Wealden District Council's

Private Housing Renewal Strategy

2009 - 2014

(Incorporating the Private Sector Financial Assistance Policy (currently under consultation) and the Private Sector Housing Enforcement Policy)
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Section 1

Introduction

Poor quality housing can have an impact on the health of the occupants and on the quality of life in an area. The Department of Communities and Local Government's overall housing strategy is to provide decent, affordable and quality homes for all people, regardless of tenure. It is committed to sustainable home ownership and improving the quality of private rented sector housing.

The Government's aim is that ‘everyone should have the opportunity to rent or buy a decent home at a price they can afford, in a place where they want to live and work’. The availability of decent housing is not just reliant on new building – we need to maintain and improve the housing already in existence.

The local authority has a key strategic enabling role in maintaining the quality and standard of the private sector and ensuring that it is accessible to all, while protecting the most vulnerable members of the community.

Wealden District Council is committed to improving private sector housing in the District. This commitment is essential to ensure that we:

- Maintain a stock of decent and well maintained properties for future generations.
- Improve the lives of vulnerable occupants by ensuring their homes are safe, warm and in good repair.

The purpose of this strategy is to set out how Wealden District Council aims to continue to tackle the issues of private sector housing renewal within the District. It forms an integral part of the Council’s overall Housing Strategy and has been developed to reflect local, regional and national policies. This Strategy also incorporates the research and evidence from the 2007 Private Sector House Condition Survey.

To complement the Strategy there is a Financial Assistance Policy set out in Section 2 that provides full details of the assistance and loans available to assist residents to improve their homes. In addition there is an Enforcement Policy in Section 3 that is primarily concerned with improving conditions in the private rented sector. The Financial Assistance Policy and Enforcement policy are stand alone documents subject to separate monitoring and review. However they have been incorporated within the Private Sector Housing Renewal Strategy to produce a comprehensive document.
Chapter 1 - Why do we need a Strategy?

Effects of poor housing

Housing conditions have a major impact upon the health and wellbeing of individuals, households and communities. By tackling private sector housing renewal, we can improve the availability and condition of the housing stock as well as the wellbeing of our residents.

The links between health and housing are well documented. A briefing carried out for the NHS by the National Institute for Health and Clinical Excellence (NICE) pulled together much of this documentation and reviewed it. NICE confirmed that there are a wide range of specific elements relating to housing that can affect health outcomes.

They noted however that the relationship is complex and the link can work on a number of different related levels. Poor housing conditions often co-exist with other forms of deprivation (unemployment, poor education, ill health, social isolation etc), which make the housing / health link difficult to isolate.

As part of their research they attempted to categorise the range of housing-related factors known adversely to affect health:

- agents that affect the quality of the indoor environment for example asbestos, carbon monoxide, radon, lead, moulds and volatile organic chemicals.
- cold and damp, housing design or layout (which in turn can affect the accessibility and usability of housing), infestation, hazardous internal structures or fixtures, noise.
- factors that relate more to the broader social and behavioural environment such as overcrowding, sleep deprivation, neighbourhood quality, infrastructure deprivations (i.e. lack of availability and accessibility of health services, parks, stores selling healthy foods at affordable prices, etc), neighbourhood safety and social cohesion; and
- factors that relate to the broader macro-policy environment such as housing allocation, lack of housing (homelessness, whether without a home or housed in temporary accommodation), housing tenure, housing investment and urban planning.
Aims and Objectives

The Key aim for our private sector renewal work is:

“Provide private sector homes that are decent, safe, warm, secure and healthy”.

To achieve the overall aim of the Strategy, four distinct strategic objectives have been identified:

- Improve advice and information available
- Improve services to assist vulnerable households
- To work with landlords to ensure a thriving and high quality housing stock for private rent
- Improve housing conditions in the private sector

An Action Plan set out in Appendix A of this section identifies key tasks and outcomes to deliver the above objectives
Chapter 2 – National and Regional Perspectives

There are currently a number of national, regional and sub-regional policies driving change within private sector housing renewal and influencing the development of strategies.

National Perspective

Housing Act 2004
This Act came into force in April 2006 and introduced the Housing Health and Safety Rating System (HHSRS) as a new means of assessing housing conditions together with new procedures for enforcing housing standards. The Act also introduced the scheme for licensing of high risk houses in multiple occupation and a series of management order provisions including powers to deal with long term empty dwellings.

This system assesses the health and safety risks in dwellings, and replaces the former ‘fitness’ standard. If the likelihood of harm is significant, the Council must take action to ensure that the risk is removed or reduced. It is intended to help authorities prioritise their interventions based on the severity of the hazards encountered in the home environment and to relate them to the vulnerability of the occupier. Such hazards include excess cold; damp and mould growth; fire and electrical hazards as well as crowding and space.

There are various enforcement tools that can be used to remedy identified hazards identified under the HHSRS. The Council will make use of appropriate enforcement powers when necessary. Enforcement action will follow the guidelines set out in our Private Sector Housing Enforcement Policy which is set out in Section 3 of this Strategy.

Decent Homes
The 2001 English House Condition Survey estimated that at April 2001 around 1.6 million, or 57% of vulnerable households in the private sector lived in decent homes.

As part of Spending Review 2002, the government’s Public Service Agreement (PSA) 7 to make all homes in the social sector decent by 2010 was extended to include an increase in the number of vulnerable households in the private sector living in decent homes. This set a target to increase the proportion of vulnerable private sector households living in decent homes to 65% by 2006, 70% by 2010, and 75% by 2020. Wealden already meets the 2010 target.

A decent home is one which is wind and weather tight, warm and has modern facilities. In particular a decent home must;

- meet the current statutory minimum standard for housing;
be in a reasonable state of repair;
• have reasonably modern facilities; and
• provide a reasonable degree of thermal comfort.

The Government's 5 year plan 'Sustainable Communities: Homes for All' published in 2003 confirmed the Government's commitment to achieving the Decent Homes target.

Regulatory Reform (Housing Assistance) Order (England and Wales) 2002
The introduction of the Regulatory Reform Order, which became law on 18th July 2002, removed the highly prescriptive rules relating to home improvement grants, replacing them with a general power to provide assistance for housing renewal. This new system gives local authorities broad discretionary powers to adopt policies tailored to local housing needs and priorities targeted at the most vulnerable members of society, helping them to repair, renovate or adapt their homes, which otherwise they could not afford to do.

Local authorities now have greater flexibility and are able to set eligibility criteria, decide whether to perform means testing and the type of assistance available. The use of this new power is subject to local authorities formulating and publishing a new policy setting out how it intends to administer financial assistance. Wealden District Council published an interim Financial Assistance Policy in 2003 and an updated policy in 2005. In order to reflect current priorities a new Private Sector Housing Financial Assistance policy is detailed in Section 2 of this Strategy.

Although the Regulatory Reform Order removed most of the raft of policy tools the Council previously used for housing renewal, the mandatory disabled facilities grant remains. In 2004 the government commenced a review of this grant. The outcome was published in 2005 and the government, through the later publication in February 2008 of – ‘Disabled Facilities Grants – The Package of Changes to Modernise the Program’ issued directions setting out some immediate improvements. These included the raising of the maximum grant limit and changes to means testing and also proposed long term changes to improve the overall programme.

The Home Energy Conservation Act 1995 and Fuel Poverty
This placed an obligation on the Local Authority to prepare and publish a report on how domestic energy efficiency of all residential accommodation in their areas would be improved by 30%. By the end of March 2008 Wealden had identified an energy efficiency saving of 26.75% within the District.

The Council is also required to submit annual progress reports detailing information on action taken to help tackle fuel poverty in their area.
Energy Efficiency is increasingly important at an international level because of global warming and climate change, and locally because it is a factor which plays a major part in making a dwelling comfortable and healthy. Clear links exist between the energy efficiency of a dwelling and the likelihood of condensation and mould growth. One of the four elements of the Decent Homes standard is that a dwelling has a reasonable degree of thermal comfort (with effective insulation and efficient heating).

The Government published the UK Fuel Poverty Strategy in 2001 setting out how it proposes to ensure affordable warmth for all households. The Government subsequently published the Energy White Paper – *Our Energy Future – Creating a Low Carbon Economy* (2003). One of the key energy policy goals is the need to ‘ensure that every home is adequately and affordably heated’, with the aim that as far as reasonable practicable no household in England should have to live in fuel poverty by 2016. A household is defined as being in fuel poverty when it is required to spend more than 10% of its income on fuel to maintain a temperature of 21°C.

There is a correlation between fuel poverty and the recent increases in domestic fuel prices. Government policy to combat fuel poverty will be directly affected by these increases.

**Lifetime Homes, Lifetime Neighbourhoods – a National Strategy for Housing in an Ageing Society**

In February 2008 the government published its national strategy for housing an ageing population, ‘Lifetime Homes, Lifetime Neighbourhoods’. This set out its response to the global challenge of ageing and outlined its plans for making sure that there is enough appropriate housing available in the future to relieve the forecasted pressures on homes. The strategy also announced some more of the proposed changes to the national Disabled Facilities Grant.

The Strategy makes it clear that the demographic trends for older people make adaptations, home safety and repairs not only urgent, but issues which need to be resolved now thus giving one of our greatest housing challenges. By 2026 older people will account for almost half (48 per cent) of the increase in the total number of households, resulting in 2.4 million more, older households than there are today. By 2041 the composition of the older age group will have changed dramatically. There will be a higher proportion of the older age groups, including the over 85s, a greater number of older people from black and minority ethnic groups, and double the number of older disabled people. One in five children born today can expect to live to 100 years old. Data clearly shows that Wealden has an ageing population, with the most significant growth of those aged 80 plus.

Today, most of our homes and communities are not designed to meet people’s changing needs as they grow older. Older people’s housing options are too often limited to care homes or sheltered housing. However the Strategy identifies that
most older people will continue to live, and want to live, in their own homes, yet those homes are often unsuitable, even unsafe, limiting their lives and quality of life. Private sector housing renewal can have a positive effect in a number of areas especially around the promotion of independent living, reducing falls and promotion of a health and active life in older age.

As a result of the house price boom there are an increasing number of older people who are asset rich but cash poor. A limited income means that many older people are unable to pay for essential repairs despite being mortgage free and living in a property worth substantially more than their initial investment. Loans and equity release have been high on the government’s agenda. This type of assistance is likely to involve charges on the property with associated repayment conditions. The Regional Housing Board placed a high emphasis on the need for local authorities to develop sustainable loan and equity release products to assist this type of homeowner when inviting bids for the Private Sector Renewal Funding 2008-11.

**Regional Perspective**

The South East region has 2.98 million private sector dwellings, a higher proportion than any other region in the country.

The South East Regional Housing Strategy for 2006 - 2008 (South East Regional Housing Board) sets out their key priorities for housing investment:

- the need to build more affordable homes,
- the need to bring decent housing within reach of people on lower incomes,
- the need to improve the quality of new housing and of the existing stock.

The strategy recognises the link between non-decent housing and health issues. It cites the example of fuel poverty leading to excess winter deaths, of which the South East Region had 3,700 in 2001-02 (15.5% of the national total). The strategy also highlights the poor condition of the housing stock in the private sector and notes that many owners cannot afford to repair their homes (particularly those on low income and pensioner households).

The Regional Strategy details the reasons for the need to invest in improving the quality and sustainability of private housing and recognises that investment in private sector renewal can make a major contribution towards achieving overarching goals such as neighbourhood renewal and balancing housing markets. Tackling poor housing conditions in private sector housing can also help address the range of other regional priorities such as affordability, key worker housing, homelessness and neighbourhood management.
Previously Regional Housing Board funding for private sector renewal has been targeted towards those local authorities with the highest number of unfit properties. Wealden was the only authority in East Sussex not to receive any funding under this criteria.

In June 2007 the Regional Housing Board (RHB) notified local authorities about a significant change to the renewal programme process. The RHB invited competitive bids for a three year period 2008-11. The RHB stipulated that authorities should work together and develop programmes on a partnership basis to reflect their priorities over the forthcoming three year period. Emphasis was placed on four main themes: energy efficiency (fuel poverty), decent homes, empty homes, landlords (accreditation schemes).

Wealden worked with Brighton and Hove CC, Lewes DC, Rother DC, Eastbourne BC, and Hastings BC, and planned a sub regional bid. This group had the benefit of up to date stock condition data and evidence of previous renewal programme delivery and hence the BEST partnership was formed.

**Brighton and East Sussex Together (BEST).**
A considerable amount of work was undertaken with East Sussex authorities and Brighton and Hove in the preparation of a comprehensive application.

The bid included a range of activities across the partnership area, including energy efficiency, renewable technologies, adaptations, Decent Homes works, landlord accreditation and small works schemes. Following assessment by both the RHB and GOSE, the BEST bid was considered to meet all essential criteria and was awarded the greatest funding of any of the other authorities working in partnership as well as the joint highest score. In the summary document, in addition to the general scoring, the bid was highlighted for its innovation and was noted as having the potential for Beacon status.

The bid was co-ordinated by the East Sussex Chief Housing Officers Group, which includes Brighton and Hove City Council. It enjoys the support of all the main statutory agencies including:
- Sussex Police Force
- East Sussex Fire and Rescue Service
- All three PCTs in the area
- East Sussex County Council
- Supporting People Commissioners
- Home Improvement Agencies

A funding programme of £18.5 million was approved by Ministers for the BEST partnership. Wealden will receive in the region of £630,000 for the three year period as part of the overall application.
An overarching principle of the BEST partnership is to drive efficiency through the development of shared delivery platforms. This will enable joint/cross boundary working, the sharing of information drawn from recent House Condition Surveys across the authorities and investment to drive value for money. This includes:

- Partnership wide delivery vehicles, for example, recyclable loan funding working with South Coast Moneyline.
- Joint procurement, for example the extremely successful East Sussex Insulation and Renewables Scheme managed by Eastbourne BC on behalf of Wealden, Rother and Hastings Councils.
- Joint delivery of service, for example the sharing of an Empty Homes Officer between Wealden and Eastbourne Councils.
- Shared expertise, peer champions and ‘BEST’ training for all housing professionals.

One key policy principle is to provide loans rather than grants, but only where appropriate to help the limited funding go further, with a clear focus on affordability and vulnerability.

The Regional Housing board identified the BEST partnership programme as a high-performing partnership at the 6 month review. It confirmed that the partnership had demonstrated its ability to generate up-take and to deliver measures in volume. At the half year point 95% of the half year funding had been delivered and in total 84% of the whole year’s funding had been allocated. It considered the partnership tightly managed with dedicated staff assigned to deliver the programme. With robust plans for year two across a broad range of condition issues and looking to expand its activity. They recommended an increase in funding which is currently awaiting ministerial decision.

Further funding will obviously be dependent upon continuing to achieve positive outcomes from the programme.

**Pride of Place – The East Sussex Integrated Sustainable Community Strategy**

Pride of Place combines all the local council’s Community Strategies into one overarching Strategy for East Sussex. Pride of Place provides a framework in which organisations, local people and communities work together to nurture, support and sustain communities which are:

- Vibrant, inclusive and safe: fair, tolerant and cohesive with a thriving culture and low crime.
- Well run, effective and inclusive participation, representation and leadership.
- Healthy, promoting healthy lifestyles, good health and well-being and independence.
- Environmentally sensitive, protecting and enhancing our natural and built environment, whilst reducing CO2 emissions and adapting to climate change.
Well designed and built, providing high quality places and spaces for people to live, work and spend their leisure time.

Well connected, good transport services and communications linking people to jobs, health and other services.

Prosperous, a thriving, diverse and sustainable economy.

Well served, public, private and voluntary services that meet people’s needs and are accessible to all, and

Fair for everyone, equality of opportunity for all, including new communities, now and in the future.
Chapter 3 - Local Perspective

The map shows Wealden’s location within the South East Region.

Overview

- Wealden is the largest district in East Sussex and covers 323 square miles.
- Half of its 143,700 population live in the five main towns of Polegate, Hailsham, Heathfield, Uckfield and Crowborough.
- The remaining population live in the 37 rural parishes in Wealden.
- The High Weald and Sussex Downs Areas of Outstanding Natural Beauty covers more than two thirds of the District.
- In addition Wealden has 34 conservation areas and 32 sites of special scientific interest.
- Wealden has more than 2,500 listed buildings.
- Wealden has an ageing population, with the most significant growth predicted to be of those aged 80+.
- Migration levels into and out of the area are evenly balanced, however those moving into the District are predominantly of post retirement age and those moving out are of working age.
- Unemployment (based on those claiming Job seekers Allowance) in Wealden remains low at 0.8% as at April 2007, the lowest figure in East Sussex.
- Wealden has one of the lowest crime rates of anywhere in the Country.
Local Strategic Context

Corporate Plan
The Council’s Corporate Plan has three objectives, all of which flow through this Strategy:

1. Putting People First by providing quality services and promoting Health, Prosperity and Community Safety.
2. Pride of Place through the preservation and enhancement of our environment for us and future generations.
3. Purpose Through Partnership and community leadership

Investing in private sector housing renewal:

1. Improves people’s quality of life
2. Ensure the housing stock is decent and well maintained for future generations
3. In achieving the above partnership working with other agencies is essential

Housing Strategy
One of the Three Housing Priorities for the Council as outline in the Housing Strategy 2008-13 is:

Improving Housing Quality - The Council needs to make sure that residents are able to live in decent homes suitable for their needs.

Key to achieving this objective is the need to ensure that housing in the private sector is of a good standard and meets Government quality targets.

Homelessness Strategy
The Homelessness Strategy aims to prevent homelessness, ensure the availability of suitable accommodation for people who are, or may become, homeless and secure satisfactory support for people who are, or may become homeless. A greater role for the Private Sector is an important element of this, with objectives for increasing the use of Private Sector Leased properties and maximising the number of families re-housed on Assured Shorthold tenancies using the new Letstart scheme.

Empty Homes Strategy
Wealden’s Empty Homes Strategy highlights the importance of empty properties both to the wider environment in which they sit and as a wasted resource of valuable affordable housing. The number of long-term empty properties in Wealden is relatively modest and the lowest in East Sussex. However a range of measures are available to the council to bring these properties back into use, as any empty property is considered to be a waste of resources.
Private Sector Housing Enforcement Policy
This policy deals with the practical application of enforcement procedures that we use to achieve the statutory housing and environmental standards. It sets out what owners, landlords, their agents and tenants of private sector properties can expect from officers and is detailed in Section 3 of this Strategy.

Private Sector Housing Financial Assistance Policy
This policy sets out the assistance the Council will provide in order to make dwellings in the private sector healthy, safe and secure enabling vulnerable people to remain in the community. It will work in conjunction with the Private Sector Housing Enforcement Policies. It outlines the assistance and advice schemes that are available, the funding and grants that we can facilitate, and the conditions that are attached. It is detailed in Section 2 of this Strategy.

Affordable Warmth Strategy
This strategy aims to achieve affordable warmth for all Wealden's residents by encouraging and improving energy efficiency in all housing sectors, raising awareness of energy efficiency and fuel poverty amongst key workers, developing effective partnerships with public, private and voluntary organisations and providing clear and consistent advice to the public about energy efficiency and achieving affordable warmth.

Local Housing Conditions

Understanding the type, condition and market of the private housing stock together with identification of local issues, needs and expectations is critical to the development of this strategy. The Private Sector Housing Stock Condition Survey 2007, the Housing Market Assessments for North and South Wealden and the East Sussex Health Profile 2008 have been taken into account when considering the evidence for this strategy.

Tenure proportions

<table>
<thead>
<tr>
<th>Tenure</th>
<th>Dwellings</th>
<th>Percent</th>
<th>EHCS 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner occupied</td>
<td>53,700</td>
<td>85%</td>
<td>71%</td>
</tr>
<tr>
<td>Privately Rented</td>
<td>4,600</td>
<td>7%</td>
<td>10%</td>
</tr>
<tr>
<td>Housing Association (RSL)</td>
<td>1,500</td>
<td>2%</td>
<td>8%</td>
</tr>
<tr>
<td>Local Authority</td>
<td>3,200</td>
<td>5%</td>
<td>11%</td>
</tr>
<tr>
<td><strong>Total 63,000</strong></td>
<td><strong>000</strong></td>
<td><strong>100%</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Source: 2007 Stock Condition Survey & 2004 English House Condition Survey (EHCS)

The stock condition survey found that the tenure profile in Wealden differs from the national average in that there is a much higher proportion of owner occupied
dwellings (85% as opposed to 71% for England) but with a significantly lower proportion of RSL properties (2% compared to 8%), local authority properties (5% compared with 11%) and privately rented dwellings (7% compared with 10%).

As at 1st April 2008 there were 63,439 properties within the District, of these 58,761 were in the private sector.

**Age of the dwelling stock**

As would be expected, the owner occupied stock (at 85% of all dwellings) has a similar age profile to the overall stock position, with 47.7% of stock built post 1964 (compared to 48.5% in the overall stock). The privately rented sector has a slightly higher proportion of pre 1919 dwellings with 24.4% built before this date, compared to 20.9% overall. However the stock condition survey found that the age profile of the total private stock of 58,300 dwellings in Wealden differs significantly from the average for England in that smaller proportions of the stock in Wealden were built before 1944. The proportion of pre-1919 properties is marginally less than the national average but with a significant differential for the 1919-1944 age group. Wealden consequently has more dwellings built after 1945 compared with England as a whole. This pattern is very similar to that found in the South East region in the EHCS 2003.

### Dwelling Age Profile England and Wealden

<table>
<thead>
<tr>
<th>Construction date</th>
<th>Wealden 2007</th>
<th>EHCS 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre 1919</td>
<td>20.9%</td>
<td>24.3%</td>
</tr>
<tr>
<td>1919-1944</td>
<td>11.5%</td>
<td>18.8%</td>
</tr>
<tr>
<td>1945-1964</td>
<td>18.0%</td>
<td>19.2%</td>
</tr>
<tr>
<td>1964-1980</td>
<td>25.7%</td>
<td>22.8%</td>
</tr>
<tr>
<td>Post 1980</td>
<td>20.4%</td>
<td>18.5%</td>
</tr>
</tbody>
</table>
Dwelling type profile
The building type profile in Wealden again differs from the national pattern with smaller levels of terraced and semi-detached houses and converted flats but with much larger proportions of bungalows and detached houses.

High and low incomes by age of head of household
The chart illustrates that low income (annual household income below £10,000 per annum) is most associated with the youngest and oldest heads of household and that the greatest proportion of low income households are where the head of household is over 85 years of age (48%). This reflects an income pattern commencing low in the early years, increasing in the 25-59 age groups, where income potential is perhaps in its prime, but then significantly diminishing again for the 60 and over age groups where income capacity is likely to be reduced due to retirement, ill health etc.
High and low incomes by age of head of household

Source: 2007 Stock Condition Survey

Benefit receipt by tenure

Source: 2007 Stock Condition Survey
11% of households are estimated to be in receipt of a benefit compared with 17% nationally.

Key findings of Private Sector Stock Condition Survey 2007
In 2007 Wealden undertook a Private Sector Stock Condition Survey. The survey found that:

- Around 29.4% of the stock (17,100 dwellings) are non-decent. The majority are non decent due to thermal comfort failure (9,900 dwellings or 17% compared with 21% at national level). It is mostly associated with pre-1919 properties, the private rented sector, converted flats and also with occupiers on the lowest incomes and those in receipt of benefit. Non decency is also associated with heads of households aged 25 to 34 and 85+.
- Rural areas north and south have the highest rates of non decency by area.
- The cost to remedy all the items that make dwellings non decent is £58.7 million. An average of £3,920 per non-decent property.
- It is estimated that Wealden meets both the 2005/06 and 2010/11 targets (65% and 70% respectively) of decent dwellings occupied by vulnerable households. However, in order to meet the 2020 target of making 75% of vulnerable occupied private dwellings decent, 300 dwellings would have to be made decent beyond the 2010 target and would cost an additional £1.2 million.
- 9,270 (15.9%) dwellings are estimated to have at least one category hazard under the HHSRS. The cost to remedy all category one hazards is just over £25 million or an average of £2,685 per dwelling.
- Category 1 hazards are associated with older dwellings, private rented sector and converted flats. There is also a clear association between category one hazards and low-income households, households in receipt of benefits, residents with a disability and older heads of households.
- The highest proportion of category one hazards by area was found in the rural north and rural south areas at 22.6% and 19.2% respectively (compared to 9.1% and 9.9% in the urban areas).
- The total requirement for comprehensive repair in all dwellings that fall under the repair criterion of the Decent Homes Standard is £12.8 million, an average of £2,140 per dwelling, to achieve comprehensive repair of these dwelling £58 million is required or £9,700 per dwelling. A large part of the demand for repairs is likely to come from households where income is below £10,000 per annum and where vulnerable occupiers live.
- There are fewer houses in multiple occupation (HMOs) than average at an estimated 0.3% (190 HMOs) compared to 2% across England. Potentially up to 10 may require licensing under the mandatory HMO licensing requirements of the Housing Act 2004.
There are an estimated 8,500 households (14.6%) where there is a resident with a disability. The cost of the necessary adaptations after allowing for means testing, is an estimated £7.8 million.

There are estimated to be 3,300 (5.7%) households in fuel poverty within Wealden (national average is 11%).

Fuel poverty is almost always associated with those residents on the lowest incomes. No households were found to be in fuel poverty where household incomes were above £15,000 per annum, only 140 dwellings where income was above £10,000 per annum and the remaining 3,160 (95.8%) were found where household incomes are below £10,000 per annum. This means the rate of fuel poverty is 34% amongst those households on lowest incomes.

On a geographical basis, the survey indicated the highest rates of fuel poverty are found in the Hailsham/Polegate area followed by the rural north area.

The average energy efficiency level in Wealden using the Government's Standard Assessment Procedure is 55 (on a scale of 1 to 100) compared to the national average of 52 (EHCS 2004).

Low income is most associated with the youngest and oldest heads of households.

Non-traditional forms of accommodation

Gypsies and Travellers
The Wealden District has always had a resident gypsy population and visiting gypsies often travelling though the District. Gypsies and Travellers are believed to be the largest ethnic minority within the District although this is unsubstantiated due to their wish to remain anonymous with many now living in traditional bricks and mortar accommodation. Furthermore 3 of the 4 public traveller sites owned and managed by East Sussex County Council are within the Wealden area along with a number of privately owned family sites.

East Sussex County Council has been successful in bidding for central grant funding for refurbishment and/or expansion for all three of the public sites. Wealden is currently looking at the feasibility of further site provision within the district in line with the South East Plan Partial Review which is proposing an additional 20 pitches (based on the accommodation needs assessment) which are required within the Wealden area. The outcome of the South East Plan Partial Review will be required to be incorporated within the Council's Local Development Framework. Any proposals put forward however will be subject to full and rigorous consultation with all parties involved.

Wealden District Council works in close partnership with the other district and borough councils in East Sussex and East Sussex County Council to deliver the East Sussex Gypsy and Traveller Strategy which aims to provide an integrated
local framework to promote community cohesion and to protect the rights and needs of both the settled and travelling communities.

**Mobile Homes**
The Council is responsible for the licensing and inspection of residential and holiday mobile home sites across the District. There are 28 multiple occupied sites and 41 single residential mobile homes accommodating around 800 mobile homes.

The mobile homes are subject to licence conditions which specify spacing, level of amenities, fire fighting equipment to protect the health and safety of the residents. Many of the multiple sites are occupied by retired people with most of the single sites providing accommodation for people employed in agriculture and farming.

All sites are regularly inspected and the enforcement policy set out in section 3 details appropriate action where site do not meet the required standard.
Chapter 4 – Implementing the Strategy

The Council’s role in Private Sector Housing

The Council is committed to improving conditions across all tenures, including privately rented and owner occupied homes. Whilst it is primarily the owner’s responsibility to maintain their own home, the Council acknowledge that some homeowners, particularly the elderly and vulnerable do not have access to resources to keep their homes in good repair. The resulting poor quality housing has an impact on the health and safety of the occupants, which in turn impacts on other services provided throughout the District. By improving housing conditions, contributions are made to broader policies such as regeneration, tackling social exclusion, opportunities and choice for people to remain in their own home and contributing to environmental sustainability and building safer communities.

The Council has two main functions related to its involvement with private sector housing. As an enforcer using powers available under legislation related to private sector housing and as an enabler for encouraging, supporting, assisting, and working in partnership with other agencies.

The enforcement function:

There is a whole array of legislation related to private sector housing. A number of our key partners also have specific responsibilities e.g. Trading Standards – furniture safety, Health & Safety Executive – gas safety, East Sussex Fire & Rescue Service – fire safety.

The Private Sector Team within the Property Services Section of the Housing Service are responsible for using enforcement powers related to the Housing Act 2004 e.g. serving Improvement Notices when a landlord has failed to carry out repairs on an informal basis. The Private Sector Housing Enforcement Policy in Section 3 of this document sets out our approach to enforcement.

New legislation has given us tools to tackle poor quality, empty and badly managed private sector housing. Because we believe that private sector landlords are partners in providing housing, we want to pursue a partnership approach with them, and focus on assistance, licensing and accreditation to improve the quality of housing. However we will use our enforcement policy where necessary.
The enabling function:

(a) Housing aid assistance

We will offer a range of direct and indirect assistance to those householders most in need. Our assistance measures are detailed in the Private Sector Financial Assistance Policy set out in Section 2 of this document.

(b) Partnership working

Partnership working is at the heart of any successful Housing Renewal Strategy. Value for money has long been high on the agendas of local authorities and partnerships, regional / joint working and better ways of working help to provide cost effective targeted services.

In particular the following partners have a key role in ensuring the success of this strategy:

Home Improvement Agency

We have benefited from a very successful partnership with Anchor Staying put since 1990 which has resulted in an effective Home Improvement Agency service for residents. Home improvement agencies are able to support the most vulnerable, disabled and low-income people living in the worst housing conditions and provide them with advice and assistance to maintain, repair or adapt their homes to meet their needs. Many grant applicants have been helped through the process by Anchor. This work will continue with a review of Home Improvement Agency best practice and how the agency is funded to ensure vulnerable residents receive an effective value for money service.

Private sector landlords

We will continue to encourage, advise and help good landlords and at the same time challenge bad landlords.

The Southern Private Landlords Association (now National Federation of Residential Landlords) has a strong member base in the Wealden District. The Council will strengthen existing links with these landlords through the well supported and attended Landlords Forum held jointly with Eastbourne Borough Council. Landlords benefit from a range of guest speakers and information.

Landlords play an essential role in meeting the housing needs of the District. By working with landlords we aim to encourage their investment into the sector to improve the overall quality, safety and accessibility of privately rented accommodation.

The Council is currently exploring the possibility of a county-wide Landlord Accreditation scheme using the resources and experience of an existing regional
based model e.g. London Landlord Accreditation scheme. Formal landlord training is a prerequisite to achieving accreditation and we recognise that it is an integral part of improving the standard of privately rented accommodation. The landlord forum will be the main portal for encouraging landlords to undertake the training required for achieving landlord accreditation.

Wealden District is predominantly rural with a number of dwellings, particularly in the north, owned by large rural estate landlords. In tackling the issues in the private rented sector it is imperative that we work in partnership with estate landlords to improve the housing conditions in these rural areas.

**Sussex Downs and Weald NHS Primary Care Trust**
As has been highlighted Housing Renewal has a crucial role to play in health improvement. It is crucial therefore that we work in close partnership with other health professionals in the district. The Sussex Downs and Weald Primary Care Trust has particular knowledge on the needs of our community, and is therefore an important partner in developing strategies to meet the needs of the most vulnerable. Considerable work has already been undertaken with the PCT in relation to affordable warmth with representatives from the PCT partners on the Affordable Warmth Steering Group.

**East Sussex County Council Adult Care & Child Services**
East Sussex County Council Occupational Therapy Service provide essential help and support to people who want to stay in their own homes. We have a good working relationship with East Sussex County Council Occupational Therapists. Quarterly meetings are held jointly with Lewes District Council and the Wealden and Lewes Disability Team at a strategic level with senior occupational therapists and representatives from the Home improvement agency and the Medical and Special Needs Officer ensure that Disabled Facilities Grants are administered as efficiently as possible. Disabled Facilities Grants remain the only mandatory grant administered under the Housing Grants, Construction and Regeneration Act 1996.

**East Sussex County Council Supporting People**
East Sussex County Council Supporting People Team provide essential help by funding support services to assist people in maintaining their accommodation. They also provide funding to the Home Improvement agency and are an active partner on the Agency's review group. Officer and Councillor representatives from each district/borough Council and the County Council form the Strategic Partnership.

**South Coast Moneyline**
South Coast Moneyline (SCML) is a Community Development Financial Institution. Wealden, together with the other BEST authorities, is joining an existing consortium of five authorities in Hampshire and Sussex in partnership with SCML to provide accessible and affordable Home Improvement Loans to
low income households. These loans will make up a vital part of delivering the aims of this Private Sector Housing Renewal Strategy.

**East Sussex Fire and Rescue Service**
One of East Sussex Fire and Rescue Services main functions is the provision of fire safety and fire prevention advice. A close working relationship has been formed particularly in relation to the provision of fire alarms for households with a sensory impairment. Also a working protocol has been developed in partnership with all the local authorities in East Sussex, including Brighton and Hove City Council and East Sussex Fire and Rescue Service in relation to the enforcement of fire safety in Houses in multiple occupation.

**Energy efficiency advice centres**
The Energy Saving Trust Advice Centre for Kent, Surrey, East Sussex and West Sussex provides an important source of free and impartial advice on energy efficiency measures to Wealden residents. Their information along with that provided by the East Sussex Energy Partnership provides advice and access to grants and energy efficiency discounts.

**Resources**
The 2007 Private Housing Stock Condition Survey identified that the estimated cost to remedy all the non decent accommodation in the private sector to be £58.7 million.

There is clearly a substantial divide between the sums required to tackle housing renewal and the actual level of resources available. The Financial Assistance Policy therefore prioritises the assistance funded directly by the Council. We will concentrate our resources based around the health and well-being of the residents.

Future additional resources from central government are likely to be allocated on a regional basis. The Council will ensure it maintains its close working with the BEST partners to ensure it is well placed to receive additional funding.

**Implementing and monitoring the policy**
This policy will take effect from 1\textsuperscript{st} June 2009 and will remain valid until updated.

In order to tackle the issues highlighted we have identified priorities for action. The priorities have been informed by the various national and regional drivers for Private Sector Housing Renewal and the results of the 2007 Private Sector House Condition Survey. These priorities are detailed in an Action Plan set out in Appendix A. along with a set of ‘policy tools’ in the Financial Assistance policy in
Section 2 of this document that we will use to tackle the issues. The Action plan is a living document and will be updated on a regular basis.

The impact and outputs of the policy will be continually monitored throughout the year though the performance management framework.

Significant issues will be brought to the attention of the East Sussex Housing Officers Group and the BEST Steering Group, comprising of senior officers from each authority, for discussion and analysis. Key partners will be also advised of progress and outcomes of the action plan and, where appropriate, will be consulted on any proposed enhancements or amendments to the scheme.

Contact Information

The Property Services Section can be contacted as follows:

By telephone: 01323 443321

By email: privatehousing@wealden.gov.uk or through the Council’s website at www.wealden.gov.uk

By post: Property Services Section, Housing Service, Wealden District Council, Council Offices, Vicarage Lane, Hailsham, East Sussex, BN27 2AX

Or by calling at the Council Offices 8.30 am and 5.00 pm weekdays.
### Draft Private Sector Housing Action Plan 2009-2011

<table>
<thead>
<tr>
<th>Key Objective</th>
<th>Tasks</th>
<th>Outcome</th>
<th>Target Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improve advice and information available</td>
<td>Develop an advice guide for older people giving multi-agency information on housing, health &amp; support options in consultation with PCT, ESCC &amp; voluntary sector</td>
<td>Increased awareness in elderly residents of services available to support and assist them to make informed choices in respect of their housing</td>
<td>Dec 09</td>
</tr>
<tr>
<td></td>
<td>Develop a tenants information pack</td>
<td>Tenants receive advice on Private Sector Housing (PSH) services and their and their landlord’s responsibilities</td>
<td>Sept 09</td>
</tr>
<tr>
<td></td>
<td>Develop a Landlords information pack</td>
<td>Landlords receive advice on their responsibilities and services available from PSH Team</td>
<td>June 09</td>
</tr>
<tr>
<td></td>
<td>Investigate potential and interest in a private sector tenants group</td>
<td>Private Sector tenant group established for communication and consultation working</td>
<td>Sept 09</td>
</tr>
<tr>
<td></td>
<td>Increase awareness of housing advice and PSH services amongst diverse and hard to reach groups including partnership working with support networks</td>
<td>Greater awareness and use of service by diverse and hard to reach groups</td>
<td>Mar 10</td>
</tr>
<tr>
<td></td>
<td>Develop information pack for homeowners</td>
<td>More homeowners aware of work necessary to prevent homes falling into disrepair or hazards present including any assistance available</td>
<td>Dec 09</td>
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<tr>
<td>Key Objective</td>
<td>Tasks</td>
<td>Outcome</td>
<td>Target Date</td>
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<tr>
<td>Improve services to assist vulnerable households</td>
<td>Complete review of procedures</td>
<td>Procedures available on the knowledge map system for information</td>
<td>May 09</td>
</tr>
<tr>
<td></td>
<td>Use the CIEH toolkit to indicate links between private sector housing and public health in partnership with the Primary Care Trust and use this to promote the role of private sector housing and its wider contribution to public health</td>
<td>Profile of housing raised by showing, where possible the cost benefit of specifically linked housing and health issues</td>
<td>Sept 10</td>
</tr>
<tr>
<td></td>
<td>Promote services of HIA</td>
<td>Increased number of first time users of HIA services</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>Produce protocol between WDC, ESCC and HIA on the DFG process</td>
<td>Effective partnership working with the HIA</td>
<td>May 09</td>
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<tr>
<td></td>
<td>Undertake review of funding stream and VFM of HIA services in conjunction with the supporting people commissioning project.</td>
<td>Benchmarking and assessment of service with potential retendering to ensure VFM money</td>
<td>June 09</td>
</tr>
<tr>
<td></td>
<td>Explore best practice to provide further VFM methods to increase the number of disabled adaptations which can be deliver within the budget</td>
<td>Increased number of adaptations per year with reduced average per adaptation</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>Work in partnership with the Housing Options Team to secure properties of suitable standard for the Private Sector Leasing Scheme</td>
<td>Target of 25-30 operational PSL properties achieved</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Key Objective</td>
<td>Tasks</td>
<td>Outcome</td>
<td>Target Date</td>
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<tr>
<td>Engage consultant to complete site assessment, consult and make bid for Gypsy and Traveller Site Grant</td>
<td>New permanent traveller site</td>
<td>Apr 10</td>
<td></td>
</tr>
<tr>
<td>To work with landlords to ensure a thriving and high quality housing stock for private rent</td>
<td>Develop decent homes partnership with large rural estate landlords</td>
<td>All estate properties meet decent homes standard</td>
<td>Apr 11</td>
</tr>
<tr>
<td>Establish a database of all private sector landlords whose tenants do not receive Housing Benefit and therefore do not receive the WealdenLet Newsletter, in partnership with the National Landlords Association</td>
<td>Database of Wealden’s private landlords established</td>
<td>Sept 09</td>
<td></td>
</tr>
<tr>
<td>Create newsletter for landlords bi-annually</td>
<td>Information distributed to landlords through newsletter bi-annually</td>
<td>Ongoing</td>
<td></td>
</tr>
<tr>
<td>Establish a Landlord Accreditation Scheme in partnership with other East Sussex authorities</td>
<td>Training based landlord accreditation scheme operational</td>
<td>June 09</td>
<td></td>
</tr>
<tr>
<td>Establish a user group of lettings agents and PS Landlords</td>
<td>Mechanism for communication and consultation with landlords established</td>
<td>Sept 09</td>
<td></td>
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<tr>
<td>Key Objective</td>
<td>Tasks</td>
<td>Outcome</td>
<td>Target Date</td>
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<tr>
<td>Improve housing conditions in the private sector</td>
<td>Identify hotel &amp; other large establishments likely to use or require staff accommodation</td>
<td>Additional licensable HMOs identified</td>
<td>Dec 09</td>
</tr>
<tr>
<td></td>
<td>Monitor local newspapers for advertisements for rental accommodation to assess potential HMOs</td>
<td>Additional licensable HMOs identified</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>Meet the requirements of the PSA 7 target by making a further 300 dwellings occupied by vulnerable households decent by 2020 to reach the 75% target</td>
<td>60 dwellings made decent 2009/10, 75 in 2010/11 enforcement and financial assistance tools</td>
<td>Mar 11</td>
</tr>
<tr>
<td></td>
<td>Utilise the findings of the stock condition survey to target areas of highest levels of non-decency and concentrations of identified target hazards by advertising and partnership working with other statutory agencies and the voluntary sector</td>
<td>Increased take up of assistance and increased numbers of properties made decent in target areas compared to previous levels</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>Investigate practicality of producing a list of builders prepared to undertake grant aided work which can be sent out to applicants requesting financial assistance</td>
<td>Householders confident in securing good quality building services</td>
<td>Apr 10</td>
</tr>
<tr>
<td></td>
<td>Undertake an appraisal on whether to implement charging for statutory notices served under the Housing Act 2004</td>
<td>Recommendation to Portfolio holder and implementation of decision</td>
<td>Oct 09</td>
</tr>
<tr>
<td></td>
<td>Undertake review of service performance indicators and implement monitoring procedure to ensure service standards maintained</td>
<td>Robust monitoring of service to ensure customers receive a high standard of service</td>
<td>Sept 09</td>
</tr>
<tr>
<td>Key Objective</td>
<td>Tasks</td>
<td>Outcome</td>
<td>Target Date</td>
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<tr>
<td></td>
<td>Work in partnership with the BEST authorities to deliver the county-wide private housing renewal programme</td>
<td>Deliver £18.5 million private housing renewal funding program across the County which seeks to address housing issues within the coastal areas and the high proportion of poor condition properties in the rural areas</td>
<td>Mar 11</td>
</tr>
<tr>
<td></td>
<td>Work in partnership with East Sussex authorities to deliver the East Sussex Gypsy and Traveller Strategy</td>
<td>Additional sites provided for accommodation contributing towards the South East Plan review requirements</td>
<td>Mar 11</td>
</tr>
<tr>
<td></td>
<td>Support the aims and objectives of the linked strategies – Homelessness Strategy, Affordable Warmth Strategy, Empty Homes Strategy</td>
<td>Outcomes of relevant strategies on target and achieved</td>
<td>Ongoing</td>
</tr>
</tbody>
</table>
Section 2

Private Sector Housing Financial Assistance Policy - Currently Under Consultation

Document can be found on

www.wealden.gov.uk

Wealden/Housing/Strategies_and_Key_Documents/Housing_Private_Sector_Renewal
Section 3

Private Sector Housing
Enforcement Policy
2009
Part Three – Other Enforcement Actions
Caravan Sites and mobile homes 100
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Introduction

The aim of this policy is to allow the consistent and fair enforcement of housing legislation to raise standards in the private housing sector.

Enforcement of housing standards is an integral part of the Council’s Private Sector Housing Strategy detailed in Section 1 of this document. Enforcement includes education, advisory visits and assisting with compliance as well as licensing and formal enforcement action. It is important that those who may be affected by enforcement action have access to a clear statement of what they can expect from enforcement officers.

This policy sets out to ensure the Council undertakes its housing enforcement role in a consistent, practical, open and transparent manner. When an officer is dealing with a house that is below acceptable standards, this enforcement policy and the principles of the Local Authority Enforcement Concordat will be followed.

Wealden District Council will ensure that all appointed officers are suitably trained and qualified to ensure that they are fully competent to undertake their enforcement activity.

Part One – Housing Conditions

Legislation

The principal piece of legislation to be used by the Private Sector Housing Team is the Housing Act 2004 (referred to as “the Act”). However, there are circumstances where other pieces of legislation may be more appropriate in dealing with the identified problem. Officers will be expected to use professional judgement to determine the most appropriate piece of legislation to use. In some cases it may be the Housing Act 2004 & The Housing Health and Safety Rating System (England) Regulations 2005.

Housing Act 2004 and The Housing Health & Safety Rating System (England) Regulations 2005

Where an Officer has reason to enter a property we will inspect the whole property using the Housing Health and Safety Rating System (HHSRS). This system has been adopted by regulations as the prescribed methodology for assessing housing conditions. The aim is to identify deficiencies within dwellings that may lead to a hazard. Each hazard is assessed and assigned a band. These bands are translated into either a category one or a category two hazard.

The 2004 Act places a mandatory duty on the Council to take action where a category 1 hazard has been identified. There is a discretionary power to deal with category 2 hazards. The Act also provides a range of enforcement tools:-

Improvement Notices – section 11 is used for category 1 hazards, section 12 is used for category 2 hazards. An improvement notice should be used where
reasonable remedial works can be carried out to reduce the hazard sufficiently.

Prohibition Orders – section 20 for category 1 hazards and section 21 for category 2 hazards. This order may prohibit the use of part or all of a premises for some or all purposes or for occupation by a particular number or description of people. An order may be appropriate where conditions present a risk but remedial action is unreasonable or impractical. It may also be used to limit the number of persons occupying the dwelling, or prohibit the use of the dwelling by specific groups. In an HMO it can be used to prohibit the use of specified dwelling units.

Hazard Awareness Notices – section 28 for category 1 hazards and section 29 for category 2. This is used where a hazard has been identified but it is not necessarily serious enough to take formal action. It is a way of drawing attention to the need for remedial action. This notice should not be used if the situation is considered serious enough for follow up inspections to be made. This notice is not registered as a land charge and has no appeal procedure.

Emergency Remedial Action - section 40 – this is only acceptable for use where there is an imminent risk of serious harm and the hazard must rate as a category 1. The authority must enter the premises and undertake any necessary remedial works that are required to reduce the immediate risk. A warrant to enter the premises in order to carry out the work may be granted by a justice of the peace where he/she is satisfied that the authority would not be granted admission.

Emergency Prohibition Order – section 43 – this is only acceptable for use where there is an imminent risk of serious harm, the hazard rates as a category 1 and where it is not practical to carry out the remedial works as in section 40. It can prohibit the use of all or any part of the premises with immediate effect.

Demolition Order – this can only be used in response to category 1 hazards, but not if the building is listed. It must take into account availability of accommodation for re-housing, demand for accommodation, and the possible future use for the cleared site.

Clearance Area – All residential buildings in the proposed area must have at least one category 1 hazard. It must take into account availability of accommodation for re-housing, demand for accommodation, and the possible future use for the cleared site.

Suspend Improvement Notices or Prohibition Orders – these notices may be suspended where enforcement action can safely be postponed until a specified event or time. This can be a period of time or a change in occupancy. Current occupation and wishes must be taken into account. These may also be used where there is programmed maintenance. The suspensions must be reviewed at the very least every 12 months. The advantage of suspending a notice is that there is a record of the Local
Housing Authority’s involvement and the situation must then be reviewed. It is also recorded as a land charge.

The following tools are also available where the Housing Act 2004 measures are not appropriate, or do not sufficiently deal with the problem.

**Environmental Protection Act 1990 section 80**
Notices can be served if the officer is of the opinion that there is a statutory nuisance at the premises. The premises must be deemed prejudicial to health or a nuisance.

**Building Act 1984 section 59/60**
Used to deal with defective drainage issues in existing buildings.

**Building Act 1984 section 64/65**
Used where sanitary conveniences are insufficient or in need of replacement and are considered prejudicial to health or a nuisance.

**Building Act 1984 section 76**
Used where the property is so defective so as to be prejudicial to health. This notice notifies the person responsible of the local authority’s intention to remedy the problem (similar to work in default).

**Public Health Act 1936 section 45**
Used where there are defective sanitary conveniences due to their repair and/or cleansing ability. They must be in such a state as to be prejudicial to health or a nuisance.

**Public Health Act 1961 section 17**
Where any drain, private sewer, water closet, waste pipe or soil pipe has not been maintained and can be repaired for less that £250.

**Local Government (Miscellaneous Provisions) Act 1976 section 33**
Used where services such as the water, gas and electricity supply are due to be, or have been, cut off to a domestic property due to non payment of bills. This power is discretionary.

**Prevention of Damage by Pests Act 1949 section 4**
Used where there is evidence of or harbourage of pests at a property.

**Housing Act 1985 (as amended)**
Some provisions within the 1985 Act have not been revoked and may be appropriate to use in some circumstances. In particular the overcrowding provisions are still available and can be used where the 2004 Act is not sufficient. The other provisions relate to Houses in Multiple Occupation (HMO) and the Housing (Management of Houses in Multiple Occupation) Regulations 1990. These have been revoked with regards to all types of HMO as described under the Housing Act 2004 and detailed later in this policy, except certain converted blocks of flats. These regulations can be used to deal with disrepair and management issues of this type of HMO only.
The Management of Houses in Multiple Occupation (England) Regulations 2006
These regulations have been introduced to deal with all other types of HMO other than those mentioned above. Therefore, all licensable HMOs, smaller HMOs and flats in multiple occupation are covered by these regulations. Only self-contained flats are exempt as they fall under the regulations mentioned above.

The regulations cover the management and repair of the HMO. There are no notice provisions with these regulations therefore if a decision is made to take action under these regulations, the officer must go straight to prosecution.

Other Legislation
The following legislation is also used as part of the day-to-day collection of information, preparing cases for prosecution and gathering evidence.

Local Government (Miscellaneous Provisions) Act 1976 section 16 - Used to formally request information about a premises or a person.


Enforcement Procedure
Powers of Entry
An authorised officer may enter the premises in question at any reasonable time for the purpose of carrying out a survey or examination of the premises. However they must have given at least 24 hours' notice of his intention to do so:
(a) to the owner of the premises (if known), and
(b) to the occupier (if any).
If access is not successful or if giving prior warning of entry is likely to defeat the purpose for the entry then the local authority can obtain a warrant from a Justice of the Peace to provide for the power of entry by force if necessary.

Informal Action
The first aim of the Private Sector Housing team is to improve the housing conditions in the private sector by use of advice and education. There are occasions where these methods are not successful in improving conditions and therefore, it is necessary to consider enforcement action.

It should be noted that the legislation applies equally to any dwelling whether it is owner occupied, privately rented or rented from a Registered Social Landlord or Charitable Body. The rating system applies equally to our own stock although we cannot take enforcement action against ourselves.
When undertaking enforcement action, officers will be expected to follow the principles of the Enforcement Concordat, which encourages openness, proportionality and consistency. In order to achieve this, Officers will be expected to be transparent in the way they have made decisions by keeping clear records and file notes. All remedial work that is required must be sufficient to remove any risks but not so excessive as to be burdensome. Officers giving verbal or written advice will always clearly differentiate between those items, which are legal requirements, and those that are recommended as good practice. Officers must ensure they follow procedures set out by this policy and any associated procedure documents and guidance.

In order to satisfy these principles it is expected that officers in the first instance will make informal contact with the person responsible for the property containing the hazard. It is anticipated that in many cases an informal approach will achieve the desired outcomes.

However, informal action cannot be allowed to continue indefinitely and there must be a limit attached to the informal action. This is to ensure that there is not scope for further delays to works that are likely to be time intensive. Therefore, a response should be required within 14 days of the date of the first letter. If a response is received and a timescale for completion of the works is agreed then it may not be necessary to serve a legal notice.

If remedial works have not been completed in the agreed time, then a notice must be served within reasonable timescales.

The delays incorporated within the informal approach are satisfactory where there is not a high risk or the agreed times are short, but where there is a serious hazard or this procedure provides for unacceptable delay, a notice should be served as soon as possible. A Requisition for Information under the Local Government (Miscellaneous Provisions) Act 1976 would be served at this point to establish ownership.

The officer will be required to use discretion on this matter but will be expected to be fully accountable for the decision and make detailed file notes justifying any time delays.

**Decision to take enforcement action.**

An inspection of a property must be carried out and the deficiencies noted. A Notice of Entry will be served under Section 239 of the Housing Act 2004 for this purpose. As the principal piece of legislation, the Housing Act 2004 will be considered to assess whether there are category 1 or category 2 hazards within the property. Having made this assessment, dependent on the problems within the property, consideration will be given to the most appropriate course of action to reduce the hazards to an acceptable level. Appropriate and comprehensive file notes, photographs and measurements must be made.
The most appropriate legislation must be identified for dealing with the hazard. Only where the Housing Act 2004 is not appropriate should other legislation be considered.

Consideration must also be given to whether consultation is required with other enforcing bodies. In particular where the hazard of fire is identified there is a duty to consult with the fire authority as prescribed under section 10 of the 2004 Act. Other bodies such as the Police, Social Services and the Health and Safety Executive may need to be contacted or other departments within the Council such as Environmental Protection, Planning and Building Control and the Housing Options Team.

Regard must also be had to other schemes that are available to assist with housing repairs. Tenants, homeowners and landlords may be able to access a number of grants and loan schemes, which may negate the need for formal action to be taken.

However, where the offer of grant has been made through any schemes including Warmfront, and the landlord or owner subsequently refuses any offers of assistance, it may be necessary to pursue enforcement action.

**Power to Charge for Enforcement Action**
Local authorities have the power to make a reasonable charge as a means of recovering administration and other expenses incurred in taking enforcement action as specified in section 49 of the Housing Act. When a charge is imposed under this section the sum recoverable becomes a charge on the premises concerned.

No charges are currently imposed by Wealden District Council for this purpose however, consideration will be given to reviewing this practice and therefore the Council reserves the right to impose charges for this purpose in the future.

**Section 8 Statement of reasons**
Under section 8 of the Housing Act 2004, a statement must be prepared detailing which notice provisions are being considered. The statement must also include why the other options have been discounted at this stage. In making these decisions regard must be had to:

- the seriousness of the situation and the imminent risk to health and safety,
- the type of hazard and whether it is a priority or target hazard
- the current occupation and the impact the decision may have on the social exclusion of certain groups of people,
- the turnover of tenants or occupants to the property,
- the management of the property,
- the occupants views including the risk that their tenancy will be terminated because of action by the local Authority
• the owners views and the mortgagors views
• the number of hazards within the property and whether they are category 1 or category 2.
• the enforcement policy and procedures, the private sector housing strategy and housing strategy.
• the decent homes standard

Where there are only category 2 hazards consideration must be given to the overall effect of the multiple hazards and whether they are indicative of a rundown property.

Once a decision has been made the appropriate notice procedure must be followed. When taking any form of action a covering letter and the statement of reasons under section 8 must also accompany the notice and the schedule of works.

**Priorities**

The Housing Act 2004 and subsequent HHSRS regulations 2005 have identified a number of hazard categories that have been found within the home. There are 29 hazards that arise from disrepair, lack of maintenance or poor design. (See Appendix 1) The health effect from these hazards range from death to mental stress and the HHSRS provides the opportunity to compare unrelated hazards such as fire with other hazards such as damp and mould growth. This is done through the calculation of a hazard score. The higher the score the higher the risk posed by the hazard.

This enforcement policy sets the following prioritisation scheme for dealing with hazards (see table one). This will be subject to regular review. The principal behind this is detailed below.

• All category 1 hazards will be dealt with as a priority over category 2 hazards.

• Where there are multiple category 1 hazards, those with the highest scores will be a priority over the lower scores.

• Where there are category 2 hazards, the higher scored category 2 hazards will be dealt with first, unless target hazards have been identified in the property.

• Where an officer has identified deficiencies and felt it necessary to hazard-rate them, even if the result is a low category 2 hazard, the officer must consider at the very least offering advice, or if appropriate serve a hazard awareness notice. Where the hazard is a target hazard, any necessary remedial works should be considered.

On receipt of a complaint the officer will contact the complainant to visit the property within 5 days. Sufficient information should be obtained at first contact to decide whether a visit is required within 24 hours. This would only
occur where there is imminent risk of severe danger /damage for example unsafe or dangerous gas or heating appliances, risk from falling building elements, severe water penetration affecting use of essential rooms e.g. bedrooms, electric shock, failure of the gas/water/fuel supply due to disrepair.

In times of high service demand it may not be possible to adhere to these timescales. The complainant should be kept informed as to the potential waiting time.

In all circumstances consideration should be given to whether there are other schemes or assistance that may be available that are more appropriate than formal action.

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| High Priority | P2 – Hazard Bands | • Improvement notice | • Clearance |
|               | A – C | • Prohibition Order | • Demolition |
|               | Including target hazards | | • Suspend notices |
|               | | | • Hazard awareness Notice |

| Category two | | | |
| Medium Priority | P3 - Target Hazards Bands | • Improvement notice | • Prohibition Order |
|               | D – J | • Suspend notices | |
|               | High bands D - F | • Hazard awareness Notice | |

| Low Priority | P4 - Low bands | • Hazard Awareness Notice | • Improvement notice |
|             | G - J | • Suspend notices | • Prohibition Order |

Table one  Prioritisation of Hazards and Options for Action
Target hazards

The Private Sector Housing Strategy (Section 1 of this document) details how this information has been collected through the private sector stock condition survey and its relationship to private sector housing and the HHSRS. It identifies a number of hazards, which will be targeted where they fall within a category two hazard.

These are;
Damp and Mould growth
Excess cold
Food safety
Personal hygiene, sanitation and drainage
Falling on level surfaces
Falls on stairs
Falls between levels
Fire

There is also empirical data that non-mains sewage systems are also a cause of complaint.

In establishing these target hazards regard has also been had to the decent homes standard.

Decent Homes Standard

The Government has identified a minimum standard that homes must achieve in order to be considered decent. As part of the standard a home must not contain category 1 hazards; must be in a reasonable state of repair; must have reasonably modern facilities and services; must provide a reasonable degree of thermal comfort. Each of these aspects can be covered by hazard categories within the HHSRS and therefore it is expected that officers will have regard to this standard when considering any action.

Free from category 1 hazards – following an assessment under the HHSRS the property is only decent where there are no category 1 hazards.

Reasonable state of repair - where one or more key building components (structural elements) are old and in such a condition they need replacement or repair then the property is not decent. Alternatively, if two or more components (not key components) are old and in such a condition as to need replacement or repair and together are indicative of disrepair then the property is not decent. [A key component is defined in: A Decent Home: Definition and guidance for implementation June 2006]

Reasonably modern facilities – to be considered non-decent the property must lack at least three of the following amenities: a kitchen which is less than 20 years old; a kitchen with adequate space and layout; a bathroom which is less than 30 years old; a suitably located bathroom and toilet; adequate
external noise insulation; adequate size and layout of the entrance to blocks of flats

Reasonable degree of thermal comfort – the property must have an efficient heating system such as gas or oil, electric storage heaters where other options are not possible, under floor/warm air systems and effective insulation in order to be considered decent. Where there is a SAP rating of less than 35 this is indicative of a category one hazards and would automatically make the property non-decent. SAP (standard assessment procedure) is the Government recommended system for the energy rating of dwellings.

Although a property with category 1 hazards will fail the Decent Homes Standard and enforcement action can be taken to remove/reduce these, there are no enforcement provisions in the private sector that require properties to meet the remaining provisions of the Decent Homes Standard. However the Government has set targets under PSA 7 for the number of vulnerable householders living in non-decent properties to be reduced.

**Level of remedial works required**

As a minimum, category 1 hazards must be reduced to a low category 2.

Where this is not possible all reasonable steps must be taken to reduce the hazards as far as reasonably practicable. In some cases, such as listed buildings, category 1 hazards may remain. This scenario should have been considered when deciding which course of action is most appropriate and may influence the officer’s decision as to which type of enforcement action to take.

Target hazards should be improved to the ideal where this is possible and reasonable to do so.

When deciding on the remedial works, regard must be had to the seriousness of the hazard, the ideal that the property should achieve, and the level of work required that is reasonable to reduce the hazard significantly without incurring excessive cost.

For the hazard of fire, where the property is an HMO, section 10 of the Housing Act 2004 states that the local housing authority must consult with the Fire Authority before taking any action and deciding on the remedial works. A working protocol has been developed in partnership with all the local authorities in East Sussex, including Brighton and Hove City Council and East Sussex Fire and Rescue Service to ensure that this process does not become burdensome.

All property owners will be encouraged to ensure that their property meets the decent homes standard as a minimum.
 Appeals

Once the officer has made the decision to serve a notice and has followed the correct procedure, the notice should be served with a copy of the section 8 statement of reasons.

All correspondence must detail the appeal procedure for the action being taken. This is slightly different for each notice/order and care should be taken to ensure the correct information is included.

The person served with the notice/order has the right to appeal against the notice/order on any grounds. The main reasons for appeal are likely to be the contents of the notice/order and the schedule of work. Appeals can also be made on the grounds that the notice/order was not served on the correct person, or that a different course of action would be more appropriate.

Appeals are made to the Residential Property Tribunal (RPT). The intention is that the tribunal will be able to make a decision based on paperwork and statements supplied by both parties. On occasion a hearing will be held where both parties must present their cases. There is no requirement for legal representation. The RPT may request to visit the property in question.

 Offences

 Housing Act 2004
 Failure to comply with an improvement notice without reasonable excuse – the notice recipient commits an offence and is liable to prosecution. On summary conviction they can be fined up to level 5 on the standard scale. The obligation to carry out the remedial works continues despite the fact that the period for completion has expired.

 Failure to comply with a Prohibition Order – an offence is committed if the premises is used in contravention to the order, or permission is given for the premises to be used in contravention to the order. On summary conviction fines up to level 5 on the standard scale may be levied. In addition there is a further fine of up to £20 per day for every day or part day after conviction that the property is used in contravention.

 Environmental Protection Act 1990
 Failure to comply with a notice – the notice recipient commits an offence and is liable to prosecution. On summary conviction the fine can be up to level 5.

 Building Act 1984
 Failure to comply with any notice - the notice recipient commits an offence and is liable to prosecution. On summary conviction fine can be up to level 4 with a daily charge of £2 until works are complete.

 Public Health Act 1936
 Failure to comply with any notice - the notice recipient commits an offence and is liable to prosecution. On summary conviction fine can be up to level 4.
Public Health Act 1961
No prosecution procedure – the Council carries out works and the person responsible is charged.

On the standard scale, the fines currently stand at

Level 4 is currently up to £2,500.
Level 5 is currently up to £5,000

Prosecution

Where there is a breach of a notice or an order the officer must investigate the offence and prepare the case for prosecution. This may involve interviewing relevant people under caution, following the relevant parts of the Police and Criminal Evidence Act 1984.

Where prosecution is likely, the person or company committing the offence will be invited to attend a taped interview in order to have the opportunity to express their reasons for the offence.

Where the responsible person does not turn up to the interview or is unable to attend, a maximum of 2 further attempts should be made to accommodate the interviewee.

It is not essential to carry out an interview, however, it is considered good practice to establish ‘reasonable excuse’ under caution before prosecution is pursued further.

The case will be presented to the Council’s legal department who will decide if the prosecution should be pursued.

In making this decision the legal department will have regard to the Code for Crown Prosecutors (Prosecutors employed by the Crown Prosecution Service). This is to ensure that fair and consistent decisions about prosecutions are made. Officers must also refer to this code when considering the merits of pursuing a prosecution.

The code of practice details two tests, which govern the decision-making process. A case must pass both tests to show that prosecution is appropriate. The two tests are described below.

The Evidential Test
The Prosecutor must be satisfied that there is enough evidence to provide a realistic prospect of conviction against each defendant on each charge. The defence case must be considered and how this is likely to affect the prosecution case.

The Prosecutor must consider whether the evidence is reliable and can be used.
The Public Interest Test
Once the evidential test has been passed, the prosecution will usually proceed. However, there may be factors relating to public interest which are against prosecution and that clearly outweigh those in favour.

Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender. Some factors may increase the need to prosecute but others may suggest that another course of action would be more appropriate.

In considering the public interest to prosecute, the officer must decide how important each factor is and its relationship to the prosecution. They must then make an overall assessment based on the merits of each individual case.

Works in Default
The Housing Act 2004 makes provisions for the Council to carry out the works to a property where the person responsible has failed to comply with a notice.

Works in default can be carried out either instead of a prosecution or in addition to a prosecution. The works in default procedure should be followed.

This is a discretionary power. Discussions will be required with the Property Services Manager due to the cost implications of this procedure. Although it is anticipated that the cost of the works will be recovered, it is not guaranteed that this money will be paid back promptly.

It is proposed that works in default should be used where there is an imminent risk to health and safety and where the remedy is relatively easy to achieve. If it is to be used in other circumstances, full justification based on the merits of the case will be required.

It is also proposed that it should be used in conjunction with prosecution where it is appropriate to do so. This would be dependant on the nature of the hazard but should be considered due to the delays often experienced during the prosecution procedure. The delays often result in the remedial action being postponed leaving the occupier living in unacceptable conditions.

In deciding whether works in default is an option, the officer must consider the imminent risk to health and safety and whether undue delay would put the occupier, visitors or the public at increased risk. They must also consider whether there are finances in place to carry out the work and what the minimum works required would be to remove the risk. Works in default cannot be carried out if, as a result of the action a second, different hazard will result. Any remedial works must be extensive enough to remove the hazard and leave the property in a safe condition.
Action by Agreement

The Act also makes provision for remedial works to be carried out by agreement. This is where the local authority arranges for the works to be carried out at the request of the person responsible and they are then charged for the full cost. When it is carried out in default without agreement the local authority can recover expenses reasonably incurred plus interest.

In order to use this provision the officer must be confident that the cost of the works will be repaid in full once the work is complete.

If the costs incurred cannot be paid they must be placed as a charge against the property. The Enforced Sale Procedure may then be used if considered appropriate. If a Landlord requests that we carry out works where no notice has been served they will be instructed to engage the services of a suitably qualified Chartered Surveyor.

Part two– Mandatory HMO Licensing

Introduction

Part 2 of the Act introduces mandatory licensing of certain types of HMO (house in multiple occupation). This enforcement policy provides detail on how to administer the mandatory licensing scheme and how the various requirements and provisions provided by the Act are to be used in executing the Local Housing Authorities duties.

Nearly 10% of the housing stock in England is rented, and some of the poorest housing conditions are found in this sector; in Wealden approximately 7% of the housing stock is rented, this is below the national average.

HMOs in the private rented sector provide valuable housing to many people who would otherwise be homeless. However, the sector is perceived to be associated with anti-social behaviour, poor living conditions and some of the most vulnerable members of society.

Many landlords are responsible and provide adequate housing with good management, but there are some that lack the skills, knowledge and/or willingness to manage their properties professionally. It is these types of property that often cause the problems.

Mandatory licensing has been introduced to tackle the worst properties in this sector. Local Authorities may also introduce Additional and Selective licensing schemes within their area. These schemes are discretionary and the Local Authority will be expected to undertake research and prepare a report for the Secretary of State advising why such schemes are necessary in their area, to deal with specific issues.
Wealden may consider these schemes following the implementation of the mandatory scheme. A review of the success of this scheme and other initiatives will be undertaken before a decision is made on whether to pursue these schemes further.

Mandatory licensing is aimed at certain types of HMO with 3 or more storeys. They must be occupied by 5 or more people who constitute more than one household.

The licensing function has been introduced in order to:

- Ensure landlords are fit and proper persons or employ agents who are.
- Ensure adequate management is in place
- Ensure authorities have measures available to encourage landlords to co-operate with licensing
- Where landlords are unwilling or unable to co-operate the local authority can step in to manage the property.
- Ensure tenants are protected
- Ensure high risk HMOs and their landlords are identified, so that health and safety measures can be dealt with under part 1 of the 2004 Act.

Duty to Licence HMOs

Section 61 of the Housing Act 2004 places a duty on the Local Housing Authority to licence certain types of HMO. The Council must take all reasonable steps to ensure applications are made.

In trying to ensure that landlords are aware of this duty, local advertising in tandem with national advertising has taken place. Literature has been published for landlords and tenants, and the private sector housing team have attended landlord forums to offer advice and support. Where resources allow, update campaigns will be run at agreed intervals.

Definition of an HMO

The 2004 Act also introduces a new definition of an HMO. There are four categories or tests for an HMO:

- the standard test,
- the self-contained flat test,
- the converted building test and,
- certain converted blocks of flats.
A - The Standard test:
Any building which consists of one or more units of accommodation which are not self-contained and where two or more households share one or more basic amenities, or where the accommodation is lacking basic amenities.

B - The self-contained flat test:
Any part of a building which is a self-contained flat, which consists of one or more units of accommodation, in which two or more households share one or more basic amenities or where the accommodation is lacking basic amenities.

C - The converted building test:
Any building, which has been converted and contains one or more units of accommodation, which are not self-contained (whether or not the building also consists of some self-contained units).

D - Certain converted blocks of flats:
Any building which has been converted into and consists of self-contained flats only, and it does not comply with appropriate building standards (e.g. the 1991 Building Regulations) and less than two thirds of the flats are owner occupied, (more than one third on short tenancies).

**Properties requiring a Mandatory Licence**

All types of HMO except ‘D – certain converted blocks of flats’ are included in licensing.

However, it only applies to those properties that are three storeys or more high (basements are included as a storey), with 5 or more persons living there, who make up more than one household. There are some exceptions to this.

**Exemptions:**
- Any building that consists entirely of self-contained flats will not need a licence.
- Properties managed by a public sector body.
- Student accommodation which is in the control of an educational establishment
- Buildings occupied by religious communities.
- Any building entirely occupied by owner/occupiers i.e. freehold estate or leasehold interest of at least 21 years.
- Any building occupied by only two persons and who form two households.
The Licensing of Houses in Multiple Occupation (Prescribed Circumstances) (England) Order 2006, prescribes the definition of a licensable HMO. It also defines basements, attic spaces and mezzanine levels as a storey.

**Applications for licences**

The private sector stock condition survey anticipated that up to 10 HMOs in the district will require a licence. However the sample survey did not identify any properties matching the licensing requirements and activity to date indicate that the true figure may in fact be half of this number. Each licence application must be dealt with systematically and will require a degree of checking before a licence can be issued. Checks must be carried out within agreed timescales and a Notice either granting or refusing a licence must be issued before the licence itself is issued.

**Application forms**

The Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous provisions) (England) Regulations 2006 stipulate the contents of the application form that should be used for HMO Licensing. The East and West Sussex authorities designed an application form which is available from Wealden’s Private Housing Team or available to download from the website www.wealden.gov.uk.

**Checking and processing an application**

When an application is received it must be checked by the Senior Environmental Health Officer to ensure that the application is complete.

A complete application must contain a floor plan of the property including room sizes and have marked on it the location of bathrooms, toilets and kitchens as well as any smoke detectors and alarms.

It must also have the required certificates as detailed below, be accompanied by the correct fee and be signed by all appropriate parties.

**Evidence and certificates**

Each application must provide gas safety certificates, electrical safety certificates, furniture certificates or a signed declaration that all the furniture that has been provided is up to current standards, commissioning certificates for any alarm systems, building notice completions where other works have been carried out and any supporting documents for the fit and proper person criteria. The officer checking the application must ensure that the certificates are valid.

**Test for suitability for use as an HMO**

Each HMO must satisfy a test of suitability to be used as an HMO. If it fails to meet these criteria this will be grounds to refuse a licence.
The Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous provisions) (England) Regulations 2006 stipulate the standard of amenities required in order to be considered suitable.

As a result of these Regulations, guidelines have been produced in partnership with the other local authorities in East and West Sussex to assess the suitability of licensable HMOs. When an HMO does not meet these guidelines, wherever possible the additional items should be included as part of the licence conditions.

If it appears that it is going to be impossible to satisfy this test, it may be necessary to refuse the licence.

**Fit and Proper Person and Management**

The purpose of HMO licensing is to ensure that the most high risk and poorly managed sector of the rented accommodation forms the focus of local authority resources. One of the ways of improving this sector is to look at how these properties are being managed and by whom.

The requirement that the licence holder should be a fit and proper person is to ensure that tenants are protected from rogue landlords and the act stipulates criteria that the licence holder must meet to be regarded as fit and proper.

The local housing authority must have regard to evidence, which indicates that a person has:

a) Committed an offence involving fraud, dishonesty, violence, drugs, and/or sexual offences.

b) Practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or disability in connection with any business

c) Contravened any law relating to housing or landlord and tenant law

d) Acted otherwise than in accordance with any codes of practice that are relevant under section 233 of the housing act 2004.

They must also have regard to evidence which shows that:

a) any person associated or formerly associated (either on a personal or work level) meets any of the criteria above,

b) and this evidence is relevant for the person being fit and proper to be the licence holder or manager of the house.

It is anticipated that most landlords will self certify as fit and proper to hold a licence. The application form contains a series of questions in order to ascertain the status of the applicant and will be expected to sign a declaration that all the information is correct.

Where the proposed manager or licence holder is not a fit and proper person, the applicant should be given the opportunity to review the current situation
and make proposals that do meet these criteria. If this is not possible, it may be necessary to refuse the licence. The Council may at its discretion require a basic Criminal Records Bureau disclosure.

**Provision of false or misleading information**

On occasions it may be necessary to verify the information provided regarding fit and proper persons where problems are encountered.

As a minimum a check with council tax and housing benefit should be made to validate names and addresses and any other information these records may hold. The Housing Act 2004 makes provisions through section 237 that this information must be made available for use in relation to parts 1-4 of the Act.

It may also be necessary to contact other local authorities to check that the applicant has not been refused a licence in other areas.

Section 238 of the Act makes it an offence to provide false or misleading information. On conviction of an offence under this part a fine of up to level 5 can be incurred.

Where the statement has been signed this is a declaration that information provided is correct. Should contradictory information come to light, prosecution should be considered.

**Licence holder and management arrangements**

The local housing authority should assume that the person in control of the HMO (owner/landlord) is the most appropriate person to hold the licence, unless the contrary is shown to be true.

In deciding if the proposed management arrangements are satisfactory regard must be had to the following considerations

a) whether the proposed manager of the house has a sufficient level of competence

b) whether the proposed manager is a fit and proper person – regard must then be had to the fit and proper person criteria.

c) Whether the proposed management structure and funding arrangements are suitable.

In Wealden a number of problems occur due to absent landlords who do not have sufficient management in place and are too far from the property to manage it themselves. In these cases it would be reasonable to require that managers of properties should be local to the property.
**Missing information**

Where there is missing documentation such as the certificates or the application is incomplete or there is concern over some of the information provided, a letter should be sent to the applicant detailing the problems with the application and requesting that the information be sent within 21 days of the date of the letter.

If the information is not returned there are a number of options available depending on the situation. It may be possible to grant the licence and request the information as part of the licence conditions. However, where this is not possible it may be more appropriate to treat the property as operating as an HMO without a licence and look to pursue a prosecution. Alternatively the applicant may have decided not to continue as an HMO so a temporary exemption notice may be necessary. If the decision is to refuse the licence the council must consider a management order.

**Fees and charges**

Section 63(3) provides that the local housing authority may require an application for a licence to be accompanied by a fee, which has been fixed by the authority.

The fee must only take into account all the costs incurred by the authority in carrying out their functions under part 2 of the act. Wealden District Council has interpreted this to mean that the licence fee should reflect the work involved in processing an application and granting or refusing a licence.

The fees will be reviewed at regular intervals to reflect how the scheme evolves and any additional costs incurred by the council. Fees have been set on a Sussex wide basis based on the number of letting rooms.

**Granting a Licence**

Where an application for a licence has been received and the Council is satisfied that the proposed licence holder is fit and proper, that the house is suitable for multiple occupation and the application submitted is valid, the local housing authority must grant a licence.

Each licence must only relate to one HMO and can last for up to 5 years. In some cases in may be necessary to grant the licence for less than 5 years.

A licence may not be transferred to another party. If the property is sold, the new owner or appropriate person must then apply for a new licence.

Before a licence can be granted the Local Housing Authority must serve a notice under schedule 5 part 1 paragraph 1 of the Act. It must state:

- the reasons for granting the licence,
• the main terms of the licence, and

• the end of the consultation period.

This notice must be served with a copy of the proposed licence and the proposed conditions. It should be sent to the proposed licence holder and all relevant people named in the application.

The consultation period should be 21 days. In certain circumstances it maybe necessary to allow more or less time. This should be no less than 14 days and up to 28 days.

Once any representations have been considered the Local Housing Authority may decide to alter the licence. A further notice must be served which sets out the proposed modifications, the reasons for them and the end of the consultation period – normally 7 days.

If a response is not received within the agreed consultation period then the licence must be prepared with the proposed conditions. If any amendments are made at this stage the consultation procedure must be followed again.

Once the consultation period has ended and the proposed licence and conditions have been agreed, a further notice must then be served on the proposed licence holder and all relevant people advising of the decision.

Where the decision is to grant the licence the notice must state:

• The reasons for deciding to grant the licence and the date the decision was made

• The right of appeal

• The period within which an appeal can be made

This notice must be accompanied by a copy of the licence and the conditions and must be served within 7 days of the final decision being made.

The licence becomes operative at the end of the appeal period, which is 28 days. If an appeal is made, then it becomes operative on the date decided by the residential property tribunal. This depends on whether their decision is to vary, quash, or uphold the licence and its conditions.

**Licence conditions**

Once the application has been checked and it is valid, the licence can be prepared. A set of conditions will be attached to each licence and generally the same set of conditions will apply. However, there may be situations where the use of the property or the information provided in the form lead the officer to require additional conditions to be placed on the property or licence holder.
The conditions must be appropriate in regulating the management, use and occupation of the house and its condition and contents (section 67).

Conditions may include:

- Conditions imposing restrictions or prohibitions on the use or occupation of parts of the house
- Conditions requiring that reasonable and practicable steps are taken to prevent or reduce anti-social behaviour by persons occupying or visiting the house.
- Conditions requiring facilities and equipment to be made available in the house in order to meet the standards set out under section 65 (HMO standards).
- Conditions requiring the facilities and equipment to be kept in good repair and proper working order.
- Where works are needed to meet the HMO standards, conditions may be set requiring the works to be carried out in timescales specified or determined under the licence.

The licence must include the conditions set out in schedule 4 of the Act as follows:

- The licence holder must produce every year to the local housing authority for their inspection, a valid gas safety certificate that has been obtained within the last 12 months.
- The licence holder must keep electrical appliances and furniture provided by him/her in a safe condition
- The licence holder must supply on demand a declaration by him/her on the safety of the appliances and furniture.
- The licence holder must ensure that smoke alarms are installed in the house and that they are in proper working order.
- The licence holder must supply on demand a declaration by him/her on the condition and positioning of the alarms.
- The licence holder must supply to the occupiers of the house a written statement of the terms on which they occupy it.

**Refusing a Licence**

A licence can be refused if the local authority is not satisfied that the following criteria have been met.

- The house must be reasonably suitable for occupation by not more than the maximum households or persons specified in the application or a maximum decided by the authority.
- The proposed licence holder must be a fit and proper person having regard to the specified criteria and is the most appropriate person to hold the licence.
• The proposed manager should be the person having control of the house or be employed by an agent or employee of the person in control.
• The proposed manager must be a fit and proper person to be the manager.
• The proposed management arrangements must be satisfactory.

Before a licence can be refused a similar process must be followed as that described for granting a licence. The Local Housing Authority must serve a notice under schedule 5 part 1 paragraph 5 of the Act. It must state:

• the reasons for refusing the licence,
• the end of the consultation period.

The consultation period should be 21 days. In certain circumstances it maybe necessary to allow more or less time. This should be no less than 14 days and up to 28 days.

The applicant or proposed licence holder should provide within their consultation, ways in which the reasons for refusing the licence can be rectified.

If, once the consultation period has ended, it is still not possible to grant the licence, a further notice must be served stating:

• The authority’s decision to refuse the licence
• The reasons for the decision and the date it was made
• The right of appeal
• The period within which an appeal can be made
• The consequences of refusing the licence

This Notice must be served within 7 days of the final decision being made. An appeal can be made to the residential property tribunal within 28 days.

**Consequences of refusing a licence**

If a licence is to be refused serious consideration must be given to the consequences of this decision. Depending on the reasons for the refusal it may be appropriate to consider the options available for dealing with the property.

Where a licence is refused the Council has a duty to take on the management of the property by serving an Interim Management Order.
A management order should be the last resort and other avenues should be considered before instigating this action. It may be more appropriate to consider a Temporary Exemption Notice.

It may also be necessary for an inspection to be carried out when a refusal is being considered to ensure that the plans and other paperwork relating to the application provide a true picture of the property.

All reasonable steps must be taken to assist the proposed licence holder or owner of the property to either take action to allow the property to become licensed or to take the property out of use as an HMO.

**Inspections**

All licensed HMOs must be inspected within 5 years of the licence being granted to check that the information supplied is correct and that the property is free from serious hazards. Due to the small number of licensable HMOs within the district all properties for which a licence application is made will be inspected prior to the licence being granted.

An officer must carry out an inspection in accordance with part one of the Act. Therefore, each unit of accommodation will be individually assessed along with any common areas. The purpose is to ensure that the HMO is free from category 1 hazards, however officers will be expected to follow the procedures and guidance set out in part one of this policy relating to category 2 hazards and priority hazards. Licensing does not preclude the property from having any of the enforcement action described in part one being taken in relation to any hazards found and in most cases an improvement notice will be the most appropriate course of action.

**Revoking a licence**

A licence may be revoked under a number of circumstances.

1) Where the licence holder or any other person has committed a serious breach of a condition on the licence or repeated breaches.

2) Where the authority no longer consider the licence holder to be fit and proper.

3) Where the authority no longer considers the management to be satisfactory or the person involved to be fit and proper.

4) Where the HMO ceases to be an HMO

5) Where the authority believes the structure of the HMO is such that they would not normally have granted a licence. E.g. it is no longer suitable for the number of households or persons.

6) By request of the licence holder or other relevant person
Where the decision is made to revoke the licence a notice must be served under schedule 5 part 2 paragraph 22 of the Act. It must state the reasons why the licence is being revoked and give a consultation period of 21 days. In certain circumstances it maybe necessary to allow more or less time. This should be no less than 14 days and up to 28 days.

Where no representation is received or a final decision is made to continue with the revocation of the licence a further notice should be served stating the authorities decision, the reasons for that decision, and the right of appeal.

This notice must be served within 7 days of the final decision to revoke the licence.

In deciding to revoke the licence consideration must be given to the consequences of doing so. If the property is to remain a licensable HMO then the Council must make an interim management order. If it is no longer an HMO no further action is required.

The revocation will come into force following a 28 day appeal period providing an appeal is not made to the residential property tribunal.

If an appeal is made the revocation will become effective following the decision made by the residential property tribunal.

Where the revocation has been made with agreement by the licence holder and other relevant persons it may not be necessary to serve notices relating to the consultation period.

If the Council decides not to revoke the licence it must serve a notice advising of this decision and the reasons why it has been refused.

**Varying a licence**

A licence may be varied where either the licence holder makes a request or the local authority feels it is relevant to do so. It may be varied where there has been a change in circumstances, which also includes the discovery of new information.

The inspection may identify issues that were unknown previously. This may lead to the licence needing to be varied as a result with regards to the maximum numbers of households who are authorised to occupy the building.

The licence may also be varied where the applicable standards have been altered as a result of revision of regulations or where further regulations have superseded them.

Before the licence can be varied the local housing authority must serve a notice under schedule 5 part 2 paragraph 14 on the licence holder and interested parties, stating the effect of the variation, the reasons for the
variations, and give a consultation period of 21 days. In certain circumstances it maybe necessary to allow more or less time. This should be no less than 14 days and up to 28 days.

Where no representation is received or a final decision is made to continue with the variation of the licence a further notice should be served stating the authorities decision, the reasons for that decision, and the right of appeal.

This notice must be served within 7 days of the final decision to vary the licence.

The varied licence will come into force following a 28 day appeal period providing an appeal is not made to the residential property tribunal.

If an appeal is made the variation will become operative following the decision made by the residential property tribunal.

If the Council decide not to vary the licence it must serve a notice advising of this decision and the reasons why it has been refused.

Where the variation has been made with agreement by the licence holder and other relevant persons it may not be necessary to serve notices relating to the consultation period.

Penalties

There are a number of possible offences relating to HMO licensing. It is the intention of the Private Sector Housing Team to take action where there is evidence of an offence and it is appropriate to take action.

The following offences apply:

- A person commits an offence if he manages or is in control of an HMO that should have a licence but does not have one. Prosecution can result in fines of up to £20,000.

- A person commits an offence if he manages or is in control of an HMO and knowingly permits another person to occupy the house, which then results in the house being occupied by more than the agreed number of households or persons authorised by the licence. Prosecution can result in fines of up to £20,000.

- A person commits an offence if he is a licence holder or person on which restrictions/obligations apply and he fails to comply with any condition on the licence. A breach of licence conditions can lead to prosecution and up to £5,000 per breach.
Other penalties include:

- Rent Repayment Orders – if a person has committed the offence described in 1 above, in that no licence is being held for a property that should have one, then the local authority or tenants can apply for a rent repayment order. The residential property tribunal can award this order, which requires the appropriate person to repay all rents and other periodical payments, and housing benefit for the period up to a licence being issued. The Order will state the amount to be repaid.

- Termination of Tenancies – Landlords will not be able to issue any section 21 notices under the Housing Act 1988 (recovery of possession on termination of a shorthold tenancy), whilst the HMO is unlicensed.

- Category 1 and 2 hazards – where an inspection has been carried out and hazards have been identified the procedures laid out in the first part of this enforcement policy must be followed.

Appeals

Appeals relating to any part of licensing are made to the residential property tribunal.

Unlicensed HMOs

When an HMO is brought to the attention of the private sector housing team they will investigate whether the property requires a licence.

If the property does need a licence a letter and application pack will be sent to the owner advising of the need to licence and requiring an application to be made within 28 days.

Where the owner makes representation suggesting that a licence is not required and the private sector housing team agrees, the details will be kept on file to be investigated further when resources allow.

If no response is received from the owner, further investigation is required including an inspection to establish if a licence is required.

Where the property is licensable and reasonable attempts have been made to contact the owner without success, prosecution should be considered.

Interim Management Orders and Final Management Orders

An interim management order is made for the purpose of securing any action that the authority considers necessary, to protect the health, safety and welfare of the occupants.

An order can also be served in circumstances that the authority thinks are appropriate with a view to ensuring the proper management of the house pending the licence being granted.
The authority has a duty to make an interim management order in respect of an HMO where there is no reasonable prospect of it being licensed in the near future or it is necessary to protect the health, safety and welfare of the occupants.

Where a licence has been revoked for any reason and the property remains a licensable HMO an interim management order must be made if there is no reasonable prospect of the property regaining its licence.

Once an interim management order has been served the local authority must take over the management of the property for up to 12 months. This includes carrying out any remedial works necessary to deal with the immediate risks to health and safety.

If there is still no prospect of a licence being granted after 12 months then a final management order must be made which may be in force for up to 5 years. If after 5 years there is no prospect of the property being licensed a further management order must be made.

The Council is under a duty to issue interim and final management orders where necessary. The private sector housing team will instigate this action where necessary but as a last resort. All practical steps should be taken to assist the owner of the property to satisfy the licensing requirements.

Management orders can be varied or revoked at any time as a result of a request from the owner or on the local authorities initiative.

**Temporary Exemption Notices**

A temporary exemption notice (TEN) may be issued where an HMO that is due to be licensed is to be taken out of use as a licensable HMO. A person having control or managing an HMO can notify the local authority of its plans and request that the property be exempt from licensing. The authority must then consider this representation and if appropriate, serve the temporary exemption notice. A TEN remains in force for a period of 3 months, after which the property must have a license if it is still in such a condition as to require one. If further notification is received and the authority considers that there are exceptional circumstances a second TEN may be served which will remain in force for a further 3 months.

If the authority decide not to issue a TEN a further notice must be served under section 62 (6) which details the decision, the reasons for it and the date on which it was made, the right of appeal and the period within which the appeal must be made.
Part Three – Other Enforcement Actions

Caravan Sites and Mobile Homes

Caravans and mobile homes are not covered by the provisions of the Housing Act 2004 or the Housing, Health and Safety Rating System although the HHSRS may be used as an indication of the level of risks present in the accommodation but caravans cannot be subject to the enforcement provisions.

Mobile home and caravan sites in Wealden all have conditions attached to the site licence. Any decisions concerning breaches of site licences are likely to be complex due to implications any enforcement action may have on the occupants of the site. For this reason the Council works with site owners on an informal basis in the first instance to improve site conditions.

The only choice for formal enforcement is direct prosecution leading eventually to the removal of the site licence and closure of the site rendering the residents “homeless”. The Caravan Site and Control of Development Act 1960, the legislation for the purpose of enforcing site licence conditions, currently provides no provision for the service of improvement notices or works in default as permitted in other health and safety based legislation. However where the site conditions are such to be a significant risk to the health and safety of the occupants formal enforcement action will be pursued.

Empty Properties

The Council has a separate strategy for dealing with empty homes.

Under the 2004 Housing Act there are provisions for the Council to take over the management of empty dwellings by using an Interim and Final Empty Dwelling Management Order. Making use of these orders will be considered where the service of such an order helps to support the policies contained in the Empty Homes Strategy.

Service Standards

The following service standards are followed:

- Where information on first contact indicates the there is imminent risk of severe danger /damage, a visit will be made within 24 hours. Either appropriate emergency action will then commence immediately or if the imminent risk is resolved or unfounded further action will follow the normal procedure.

- An officer will contact the occupier within 5 days of first contact with the service.
• If necessary a visit will be made to inspect the property within 7 days.

• A letter and schedule of defects will be sent to the owner/person managing the property within 14 days

• If no response is received within 14 days a further reminder letter will be sent.

• a plan of action with agreed timescales will be agreed with the owner within 28 days of formal enforcement action will commence

Confidentiality

The Council will at all times strive to maintain the confidentiality of persons requesting our service. However, in the case of prosecution and witness statements, it may be required to reveal the names and addresses of both parties involved.

Complaints or appeal against enforcement action

Those affected by enforcement decisions have a right to complain or appeal against the decision. This can be done in one of two ways:

Complaints about the service - may be referred through the formal Council complaints process operating at that time

Appeals – There are usually rights of appeal against formal action. Advice on how to appeal will be clearly set out in writing at the time the action is taken.

Contact Information

For further information on private sector enforcement issues, the Property Services Section can be contacted as follows:

By telephone: 01323 443321

By email: privatehousing@wealden.gov.uk or through the Council’s website at www.wealden.gov.uk

By post: Property Services Section, Housing Service, Wealden District Council, Council Offices, Vicarage Lane, Hailsham, East Sussex, BN27 2AX

Or by calling at the Council Offices 8.30 am and 5.00 pm weekdays.
Glossary of Terms and Acronyms

**Affordable Housing** - housing provided with private or public subsidy, for local people who are unable to meet their housing needs in the local housing market because of the relationship between housing costs and incomes.

**Affordable Warmth Steering Group** - group of partner organisations monitoring and steering the Affordable Warmth Strategy Action Plan to alleviate fuel poverty in Wealden.

**Affordable Warmth Strategy** - A Strategy which aims to improve people’s health and well-being by keeping warm and well in the Wealden District.

**Assured Shorthold Tenancies** - assured tenancy which offers the landlord a guaranteed right to repossess his property at the end of the term.

**Code for Crown Prosecutors** - Code that helps the Crown Prosecution Service to play its part in making sure that justice is done. It contains information that is important to police officers and others who work in the criminal justice system and to the general public.

**Corporate Plan** - Document which sets out the Council’s strategic direction and policies for the next three years.

**Decent Homes** - a home that is warm, weatherproof and has reasonably modern facilities.

**Department of Communities and Local Government** - Government Department that sets policy on local government, housing, urban regeneration, planning and fire and rescue. They have responsibility for all race equality and community cohesion related issues in England and for building regulations, fire safety and some housing issues in England and Wales.

**East Sussex Chief Housing Officers group** - working group of Lead Housing Officers to share best practice and facilitate joint working across the County.

**East Sussex Energy Partnership** - partnership of Hastings and Eastbourne Borough Councils and Wealden and Rother District Councils to deliver a scheme which provides households with free or discounted insulation and renewable technologies.

**Energy Performance Certificate** - gives information on how energy efficient the property is using an A-G rating score. All homes bought, sold or rented require an EPC.
Energy White Paper - defined a long-term strategic vision for energy policy combining environmental, security of supply, competitiveness and social goals.

Enforced Sale Procedure - the Local Authority forces the property to be sold to pay outstanding debts

English Housing condition Survey - national survey which provides information on the condition and energy efficiency of housing in England.

Fuel Poverty - where a household spends 10% or more of their disposable household income on fuel bills

Homelessness Strategy - The strategy profiles homelessness in Wealden and details what the Council and its partners intend to do to tackle the issues

Houses in Multiple Occupation - a house or flat which is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet

Housing Health and Safety Rating System - risk assessment tool used to assess potential risks to the health and safety of occupants in residential properties in England and Wales

Housing Market Assessments - cross-boundary studies of how housing markets are working. They provide assessments of the estimated demand for market housing and the need for affordable housing within a given location.

Housing Strategy - over arching document that reviews housing-related issues within the district. It also, in partnership with other stakeholders, sets out the local authority's housing objectives and establishes priorities for action which are set out in an action plan

Interim Management Order - transfers the management of a residential property to the local authority for a period of up to twelve months

Key Worker - a public sector employee who is considered to provide an essential service

Lifetime Homes, Lifetime Neighbourhoods - a strategy which sets out the governments plans for making sure that there is enough appropriate housing available in future to relieve the forecasted unsustainable pressures on homes, health and social care services for the ageing population.
Local Authority Enforcement Concordat - policy to allow the consistent and fair enforcement of housing legislation to raise standards in the private housing sector.

Local Development Framework - a folder of local development documents that outlines how planning will be managed in the district.

National Federation of Residential Landlords (was The Southern Private Landlords Association), now part of the National Landlord Association - the leading independent national organisation for private residential landlords

National Institute for Health and Clinical Excellence - independent organisation responsible for providing national guidance on promoting good health and preventing and treating ill health.

Passport Benefits - income related or disability benefits which permit applicants to receive 100% assistance for home improvements and disabled adaptations

Private Sector Housing Stock Condition Survey 2007 - provides a comprehensive picture of private sector housing needs, issues and priorities for action over the next five years

Private Sector Renewal Funding - funding from the Regional Housing Board awarded to partnerships of Local Authorities to improve the condition of the Private Housing stock

Public Service Agreement - mechanism that the government uses to deliver its objectives

Regional Housing Board - South East England Regional Housing Board (RHB) is a partnership board tasked with developing a regional housing strategy and monitoring it's progress and agreeing regional priorities to inform advice to Government on funding.

Regulatory Reform Order - provides local authorities with broad discretionary powers to adopt policies tailored to local housing needs and priorities targeted at the most vulnerable members of society, helping them to repair, renovate or adapt their homes, which otherwise they could not afford to do.

Renewable Technologies - effective alternatives to fossil fuels which help meet energy requirements and reduce carbon dioxide emissions, includes solar panels, wind turbines, and biomass heaters

Rent Repayment Orders - local authorities can apply to a Residential Property Tribunal to recover from the landlord any rent he has received by way of housing benefit during a period when the property to which
the order relates ought to have been licensed as a House in Multiple Occupation, but was not.

**Residential Property Tribunal** - public body that determines appeals in relation to housing law particularly the Housing Act 2004.

**South Coast Moneyline** - non profit organisation who provide a Home Trust loan designed for home owners whose properties need essential repairs, improvement or adaptation but who do not have the funds available to carry out the work

**South East Plan Partial Review** - assesses the accommodation needs of gypsies and travellers across the South East region and sets district-based targets for pitch provision.

**South East Regional Housing Strategy** - sets out the housing priorities for the region and makes recommendations to Ministers on the allocation of funding

**Southern Home Loans Partnership** - provides low cost loans to help home owners finance essential work to their properties.

**Spending Review 2002** - three year budget plans that the government sets for spending for central and local government services.

**Standard Assessment Procedure** - the Government’s recommended system for energy rating of dwellings

**Temporary Exemption Notice** - The local authority can serve a Temporary Exemption Notice when the landlord or manager of a property which is required to be licensed, but is not, informs the authority that he/she intends to take particular steps to ensure that the property is no longer required to be licensed.

**Test of Resources** - financial assessment which determines the applicants contribution to the cost of any grant/assistance eligible work

**UK fuel Poverty Strategy** - government strategy which focuses primarily on measures to improve energy efficiency and reduce the costs of fuel for fuel poor households

**Wealden Letstart** - web based matching service for private landlords and tenants.

BEST  Brighton and East Sussex Together
CIEH  Chartered Institute Environmental Health
CLG  Communities and Local Government
DFG  Disabled Facilities Grant
DHA  Decent Homes Assistance
DHL  Decent Homes Loan
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<td>EHCS</td>
<td>English House Condition Survey</td>
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<td>EPC</td>
<td>Energy Performance Certificate</td>
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<td>ESCC</td>
<td>East Sussex County Council</td>
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<td>GOSE</td>
<td>Government office for the South East</td>
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<td>HHSRS</td>
<td>Housing Health and Safety Rating System</td>
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<td>Home Improvement Agency</td>
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<td>HMO</td>
<td>Houses in Multiple Occupation</td>
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<tr>
<td>IEE</td>
<td>Institute of Electrical Engineers</td>
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<td>LA</td>
<td>Local Authority</td>
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<td>NHS</td>
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<td>NICE</td>
<td>National Institute for Health and Clinical Excellence</td>
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<td>NICEIC</td>
<td>National Inspection Council for Electrical Installation</td>
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