes that do not work
- Specific areas of improvement
- Highlight additional provisions to be included in a new allocation scheme
- Help inform any changes required

**Key Milestones:**

Feb / May 2021	Current allocation schemes health-check;
June / July 2021	Report on findings of health check and provide recommendations for new Allocation scheme;
July / Sept 2021	Draft new Allocation scheme
Oct / Dec 2021	Consultation on new Allocation scheme
Oct / Dec 2021	Procure new ICT system
Oct / Dec 2021	Approve West Northants Allocation scheme
Jan / March 2022	ICT set and implementation
March / April 2022	Go Live date for West Northants Allocation scheme

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