



## **MEMBER BRIEFING**

# **Houses in multiple occupation**

**24 July 2018**

# FACT: HMOs meet housing need

- **Half the weekly rent of self-contained housing**
- **Single people under the age of 35 limited to the Shared Accommodation Rate when claiming HB**
- **Ideally suited for people who are on low income and/or looking for low cost accommodation**



# FACT: HMOs can be problematic

- **Operating unlawfully without a licence**
- **Substandard, unsafe and/or overcrowded**
- **Inadequate amenities and/or fire precautions**
- **Failure to provide effective management**
- **Failure to prevent the property and/or tenants from causing a nuisance**





# What this briefing will focus on

- **Tackling criminal, rogue and irresponsible landlords**
- **Housing legislation affecting all HMOs**
- **Licensing of HMOs**
- **Impact of the Housing & Planning Act 2016**
- **Our intelligence-led, targeted approach to housing enforcement**



# Criminal, rogue, irresponsible

- **894 licensable HMOs have an HMO licence**
- **800 licensable HMOs are suspected of, or known to be, operating without an HMO licence**
- **Responsible landlords and managing agents want a level playing field and for offenders to pay**



# Criminal, rogue, irresponsible

- **We encourage, support and promote good landlords / agents**
- **We find, penalise and punish offenders**

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- **Enforcement Policy**
  - **Fees & Charges Policy**
  - **Multi agency casework**



# Legislation affecting all HMOs

- **Conditions assessed using Housing Health and Safety Rating System (HHSRS)**
- **HMO Management Regulations**
- **Mandatory HMO licensing (national)**
- **Additional HMO licensing (local)**



# Housing Health & Safety Rating System (HHSRS)

- **All homes assessed against 29 hazards**
- **Improvement Notices**
- **Prohibition Orders**
- **Emergency Prohibition Orders**
- **Emergency Remedial Action**





# Duties: HMO Management Regs

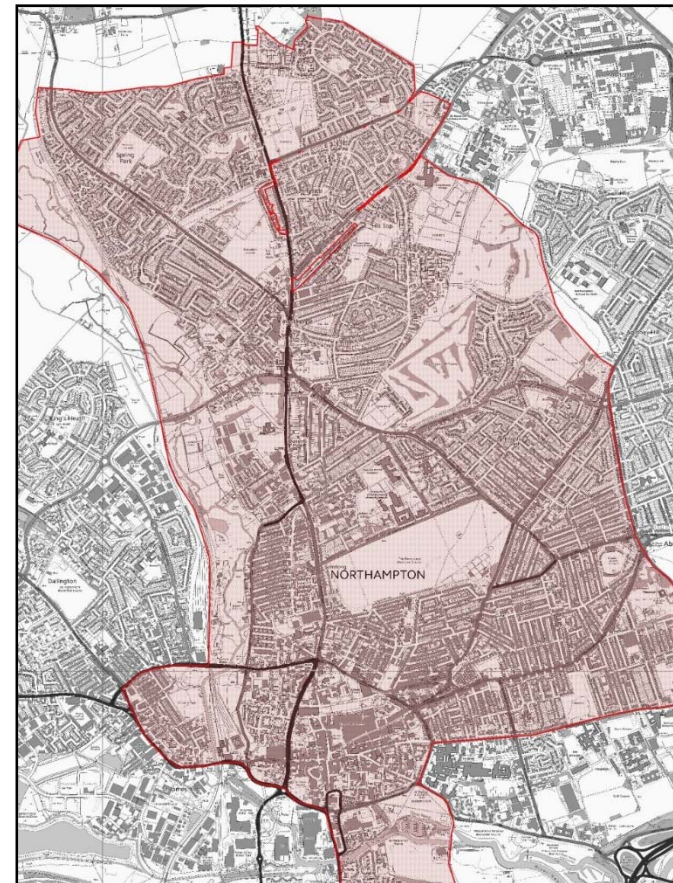
- **Provide information to the tenants**
- **Take safety measures**
- **Maintain water supply and drainage**
- **Supply and maintain gas and electricity**
- **Maintain the property (including the common parts, fixtures, fittings and appliances)**
- **Provide waste disposal**



# Licensing of HMOs

- **Mandatory – HMOs with 3 or more storeys<sup>1</sup> and occupied by 5 or more persons forming 2 or more households**
- **Additional – All 2 storey HMOs that are in the designated area and occupied by 3 or more persons forming 2 or more households**

**1 With effect from 1 October 2018, the number of storeys will no longer be a factor in determining whether or not a property is a Mandatory HMO**



# Licensing of HMOs

- **Suitability of HMO for number of occupiers**
- **Suitability of facilities (toilets, bathrooms and cooking facilities, etc)**
- **Suitability of landlord and/or managing agent to manage the HMO**
- **Suitability of current arrangements for the management of HMO**



# Conditions attached to licence

- **Produce annual gas safety certificate**
- **Keep all furniture and electrical appliances in a safe condition**
- **Install smoke alarms and maintain them in good working order**
- **Provide tenants with a statement of their terms of occupation**





# Conditions attached to licence

- **Restrictions on the use or occupation of parts of the HMO**
- **Reasonable steps to prevent or reduce ASB by persons occupying or visiting the HMO**
- **Carry out works and/or provide facilities**
- **Apply for planning permission if the HMO is in an Article 4 area**





# Failure to license an HMO

- **Committing an offence and could face a large fine or civil penalty**
- **Council must make an Interim Management Order if it is unable to grant an HMO licence or it revokes a licence**
- **Rent Repayment Order (for up to 12 months if HMO was unlicensed)**



# Failure to license an HMO

- **If a licensable HMO is operating without a licence, any Section 21 Notice served on the tenant(s) will be invalid**
- **If Council is satisfied that any owner has threatened to evict the occupiers in order to avoid the licensing requirements, it can make an Interim Management Order**



# Breaches of licence conditions

- **It is a criminal offence to allow an HMO to be occupied (without a reasonable excuse) by more persons than it is licensed for**
- **It is a criminal offence to fail to meet the HMO licence conditions and, if the breach is serious or persistent, the HMO licence may be revoked**



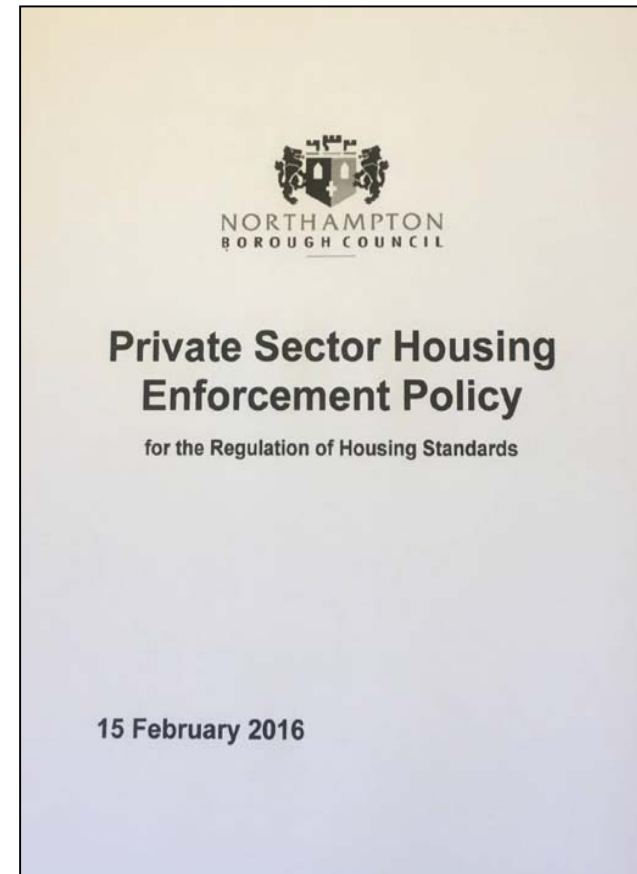
# Revoking an HMO licence

- **May revoke licence if it considers management of HMO unsatisfactory or the HMO is no longer suitable to house the number of occupiers**
- **Unless it grants a new licence, the Council will make an Interim Management Order, to enable the occupiers to continue living there**



# Our Enforcement Policy

- **An assurance that our approach to housing enforcement will be:** targeted, proportionate, fair and objective, transparent, consistent and accountable
- **The action we take to ensure that homes are healthy, well-managed and safe will include:** pre-formal action, notices, works in default, emergency remedial action, cautions, injunctions, prosecution, civil penalties and management orders, etc





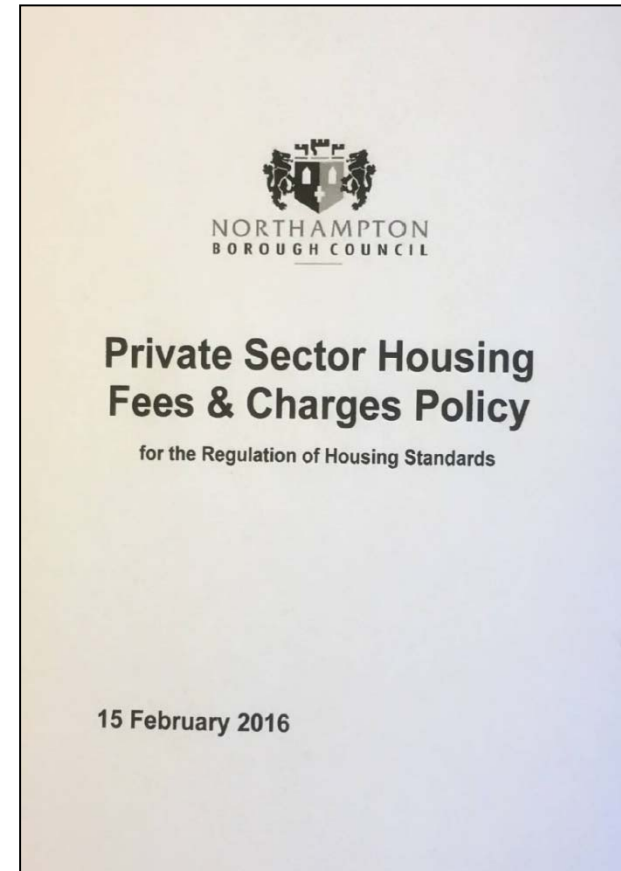
# Our Enforcement Policy

- **Charged the full cost** (Improvement Notices, Prohibition Orders and Emergency Remedial Action Notices, etc)
- **Given opportunity to undertake remedial works themselves**
- **Administration fee will be charged if works are carried out in default**



# Our Fees & Charges Policy

- **We have consistent licensing periods for Mandatory / Additional**
- **We reward those who license HMOs on time ('early bird' discounts)**
- **We penalise those who fail to license HMOs on time (higher licence fees and shorter licences)**



# Our Fees & Charges Policy

## Initial HMO licence

- £735 (up to 5 persons\*)
- £150 'early bird' discount

## Renewal of HMO licence

- £535 (up to 5 persons\*)
- Renewal reminder sent 3 months before expiry
- Standard (initial) fee if not renewed on time

\* + £30 for each extra person



# Our Fees & Charges Policy

- **2 year licence issued if HMO is unlicensed and discovered by NBC**
- **1 year licence issued if discovered by NBC and there are hazards that need addressing and/or management offences that have been committed**



# Housing & Planning Act 2016

- **Civil penalties of up to £30,000 per offence can be imposed by local authorities (for a range of housing offences) as an alternative to prosecution**
- **Rent Repayment Orders can be made (for a wide range of housing offences) following conviction or imposition of civil penalty**





# Housing & Planning Act 2016

- **Banning Orders to prevent offenders letting homes or engaging in property management / letting agency work in England**
- **National database of rogue landlords who have been served with a Banning Order and/or been convicted of a Banning Order offence**



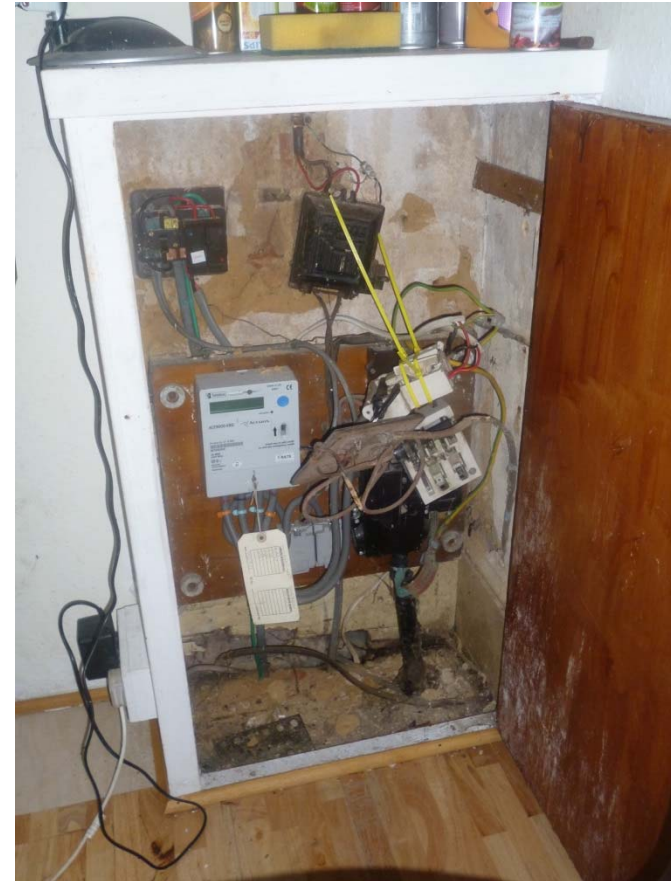
# Use of the additional income

- **Proceeds can only be used to fund private sector housing work**
- **Unspent proceeds must be paid to Government**
- **The Council is investing proceeds in additional staffing resources in housing enforcement and tenancy relations**



# Civil penalties

- **Failure to comply with an Improvement or Overcrowding Notice**
- **Failure to licence a licensable HMO**
- **Failure to comply with HMO licence conditions**
- **Failure to comply with the HMO Management Regulations 2006**



# Civil penalties

- **Civil penalties require the same criminal standard of proof as is required for a prosecution in the magistrates court**
- **Must demonstrate beyond reasonable doubt that the offence has been committed**



# Civil penalties

- **Notice of Intent**  
(amount, reasons and right to make representations)
- Representations must be made within 28 days
- **Final Notice issued (If not appealed, it must be paid in full on time)**
- Appeals to First Tier Land Tribunal (may confirm, quash, reduce or increase the penalty)





# Civil penalties

- The starting point is the culpability / harm table
- **Severity of offence**
- Culpability / track record of the offender
- **Harm caused to tenant**
- Punishment of offender
- **Act as a deterrent for the offender and others**
- Remove financial benefit gained from the offence



# Civil penalties

## CULPABILITY

### HARM

	Low	Medium	High	Very High
Low	£2,000	£ 3,000	£ 4,000	£ 5,000
Medium	£3,000	£ 6,000	£ 8,000	£10,000
High	£4,000	£ 8,000	£12,000	£18,000
Very High	£5,000	£10,000	£18,000	£27,000

Aggravating factors will increase the punitive charge, and mitigating factors will decrease it.

In each case, the Housing Enforcement Team will consider the facts of the case and document the decision.

# Rent Repayment Orders

- Failure to comply with Improvement Notice or Prohibition Notice
- Harassment, unlawful eviction and/or use of violence to gain entry
- Control or management of an unlicensed house
- Breach of Banning Order

The image shows the cover of a 'Rent Book' from Guildhall. The top left corner features the Guildhall logo and name. The main title 'RENT BOOK' is prominently displayed in a dark blue banner. Below this, the text 'PROTECTED AND STATUTORY TENANCIES (Landlord NOT in occupation)' is written in a smaller font. Underneath, it says 'RENT PAYABLE WEEKLY'. The bottom half of the cover contains four blue rectangular labels with white text, each followed by a dotted line for handwritten entry: 'Tenant's Name', 'Date of Tenancy', 'Collector's Name', and 'Property address'. There are also two additional dotted lines at the bottom of the page.

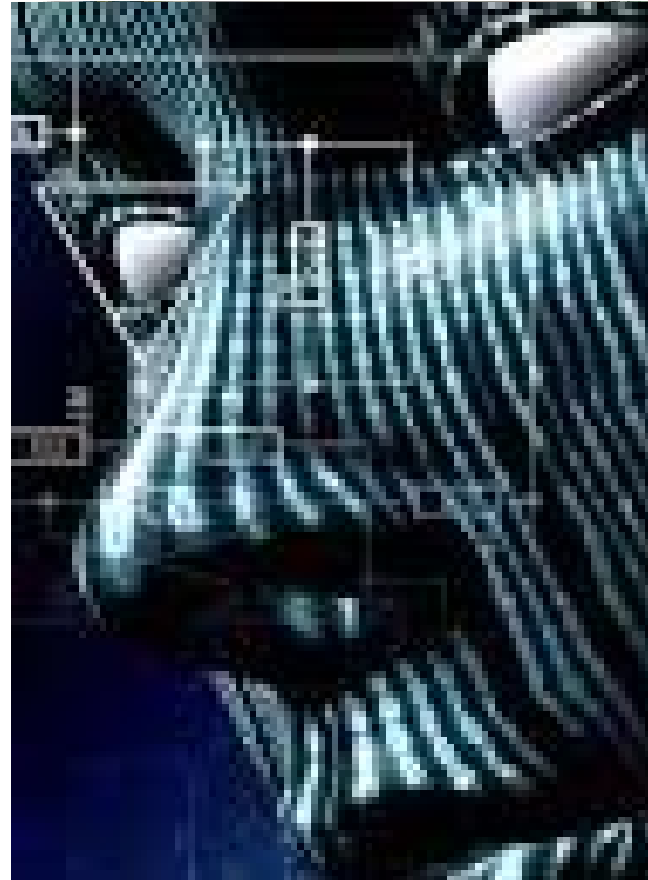
# Rent Repayment Orders

- **Order can be made following conviction, caution or civil penalty**
- **Application (by tenant or the local authority) to the First Tier Land Tribunal) within 12 months of the offence being committed**



# Our intelligence-led approach

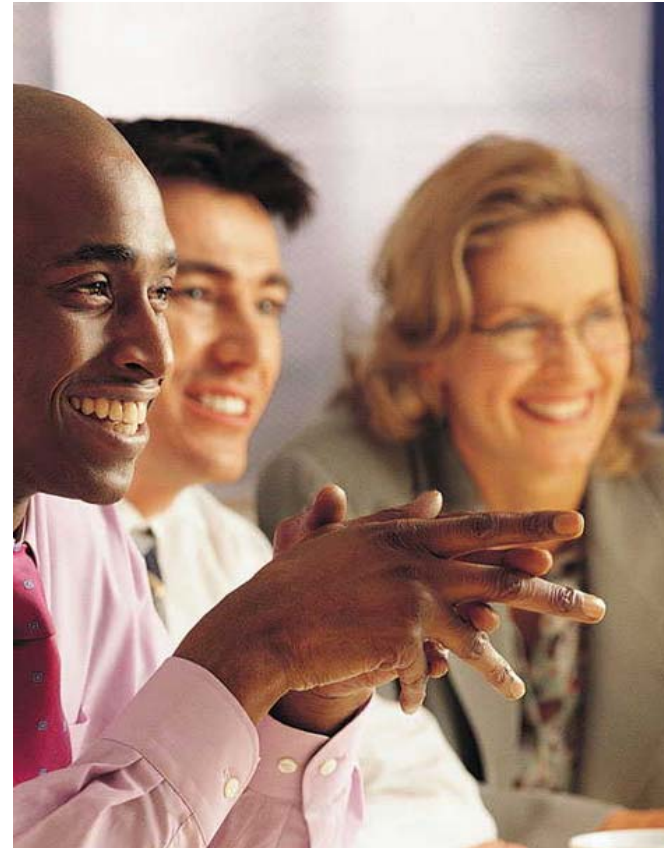
- **Intelligence Officers**
- **Gathering data from variety of sources**
- **Focus on investigation of landlords / agents rather than the property**
- **Risk-based approach to the prioritisation of properties / offenders**





# Our intelligence-led approach

- **Professional training in investigative practice**
- **Encouraging Officers' professional curiosity**
- **Making best use of the technology available**
- **Multi agency working**
- **Intelligence sharing**



# Our intelligence-led approach

- **Warrants used to obtain access to properties**
- **Expert gathering and storage of evidence**
- **Landlords interviewed under caution (PACE)**
- **Police will be asked to arrest landlords who fail to turn up for their interview under caution**



# Managing HMOs robustly

- **Enforcement Policy**
- **Fees & Charges Policy**
- **Bespoke and robust licensing conditions**
- **Intelligence-led, multi agency casework**
- **Proactive prosecutions and use of civil penalties**
- **Management Orders**



# Example 1

- Long term unlicensed HMO
- 5 x Management Offences
- Improvement Notice (Non-compliance)
- Improvement Notice    £10,200
- Failure to licence HMO   £ 6,000
- Management Offences   £68,600
- Total Penalties = £84,800



# Example 2

- HMO licensed for 5 persons (occupied by 9)
- Lone parent and 2 teenagers in one room
- Couple in unlicensed basement
- 4 x Management Offences
- Breach of licence conditions

- **Overcrowding** £10,450
- **Licence Conditions** £ 5,450
- **Management Offences** £35,550
- **Total Penalties = £51,450**

