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Dear Member

CABINET - TUESDAY, 17 DECEMBER 2019

I am now able to enclose, for consideration at the Tuesday, 17 December 2019 meeting of the Cabinet, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
7.	Housing Strategy for Consultation	(Pages 46 - 139)

Yours sincerely

Teresa Buckley
Clerk



Meeting: Cabinet

Date: 17 December 2019

Wards Affected: All Wards

Report Title: Draft Housing Strategy and Associated Documents for Consultation

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Councillor Swithin Long, Cabinet Member for Economic Regeneration, Tourism and Housing, swithin.long@torbay.gov.uk

Supporting Officer Contact Details: Kevin Mowat, Director of Place, 01803 208433, kevin.mowat@torbay.gov.uk

1. Proposal and Introduction

- 1.1 As part of the work of developing the draft Community and Corporate Plan, a proposed new Housing Strategy for Torbay has been prepared which sets out the Cabinet's plans towards meeting its priority of improving the delivery, affordability and quality of housing in Torbay.
- 1.2 As part of its commitment to changing how the Council engages with its residents, communities and partners (and in line with the Council's Constitution), the draft Strategy will now be subject to consultation. The Cabinet are seeking views on whether the objectives and priorities within the Strategy are the right things for Torbay and on the actions the Council needs to take, along with its partners, to deliver those priorities.
- 1.3 The Council's housing responsibilities cover a broad range of issues, from identifying land for new homes to improving old ones and meeting the wide variety of housing needs of our communities. More detailed strategies and policies sit beneath the Housing Strategy, setting out the Council's aims and delivery plans in specific areas. A number of these have been reviewed alongside the Housing Strategy and it is proposed that these are subject to consultation at the same time:
 - Homelessness and Rough Sleeping Strategy
 - Housing Standards Enforcement Policy
 - Houses in Multiple Occupation Standards

2. Reason for Proposal and associated financial commitments

- 2.1 The Housing Strategy forms part of the Council's Policy Framework setting out the Council's ambitions, aims and objectives. The Cabinet now wishes to gather feedback from the wider community in Torbay on the proposed content of the Housing Strategy and some of its associated documents (many of the other

housing related Policies/Strategies follow their own separate consultation process and timeline).

- 2.2 The proposals contained in this report do not commit the Council financially. Due consideration will be given to the financial impacts of each aspect of the Housing Strategy's Action Plan as individual decisions are progressed.
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3. Recommendation(s) / Proposed Decision

- (i) That, the draft Housing Strategy, together with the drafts of the Homelessness and Rough Sleeping Strategy, the Housing Standards Enforcement Policy and the Houses in Multiple Occupation Standards, be published for consultation.

Appendices

- Appendix 1: Draft Housing Strategy
Appendix 2: Homelessness and Rough Sleeping Strategy
Appendix 3: Housing Standards Enforcement Policy
Appendix 4: Houses in Multiple Occupation Standards

Background Documents

Torbay Housing Strategy 2015 ~ 2020

<https://www.torbay.gov.uk/council/policies/community-safety/housing-strategy/>

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>Drafts of the Housing Strategy and some of its associated documents (namely the Homelessness and Rough Sleeping Strategy, the Housing Standards Enforcement Policy and the Houses in Multiple Occupation Standards) have been prepared by the Cabinet. It is proposed that the drafts are now published and subject to consultation with residents and communities of Torbay and with the Council's partners.</p>
2.	<p>What is the current situation?</p> <p>The current Housing Strategy is due to run until 2020. However, the Cabinet has been working since the Local Elections in May 2019 to review the existing Strategy and prepare a new Strategy which sets out the Council's position for the next four years.</p>
3.	<p>What options have been considered?</p> <p>The documents which are now put forward for consideration have been developed over a period of time and are a result of an iterative process.</p> <p>It is proposed that they are subject to consultation which will provide an opportunity for a wide range of views to be gathered and considered ahead of the final Housing Strategy being approved by the Council.</p>
4.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>The Strategy has been developed based around the priorities within the Partnership Agreement. Further detail is now included around how those priorities can be delivered as they relate to Housing.</p> <p>The draft Strategy provides details of how the Council will work on delivering the Strategy in accordance with the Council's principles.</p>
5.	<p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p> <p>In drafting the Housing Strategy, full consideration has been given to the impact of housing on children, in particular those who are Looked After or identified as being in Need of Care and Protection.</p>
6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p>

	The draft Strategy sets out the impact that poor housing has on our population. Ensuring that all our residents have access to good quality homes which are affordable and meet their particular needs is a vital part of tackling poverty, deprivation and vulnerability.
7.	<p>How does the proposal/issue impact on people with learning disabilities?</p> <p>In drafting the Housing Strategy, full consideration has been given to the impact of housing on people with learning disabilities.</p>
8.	<p>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</p> <p>The Strategy will be subject to consultation as part of a range of engagement and consultation activity between December 2019 and March 2020. This will include consultation on the proposed budget and the draft Community and Corporate Plan.</p> <p>A meeting of the Strategic Housing Partnership will take place during January which will include a range of stakeholder organisations. Held in workshop format, the aim will be to test the proposals within the Strategy and to identify actions to deliver the priorities.</p> <p>Other consultation and engagement activity will include online consultation, Facebook Live (#YOurTQs) and Cabinet Conversation. There will be offers of presentations and discussions at the Community Partnerships, Neighbourhood Forums, the Chambers of Trade, Business Forum and other organisations and partnerships across Torbay.</p>

Section 2: Implications and Impact Assessment

9.	<p>What are the financial and legal implications?</p> <p>The proposals contained in this report do not commit the Council financially. Due consideration will be given to the financial impacts of each aspect of the Housing Strategy's Action Plan as individual decisions are progressed.</p>
10.	<p>What are the risks?</p> <p>Without a Housing Strategy it becomes difficult to set a coherent direction of travel for the Council in relation to housing, given reducing resources.</p>
11.	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable.</p>

12.	What evidence / data / research have you gathered in relation to this proposal? Feedback will be gathered during the consultation period.
13.	What are key findings from the consultation you have carried out? Not applicable at this stage.
14.	Amendments to Proposal / Mitigating Actions Not applicable at this stage.

Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		
	People with caring Responsibilities	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		
	People with a disability	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		
	Women or men	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		
	Religion or belief (including lack of belief)	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		

	People who are lesbian, gay or bisexual	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		
	People who are transgendered	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		
	People who are in a marriage or civil partnership	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		
	Women who are pregnant / on maternity leave	The aim of the Strategy is to have a positive impact on this group. This will be tested through the consultation period.		
	Socio-economic impacts (Including impact on child poverty issues and deprivation)	The aim of the Strategy is to have a positive socio-economic impact. This will be tested through the consultation period.		
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	The aim of the Strategy is to have a positive impact on the general health of the population of Torbay. This will be tested through the consultation period.		
16.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	Consideration of the cumulative impacts across the Council will be undertaken during the consultation process and through the review and development of the rest of the Council's Policy Framework.		

17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	Consideration of the cumulative impacts across the Council will be undertaken during the consultation process and through the review and development of the rest of the Council’s Policy Framework.
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DRAFT Housing Strategy FOR CONSULTATION

Improving the delivery, affordability and quality of housing in
Torbay



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This document can be made available in other languages, on tape, in Braille, large print and in other formats. For more information please contact 01803 207014.

Consultation

The Housing Strategy forms part of the Council's Policy Framework. This is a set of strategies and policies which the Council agrees and which the Leader and Cabinet (together with officers) implement. The Policy Framework sets out the ambitions, aims and objectives of the Council.

The Council's Constitution says that documents which form the Policy Framework should be subject to a consultation period of (normally) not less than six weeks.

Improving the delivery, affordability and quality of housing in Torbay is one of the Cabinet's priorities. This draft Housing Strategy sets out the Cabinet's plans towards meeting this priority.

The Cabinet is also recognises that people and communities need to be better involved in how the Council is working to improve Torbay. As part of this, the Cabinet want to have better on-going conversations with individuals, groups and organisations to help us make Torbay thrive.

Therefore this draft Housing Strategy is very much a work in progress. The Cabinet wants to hear from individuals, groups and organisations – across the public, private and voluntary sectors – about how we can improve the delivery, affordability and quality of housing in Torbay.

- **Have the right strengths, issues and opportunities been identified?** (see page 13)
- **Do we have the right objective?**

“Ensuring that all our residents have access to good quality homes, which are affordable and meet their needs”
- **Do you think we have identified the right priorities?** (see pages 15 - 18)
- **Are the right areas of focus included under each priority? What specific actions do we and our partners need to take to deliver our priorities?**
- **Do you think our future way of working will have a positive impact on Torbay?** (see page 18)

1 Introduction

The Housing Strategy sets out how the Council will deliver its priority of improving the delivery, affordability and quality of housing in Torbay. We want to **ensure that all our residents have access to good quality homes, which are affordable and meet their particular needs.**

The commitments and actions are organised around the priorities of:

Housing supply:	Increase the overall supply and range of housing in Torbay and make the best use of existing housing
Housing demand:	Ensure appropriate and affordable housing is available to meet people's housing needs and aspirations
Quality:	Improve the quality of housing in Torbay
Sustainability:	Improve the environmental, economic and social sustainability of our housing

The Housing Strategy sets out how we will work with our partners and communities to address these priorities. It sets out the policy context (including key data), strengths, challenges and opportunities of our current housing market and is underpinned by a comprehensive evidence base which has been published separately. The Strategy is focussed on what we want to achieve and how we intend to deliver on our priorities. It is informed by the Council's Core Principles that commit us to:

- Enable our communities
- Use reducing resources to best effect
- Reduce demand through prevention and innovation
- An integrated and joined up approach

This draft version has been published for consultation with our key housing partners and the wider community.

The Council's housing responsibilities cover a broad range of issues, from identifying land for new homes to improving old ones and meeting the wide variety of housing needs of our communities. More detailed strategies and policies sit beneath this Housing Strategy, setting out our aims and delivery plans in specific areas. The Housing Policies 'Map' below illustrates how these strategies and policies fit together and the important links between the Housing Strategy and Planning Policy and the Council's role as the Local Planning Authority.

The Housing Strategy Action Plan sets out a high level summary of actions and more detail is provided in the detailed Action Plans of the constituent 'daughter' strategies, policies and plans.

Torbay Housing Policy Map



Evidence Base

2 Context

The introduction of the Housing First initiative, the creation of the Council's Housing Company and support for community-led housing projects signal greater political determination to tackle the housing crisis and support development of affordable housing locally. However, the national policies have served to reduce affordable housing development, increase affordability pressure in the private rented sector and make it increasingly difficult to access decent housing, for people who are on low incomes or benefits.

For younger generations, particularly, the housing crisis is especially serious. High rents in the private rented sector and lack of access to affordable housing mean that, even when they are working, younger people can find it impossible to save the funds needed for a deposit for a mortgage. Benefit changes mean that Local Housing Allowance for single under 35s is capped at the cost of a single room in a shared house or house of multiple occupation. In practice, this means that younger people are unable to form independent households. Recent data from the Office for National Statistics highlighted that one in four young adults aged 20-34 are still living with their parents. This represents a 24% increase over the past ten years.

The following sections briefly set out the housing policy context at national, regional and local level. Key aspects of the local housing market are then outlined, organised around the four Housing Strategy priorities: Supply, Demand, Quality and Sustainability.

Housing Policy Context

The national picture

Nationally, the UK faces a housing crisis in which those on lower incomes, and younger generations particularly, are finding it increasingly difficult to access owner occupation or genuinely affordable rented housing. Estimates have put the number of new homes needed in England at between 240,000 and 340,000 per year, accounting for new household formation and a backlog of existing need for suitable housing¹². The lack of access to owner occupation and continuing scarcity of genuinely affordable social housing has stimulated growth in the private rented sector.

Nationally there are now more people living in the private rented sector than in social housing. In Torbay it is estimated that more than a quarter of households live in privately rented homes, whereas only around 8% of households live in social housing. A 165% increase in rough sleeping has been witnessed across the country since 2010³, and it is an issue that is noticeable in Torbay.

National government policies highlight the role of the planning system in achieving an increase in supply of new homes. The 2018 National Planning Policy Framework reinforces the requirement for local planning authorities to identify a five year supply of deliverable housing sites. The Localism Act promoted greater participation in planning by local communities, encouraging development of Neighbourhood Plans alongside Local Plans. The majority of new affordable housing is delivered through planning requirements on privately developed sites, secured through Section 106 legal agreements. Hence, the delivery of affordable housing is intrinsically linked to delivery of market

¹ ONS, *Families and Households, 2018*, ONS, August 2019

² *Tackling the Under-supply of Housing in England*, House of Commons Library Briefing Paper, Dec 2018

³ MHCLG, *Rough Sleeping Statistics Autumn 2018*

housing and private developers have considerable influence over the design, layout and quantum of affordable housing provided.

The regional picture

Housing delivery is a priority for the Heart of the South West (HotSW) Joint Committee which is statutory committee comprising the Leaders of the 16 local authorities across Devon and Somerset, alongside the Local Enterprise Partnership, National Parks and Clinical Commissioning Groups. The Joint Committee is a single strategic public sector partnership providing cohesive, coherent leadership and governance to ensure delivery of the Productivity Strategy for Devon and Somerset. The Joint Committee is committed to accelerating housing delivery and is working proactively to engage with Government in order to unlock the economic potential of Devon and Somerset and the quality of housing growth needed to provide for our communities of the future.

However the lower house prices in Torbay, when compared to other areas in the region around Exeter, Bristol and the emerging economic growth area around Hinckley Point, may have the effect of deterring developers from investing in Torbay.

The local picture

The Indices of Multiple Deprivation from 2019 show 24 areas in Torbay are within the 20% most deprived areas nationally – an increase from 16 areas in the Indices of Multiple Deprivation 2010.

This means that 27% of Torbay's population live in the 20% most deprived areas in England. Torbay has seen a worsening of its score for the 'barriers to housing and services' domain of the indices. Despite continued good levels of access to services, the measures related to housing show declining affordability of both rented and owner occupied housing in relation to average incomes, an increase in overcrowding and an increase in homelessness. More people than ever within Torbay live in an area that is amongst the 20% most deprived areas in England in relation to housing deprivation. The numbers have increased to 16,200 people in 2019 compared to 1,700 in 2015.

Torbay Council adopted its Local Plan 2012 – 2030 "A Landscape for Success" in 2015 and will review the Plan during 2020. Policy SS12 of the Local Plan made a commitment to provision for 8,900 new homes over the Plan period, utilising brownfield sites and including mixed use developments and affordable housing. The Local Plan also commits to development of major new housing developments in partnership with landowners and utilising Neighbourhood Plans which were made in June 2019. As at April 2019, the Council was not able to demonstrate a five year land supply for housing according to the Government's standard methodology. However, as the five year supply is calculated annually, this position is likely to change during the life of the Housing Strategy. Based on 2014 household projections, as at July 2019, there is a minimum local housing need of 612 dwellings per year. Allocation of additional developable housing sites is required and the Local Plan Review will address this alongside an Action Plan to maximise housing delivery on existing sites.

The Housing Strategy will encompass proposals that recognise the significance of housing within the wider determinants of health and draws on the Joint Strategic Needs Assessment in highlighting the challenges faced in Torbay with regard to deprivation, poor health, risky behaviours, the ageing population and vulnerability. As such, the Housing Strategy will sit underneath the Joint Health and Wellbeing Strategy.



A fundamental component of the Care Act 2014 is the 'suitability of accommodation' in meeting the “at home” care and support needs of older and vulnerable people. Under the Act, local authorities should develop the market for a range of forms of care, including residential care and services to help people remain independent in their own homes. The general duty to promote wellbeing makes reference to suitable accommodation, housing related support and information and advice on housing options. From a strategic housing perspective this means ensuring there is a range of suitable accommodation for people to live independently, whilst still having their care needs addressed.

The Council’s Economic Strategy sets out a five year plan for growing and developing Torbay’s economy. Sustainable, affordable and suitable housing is an important element of economic development and of our plans to regenerate and repurpose our town centres. Whilst demand for some forms of commercial space outstrips supply, there are opportunities to reduce redundant commercial/retail property and increase the supply of residential property in some town centre locations. Improving Torbay’s long term economic prosperity is crucial to attracting high quality housing investment and the associated affordable housing development. Creating sustainable employment opportunities will also help to nurture an improved and diverse housing offer in Torbay.

Local Housing Market

Housing Supply

Torbay covers 24.6 square miles and includes the coastal towns of Torquay, Paignton and Brixham. It has a population of around 133,883, made up of 61,683 households (2016). The majority of housing stock in Torbay (92%) is privately owned with around 8% social housing⁴ – all owned by Registered Providers.

Over recent years delivery of affordable housing has reduced markedly. The 30% requirement for affordable housing on certain sites, set out in the Local Plan and the Planning Contributions and Affordable Housing Supplementary Planning Document is not always achievable due to viability, the type of site, smaller developments being under the minimum threshold and introduction of policy that exempts vacant existing buildings from affordable housing requirements. Completions of additional affordable housing developed by Registered Providers on their own sites has been limited in recent years. There is a need to find alternative delivery vehicles and opportunities for development of affordable housing. The Council is establishing a wholly owned subsidiary Housing Company to develop affordable housing on Council-owned sites.

⁴ English Housing Survey 2017-18

Within the definitions of affordable housing, there are concerns that Affordable Rented and Shared Ownership tenures are not affordable for some local people and more social rented homes are needed.

Torbay has a relatively large supply of private rented housing at between 22% and 30%. Housing within the private rented sector in Torbay is not as expensive as in neighbouring authorities and is therefore potentially more accessible. However, for those on lower incomes, requirements for deposit, rent in advance and agents' fees are significant barriers to accessing housing in this sector. Benefit claimants and people with pets and children may also face discrimination in accessing the private rented sector. Insecurity of tenure in this sector continues to be an important cause of homelessness and of approaches to our housing options/advice services. Issues with poor conditions and energy efficiency are generally more prevalent in the sector, with tenants not feeling empowered to complain or report low standard accommodation.

Housing Demand

Incomes, employment rates and wages are important drivers of housing demand. Torbay has a relatively low wage economy and a higher rate of unemployment than the average for the South West and England. There are higher numbers of people with long term limiting illness and a higher proportion of older people in Torbay. Torbay has a job density of 0.76 (i.e. for every 100 residents aged 16-64, there are 76 jobs) compared to 0.89 for the South West and 0.86 for Great Britain. In 2018 Torbay's median (workplace based) earnings were £22,121 compared to Exeter £28,844, England and Wales £29,686 and the South West £27,969⁵. The number of workless households is higher in Torbay than in the South West and England as a whole.

The higher level of unemployment means that owner occupation is unattainable for a significant proportion of households and their access to decent quality private sector rented homes may also be constrained due to the gap between Local Housing Allowance and rents, the level of rent, difficulty accessing deposits/rent in advance and discrimination. Lower than average wages, higher levels of unemployment and long term disability all act to increase demand for affordable housing.

People applying for affordable housing in Torbay now have to meet certain criteria before being accepted onto the Housing Register and those with a less severe housing need (Band E) are not included in the Register. During 2018-19 there were between 982 and 1074 households on the Housing Register for affordable housing in Torbay. Torbay's **Allocations Policy** details how we determine who is eligible and qualifies for affordable housing and how priority is awarded.

Affordable housing vacancies are advertised through Devon Home Choice and applicants have to actively 'bid' for suitable vacancies, with priority awarded for banding and waiting time. Band A being highest priority and Band D lowest. For many applicants, waiting time before being housed can be between 11 and 50 weeks depending on band and preference. Our **Tenancy Strategy** sets out our expectations for the types of affordable housing tenancies offered by registered providers in Torbay and seeks to promote best use of stock whilst still encouraging sustainable, secure communities.

During 2018/19 a total of 329 units of affordable accommodation were offered to successful bidders. This represents a vacancy rate of 6% over the year. There is a need for a step change in quantum and speed of delivery of new affordable housing in Torbay to meet local needs. The Council also has to understand and seek to meet the needs of those who require specialist housing and support due to health, age, disability or other factors. To enable this, strategic commissioners in adult services,

⁵ Source: Nomis 2019, Lower quartile earnings in 2018 for Torbay were £16,822 (England and Wales £21,170, South West £20,567).

children's services and partners in the NHS work together on the design and development of homes to meet a range of different needs, detailed in our **Housing for Later Life Supplementary Planning Document** and the **Devon Transforming Care Partnership Learning Disability and Mental Health Housing Plan**.

Along with many other areas, Torbay has seen an increase in homelessness in recent years. This is manifested in both rough sleeping and less visible insecure housing including sofa surfing and overcrowding. In an alliance of local housing providers, the Council is piloting a radical new Housing First approach to tackle the complex issues facing some homeless people.

Under the Homelessness Reduction Act 2017 the Council has additional responsibilities in assisting people who are homeless or threatened with homelessness. One effect of the Act is that the Council is placing more households in temporary accommodation pending investigations and whilst waiting for a suitable private rented or affordable tenancy to become available.

The cost and lack of suitable temporary accommodation is a growing challenge for the Authority. In 2018/19 Torbay Council placed 480 homeless households in temporary accommodation. The average length of stay of larger families in temporary accommodation is six months and may be up to 12 months in some cases. It is estimated that the net cost of temporary accommodation to the Authority in 2019/20 will be over £600,000 in housing costs with additional financial impacts in Children's Services as they seek to support children living in insecure temporary accommodation. Sourcing alternative temporary accommodation that is flexible, cost effective and appropriate for families is a priority for the council. The Council's **Homelessness and Rough Sleeping Strategy** sets out our approach to tackling homelessness in more detail.

Housing Quality

The Council's most recent Private Sector House Condition Survey (2011) found that a greater proportion of the housing stock was older (e.g. built before 1981 and particularly during 1965 to 1980, with fewer dwellings built after 1980). It highlighted that there are a substantial number of Houses in Multiple Occupation (HMOs) in Torbay and the use of residential caravans as permanent accommodation is significant. The number of non-decent homes, at 33.7%, was slightly higher than the national average but had fallen from 41.5% in 2006. As the age of accommodation increases, and from the type of issues identified by the Housing Standards team, there is no evidence to suggest that this is improving. These factors, along with the relatively large size of the private rented sector, which is generally where the poorest housing conditions can be found, emphasise that housing quality is an important issue in Torbay.

Poor energy efficiency and the presence of Category 1 hazards are indicators of poor housing quality. During 2018-19 the Council served 52 Notices and 13 Civil Penalties in enforcement actions to address housing hazards under the Housing Health and Safety Rating System. Since October 2018, all Houses in Multiple Occupation occupied by five or more people need to be licensed. As at October 2019, there are around 120 licensed Houses in Multiple Occupation and in total approximately 1,450 buildings being used to house multiple households⁶. Improving the quality of the private rented sector is an important priority for the Council and provides an opportunity to greatly improve the health and wellbeing of lower income and vulnerable households who are more likely to find themselves renting privately. Targeted intervention will help to improve housing conditions in our more deprived town centre wards, where poor private rented housing is concentrated.

⁶ Torbay Private Sector House Condition Survey, 2011

In the social housing sector the quality of the stock has been improved since the introduction of the Decent Homes standard and providers' efforts to improve housing quality. Some of the more dated homes, particularly those designated for older people, are in need of updating and renovation to meet the current aspirations and needs of people in later life and to enable people to remain living in their own homes for longer. The Homes (Fitness for Human Habitation) Act 2018 came into force on 20 March 2019 and requires all landlords (private and social) to ensure that their properties, including any common parts of the building, are fit for human habitation at the beginning and throughout the duration of the tenancy.

Where qualifying tenants believe that their home does not meet the requirements set out in the Act and their landlord is responsible, they can take action against the landlord themselves and may seek Council support in doing so.

Funding for Council intervention to support owner occupiers to improve the condition of their property is now very limited. For homeowners, the Council offers support where health or disability gives rise to a need for adaptations to the property through the Disabled Facility Grant Policy and can refer vulnerable households to community energy organisations for energy efficiency interventions. The local authority has greater scope to intervene in the private rented sector and funds from civil penalties have to be used for enforcement activity. Details of the Council's policy for intervention in the private rented sector are set out in Torbay's **Housing Standards Enforcement Policy**.

The Council's Local Plan and other planning policies already encourage the development of high quality and well-designed homes that provide flexible accommodation over the life course and include properties suited to different household types and people with disabilities. However there is scope for further work to improve the quality of new homes. In particular, the Council will encourage developers to build homes and neighbourhoods that are age friendly across the generations, suitably located near to amenities and transport, fully adaptable and with scope for technology-assisted care built in. Thereby minimising the need for age-designated schemes and assisting people to remain in their homes and communities as their housing needs change over time. The **Housing for Later Life Supplementary Planning Document** ensures that these issues are material considerations for planning applications.

Sustainability

Sustainable development can be defined as: "development that meets the needs of the present, without compromising the ability of future generations to meet their own needs". Protecting and conserving the natural environment is an important part of that, but sustainability also incorporates economic and social elements. "It's also about ensuring a strong, healthy and just society. This means meeting the diverse needs of all people in existing and future communities, promoting personal wellbeing, social cohesion and inclusion, and creating equal opportunity"⁷. The Council has also made a commitment to strive to improve the natural environment, including flood protection and to work to reduce consumption, increase recycling and promote low carbon energy. Existing homes and the building of new homes contribute heavily to CO₂ emissions and climate change. The theme of sustainability therefore runs through all of the Council's policy commitments and strategies. In the context of housing, sustainability can be said to encompass the following key aspects:

Economic: affordability of rent/purchase and running costs; proximity to a range of well-paid employment opportunities; availability of suitable and sustainable modes of transport and connectedness to local services, shops and educational opportunities. The opportunity to achieve both environmental and economic sustainability by ensuring that homes combine the

⁷ <http://www.sd-commission.org.uk/pages/what-is-sustainable-development.html>

benefits of low or no carbon energy/heating with the economic benefits of lower running costs are critical.

Social: includes the suitability of housing for different types of households and incomes; adaptability of housing to meet different stages of life. As well as ensuring that accommodation for people with particular care and support needs, including those with learning and physical disabilities, are met within supportive and sustainable neighbourhoods. For example, designing homes with suitable technology to assist in care; ensuring that development of housing with support and care is included in housing developments and appropriately staffed and funded; encouraging housing providers to ensure that housing developments incorporate space for play and recreation; considering how to facilitate intergenerational living as well as housing designated for particular age groups.

Environmental: In the realm of new homes development, design features and construction methods can play a critical role in mitigating the effects of climate change, such as flooding and overheating and avoiding further contributions to CO₂ emissions. Modular construction methods can reduce environmental impact from construction waste and transportation and build homes more quickly and with future flexibility. The location of new homes and design policies can enhance rather than threaten biodiversity and wildlife and create homes and neighbourhoods that encourage lower carbon living and more sustainable lifestyles. Local authorities have a critical role to play in planning for and guiding housing development and supporting retrofitting to enhance, rather than compromise, our environment.

The Council's transport and planning policies, the Housing Strategy and its associated strategies, plans and policies and Public Health policies all have a part to play in delivering economically, socially and environmentally sustainable housing.

In the realm of existing homes, retrofitting and improving the environmental efficiency of homes is a key aspect of decarbonising society, reducing fuel poverty and meeting Government climate targets. The Council's Housing Standards team signpost and support eligible people to access intervention through the Energy Company Obligation scheme. Opportunities to encourage and facilitate Community Energy Organisations to operate in Torbay to provide energy efficiency advice and assistance are also actively pursued.

Community-led and Self-build Housing

In recent years central government has encouraged community groups, parish councils and local authorities to promote community-led affordable housing development and opportunities for self-build. Dedicated funding has been made available through the Community Housing Fund to build capacity for community-led housing initiatives. Councils also now have a duty to hold a register of people seeking self-build opportunities and to identify sites for self-build.

In Torbay we engaged local people who are concerned about homelessness, using arts-based consultation methods and support from Wessex Community Assets organisation. As a result a fledgling Social Benefit Society is underway that can act as a Community Land Trust, developing and holding affordable housing in trust to be let to local people in housing need. In addition to this, a local well-established community organisation that has already successfully developed homes for vulnerable local people is seeking to expand its portfolio.

The Local Plan review will develop policies and identify opportunities to facilitate self-build.

Question: Have the right strengths, issues and opportunities been identified?

STRENGTHS	ISSUES	OPPORTUNITIES
<ul style="list-style-type: none"> ■ The Council has an adopted Local Plan and 100% Neighbourhood Plan coverage. ■ Housing costs are relatively lower in Torbay than in neighbouring authorities although wage levels are also relatively lower. ■ Large proportion of accommodation in the private rented sector, however it does not necessarily meet the needs of Torbay's population. ■ Active community and voluntary sector working to support and mitigate homelessness in Torbay. ■ Alliance approach to tackling street homelessness through Housing First. ■ The Homelessness Reduction Act enables the Council to tackle homelessness more proactively. ■ Strong partnership working with statutory agencies to tackle poor quality housing in private rented sector through a multi-agency approach. 	<ul style="list-style-type: none"> ■ The Council is not able to demonstrate a five year land supply for housing according to the Government's standard methodology. ■ The housing market in Torbay needs to enable and support the Council's Economic Strategy. ■ Affordable Rented and Shared Ownership tenures are not affordable for some local people. ■ The 30% requirement for affordable housing on certain sites is not always achievable. Completions of additional affordable housing by Registered Providers on their own sites has been limited in recent years. ■ The cost and lack of suitable temporary accommodation is a growing challenge for the Council along with increased demand. ■ The reduction in street homelessness needs to be maintained. Housing First is a pilot scheme and the outreach team is grant funded with any future funding still to be identified. ■ A greater proportion of the private sector housing stock is older and therefore can be of 	<ul style="list-style-type: none"> ■ Council-owned housing sites and Housing Company to expedite housing delivery. Local Plan review underway. ■ Affordable housing development/refurbishment may be more viable in Torbay than neighbouring areas. ■ Scope to improve the quality of the private rented sector through targeted intervention, Housing Company and Community-led housing intervention. ■ Support for and development of community-led responses to housing need. ■ Strong track record and cooperation from local housing providers to prove value and sustain the initiative. ■ Opportunity to work in partnership with the private rented sector to develop and seek out additional temporary and permanent housing solutions. ■ Strategy for Housing in Later Life with an evidence base and funding to support additional Extra Care Housing as part of a wider market-

STRENGTHS	ISSUES	OPPORTUNITIES
<ul style="list-style-type: none"> ■ A reduction in people sleeping rough on the streets through rough sleeper initiative programme and partnership. ■ Integrated strategic planning and delivery of health and social care including, design and development of housing to enable people to remain independent in their communities. 	<ul style="list-style-type: none"> ■ poorer quality and not energy efficient. There are a substantial number of Houses in Multiple Occupation in Torbay. ■ There is an ageing population as well as younger people with long term conditions who require suitable homes with access to the right community support, whilst there is an oversupply of residential care. ■ There is a need for greater coordination and active engagement between the Council and all other organisations in relation to housing. ■ We need to ensure delivery of a range of semi - independent support and accommodation options, in particular for young people and those fleeing domestic abuse, as well as those moving on from other forms of institutional care. 	<ul style="list-style-type: none"> ■ shaping of accommodation based care and support. ■ Ability to prioritise housing fit for all stages of life in supportive and sustainable neighbourhoods, through partnership with local registered providers and Housing Company ■ A fledgling Social Benefit Society is underway that can act as a Community Land Trust ■ Provide accessible services that have seamless pathway from prevention, to intervention and provide effective communication with people about how to avoid the risk of homelessness. ■ The redesign of discretionary funds to allow targeted support with streamlined access and ensure income maximisation through links with Department for Work and Pensions

3 Objective, Priorities and Principles

Objective

The objective of the Housing Strategy is:

To ensure that all our residents have access to good quality homes, which are affordable and meet their particular needs.

Question: Do we have the right objective?

Priorities

To deliver the objective of this Strategy there are four inter-connected priorities which will ensure that we improve the delivery, affordability and quality of housing in Torbay.

Priority 1: Increase the overall supply and range of housing in Torbay and make the best use of existing housing.

We will work proactively with partners, such as Homes England and Registered Providers (including our Housing Company), to increase the number of social rented homes in Torbay. We will find alternative delivery vehicles and opportunities for the development of a range of affordable housing.

We will work to establish a thriving mixed economy within the housing sector. We will work with the public, private and voluntary sectors to drive up the quality of housing stock generally and to increase the amount of social rented accommodation in Torbay.

We will ensure the appropriate planning policy framework is in place and there is adequate land supply to support housing development.

We will provide evidence-based guidance on the range and types of housing required for all sections of Torbay's population. Our Tenancy Strategy will seek to promote the best use of our housing stock, whilst encouraging sustainable, secure communities. We will work together with partners, including the NHS, to enable development and design homes to meet a range of different needs. We will help people to live independently whilst having their care needs addressed.

We recognise that our care leavers are a vulnerable group in terms of accessing and sustaining housing. We will provide all of our care leavers with individualised support to ensure they are in suitable and safe accommodation."

We will have a clear understanding of why we have empty homes in Torbay and how we can bring them back into use. We will take advantage of all funding opportunities available in Torbay, such as the Land Release Fund, and will seek a range of investment, including from institutional investors.

Related Policies/Strategies:

Local Plan and Neighbourhood Plans
Learning Disability and Mental Health Housing Plan
Affordable Housing Supplementary Planning Document
Housing for Later Life Supplementary Planning Document
Tenancy Strategy
Allocation Policy

Priority 2: Ensure appropriate and affordable housing is available to meet people's housing needs and aspirations

We will work to prevent all forms of homelessness – through our wider ambitions for the economic development of Torbay (which include creating full-time jobs and raising wages) and through seeking a step-change in the quantum and speed of delivery of affordable housing to meet local needs.

We will use evidence-based strategic policies to guide the type, design and range of housing including accommodation and support for people with particular needs as part of sustainable, supportive neighbourhoods. We will be pro-active in enabling affordable housing development through local registered providers, the Council's Housing Company and community-led initiatives. We will acti

We will deliver an effective and intelligent housing options and homelessness service, aimed at reducing the number of people who are at risk of becoming homeless, especially those with children and need for temporary accommodation. At the same time we will source alternative temporary accommodation that is flexible, cost effective and appropriate for families.

Given the challenges we face around increasing homelessness it is critical that we continue to put homelessness prevention at the heart of everything we do. We will find new ways of both understanding and addressing the factors that can lead to homelessness – such as the ending of private tenancies, family/relationship breakdown and discharge from other institutions

We will work with the Social Benefit Society so that it can act as a Community Land Trust to develop and hold affordable housing in trust to be let to local people in housing need. We will empower other voluntary and community organisations to develop homes for vulnerable local people.

We will continue to deliver our Housing First approach.

Related Policies/Strategies:

Local Plan and Neighbourhood Plans
Learning Disability and Mental Health Housing Plan
Affordable Housing Supplementary Planning Document
Housing for Later Life Supplementary Planning Document
Allocations Policy
Homelessness and Roughsleeping Strategy
Commissioning Plan – Accommodation and Support for 16-25 year olds

Priority 3: Improve the quality of housing in Torbay

We want to have a positive impact on the private rented housing sector in Torbay.

We will use our statutory powers to regulate and improve the quality of homes and their management whilst protecting the rights of tenants, improving the local environment, preventing illness and injury and improving quality of life for residents. We will target this intervention in our more deprived town centre wards, where poor private housing is concentrated. We will work alongside our Housing Company and through community-led intervention to improve the health and wellbeing of lower income and vulnerable households. We will consider whether a licensing approach could have positive benefits in specific areas of Torbay.

We will work with registered providers to ensure that social housing in Torbay meets the Decent Homes standard and will support social housing tenants to take action against their landlords if their homes do not meet the standard. We will work across the sector to improve housing management and empower all tenants.

We will provide adaptations for those with health or disability needs through our Disabled Facilities Grants and we will signpost vulnerable households to community energy organisations. We will encourage the use of assistive technology in homes to support people to remain independent as their needs change.

We will encourage developers to build homes and neighbourhoods that are age-friendly across the generations, suitably located near to amenities and transport, fully adaptable and with scope for technology-assisted care built in.

Related Policies/Strategies:

Housing Standards Enforcement Policy
Houses in Multiple Occupation Standards
Disabled Facilities Grant Policy
Housing for Later Life Supplementary Planning Document
Allocations Policy
Local Plan and Neighbourhood Plans
Homelessness and Rough Sleeping Strategy

Priority 4: Improve the environmental, economic and social sustainability of our housing

We will review our planning policies to ensure new homes are designed to protect the environment, mitigate climate change, reduce CO₂ emissions and achieve social and economic sustainability.

In planning, design and development we will recognise the importance of housing fit for all stages of life as part of sustainable and supporting neighbourhoods.

Use statutory powers and work with communities to implement policies to improve existing housing, reducing its environmental impact and ensuring energy efficiency and reductions in fuel poverty.

We will encourage and facilitate Community Energy Organisations to operate in Torbay to provide energy efficiency advice and assistance and explore other alternative models to promote sustainability and reduce fuel poverty.

We will work to encourage greater co-ordination and active engagement between the Council, housing providers, private landlords and the community and voluntary sector.

Related Policies/Strategies:

- Local Plan and Neighbourhood Plans
- Housing Standards Enforcement Policy
- Houses in Multiple Occupation Standards
- Housing for Later Life Supplementary Planning Document
- Allocations Policy

Questions: Do you think we have identified the right priorities?

Are the right areas of focus included under each priority? What specific actions do we and our partners need to take to deliver our priorities?

Principles

Our work in delivering the Housing Strategy will reflect the Council's principles:

- We will enable our communities by engaging with local people, our NHS partners and a range of housing and social care providers across the public, private and voluntary sector. We will work together to design and develop a range of flexible housing options to meet current and future needs and aspirations. This will include our commitment to support community led housing development. We will engage with residents and work proactively with all of our partners to improve housing across Torbay.
- We will use reducing resources to best effect by seeking external funding and investment to sustain successful homelessness prevention and community led initiatives. We will use our existing tools and powers (including funding for aids, adaptations, equipment and assistive technology) to improve private sector standards and the supply of affordable housing. We will work creatively with partners to provide access to homes that meet individual needs over time.
- We will reduce demand through prevention and innovation by working in partnership with local people, housing, health, and social care organisations to address rough sleeping and secure sustainable funding to continue our Housing First alliance. We will work with partners to ensure housing is technologically and physically designed and enabled to meet lifetime needs and aspirations. Through innovative and efficient housing design, within sustainable and supportive neighbourhoods, we will increase the potential for independence through community led support and reduce reliance on placements into residential and formal packages of care.
- We will take an integrated and joined up approach by working together with local people, the NHS, social care and registered housing providers. We will plan, design and develop housing

that promotes independence, provides an alternative to inappropriate residential care placements and supports delivery of a community led approach to care and support.

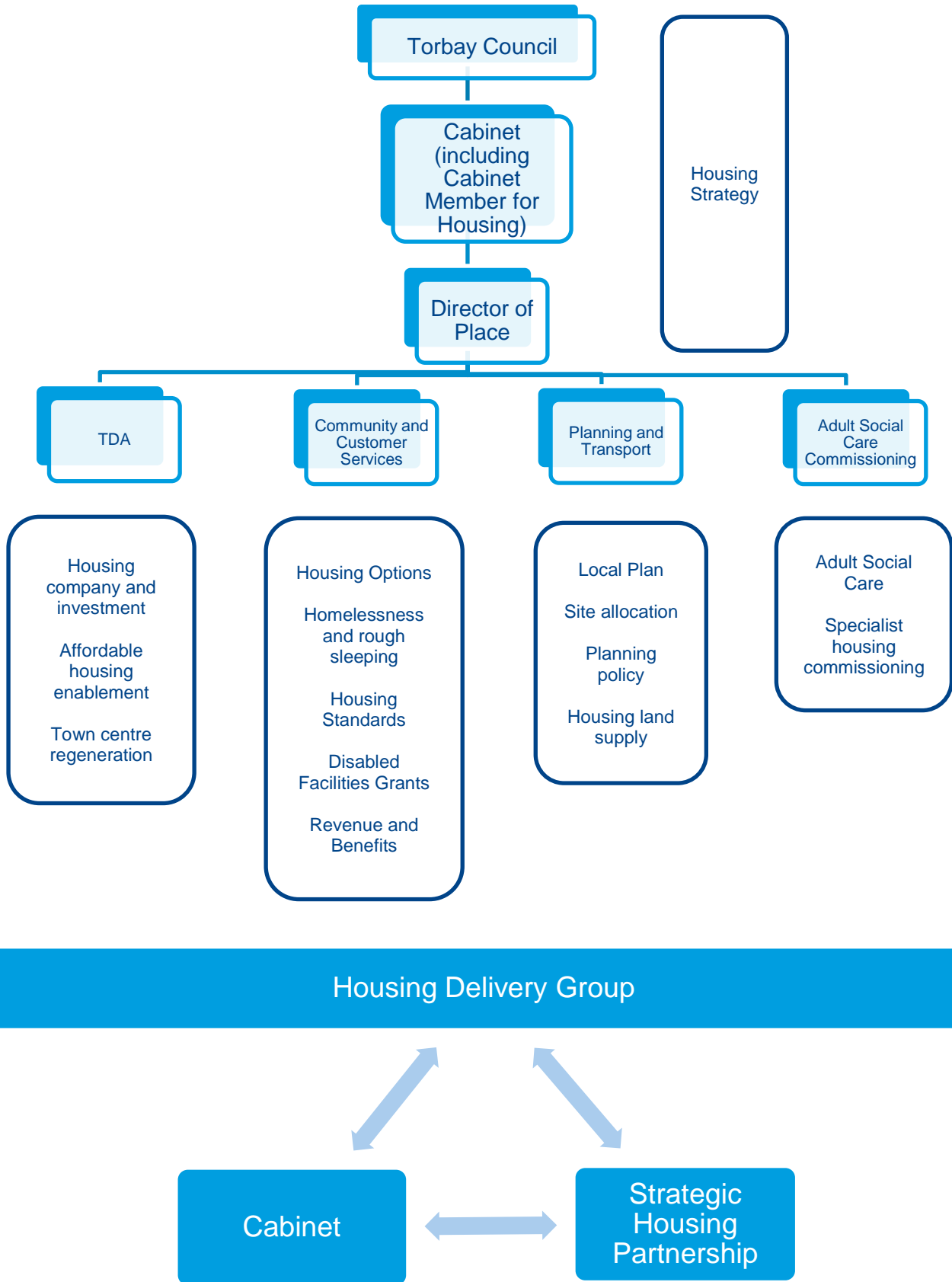
Question: Do you think our future way of working will have a positive impact on Torbay?

Action Plan

This section sets out high level and key actions that are fundamental to delivering on our priorities. These actions are, or will be, set out in detail in the relevant 'daughter' strategies.

The detail of the action plan will be included once the consultation exercise is completed. This will enable us to take account of the views shared by partners and the wider community during the consultation.

Appendix 1 – Governance Arrangements



November 2019

Homelessness and Rough Sleeping Strategy 2020-2025

Draft for consultation

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Foreword

I am pleased to share with you Torbay's Homelessness and Rough Sleeping Strategy 2020-2025. The strategy recognises and builds on the considerable work that is already taking place to prevent and address homelessness across Torbay, but I acknowledge that there is still more to do.

The strategy has been developed in a time of challenges. The impacts of economic austerity and welfare reform have impacted on many households' budgets and, coupled with high housing costs in Torbay, have led to increased demand for homelessness services. This additional demand, together with reductions in public spending, has placed considerable pressures on both the statutory and voluntary sectors. In response, this document outlines the co-ordinated approach required to tackling and preventing homelessness in our community over the next five years.

As well as individual impacts, homelessness has wider implications for Torbay as a whole, ultimately affecting levels of inequality; social exclusion; community cohesion and economic prosperity. It is my personal belief, shared by the rest of the Cabinet, that good quality housing advice and assistance is a fundamental element in supporting vulnerable people to address their problems and achieve the best possible outcomes.

Along with partners across the public, private and voluntary sectors, I am committed to addressing both the causes and impacts of homelessness and continuing to bring about effective change. To that end, this strategy aims to ensure that all homeless and vulnerably-housed households in Torbay receive appropriate and timely help and support.

Councillor Swithin Long

Cabinet Member for Economic Regeneration, Tourism and Housing

1 Introduction

Torbay offers an unrivalled quality of life for individuals and families. With its natural environment, clean air, location, excellent schools, growing arts and cultural sector, low crime rate and wide range of outdoor activities, Torbay has the potential to provide everyone with the opportunity to live a healthy and fulfilled life.

Torbay is made up of the three towns of Torquay, Paignton and Brixham with a collective population of over 133,000. Torbay is the second largest urban area in the South West and a popular tourist and retirement destination for many. Like many coastal areas, Torbay has its challenges. A predominantly low-wage, low-skill economy that is over reliant on the tourism industry, there are high levels of deprivation.

We need to talk about Homelessness.....

Homelessness means not having a home, a place that provides security, privacy, and links to a community and support network.

While rough sleeping is the most visible form of homelessness, most people who are homeless don't actually sleep on the street. They are much more likely to be staying in temporary accommodation, on the floor or sofa of friends and family, or extreme overcrowding, or living in any other unstable or non-permanent situation. Most are never counted in the official homelessness figures.

There is no single reason why someone can end up without a home. For many, life events such as relationship break down, losing a job, addiction, domestic abuse, bereavement, debt or poor health can act as the trigger. Some may be leaving the care system, armed forces or prison. Others simply can't afford to pay the deposit or rent. Quite often, it is a mixture of these factors that creates a spiral of events that eventually leads to homelessness.

There are also fundamental social and economic causes of homelessness, including poverty, inequality, and the lack of affordable housing, welfare reform and unemployment.

Being homeless can be traumatic, as not having a home makes it so much harder for people to find a job, stay healthy and maintain relationships. It can easily lead to disempowerment, isolation and poverty. People and their families are often blamed and stereotyped for being homeless that it's the result of bad life choices or addictions which leads to embarrassment, shame and lasting feeling of worthlessness. Homelessness also impacts our communities in terms of the visibility of rough sleeping. The costs to our public services are considerable in terms of the critical support required from housing, health, criminal justice and social care services.

While the right to a home is a basic human right, homelessness continues to pose a major concern for Torbay. This strategy lays out the five-year road map for how Torbay will work together to support all residents to have a safe, stable place to live, by focusing on the following priorities:

- **End rough sleeping in Torbay**
- **Prevention and early intervention**
- **Increase access to a range of affordable and suitable housing solutions**
- **Tackle the social, economic and health inequalities associated with homelessness**

“Homeless is an experience people have. It is not a statement of being.”

2 Strategic Context

This strategy has been developed with regard to the following national and local strategies:

National context

The Homelessness Reduction Act which came into force from April 2018 placed new duties on Local Authorities to prevent homelessness earlier, extending the 'trigger' of homelessness from 28 days to 56 for all eligible applicants. This was an important change as historically, homeless people in England had only been able to get help if they were considered a priority.

The Act has brought about the biggest review of homelessness services in decades and has resulted in collaborative approaches to preventing homelessness, including a new duty to refer for public services

The **National Rough Sleeper Strategy 2018** commits to halving rough sleeping by 2022 and ending it by 2027. The strategy takes a three-pronged approach to tackling rough sleeping:

1. Prevention: understanding the issues that lead to rough sleeping and providing timely support for those at risk.
2. Intervention: helping those already sleeping rough with swift support tailored to their individual circumstances.
3. Recovery: supporting people in finding a new home and rebuilding their lives.

Local strategic context

The Homelessness and Rough Sleeping Strategy also seeks to align with a number of local and sub-regional strategies and partnerships, including:

- Housing Strategy and Housing Delivery Plan 2020-2025
- Joint Health and Wellbeing Strategy 2018-2022
- The Children and Young People's Plan 2018-2023
- Domestic Abuse and Sexual Violence Strategy 2018-2022
- Local Economic Strategy 2017-2022
- Local Plan 2012-2030
- Devon and Cornwall Reducing Reoffending Board

3 Services to tackle homelessness

Torbay has undertaken a tremendous amount of work to tackle homelessness and rough sleeping. This section **includes an overview of services, initiatives and campaigns which have laid the foundations for delivery of this strategy.**

Services that the Council provides or commissions

- Statutory housing services are provided by the Housing Options team. In response to a growing demand for its services, the Housing Options team has been reviewing how it can more effectively manage the high numbers of people requiring temporary accommodation, and refocus efforts towards its prevention role and low-level support to help people maintain tenancies. Not only are more people going into temporary accommodation but they are staying in there longer due to a lack of suitable, affordable housing options for people to move onto. The team are exploring ways to move towards a rapid rehousing pathway that seeks to assist people in longer term homes without the need to go into temporary accommodation first. An out of hour's duty service is offered for emergency assessment and intervention for housing crisis.
- A rough sleeper team has been in operation since 2017, funded by the government's Rough Sleeper Initiative. It provides both resettlement and outreach support. Its mission is to halve rough sleeping by 2022 and eradicate it by 2027.
- The wider Community Safety team, hosts a variety of functions committed to tackling homelessness, providing specialist support for people with mental health issues and complex needs through Vulnerability and Complex needs practitioners, including a qualified mental health nurse. Alongside this the Community Safety Team has a designated Anti-Social Behaviour Unit, coordinating and prioritising street issues, enabling partnership working to reduce rough sleeping and crime.
- Prison Resettlement Worker enabling a smooth transition from custody to community, creating a bridge of support for women and men coming out of prison with a local connection identifying pathways into the community to prevent re offending and homelessness.
- Adult Social Care, a social worker is commissioned to specifically work with people who are homeless to enable correct care pathways for vulnerable adults who are homeless or rough sleeping.
- Housing First, in 2018 Torbay Council endorsed the introduction of a service that provides intensive support for people moving into accommodation, who have been homeless for a long period of time and have additional challenges such as drug/alcohol use, debt and health issues.
- The Leonard Stocks Centre, a 26 bed engagement and resettlement centre is commissioned to work with single people with housing and support needs, and a local connection. A GP and nurse service, is delivered for Leonard Stocks residents, and people experiencing street homelessness, from the purpose-built surgery room. 3 of the units are accessible for people with disabilities, and there is a kennel, to ensure the hostel can house people with dogs.
- Integrated Domestic Abuse Service provides crisis accommodation, floating support, IDVA (independent domestic violence advocates for high risk cases).
- An in house Youth Homelessness Prevention and Mediation Service who work closely with young people and their families to prevent homelessness in conjunction with Children Services. Supported accommodation is commissioned specifically for young people.

- Bond Scheme, the aim of our Bond Scheme is to help people to rent a home in the private sector where they cannot get a deposit together. This provides assistance to people who cannot afford a cash deposit and Landlords/Letting Agents are instead offered a Bond replacing the traditional cash deposit. The Deposit Bond Scheme can help those who are unable to afford the deposit to be able to move into a home in the private sector.
- Torbay operates a Severe Weather Emergency Protocol (SWEP) which is used when severe weather is forecast. SWEP triggers take into account: weather warnings, near-freezing temperatures, rain, snow, wind chill, gales, heat. Upon SWEP being activated, additional accommodation is quickly put in to place to prevent harm and death due to severe weather conditions. SWEP operates outside usual eligibility and entitlement frameworks that govern access to housing and individuals are allocated access to accommodation based on need.

Torbay End Street Homelessness Campaign (TESH)

- In 2017 Torbay joined the European End Street Homelessness Campaign, a movement of 13 cities coordinated by World Habitat working together to end street homelessness.
- Campaign partners include Torbay Council, Shekinah, Police and many other voluntary sector organisations.
- Activities include regular connection events, where volunteers go out on the streets and talk to rough sleepers, a 24 hour telephone reporting line for anyone concerned about a rough sleeper.

An Alliance Approach

- In 2017 an innovative street homelessness Alliance was established between Torbay Council and Shekinah to deliver Housing First and manage Rough Sleepers Initiative funding. The Council is now exploring widening the alliance to include drug and alcohol treatment and domestic abuse services. The Alliance contract shares risk and responsibility between Council and provider, and service provision, evaluation, and monitoring are all agreed and undertaken jointly.

Partner activities

- In Torbay a wider range of partners and organisations works alongside each other to address the needs of those affected by homelessness and rough sleeping. These include substance misuse services, food banks, day centres, advocacy, mental health support as well as those that help in finding work and learning new skills.
- ToWNS, - (Torbay Winter Night Shelter). ToWNS operates in January and February rotating between churches in Torquay and Paignton providing somewhere safe to sleep, food and drink and support to those who are homeless and sleeping or at risk of sleeping rough

4 Issues and Challenges

This section aims to provide an overview of the issues and challenges facing Torbay in its ambition to provide **support all residents to have a safe, stable place to live.**

There is no 'quick fix' to resolving many of these broader social and economic challenges, but identifying them and understanding their impact will be crucial to the delivery of this strategy and the future delivery of services. Among the key challenges are:

Public sector funding cuts: Torbay in particular has seen substantial reductions in its annual Local Government settlement, estimated at nearly 70% of what it was in 2010. Public sector funding cuts also affected other services whose work impact on homeless people, for example the Police, adult social care, mental health services, and substance misuse services, alongside those working in the voluntary and community sector.

Social housing: Approximately 8% of households in Torbay live in social housing. In 2018-19 there were between 982 and 1074 households on the Housing Register waiting for affordable housing. This subsequently means that access to accommodation can be a challenge.

Affordability: The welfare system has historically played a key role in preventing and tackling homelessness. Since 2010, there have been a range of changes to the UK's welfare system that have impacted on those affected or at risk of homelessness. Most relevant for Torbay have been reductions in Housing Benefit for renters in the private sector, where the Local Housing Allowance no longer covers the cost of renting. Larger families have also been affected due to a reduced income tax credits changes, Housing Benefit reductions as well as an overall cap on total benefit receipt. Many of these changes have had a significant impact on homeless people and those who support them.

The housing crisis: According to the 2019-20 Joint Strategic Needs Assessment, Torbay has higher levels of private rented accommodation (23%) and a significantly lower percentage of social rented housing (2%) compared to England.

This analysis also shows that 14.5% of postcodes in Torbay are transient renters - single people who pay modest rents for low cost homes. Mainly younger adults (20-30yrs) living alone or house-sharing, they tend to live in a property for only a short length of time before moving on.

5 The Picture of Homelessness in Torbay

Torbay Council collects data on the number of homelessness cases dealt with by the Housing Options team, where homelessness was prevented or relieved.

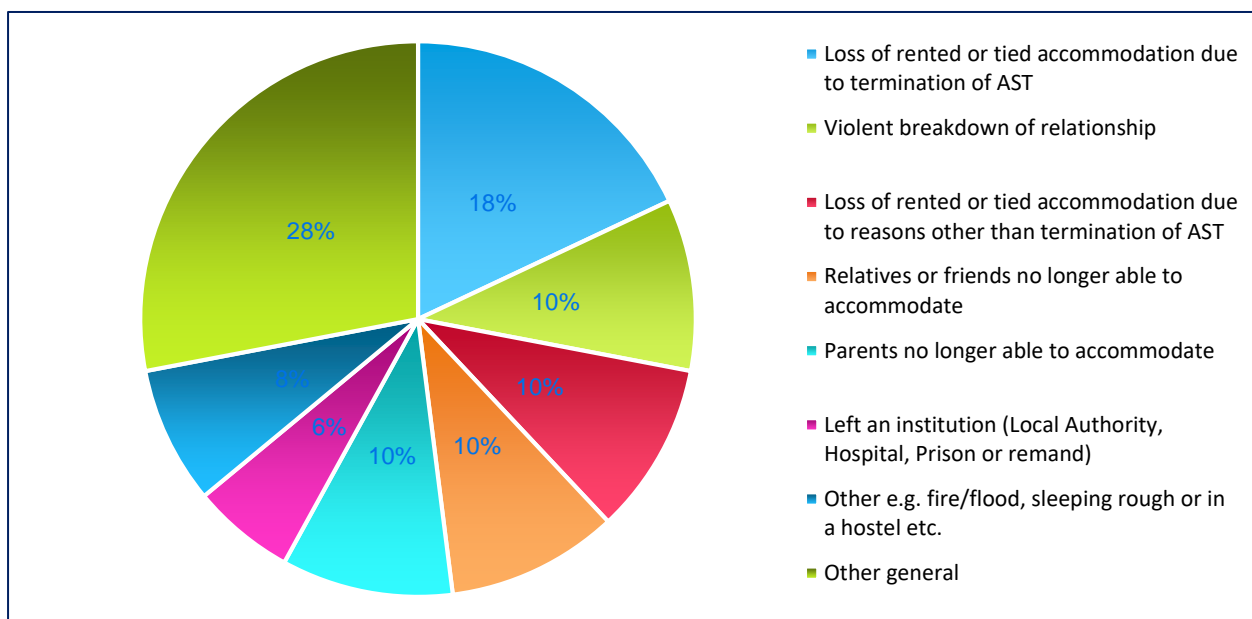


Figure 1: Reasons for Homelessness in Torbay 2018/2019

The main reason for homelessness within Torbay is the loss of rented accommodation. Rent levels have increased beyond the amount people are entitled to claim to help them pay their rent. This means that rented accommodation is not accessible for many people. We will develop new ways of engaging with private sector landlords and agencies to mitigate the perceived risks landlords face in order to support our clients to access privately rented accommodation.

The Homelessness Reduction Act 2017 introduced an entirely new responsibility to ‘relieve’ homelessness. This means that wherever someone is actually homeless the local authority has a duty to try and help that person relieve their homelessness. Although this does not necessarily mean they will get temporary accommodation the Council has a responsibility to help them to find a suitable home.

Temporary Accommodation

Temporary accommodation is offered to households who meet certain criteria whilst their circumstances are investigated. If the main housing duty is accepted then temporary accommodation continues to be provided until suitable alternative accommodation is found. With a lack of suitable, affordable options for people to move onto, not only are more people going into temporary accommodation, they are finding themselves there longer. The graph shows the monthly changes to applications received, for temporary accommodation.

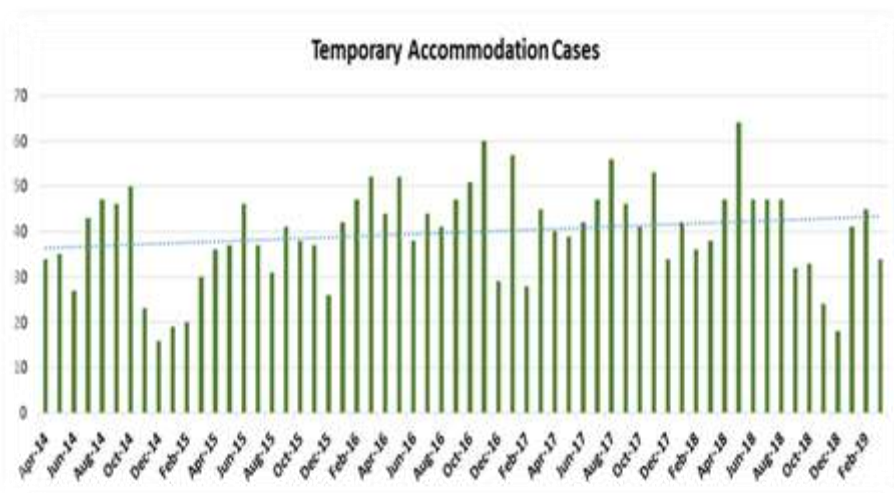


Figure 2: Number of Households in Temporary Accommodation

Who is applying for Temporary Accommodation?

The main applicants of temporary accommodation comes from those aged 25-35 years of age, this could be due to the high costs of private rental and the low level LHA rates under 35s are entitled to. In addition there is a lack of HMO style accommodation in Torbay which is within the cost availability for this age group.

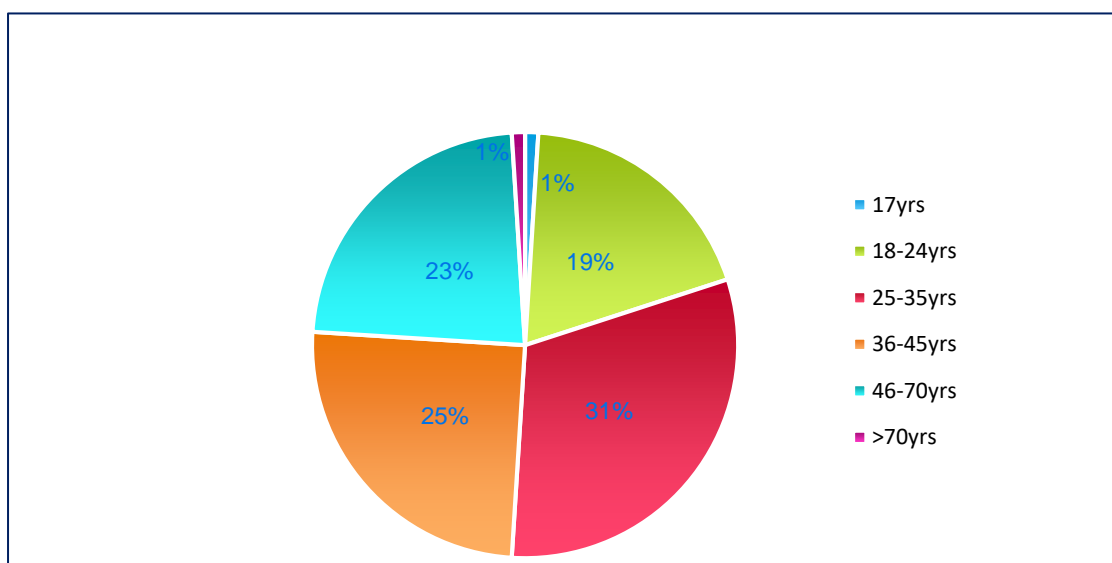


Figure 3: Age Range of those applying for temporary accommodation (2018/2019)

A more detailed analysis of the data indicates the range of issues that contributed to those presenting as homeless, as follows:

Torbay faces an ongoing challenge in sourcing suitable temporary accommodation for homeless families for whom the Council has accepted a homelessness duty or is making investigations.

The percentage of families for the period April – Oct 2019 has increased by 47% compared to the same period in 2018. Lack of appropriately sized and suitable accommodation means that the Council

currently has to resort to short term, expensive solutions that do not facilitate normal family activities or space for children to play.

Rough Sleeping

For statistical purposes, rough sleepers are defined as people sleeping, or bedded down, in the open air such as on the streets, or in shop doorways or park benches.

The official count figures are problematic because they are collected annually through a count on **one night**, and as such tend to under report the number of people due to the guidelines about who can be counted.

Local data is collected through staff working with people who are street homeless, and show the same trend but higher numbers.

There are no figures for hidden homeless – sofa surfing, sleeping on floors etc. There is not a significant issue with entrenched rough sleeping in Torbay. There is however a constant flow of people that are either new to rough sleeping or returning. Interventions are therefore tailored to the individual rather than meeting a trend.

Torbay also delivers Connections Week, an informal rough sleeper engagement exercise, where volunteers conduct interviews on a nightly basis with rough sleepers to understand the needs of rough sleepers in the Bay.

The graph below shows the official annual rough sleeper figures from 2010 to 2018.

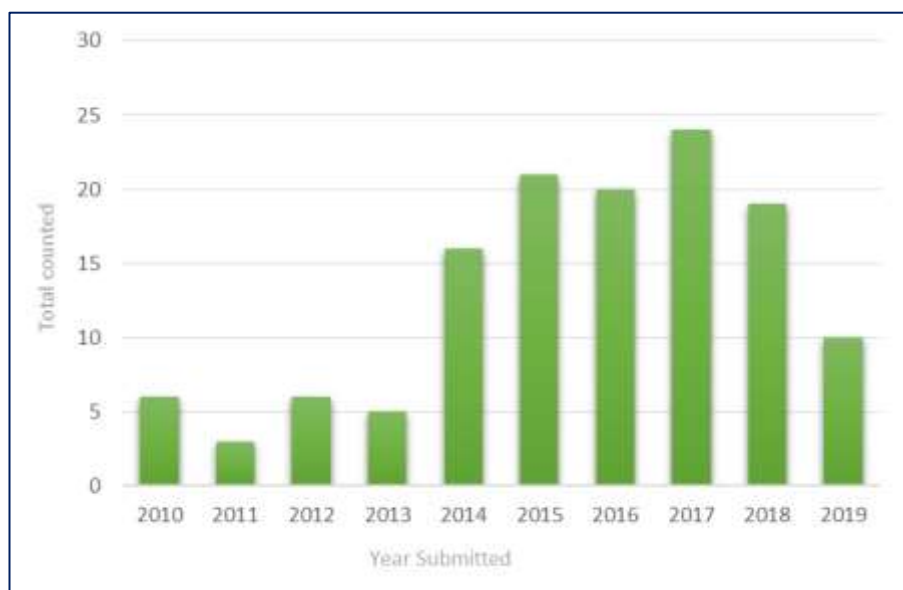


Figure 4: Official National Count Data for Torbay 2010-2018

More specifically is a breakdown of the data obtained from the outreach team from April-September 2019. This shows the total number of rough sleepers engaged with services, whether they are new presenters or familiar clients. In addition it also shows those with no local connection which is very low.

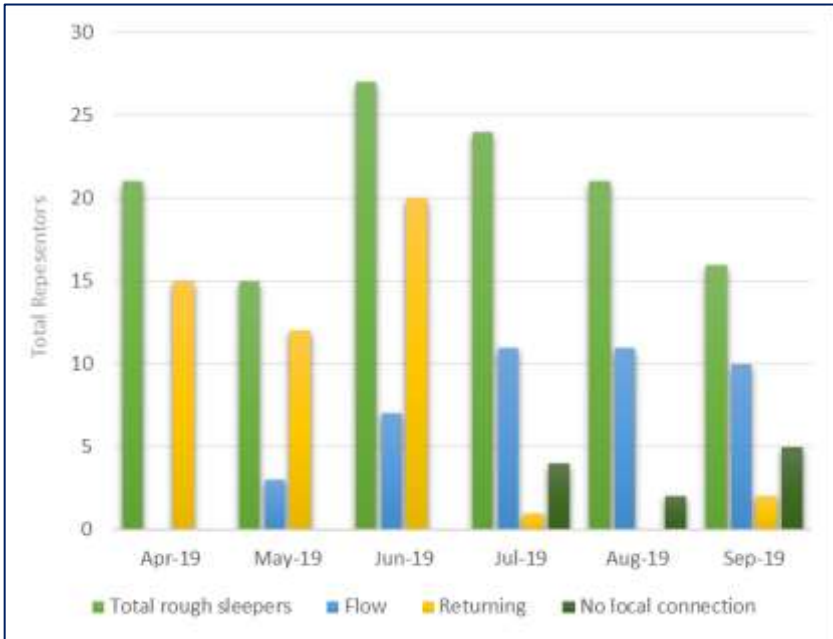


Figure 5: Detailed data of number of individuals sleeping on the streets of Torbay

Housing First Feasibility Study 2018

A Housing First Feasibility Study was undertaken by Crisis in 2018. This was commissioned by Shekinah, and funded by the Nationwide Foundation in partnership with Torbay Council and Westward Housing. It reviewed the homelessness system in Torbay, as well as provision and use of services for homeless people with complex needs.

The specific barriers and challenges identified by clients and services across the system include:

People with lived experience:	<ul style="list-style-type: none"> • The system is generally disjointed, without a clear, seamless pathway from prevention, to intervention, to recovery and then move on for everyone who is homeless or at risk of homelessness. • Application of local connection criteria restricting access to the Housing Register and to assistance into the PRS • Challenges of bidding for properties online through The Devon Home Choice system • Not being considered ready to move on into independent housing as support needs were deemed too high • The high cost of deposits and rental advances required by private sector Landlords difficulties in accessing furniture and appliances even if you are able to find a property. • Identified need to include emotional support, independence and opportunities for rehabilitation and longer-term planning, a focus on social integration, and a swift and flexible response to people with addictions who are at the right stage in the cycle of motivation.
Private Rented Sector:	Letting Agents advised that with the right offer of support they felt properties from the PRS could be found. However, they did report that they felt promises of support from services at the start of a tenancy were often not followed through during the tenancy which made them wary and sceptical.
Criminal Justice:	Very short windows to put a package in place as key services are not given enough time when notified of an individual’s upcoming release. This includes delays to benefit payments.
Health and Social Care:	Evidence demonstrates increasing numbers of people with ‘complex needs’ – that is, multiple needs in relation to mental health, drug use, homelessness, offending and/or learning disability, which tend to interact with each other. An increasing complexity of need and lack of

	wider support provision is making it less likely people will make a success of moving on. Within mental health services the threshold for people to access residential care is very high. It was also identified that there is a lack of lower level (tenancy) support and many professionals noted the gap created by the reduction in Supporting People funding for floating support. There was reported scepticism from professionals about the willingness of GP surgeries to proactively engage and support homeless people.
Department for Work and Pensions:	Delays in payment was cited as the key barrier for homeless people in securing housing.
Drug and Alcohol Services:	It was felt that expectations placed on people with chaotic lives and challenging needs were sometimes damaging and not conducive to recovery.

Health and Social impacts effecting Homelessness in Torbay

Homelessness impacts on an individual's health not just those who are street homeless. People who are street homeless experience higher rates of premature death than the general population, particularly with regards to suicide and unintentional accidents. Less likely to access primary and preventive health services, they are at greater risk of diseases.

According to the 2019/20 Joint Strategic Needs Assessment there are currently 28 areas in Torbay in the top 20% most deprived in England; up from 12 in 2004. Torbay is also ranked as the most deprived local authority in the South West region.

Children who have experienced homelessness are more likely to grow up with respiratory illness and poor mental health, and they are twice as likely to leave school with no GCSE qualifications.

Homeless families with children in Torbay

Homelessness and placement in temporary accommodation renders both children and parent(s) generally more vulnerable, and in greater need of Safeguarding. It can leave families more vulnerable to a variety of risk factors including:

- Personal issues, such as loss of security and control, feelings of isolation and loss of confidence and self esteem
- Housing issues, such as overcrowding and mobility (being moved to another borough or area for instance)
- Disruption to education, with children not being enrolled in school, or impacting on the ability to study
- Lack of security, space, privacy and play areas.

Young People at risk of Homelessness in Torbay

Young people that face higher risks of homelessness include those with experiences of the care system, those from a BME background, and those who identify as LGBTQ+. The top support needs of young homeless people were education or employment, lack of independent living skills and mental health problems.

The accommodation available to young people in Torbay has changed significantly in recent years and they are likely to rely on the private rented sector (PRS) for accommodation. As already presented, this can be particularly challenging for young people as they receive a lower rate of both Housing Benefit and Income Support.

A 12 month snap shot analysis was undertaken in 2018 to review the needs of 42 young people in different parts of the leaving care or youth homelessness system. This analysis found a lack of short-

term accommodation (including crisis beds) and accommodation for young people with chaotic and complex lives.

- Young people leave their supported accommodation through exclusion and subsequently placed into B&B accommodation
- Young people represent as homeless and in some instances are known to the wider children services system.

Some of the key needs and issues identified as part of this analysis included:

- Challenging behaviour and non-engagement was a recurring theme.
- Young males are more challenging to place
- Young people want a place of their own, not shared, but cannot afford it.
- Landlords in the private rented sector want 6 month's rent in advance and deposit – impossible for this age or without guarantor
- Young people are convinced they will get accommodation, which meets their aspirations, whilst the reality is very different.
- Many young people in the homelessness system have poor life and daily living skills.

These results demonstrate that not only are a broader range of options required to meet needs, but that interventions are needed in the wider system to prevent potential homelessness at a much earlier stage. This includes work with families and in schools well before a young person may approach as homeless, as well as facilitating move on and tenancy sustainment.

Deprivation in Torbay

The following map provides a ranking nationally on how Torbay compares to others across the county on how hard it is to access appropriate accommodation. The ranking is based on criteria such as overcrowding, homeless and housing affordability.

- Is it recognised that there is an increasing disparity between LHA rates of the average rent in Torbay. It is estimated that the average rented cost in Torbay has increased.
- For one bedroom properties within Torbay, the median monthly rent has increased from £450 (2016/17) to £475 (2018/19), an increase of 5.6%. The lower quartile rent has increased from £412 (2016/17) to £425 (2017/18), an increase of 3.2%
- For comparison, during the same period median monthly rents in England for one bedroom properties have increased from £595 (2016/17) to £615 (2018/19), an increase of 3.4%.
- The lower quartile rent has increased from £450 (2016/17) to £475 (2018/19), an increase of 5.6%.
- Just over 1 in 10 Torbay residents live in an area that is amongst the most deprived in England when it comes to accessing good quality housing.

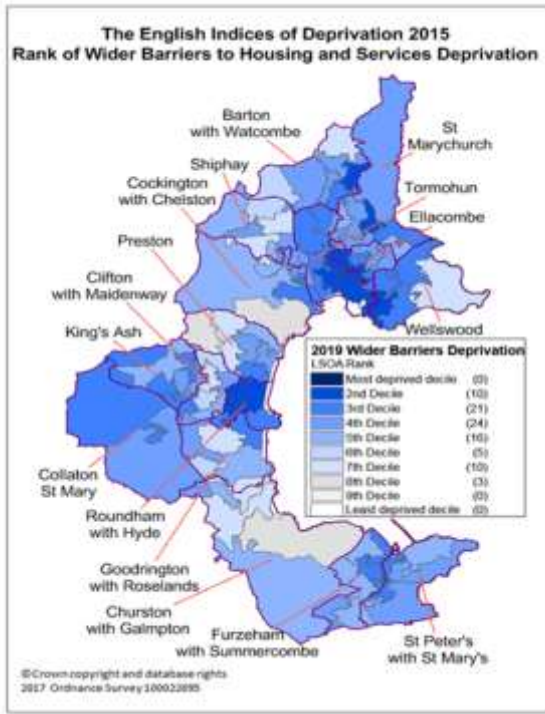


Figure 6: Indices of Deprivation - Wider barriers to housing and service deprivation

6 Strategic Priorities

Conditions of success – the need for change

The homelessness system can be very complex, both for those experiencing it as well as for those providing support.

Torbay is seeking to change not only the outcomes for people experiencing homelessness, but also the way the system works.

For the strategy to fully achieve its aims, the organisations and homelessness services need to plan and deliver in a new way. There is a fundamental need for a shift in our thinking, assumptions and ways of working, and will require new facilitative forms of leadership, collaboration, reflection and learning.

This five year strategy covers the period 2019-2024 and looks at strengthening the already high level of partnership working across Torbay and how we can continue to make significant improvements across homelessness services. In order to bring about significant change within our communities, this Homelessness and Rough Sleeping Strategy focuses on four key priorities, which have been agreed by a number of key partners.

More detail on the actions being undertaken against each priority is included in the accompanying action plan.

Priority 1: End rough sleeping in Torbay

The National Rough Sleeper Strategy 2018 identifies addressing rough sleeping as a top government priority, with a target to halve rough sleeping by 2022 and eradicate it by 2027. Already a committed partner in the European End Street Homelessness Campaign, Torbay has identified ending rough sleeping as one of its top priorities.

Key Objectives:

- Support the outreach services currently funded via the government Rough Sleeper Initiative.
- Redesign of system to embed rapid rehousing model into existing services.
- Roll out a Housing First/Rapid Rehousing model of delivery:
 - A provision of accommodation and intensive support to homeless people with complex needs.
 - Move away from the use of temporary accommodation towards housing people into the community, along with the support they need.
 - Develop local capacity to deliver strength - based support that is trauma informed and moves with the person, not the accommodation
- Ensure people have access to community-based wellbeing support and activities essential to sustain accommodation.
- Working with the community and voluntary sector to explore and develop alternative ways of working, including alliance opportunities.
- We will change perceptions and expectations of homelessness services among members of the public through an effective communication plan, increasing the effectiveness of prevention through understanding the realities of the services available, including reducing stigma.
- Develop a clear voluntary sector referral pathway for vulnerable clients identified at risk
- We will increase supply of move on accommodation available to people who have slept rough.

Priority 2: Increase the prevention and early intervention offer for those vulnerable to homelessness

The best way to tackle homelessness is to prevent it and intervene as early as possible. Given the challenges we face around increasing homelessness it is critical that we continue to put homeless prevention at the heart of everything we do. We also know there are groups of people who are at a higher risk of becoming homeless. We will find new ways of both understanding and addressing the factors that can lead to homelessness, such as the ending of private tenancies, family/relationship breakdown and discharge from other institutions; as well as developing greater understanding of the impact of wider social issues such as Adverse Childhood Experiences, poverty and disadvantage, unemployment, poor health and wellbeing and lack of access to affordable, decent homes.

At the same time it is essential that the system looks at ways to reduce barriers for people seeking to engage with it, so that it becomes as easy as possible to receive the support they require.

It is also essential to acknowledge that more is needed to sustain tenancy beyond financial security, and that former behaviours and detrimental relationships could still result in repeat homelessness. This must include development of supportive social networks to build resilience, access to support for physical and mental wellbeing as well as a strong network of services.

Key Objectives:

- We will develop further preventative actions to reduce the number of households presenting to homelessness services in Torbay and identify simple measures to monitor progress.
- We will develop greater understanding of the 'triggers' that are causing tenancies to end, especially in the private rented sector; and why relationships and/or families are breaking down – to allow new opportunities for prevention to be identified and implemented.
- We will provide accessible services that have seamless pathway from prevention, to intervention and provide effective communication with people about how to avoid the risk of homelessness.
- Increase access to employment support for families and young people.
- We will roll out a programme into secondary schools and other educational forums encouraging youngsters to think of wider housing solutions, debunking the myths surrounding access to social housing, issues around parental exclusion and encouraging self-reliance.
- We will tackle the causes of homelessness by influencing local, national and regional policies, strategies and approaches, including through campaigning.
- Departmental approach to prevent homelessness before crisis presentation becomes imminent, with a particular focus around families who are engaged with Children Services.
- We will pay particular focus to sustaining tenancies through:
 - The redesign of discretionary funds to allow targeted support with streamlined access and ensure income maximisation through links with DWP
 - Development of relationships with private sector landlords and agencies
 - We will encourage self-resolution to housing crisis
- There will be a particular focus on the following:
 - **Young people / care leavers:** Ensure delivery of a range of semi-independent support and accommodation, supported lodgings for young people in care, care leavers and young homeless people as well as flexible outreach support for young homeless people aged 16-25yrs.
 - **Transitions:** Ensure a better, seamless experience for young people with housing needs who are moving into adult focused services.
 - **Dual diagnosis:** Develop a coherent multi agency approach that ensures the adequate, timely provision of integrated mental health and substance misuse care in response to the needs of those at risk of and currently homeless.
 - **Discharged from hospital, prison or other institutional settings:** Early identification, notification and referral to the Housing Options team prior to discharge for those who do

not have accommodation to return to or who find their existing accommodation is now inappropriate or unsafe.

- **Homeless families with children:** As part of the Multiple Complex Needs programme to address the drivers of poor outcomes for children and families in Torbay, identify and deliver supportive measures for vulnerable families and children to reduce destabilisation, disruption and stress.
- **Domestic abuse:** Deliver accommodation-based support that meets the diverse needs of victims of domestic abuse and their children.

Priority 3: Increase access to a range of affordable and suitable housing solutions

Housing is the foundation of any homelessness and rough sleeping strategy – access to affordable and suitable homes.

Torbay has high levels of private rented accommodation, as well as inadequate social housing provision in relation to need. Private rents in Torbay are often higher than the average income allows, and in most cases is much higher than the government will subsidise through universal credit or housing benefit. Furthermore, the quality some sectors of the housing stock is relatively poor.

Torbay's Housing Plan 2020-2025 will seek to address some of these issues by ensuring sufficient housing building targets to meet identified need and improve housing quality.

Housing solutions must still be made available for those requiring support as determined under the 2017 Homelessness Reduction Act. Temporary accommodation in particular is difficult to secure during peak tourist months.

Key Objectives:

- Respond to the demand for an increased range of affordable accommodation solutions for those in most housing need.
- Fundamental review of temporary accommodation to improve access to suitable, year-round, planned temporary accommodation.
- Forge strong relationships with local private landlords to unlock capacity in the private rented sector.
- Allows access to affordable and suitable housing.
- Commissioning of new framework of accommodation and support for young people.
- Use of interim management orders to improve poor quality accommodation.
- Encourage growth of professional private rental accommodation
- Explore development of local letting agency
- Review Devon home choice policy
- Work with registered providers to review profile housing stock and its utilisation

Priority 4: Tackle the social, economic and health inequalities associated with homelessness

Tackling homelessness and rough sleeping also requires collective action across Torbay – not just for those services directly providing housing services. This strategy emphasizes the complex nature of the needs and problems faced by those for whom homelessness is a reality. The link between homelessness and inequalities is well documented with a higher incidence of health problems including substance misuse, and mental and physical ill health.

While having a safe home lies at the core of Torbay's efforts to tackle homelessness, this alone will not solve the problem. There is also an urgent need to increase the visibility of homelessness in strategic needs assessments and plans.

Key Objectives:

- Ensure that tackling the social, economic and health impact of homelessness is made the business of all local services.
- Invest in awareness raising and training that enables cross agency collaboration to recognise the risk of, or actual homelessness, and to take appropriate action in response.
- Adopt an inclusion health approach aimed at improving health outcomes for those at risk of or presenting as homeless.
- Provide financial inclusion advice and support for those at risk of or already homeless.
- Support and engage with national campaigns aimed at tackling the root causes of the housing emergency, as well as government policies that undermine local efforts to tackle homelessness.
- We will reduce the numbers in temporary accommodation in favour of more sustainable options.
- We will work with partners to improve the health and wellbeing of homeless people and rough sleepers and support people to build better lives.
- We will work with long term homeless people, building their resilience and capacity and supporting them to solve their homelessness and reduce repeat homelessness
- We will increase access to mental health support and improve advice and training for staff working with complex needs clients to create 'psychologically informed environments' within all homelessness services.
- We will actively involve clients with lived experience to shape our services.

7 Building a network of support

We will regularly meet with other organisations through the development of a 'Homelessness Strategy Steering Group' for the objectives within this strategy to be achieved.

Our aim would be that someone working or volunteering in professional or community-based services automatically considers whether issues raised by their clients or customers could result in them losing their home.

We will work with stakeholders to:

- Make sure that they are using the opportunities they have to identify people who may be at risk of homelessness
- Make sure that the formal process for agencies to refer people who are homeless or at risk of homelessness is fully understood and easy to use
- Involve other organisations in the identification and provision of opportunities to help people facing housing issues.
- Explore and generate ideas for potential projects and monitor potential sources of funding such as community funds and Government initiatives

Collaboration and Engagement

There has been a shift away from seeing people who are homeless as simply the recipient of a service, towards an acknowledgement that those with lived experience are often best placed to advise on what support and services will make a positive contribution to their lives. There are many benefits to encouraging active involvement in a service's design and delivery, including a more cost-effective service, better understanding and communication between services, and ultimately increased satisfaction. It is also an essential tool to ensure that the views of specific groups or communities of interest such as veterans are being considered within service planning and commissioning. It is essential that an agreed approach to engagement with service users is taken forward as part of this strategy.

8 Delivering the Strategy

Governance

We need to ensure that together with our partners we have the skills and structures in place for the delivery of this strategy's priorities, and to deliver the innovative agenda that will be required to tackle homelessness over the next five years.

All of Torbay Councils directorates are signed up to and committed to delivering the Homelessness and Rough Sleeping Strategy, working with partners and within the council to ensure the priorities are delivered. The objectives in the Homelessness and Rough Sleeping Strategy will be delivered using an action plan that identifies the main tasks needed to tackle and prevent homelessness in the next five years. A multi-agency approach group will monitor and evaluate the plan regularly.

The action plan will identify who is responsible for the completion of specific tasks, and indicate timescales and performance targets. The Homelessness Strategy Steering Group, will hold overall responsibility for the delivery of the Homelessness and Rough Sleeping Strategy. Commissioning proposals for remodelling investments in homelessness services and accommodation requirements will be submitted to the appropriate Boards. Buy in and support from such boards is important as while they may not have a formal responsibility for reducing homelessness, their members are often involved in the delivery of services which support people who are homeless, or which can contribute to the reduction of homelessness in an area.

August 2019

Housing Standards Enforcement Policy

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SECTION 1 - INTRODUCTION

This policy provides details of the council's approach to regulating housing standards and tenancy rights in Torbay. It sets out what owners, landlords, their agents and tenants of properties can expect from us and what we expect of them.

This policy is intended to provide guidance for officers, businesses (landlords, property managers and agents), consumers and the general public. It does not affect the discretion of the Council to take legal proceedings where this is considered to be in the public interest.

1.1 What we are looking to achieve?

Local Housing Authorities play a key role in protecting the health, wellbeing and consumer rights of residents. Our interventions improve the quality of homes and their management whilst protecting the rights of tenants. These actions improve the local environment, prevent illness and injury, improve quality of life for residents and reduce crime. The provision of good quality homes has far reaching benefits from facilitating educational attainment for children, preventing illness and reducing environmental impact through the provision of energy efficiency measures.

This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This document has been prepared having regard to the Regulator's Code Better Regulation Delivery Office (BRDO April 2014).

In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

1.2 Aim of the Policy

We aim to ensure that all enforcement activity we undertake is:

- **Targeted** at properties and people that pose the greatest risk. Risks may be to; health, safety, community confidence, finances, deprivation, the environment and or a regulatory risk. Targeted individuals may include owners and landlords who evade licensing and regulation, and those whose properties cause a nuisance or put people's health and safety at risk.
- **Proportionate**, reflecting the nature, scale and seriousness of any breach or non-compliance. This approach will ensure that the most serious risks (as described above) attract the highest sanctions. It also means that in particularly minor cases, we may take informal action only.
- **Fair and objective**, based on the individual circumstances of the case, taking all available facts into account.
- **Transparent**, our actions will be explained in plain language, with clear reasoning given for any enforcement action taken. A clear distinction will be made between legal requirements (what must be done) and advice or guidance (what is desirable).
- **Consistent**, taking a similar approach in similar circumstances to achieve similar ends. It does not mean uniformity, as we will take into account many factors such as culpability, the level of risk, the history of compliance and the attitude and actions of those involved.
- **Accountable**, undertaken in a responsible manner that has a clear purpose. Where enforcement action is taken, we shall ensure the target is given information about their rights of appeal and otherwise how they might register a complaint.
- **Coordinated**, taking a shared approach where there are complementary responsibilities across different departments or agencies.

1.3 What is enforcement action?

In this document 'enforcement' means action carried out in the exercise of statutory enforcement powers. It includes not only formal enforcement action, such as prosecution or the service of a notice, but also the inspection of premises for the purpose of checking compliance with regulations and the provision of advice to aid compliance with statutory requirements.

1.4 Who might take action?

Authorised officers will undertake the actions set out in this policy. The Council will ensure that officers who are authorised to initiate enforcement action are competent to do so, are suitably qualified and have relevant and adequate experience in the area of enforcement. The level of authorisation varies depending upon the particular action. The details are set out in the Council's Scheme of Delegations.

SECTION 2 - OUR ENFORCEMENT POWERS AND OUR APPROACH

Torbay Council expects all landlords to have a good understanding of the standards that they are required to meet in terms of the condition and management of the homes they rent out and of the appropriate behaviour and conduct they are obliged to display in terms of tenancy rights and interactions. We also expect full voluntary compliance with the law.

We will help owners of housing to meet their legal obligations by providing clear and concise information about what they need to do to comply. This information will be available by engagement with our website, our social media provisions, by direct communication with officers and via forums and open meetings. We will engage with our landlord associations and promote appropriate training and accreditation schemes.

At the time of drafting this policy, the principle acts and regulations enforced by the council's Housing teams are;

- The Housing Act 1985
- The Housing Act 2004
- The Building Act 1984
- The Environmental Protection Act 1990 (as amended)
- The Public Health Act 1936 (as amended)
- The Local Government [Miscellaneous Provisions] Act 1976 and 1982
- The Prevention of Damage by Pest Act 1949
- Protection from Eviction Act 1977
- Deregulation Act 2015
- The Housing and Planning Act 2016
- The Energy Efficiency (Private Rented Property (England & Wales) Regulations 2015
- Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
- Any subsequent legislation coming into force where the policy is yet to be updated

In addition to our powers as a local housing authority there are further powers available to us as the local planning authority and through Trading Standards and the regulation of letting and managing agents.

- Enterprise and Regulatory Reform Act 2013
- Redress scheme for Letting Agency Work and Property Management Work (England) Order 2014
- Consumer Rights Act 2015
- Town and Country Planning Act 1990 (as amended)

The interventions we may take in relation to the above legislation are set out in more detail throughout this policy.

Much of the legislation that the Council enforces sets out what must be achieved, rather than how it must be done. Guidance on how an outcome might be achieved is often set out in codes of practice or guidance notes. Where there is advisory material available describing good practice, inspectors will have regard to this.

In some cases the legislation is highly prescriptive as to what must be done and in such circumstances the discretion of the Council as duty holder and the enforcer are limited.

SECTION 3 - TARGETING ENFORCEMENT ACTION

3.1 Co-ordinated working - Often a single housing matter may overlap the enforcement responsibilities of several services and agencies such as Devon and Somerset Fire and Rescue Service, Devon and Cornwall Police, Home Office or the Environmental Protection functions of the Council. Partnership working is at the core of what we do and we will take a comprehensive approach to enforcement by:

- Co-ordinating action between Council departments and other agencies;
- Ensuring the most effective action is taken and led by the most appropriate agency;
- Sharing information with other agencies.

3.2 Powers of entry - Entry to a property is usually required to enable us to carry out our statutory functions.

Sections 239-241 of the Housing Act 2004 (HA2004) set out powers of entry associated with investigating the condition and/or management/use of a property.

When organising a visit to assess conditions using the Housing Health and Safety Rating Scheme (HHSRS) officers' will normally make an appointment to visit in the first instance and will give at least 24 hours' notice to both the occupants and owners of our intention to enter properties to inspect them. If landlords wish to attend the inspection they are obliged to make their own arrangements with the tenant.

Powers of entry will allow an officer, at any reasonable time, to enter a property to carry out an inspection and gather evidence, take other people with them, take appropriate equipment or materials and take any measurements, photographs, recordings and samples as necessary.

In some cases, powers of entry will be used to carry out works.

We will exercise our statutory powers to gain entry without giving prior notice to investigate suspected non-compliance with housing related law or to carry out a statutory duty where it is necessary to do so. Reasons for the use of these powers may include:

- To protect the health and safety of any person or to protect the environment without avoidable delay;
- To prevent the obstruction of officers where this is anticipated;
- To determine if a property is an unlicensed HMO or has breached management regulations;
- Where we are working with other agencies such as the police, home office or fire service.

When undertaking enforcement activity associated with Illegal eviction or harassment it may not be necessary or appropriate to inform the property owner of an intention to enter.

We may apply to the Magistrates Court/Justice of the Peace for a Warrant to Enter Premises if;

- entry has been denied
- refusal is reasonably anticipated
- giving notice would defeat the purpose of the visit
- gaining entry will be problematic such as in the case of empty properties.

Before applying for a warrant we will consider all the circumstances of the case and ensure that obtaining a warrant is a proportionate and reasonable action.

A warrant under this section includes the power to enter by force, if necessary.

Any person who, without reasonable excuse, obstructs an authorised officer from carrying out their functions under Parts 1-4 of HA2004 (includes entering a premises, collating evidence etc.) commits a criminal offence. Where an officer is obstructed we will consider undertaking a prosecution. Where officers are assaulted the council will seek prosecution of any offenders.

3.3 Requiring information

Authorised officers have the power to require:

- Documents to be provided under s235 of the HA2004 to enable them to carry out their powers and duties;
- Electrical and gas safety certificates to be provided in relation to Houses in Multiple Occupation under s234 of the HA2004;
- Any person with an interest in a property to provide details about its ownership or occupation under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
- Specified information for the purpose of deciding whether to apply for a banning order against the person under Section 19 of the Housing and Planning Act 2016;
- Specified information for the purpose of deciding whether to make an entry in the database of rogue landlords and property agents or to complete an entry or keep it up-to-date under Section 35 of the Housing and Planning Act 2016.

Officers will routinely use these powers and it is an offence not to produce the required information as requested or to provide false or misleading information. Where requested information is not provided (or is false or misleading) we will consider taking the relevant formal action such as issuing a financial penalty or undertaking a prosecution.

For specific housing purposes the Authority also has the power to:

- Obtain and use Housing Benefit and Council Tax information under Section 237 of the HA2004;
- Request and use tenancy deposit information under Section 212A of the HA2004;
- Access and use information contained within the database of rogue landlords and property agents under Section 39 of the Housing and Planning Act 2016,

3.4 Pro-active inspection - The Council has a duty to review local housing conditions to identify any action that may be required.

We will seek to identify HMOs that require a mandatory licence, are poorly converted or poorly managed and properties where category 1 hazards exist. We will also proactively target empty privately owned properties to encourage owners to bring them back into use, and use enforcement powers where appropriate to achieve this.

We will target those landlords who deliberately or persistently break the law. Where poor conditions are identified in a privately rented property, we will seek to identify and inspect other properties owned or managed by the same individual or company.

Post Grenfell the requirements for local housing authorities to intervene in the fire safety of private residential blocks is still an area of developing government policy. Our actions in this regard will reflect any forthcoming government policy.

We may inspect property to contribute to an area approach such as consideration as to whether to support a discretionary HMO licensing scheme, a collaborative action with the fire service in a high risk area or to fulfil a Housing Strategy objective.

3.5 Re-active inspection – The council has a duty to react to intelligence regarding local housing conditions and to identify any action that may be required.

We will respond in accordance with the HA2004 and associated regulations and guidance to enquiries by occupiers of rented property considered to be hazardous, partner agencies (internal and external) and elected members who have witnessed hazardous accommodation.

We will inspect property in response to a request such as an Immigration enquiry or where a licensing application has been made and we are obliged to consider suitability.

We will consider other enquiries on a case by case basis. This might be where the reporting person has not seen the condition of the property or perceives an impact on themselves rather than the occupier. In such cases it is not always appropriate to require an inspection and the issue may be dealt with more effectively by other methods.

3.6 Tenants of Registered Providers (Housing Associations) - Tenants of Registered Providers (Housing Associations) have standard procedures to follow if their landlord does not carry out repairs in a satisfactory manner, including a complaints procedure and a final right of appeal to the Housing Ombudsman Service. Appendix 1 gives some further detail and useful links to facilitate appropriate action.

We will offer advice to the tenant in the first instance and seek to intervene where we determine that it is necessary and appropriate for us to do so. We will consider the HHSRS Enforcement Guidance in order to reach this determination.

3.7 Lettings and management agents – There are specific requirements which must be met by lettings and management agents such as the requirement to belong to a redress scheme, banning of fees etc. Some of these requirements may be enforced by the Housing Standards team or by the appropriate Trading Standards team. Torbay Council will liaise with the Trading Standards team to help them perform their duties. We will also take direct action where we are authorised to do so and such action is justified.

SECTION 4 - ASSESSING CONDITION

Part 1 of The HA2004 is concerned with assessing housing conditions and reducing health and safety hazards using the HHSRS. The HHSRS covers 29 potential hazards in the home. It is a risk assessment approach which looks firstly at the likelihood of someone becoming ill or injured and secondly, how badly harmed a person could be as a result. Any rated hazard is done so with the person (age) most vulnerable to the hazard.

The HHSRS applies to all residential premises regardless of tenure or whether a dwelling is occupied. The Council has a duty to inspect premises where there is a suspected hazard.

The Council is under a duty to take enforcement action in relation to the most dangerous health and safety hazards referred to as Category 1 Hazards (those which have a hazard rating within bands A, B or C).

The Council has the power to deal with less dangerous Category 2 Hazards (bands D to J). The Council may take enforcement action in relation to Category 2 hazards where it makes the judgement that it would be appropriate to the particular circumstances of the case. The following circumstances will be considered when deciding whether to take action in relation to Category 2 hazards:

- A Category 2 hazard exists in addition to one or more Category 1 hazards;
- Where the occupier is at a specific risk from the hazard due to illness, disability or vulnerability (age group);
- Where the cumulative effect from multiple Category 2 hazards creates a more serious situation;
- Where the benefits of carrying out the work outweigh the costs of their execution;

- Where specific local hazards have been identified and targeted for action.

When a Category 1 hazard or relevant Category 2 hazard (as described above) is identified, the Council will decide which of the available enforcement options is most appropriate to use as described in ‘Statutory Notices’ below. We will consider the HHSRS Enforcement Guidance in order to reach this determination.

Following the identification of a significant HHSRS hazard, the Council may, as far as practically possible and reasonable according to the circumstances of the case, seek the views of occupiers, owners and interested parties on the hazard(s) identified and work required. These views will be taken into account when deciding the most appropriate course of enforcement action. Where the Council is confident that action will be taken to address the hazard within a reasonable time scale, it is appropriate to the circumstances of the case and it would not obstruct an occupier’s right to protection under another piece of legislation, an informal enforcement approach may be taken in the first instance.

SECTION 5 - ENFORCEMENT OPTIONS

Enforcement action taken will reflect the severity of the offence or nature of the breach, the perceived harm whether actual or potential, the responsible person’s culpability and their compliance history.

We will take all necessary action to adequately protect the occupants’ interest and provide an appropriate deterrent to offenders.

The Council follows the principles set out in the Macrory Review, which sets out that sanctions should:

- aim to change the behaviour of the offender;
- aim to eliminate any financial gain or benefit from non-compliance;
- be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- be proportionate to the nature of the offence and the harm caused;
- aim to restore the harm caused by regulatory non-compliance, where appropriate; and,
- aim to deter future non-compliance.

There are several types of action that can be taken in relation to any given case, and different action may be necessary as a case progresses. Each case will be considered on its own merits.

When deciding whether to take enforcement action we will;

- comply with relevant legislation,
- be transparent, consistent and accountable
- have regard to the Regulators’ Code,
- consider the views of occupiers, owners and other agencies such as the Fire Authority, the Police and other council services,
- adopt a positive and proactive approach to support and protect tenants,
- take a co-ordinated approach where there are shared or complementary enforcement actions,
- consider the severity of the offence or nature of the breach,
- consider the perceived harm to health, safety, community confidence, finances, deprivation, or the environment whether actual or potential,
- consider the responsible person’s culpability in relation to the offence and their compliance history regarding similar offences irrespective of where such contraventions have occurred.
- as far as the law allows, we will take account of the circumstances of the case and the conduct of the owner or agent when determining action,
- have regard to various courses of remedial action and consider what is ‘reasonably practicable’

Outlined below are the main enforcement options available to officers. We take the approach that offenders should pay the cost of enforcement work, and that they should not profit from poor or criminal behaviour.

5.1 Interventions

5.1.1 No Action - Where we are unable to identify any actionable problem we will take no action.

5.1.2 Informal Action – will be considered where:

- Torbay Council’s history of dealing with the specific issue demonstrates informal action will achieve compliance in a timely and persistent fashion.
or
- there is demonstrable confidence in the management by the individual (issue is out of character and unlikely to be repeated).
and
- the consequences of non-compliance will not pose a risk to health, safety, community confidence, finances, deprivation, the environment and or regulation.
and
- there is no legislative requirement to serve formal notice or order.

With specific regard to the HHSRS and Part 1 of The HA2004; Torbay Council may offer an interim opportunity for a Landlord to complete works informally before a notice is considered.

5.1.3 Statutory Notices (including Orders) - Statutory notices will be issued under any of the following circumstances:

- Where the council has a duty to serve notice.
- Where statutory requirements have been breached.
- Where there is a serious risk to residents or the public.
- Where immediate remedial action needs to be taken.
- Where there is a history of non-compliance
- Where there is a lack of confidence in the effectiveness of an informal approach.

Owners or agents may be contacted and given an opportunity to remedy any problems before a statutory notice is served. However in some circumstances the council has a legal duty to serve a Notice, for example where a statutory nuisance or a Category 1 hazard under the HHSRS exists.

Realistic time limits will be attached to notices and wherever possible these will be agreed in advance with the person or business on which they are served.

In cases where there is an imminent risk to public health, notices may require immediate compliance.

An extension of time limits will only be granted where there are legitimate reasons for doing so. For example, prolonged bad weather delaying external works. Requests for extensions should be made in writing to the officer issuing the notice, prior to the expiry date, explaining the reason for the request.

The time limits given on statutory notices not requiring works such as notices requiring information will generally be no more than the minimum statutory period allowed.

Having regard to the relevant statutory power, and where the law allows, a charge may apply when we issue a statutory notice. Further details are set out in ‘Charges, fees and cost recovery’ in Section 5.7 below.

Where a Notice is served, information relating to the appeals process will accompany the notice.

If the notice served is an improvement notice under Part 1 of the HA2004, then works can be completed ‘by agreement’ as described by Part 1 of Schedule 3 of the HA2004. A decision as to whether to undertake

works in agreement will be made on a case by case basis taking into account the financial implications to the Council.

Where the requirements of a notice are not complied with, further action will be considered, including works in default, the imposition of a civil penalty (where available) or the instigation of prosecution proceedings.

The following options are available under the Housing Act 2004;

- **Serve a Hazard Awareness Notice (HAN) under section 28 or 29.**

This type of notice may be used for minor low scoring hazards. It may also be used to notify owners about more serious hazards.

- **Serve an Improvement Notice under section 11 or 12**

This action will be the normal action taken in most cases where repair or improvement is the most appropriate course of action and there are category 1 or significant category 2 hazards. Situations where there are significant category 2 hazards are described in Section 4 above - 'Assessing Conditions'. Where action in relation to the fire hazard involves an HMO or the common parts of flats the council will consult with the Fire Authority.

- **Serve a Suspended Improvement Notice under section 14**

We may decide to suspend an improvement notice where it is appropriate to do so. We will consider the HHSRS Enforcement Guidance in order to reach this determination.

- **Make a Prohibition Order under sections 20 and 21.**

This action will be taken to prohibit the occupation of all or part of a building for a specified use by a particular number or description of persons (such as a certain age group) or by a defined number of households. This action will be taken when the cost of remedying the defect is excessive or it is not reasonably practicable to carry out works due to a landlord's circumstances or the nature of the works required.

- **Make a Suspended Prohibition Order under section 23**

We may decide to suspend a prohibition order where it is appropriate to do so. We will consider the HHSRS Enforcement Guidance in order to reach this determination.

- **Take Emergency Remedial Action under section 40**

This action will only be taken where there is an imminent risk of serious harm. The Council will arrange for the hazard to be mitigated at the earliest opportunity. The officer will attempt to contact the owner first before taking such action but if they are unable to act immediately or cannot be contacted, action will be taken at the owner's cost. A decision as to whether to undertake emergency action will be made on a case by case basis.

- **Make an Emergency Prohibition Order (EPO) under section 43**

This action will be taken where there is an imminent risk of serious harm and it is not practicable or too costly to carry out works. This action will have the effect of preventing the use of part or all of the premises and would require immediate vacation of the property by the occupiers. A decision as to whether to make an EPO will be made on a case by case basis.

- **Make Management Orders under multiple sections**

Interim Management Orders (IMOs) can be made where there is no realistic prospect of a property licence being granted. By making an IMO the management and rental income from a property is taken away from the current landlord for up to a year. The money is used to carry out necessary works to reduce any significant hazards in the property, to maintain the property and to pay any relevant management expenses. Following an IMO the Council can apply for a Final Management Order (FMO) to be approved that can last for up to five years. The Council may allocate a private company to manage the property.

Where the health, safety and welfare of occupants need to be protected (as described by section 104), the council may apply to the First-tier Tribunal for authority to make an IMO for privately rented accommodation that is not covered by a current licensing scheme.

The Council may also make an IMO for properties where a banning order has been made.

A type of management order can also be made for empty dwellings (see Chapter 2 of HA2004 and 'Empty homes' below).

- **Making a Demolition Order under section 265 (Housing Act 1985 as amended by section 46 Housing Act 2004)**

This action will be taken when it is considered to be the most appropriate course of action, usually when there are one or more serious category 1 hazards, the property is usually detached or there is a building line separating it from other properties, the adjacent properties will be stable and weatherproof or can readily be made so, it is in a potentially unsustainable area or it is causing severe problems to the amenity of the neighbourhood and repair would be very costly, it is not listed or of other historical interest.

- **Declaring a Clearance Area under section 289 (Housing Act 1985 as amended by section 47 Housing Act 2004)**

This action will be considered where similar circumstances to those for determining if a demolition order exist but where it is necessary for the Council to acquire the land either for its own purposes or to sell on for either new build or other purposes.

The following options are available under various other pieces of legislation;

- **Ensuring that a dwelling is connected to services by utilising Section 33 of Local Government Miscellaneous Provisions Act 1976**

The Council has the power to ensure the re-connection (or to prevent the disconnection) of the gas, electricity or water supply, to lettings within a tenanted property. These powers will only be used where the tenants are not responsible for payment of the bill. In properties occupied by a single tenant it is expected that he/she will arrange for a supply in their own name and reconnection by the Council will not normally be considered appropriate.

The owner of the property will be charged the cost of re-connection and/or payment of the bill plus interest. This debt will be recovered either by way of rent from tenants or in the civil court. A decision as to whether to undertake reconnection works will be made on a case by case basis.

- **Ensuring that a dwelling has adequate provision for drainage by utilising section 45 Public Health Act 1936 or section 59 Building Act 1984**

Public Health Act 1936 - This allows the LA to take action in respect of defective WCs capable of repair. There is a power of entry in relation to these activities. Enforcement is by way of formal notice. Failing to comply with a notice can lead to work in default and prosecution with ongoing fine.

Building Act 1984 - This allows the Local Authority to take action in relation to certain drainage defects. Enforcement is by way of formal notice. Failing to comply with a notice can lead to work in default, cost recovery and prosecution with ongoing fine.

- **Serve an abatement notice under section 80 of Environmental Protection Act 1990**

A notice will be served where conditions are determined to be prejudicial to health or causing a nuisance.

With regard to 'causing a nuisance' this might be where defects or conditions in one property affect another property or the general public.

Where conditions are 'prejudicial to health' of either the occupiers or others affected by the conditions of a residential premises, we may use this power in preference to the Housing Act 2004. Typical situations where this legislation is likely to be used are where there is not an imminent risk of serious harm but where a 28 day delay is considered too long (such as boiler breakdowns or nuisance to neighbouring properties).

Enforcement for failing to comply with a notice may include the Council undertaking works and recovering the costs incurred and/or bringing a prosecution.

- **Ensuring the provision of appropriate alarms utilising the Smoke and Carbon Monoxide Alarms (England) regulations**

Private sector landlords are required to ensure that smoke alarms and carbon monoxide alarms (if required) are installed and then checked at the start of any new tenancy. Where the council has reasonable grounds to believe a landlord is breach of these requirements there is a duty to serve a remedial notice.

Failure to comply with a remedial notice will lead to the issuing of a Civil Penalty. In order to determine the amount of the penalty the LA must have a Statement of Principles in place. This statement is presented as Appendix 2.

Licensable HMOs are subject to separate, and more stringent, regulations under the Housing Act 2004.

The interventions described above are those most readily used however Torbay Council will consider the use of any appropriate legislation which it is authorised to use.

5.2 Non-compliance

5.2.1 Energy Efficiency Enforcement Notices – The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property, effecting new tenancies from 1 April 2018 and all tenancies from April 2020.

The current domestic regulations are based on a principle that landlords are expected to meet the costs of improving energy efficiency, subject to a cap. This is an area of enforcement policy we will keep under review.

Where a valid exemption applies, landlords are required to register this on the national PRS Exemptions Register.

Where properties do not meet the minimum level of energy efficiency we may issue a compliance notice requesting information. Where we are satisfied that a property has been let in breach of the regulations we may impose financial penalties.

5.2.2 Illegal eviction and harassment – The council has powers to investigate and prosecute offences of illegal eviction, harassment and offences committed by letting or management agents under the Protection from Eviction Act 1977.

An illegal eviction is where a landlord evicts a residential occupier without following the correct procedure.

Harassment is where a landlord tries to make a residential occupier decide to leave. This could be by an act or threat of violence or withdrawing services.

The Deregulation Act 2015 has introduced a number of requirements on landlords of private tenants, including the requirement to provide an energy performance certificate, Gas Safety certificate and a copy of the 'How to Rent' guide before a tenancy starts.

Where this information has failed to be given at the beginning of the tenancy or the tenant occupies a Licensable HMO without a license, the landlord will not be able to evict using a section 21 notice, the so called "no fault" eviction procedure.

The Deregulation Act 2015 also provides protection for tenants who make a legitimate complaint to their landlord about the condition of their property and in response, instead of making the repair, their landlord serves them with an eviction notice. This is referred to as retaliatory eviction.

We will take appropriate action to prevent homelessness where landlords have not followed the correct procedures or attempt a retaliatory eviction. If the occupier has been illegally evicted, we will explain their rights to re-enter the premises and may assist them to do so. We will also consider taking the relevant formal action such as undertaking a prosecution. Unlike other legislative provisions described

within this policy, a conviction under the Protection from Eviction Act 1977 may result in a custodial sentence.

Where a conviction has been secured relating to the use of violence to secure entry contrary to section 6(1) of the Criminal Law Act 1977 or unlawful eviction or harassment of occupiers contrary to sections 1(2), 1(3) or 1(3A) of the Protection from Eviction Act 1977 we will seek a Rent Repayment Order as described below.

5.2.3 Redress Schemes for letting agency and property management work - The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 makes it a legal requirement for all lettings agents and property managers in England to belong to a Government-approved redress scheme.

Torbay Council may seek to establish whether letting agents and property managers belong to an appropriate scheme on a case by basis or by pro-actively reviewing multiple businesses.

When enforcing this legislation we will have regard to Annex C of the guidance document produced by Department for Communities and Local Government titled Improving the private rented sector and tackling bad practice.

Where we are satisfied, on the balance of probability that someone is engaged in letting or management work and is required to be a member of a redress scheme, but has not joined one, we will impose a fine.

If there are no extenuating circumstances, the fine will normally be £5000. This fine may also be repeated if non-compliance continues.

5.2.4 Works in Default – The Council will consider carrying out works in default or remedial action in the following circumstances;

- Emergency Remedial action under the Housing Act 2004 (as described above);
- Where actions have been required by a Notice and have not been completed within the agreed timescale, or, reasonable progress has not been made towards their completion.

In these circumstances, the Council may organise and carry out the work itself or appoint an agent to complete the work on its behalf and recover the cost of works plus all additional costs including agency fees, administration fees and any interest accrued where payment has not been received promptly. These costs will be charged to the property owner but can also be placed as a land charge on the property for payment when the property is sold or if money is raised against it. As part of the debt recovery process we may seek to enforce the sale of a property depending upon the circumstances.

A decision as to whether to undertake works in default will be made on a case by case basis.

The Council may also consider prosecution or a financial penalty in addition to carrying out works in default. Following the carrying out of works in default the Council may pursue enforced sale of a property where the legislation allows.

5.2.5 Simple Cautions - The use of Simple Cautions is advocated by the Home Office in situations where there is evidence of a criminal offence but the public interest does not require a prosecution. It may be used for cases involving first time, low-level offences. Decisions to issue Simple Cautions will be made in accordance with the Ministry of Justice – Simple Cautions for Adult Offenders and the Director of Public Prosecutions' Guidance on Charging.

5.2.6 Prosecution - Where there is a breach of a legal requirement and we consider that formal action is required we may seek to prosecute the offender. Prosecution will generally be reserved for the most serious cases or where the nature of the breach is obstructive to the investigation. These include failures to manage property effectively so as to protect occupiers, failure to provide documentation or

information required by notice or failure to comply with the requirements of an improvement, enforcement, or prohibition notice.

Any decision to prosecute will be taken in accordance with the Regulators Code, this policy and the Code for Crown Prosecutors.

The following factors will be taken into account in any such decision:

- The severity of the offence;
 - The length of time over which the offence has been committed
 - perceived harm to health, safety, community confidence, finances, deprivation, or the environment whether actual or potential
 - Vulnerability of those effected by the offence.
- The culpability of the offender;
- The previous compliance history of the offender;
- Whether the offence is likely to be repeated;
 - The attitude of the offender
 - The extent of their portfolio of property
 - Deterrent effect of a prosecution on the offender and others
- Whether an alternative intervention would be more appropriate or effective;
- Any evidence of the obstruction of the officers or threats made to them or others involved in the investigation; and
- The financial benefit obtained from the alleged offending.

These factors are not exhaustive and those that apply will depend on the particular circumstances of each case.

5.2.7 Civil penalties - The council may as an alternative to prosecution, serve notices imposing Civil Penalties of up to a maximum of £30,000 in respect of the following offences:

- Failure to comply with an Improvement Notice
- Offences relating to the licensing of Houses in Multiple Occupation (HMOs)
- Failure to comply with an Overcrowding Notice
- Failure to comply with a regulation in respect of an HMO
- Breaching a Banning Order

The council will determine, on a case by case basis, whether to instigate prosecution proceedings or to serve a civil penalty in respect of any of the offences listed above. Examples of situations in which a decision to prosecute would normally be taken includes where the breach is considered particularly serious and /or the offender has committed similar offences in the past.

In circumstances where the council has determined that it would be appropriate to issue a civil penalty as an alternative to prosecution, the level of the penalty will be calculated in accordance with the details of Torbay Council's Civil Penalty Policy.

5.2.8 Rent Repayment Orders (RRO) - A rent repayment order is an order made by the First-tier Tribunal (FtT) requiring a landlord to repay a specified amount of rent to either the tenant, the local authority or a share to both dependent upon who made payments. Where a conviction has been secured, the FtT, on application, must grant the RRO. Where a Civil Penalty has been secured, the FtT, on application, may decide to grant an RRO. The offences for which an application for an RRO can be made are:

- Using violence to secure entry contrary to section 6(1) of the Criminal Law Act 1977;
- Unlawful eviction or harassment of occupiers contrary to sections 1(2), 1(3) or 1(3A) of the Protection from Eviction Act 1977;

- Failure to comply with an Improvement Notice issued under the Housing Act 2004;
- Failure to comply with a Prohibition Order issued under the Housing Act 2004;
- Operating a licensable property under the Housing Act 2004 without a licence;
- Breaching a banning order issued under the Housing and Planning Act 2016.

We will always apply for a RRO where a landlord has been convicted (or a Civil Penalty secured) of one of the above offences in our area.

The Council will also consider supporting a tenant’s private application for a RRO. This support is likely to be in the form of confirmation of the outcome of any investigation we have undertaken and the supply of documents as evidence. A decision on how and if to provide support will be made on a case by case basis taking into account the vulnerability of the occupant, the likelihood of success and the financial implications to the Council. Please see ‘Giving evidence in private court cases’ in Section 5.5 below.

5.2.9 Banning orders - In accordance with the Housing and Planning Act 2016, the Council may apply to the First-tier Tribunal for a banning order against a residential landlord or a property agent who has been convicted of a banning order offence.

A banning order bans a landlord or property agent from letting houses or engaging in letting agency or property management work in England for a defined period of time (minimum 12 months).

In deciding whether to apply for a banning order and how long to recommend the ban for, we will have regard to Banning Order Offences under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities.

If we decide to apply for a banning order, we will complete the procedure set out in Section 15 of the Housing and Planning Act 2016.

Breaching a banning order is an offence, subject to either prosecution in the magistrate’s court or financial penalty. The Council will consider prosecuting or issuing a financial penalty to any landlord found to be breaching a banning order in its area.

5.2.10 Database of rogues landlords and property agents - The database has been designed to help Local Housing Authorities keep track of rogue landlords and property agents operating across council boundaries.

The Council must place a person on the database if it has successfully made a banning order application. The landlord will remain on the database for the period that the banning order has effect.

Furthermore we will consider if it is appropriate to make an entry on to the database of rogue landlords and property agents when a landlord has been convicted of a banning order offence (even if no Banning Order is sought) or received 2 or more financial penalties over a 12 month period.

In deciding whether to make an entry on the database, and the period of time that a landlord or property agent should stay on the database, we will have regard to the Database of rogue landlords and property agents under the Housing and Planning Act 2016 - Statutory guidance for Local Housing Authorities.

5.2.11 Proceeds of Crime Act 2002 - Where appropriate to the case, the Council, will consider taking proceedings under the Proceeds of Crime Act following a successful prosecution.

SECTION 6 – FURTHER SERVICE INFORMATION

6.1 Owner occupiers and long leaseholders

Other than in exceptional cases, the council expects long leaseholders to invoke the terms of their lease to remedy problems of disrepair or nuisance themselves.

Leaseholders may be able to get advice about how to settle a dispute about repair problems from the:

Leasehold Advisory Service –

www.lease-advice.org

Telephone 020 7832 2500

Leaseholders will normally need to consult a solicitor specialising in leasehold law.

Enforcement action on owner occupiers and long leaseholders will be based on the health and safety risk to the occupants or other affected persons. The Council will generally not take action where a more appropriate contractual remedy exists.

Where a HHSRS inspection identifies a significant hazard, the Council anticipates that a Hazard Awareness Notice may be the most appropriate course of action. However, all HA2004 Part 1 enforcement options are available to the Council and will be considered.

Enforcement options requiring action to be taken such as an Improvement Notice or Prohibition Order will be considered in cases involving:

- Vulnerable people who are not capable of making informed decisions about their own welfare or who require the intervention of the Council to ensure their welfare is best protected;
- Hazards that might reasonably affect other people e.g. other occupants, visitors (private or commercial/services);
- Serious risk of life-threatening harm e.g. electrical hazards.

Where the condition of one property is affecting the occupant of another property or the general public, such as a health and safety hazard or statutory nuisance, appropriate enforcement action will be considered regardless of property tenure.

6.2 Empty homes

Where an empty property presents a serious or imminent risk to health and safety or is causing a statutory nuisance, appropriate enforcement action will be considered depending on the circumstances of each case.

The Council will consider the full range of enforcement options including Compulsory Purchase Orders, Empty Dwelling Management Orders (EDMOs) and enforced sale where an owner does not co-operate and the empty property has not been brought back into use within a reasonable period.

6.3 Immigration visits

Torbay Council provides an inspection service for immigration/visa applicants who need to provide evidence that they have suitable housing accommodation within the United Kingdom. This evidence must show that the premises they intend to occupy doesn't have any Category One hazards under the HHSRS (e.g. unfit accommodation) and will not become overcrowded when they take up residence.

In situations where we are not satisfied that the accommodation is suitable we will confirm this to the person commissioning the inspection.

As the inspection will have been conducted using the HHSRS we will have a duty to consider whether any further action is required as described by 'Assessing condition' above. This is irrespective of tenure.

Where the property becomes suitable following remediation, a further inspection may be commissioned enabling supporting evidence to be submitted.

6.4 Fitness for human habitation legislation

The Homes (Fitness for Human Habitation) Act 2018 came into force on 20 March 2019 and requires all landlords (private and social) to ensure that their properties, including any common parts of the building, are fit for human habitation at the beginning of the tenancy and throughout.

Where qualifying tenants believe that their home does not meet the requirements set out in the above act and their landlord is responsible, they can take action against the landlord themselves.

The Ministry of Housing, Communities & Local Government have produced a guidance document for tenants; Guide for tenants: Homes (Fitness for Human Habitation) Act 2018 and for landlords; Guide for landlords: Homes (Fitness for Human Habitation) Act 2018 which are both available at www.gov.uk

It is not necessary for the local authority to be involved in action under this act however in certain circumstances we may decide to offer support.

This support is likely to be in the form of confirmation of the outcome of any investigation we have undertaken and the supply of documents as evidence. A decision on how and if to provide support will be made on a case by case basis taking into account the vulnerability of the occupant, the likelihood of success and the financial implications to the Council. Please see 'Giving evidence in private court cases' below.

6.5 Giving evidence in private court cases

Officers are sometimes asked to give evidence on behalf of one of the parties in a private action. In order to prevent the appearance of the council taking sides in such disputes, officers will usually only attend court in response to a witness summons.

6.6 Situations where we may not provide a service

There may be occasions where an investigating officer cannot substantiate the complaint. When this arises, the council will not take any further action.

We may decide not to provide a service or to cease providing a service where;

- there is clear evidence that the tenant(s) are unreasonably refusing access to the landlord, managing agent or landlord's builder, attempting to comply with our instruction,
- there is clear evidence that the tenant(s) have, caused the damage to the property they are complaining about, and there are no other items of disrepair,
- a tenant does not want their present accommodation to be brought up to standard, and the only reason for contacting the Torbay Council is to secure rehousing,
- the tenant(s) have failed to keep an appointment and not responded to a follow up letter or appointment card;
- the tenant unreasonably refuses to provide the council with relevant documentation, e.g. a tenancy agreement or notice seeking possession.
- the tenant(s) have been aggressive, threatening, verbally or physically abusive or shown inappropriate behaviour towards officers.

6.7 Charges, fees and cost recovery

- **Charging for services** - The Council has the power under the Housing Act 2004 to recover costs for serving notices. Charges are based on the full cost to the Council of taking the action including inspection, preparation and service of the notices.

Charges for the above action will be registered as a local land charge. This means that when the property is sold the debt has to be repaid including any interest accrued on the initial charge.

There are also charges associated with the licensing of Houses in Multiple Occupation.

These charges will be made in line with our published fees and charges.

- **Recovery of costs** – Where the council has incurred costs by undertaking works in default or by taking action to ensure vital services are maintained (reconnection works/payment of a bill) we will recover these costs in addition to any administration costs, agency fees, interest accrued or costs associated with the recovery.

Costs associated with the above action will be registered as a local land charge. This means that when the property is sold the debt has to be repaid including any interest accrued on the initial charge.

- **Unpaid debts and invoices** - We will pursue all debts owed as a result of enforcement charges, costs and charges associated with carrying out works, unpaid invoices or unpaid financial penalties.

The Council may consider enforcing the sale of the property to recover costs or recovering the money owed in the relevant Court, including the County Court.

6.8 Publicising Offences

As a regulatory authority, the Council has a responsibility to protect the public from detrimental housing and environmental practice and undertake a range of activities to achieve this. These include actions that are taken after the detection of an offence, as well as measures to prevent and deter the commission of offences.

One such measure is the publication of convictions and information.

Media coverage will normally be sought in any of the following circumstances:

- Where an offence is widespread in the area and coverage will assist in securing compliance by others.
- The offence is serious and the council wishes to draw attention to their willingness to deal with contraventions and offenders.
- Where it is considered that publicity will have the desired effect by promoting compliance with enforcement standards generally.
- Details of successful prosecution cases and in some circumstances civil penalty notices will be entered onto relevant public databases.

6.9 Feedback

If you would like to give Torbay Council feedback on this policy or its services you may do so via our website <https://www.torbay.gov.uk/complaints-and-compliments/> by email; infocompliance@torbay.gov.uk or by writing to us at;

Information Compliance Team

Torbay Council

Town Hall

Castle Circus

Torquay

TQ1 3DR

6.10 Associated Documents

Civil Penalty Policy

HMO policy

Fees and Charges

APPENDIX 1

Complaints regarding Social Housing;

Tenants of Registered Providers (Housing Associations) have standard procedures to follow if their landlord does not carry out repairs in a satisfactory manner, including a complaints procedure and a final right of appeal to the Housing Ombudsman Service. Further detail and useful links are set out below.

Regulation of Social Housing;

Social housing providers are overseen by the Regulator of Social Housing and since the Housing Act 1996, the Housing Ombudsman.

More information on the two regulators can be found here;

<https://www.gov.uk/government/publications/memorandum-of-understanding-between-the-regulator-of-social-housing-and-the-housing-ombudsman>

Housing complaints;

Section 180 of the Localism Act 2011 amends the Housing Act 1996 confirming that complaints by occupiers of social housing are to be conducted in a particular way; by following the internal complaints procedure, by use of designated persons and then if necessary by use of Housing Ombudsman. The appropriate act is here;

<http://www.legislation.gov.uk/ukpga/2011/20/part/7/chapter/6/enacted>

Designated persons;

Designated persons were introduced under the Localism Act 2011 to improve the chances of complaints about housing being resolved directly between landlord and tenant (with designated person's assistance).

A designated person can be an MP, a local councillor, or a tenant panel.

If no resolution is achieved the designated person can refer the issue to the housing ombudsman.

<https://www.housing-ombudsman.org.uk/useful-tools/fact-sheets/3123-2/>

Designated persons role is to act as advisors and advocates. The process to be followed is set out here;

<https://www.housing-ombudsman.org.uk/useful-tools/fact-sheets/advisors-and-advocates/>

APPENDIX 2

Statement of Principles – The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Introduction

This statement sets out the principles that the Torbay Council (the council) will apply in exercising its powers under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (“the Regulations”).

Purpose

The council is required under the Regulations to prepare and publish a Statement of Principles which it must follow when determining the amount of a penalty charge.

The council may revise its statement of principles at any time, but where it does so, it must publish the revised statement.

When deciding on the amount to be applied as a penalty charge, the council will have regard to the statement of principles in force at the time the breach occurred.

The duties

The regulations impose the following duties on certain landlords of a residential property of a specified tenancy, namely to ensure that:

- a smoke alarm is installed on each storey of the premises where there is living accommodation (for these purposes living accommodation includes bathrooms and lavatories)
- a carbon monoxide alarm is installed in any room of the premises which is used wholly or partly as living accommodation and which contains a solid fuel burning combustion appliance.
- that at the start of any new tenancy, checks are made by the landlord, or someone acting on his behalf, that the alarm(s) serving the premises is/are in proper working order

Properties subject to Part 2 or Part 3 licensing under the Housing Act 2004 (i.e. as licensable Houses in Multiple Occupation) are exempt from the Regulations.

The legal framework

Where the council has reasonable grounds for believing that a landlord is in breach of one or more of the above duties, we have a duty to serve that person with a Remedial Notice within 21 days detailing the actions that must be taken to comply with the Regulations.

For the purposes of this provision, ‘reasonable grounds’ may include being informed by a tenant, letting agent or officer that the required alarms are not installed. The regulations do not require that the council enter the property or prove non-compliance in order to issue a remedial notice, however, the council will aim to visit such properties to confirm that the required works have not been undertaken.

Where the council is satisfied on the balance of probabilities that a landlord has not taken the remedial action specified in the Notice, within the timescale stipulated in that document, the council will:

- Arrange (where the occupier consents) to undertake the remedial action specified in the Notice within 28 days; and
- Require the landlord to pay a penalty charge of such amount as the authority may determine but which must not exceed £5000.

The purpose of imposing a financial penalty

- The primary purpose of the council exercising its regulatory power is to promote and protect the public interest.
- The primary aims of financial penalties are to:
 - lower the risk to tenants health and safety by ensuring that the property has a safe means of escape in the event of a fire
 - eliminate any financial gain or benefit from non-compliance with the regulation
 - reimburse the costs incurred by the council in enforcing the regulations
 - change the behaviour of the landlord and deter future non-compliance
 - penalise the landlord for not installing alarms in line with the Regulations and after being required to do so, under notice
 - proportionately address potential harm outcomes and the nature of the breach.

Principles to be followed in determining the amount of a Penalty Charge

Any penalty charge imposed should be proportionate to the risk posed by non-compliance, the nature of the breach in the individual case and set at such a level as to sufficiently deter the offender and others. It should also cover the costs incurred by the council in administering and implementing the legislation.

Fire and Carbon Monoxide poisoning are two of the 29 hazards prescribed by the Housing Health and Safety Rating System. These risks are real and substantial: A bulletin issued by the Home Office in 2017 (Fire Statistics: England April 2015 to March 2016) reports that: "Fires where a smoke alarm was not present accounted for 28 per cent of all dwelling fires and 33 per cent (76) of all dwelling fire-related fatalities in 2015/16" and that, "Fires where a smoke alarm was present but either did not operate or did not raise the alarm, accounted for 31 per cent of all dwelling fires..." Moreover, according to the Office for National Statistics, there were 53 deaths from accidental carbon monoxide poisoning in England and Wales in 2015.

The Department of Communities and Local Government conducted an impact assessment prior to the introduction of the Regulations. That assessment suggested that the cost of the requirements imposed on landlords (i.e. the purchase of smoke detectors and carbon monoxide alarms) was £25 and estimated that the provision of smoke alarms would, over ten years, prevent 231 deaths and 5860 injuries, accruing a saving of almost £607.7 million, and that the provision of Carbon Monoxide Alarms would, over the same period, prevent a total of six to nine deaths and 306 to 460 injuries, accruing a saving of almost £6.8 million.

The council considers that compliance with the Regulations do not place an excessive or unreasonable burden on a landlord. The cost of the alarms is low and in many cases can be self-installed without the need for a professional contractor. The risk and impact on occupiers resulting from a fire or carbon monoxide poisoning event far out-weighs the cost of compliance. While the imposition of the maximum potential fixed penalty charge of £5,000 may present an excessive financial burden on some landlords, this has to be balanced against the risk, the low cost of compliance, the fact that the offender will have been given all reasonable opportunity to comply prior to any penalty charge being levied and the offenders statutory rights of appeal.

For all of the above reasons, and so as to ensure that there is an effective incentive for landlord's to comply with the Regulations, the council proposes to impose a penalty charge of £5,000 for non-compliance with a Remedial Notice, with a reduction of 10% where payment is received within 14 days of service of the penalty charge notice.

Notwithstanding the above, the council may, following a representation made by the landlord, exercise discretion and reduce the penalty charge further if it considers there to be extenuating circumstances.

This discretion will not however apply when:

1. The person served has obstructed the council in the carrying out of its duties; and/or
2. The person served has previously received a penalty charge under this legislation.

Review and Appeals in relation to a penalty charge notice

If a landlord disputes the issue of a penalty charge notice, they can make a request to the council for it to be reviewed. This request must be in writing and within the time period specified in the penalty charge notice. Any representation received will be considered on its individual merit. Any extenuating circumstances will be considered by the council in deciding whether to reduce the level of the penalty charge levied. Potential mitigating factors –

- No previous convictions / charges
- Self-reporting, high level of co-operation with the investigation – where this goes beyond what would normally be expected
- The age health and other vulnerabilities of the offender
- Voluntary steps taken to address issue

A landlord will not be considered to be in breach of their duty to comply with the remedial notice, if he can demonstrate that he has taken all reasonable steps to comply with the requirements of the remedial notice.

The council may, on consideration of any representation and evidence, chose to confirm, vary or withdraw a penalty charge notice and we are required to communicate that determination by issuing a decision notice on the landlord. If varied or confirmed, the decision notice must state that a further appeal can be made to a First Tier Tribunal on the following grounds:

- 1) the decision to confirm or vary the penalty charge notice was based on an error of fact;
- 2) the decision was wrong in law;
- 3) the amount of penalty charge is unreasonable; or
- 4) the decision was unreasonable for any other reason

Where a landlord raises an appeal to the Tribunal, the operation of the penalty charge notice is suspended pending its determination or its withdrawal. The Tribunal may quash, confirm or vary the penalty charge notice, but may not increase the amount of the penalty charge.

Recovery of penalty charge

The council may recover the penalty charge on the order of a court, as if payable under a court order however such proceedings may not be started before the end of the period by which a landlord may give written notice for the council to review the penalty charge notice and where a landlord subsequently appeals to the Tribunal, not before the end of the period of 28 days beginning with the day on which the appeal is finally determined or withdrawn.

November 2019

House in Multiple Occupation (HMO) Standards

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1 Introduction

This document sets out Torbay Council's standards for Houses in Multiple Occupation (*HMOs*) and should be used by landlords, HMO licence holders and property managers operating in the area to ensure that their properties meet or exceed these minimum requirements.

Should you wish to vary from these standards due to the individual circumstances of your property, and you think an alternative solution would work better, please discuss this with the Housing Standards team. Providing the proposal is within the legislative framework and provides tenants with safe and quality accommodation we will try to adopt a flexible approach when possible.

Part 1 – What is a House in Multiple Occupation?

The Housing Act 2004 (*HA2004*) contains a comprehensive definition of what constitutes a HMO. For the purposes of this guidance and as a useful starting point, a simplified definition is set out below which aims to give landlords a base understanding of what constitutes a HMO. If you are unsure as to whether a property is a HMO then you should review the HA2004 or seek specialist advice.

In general terms, a HMO is a dwelling (*a building or part of a building*) that:

- Is occupied by three or more people from two or more households; and
- Contains shared (or lacks) facility such as a kitchen, bathroom or toilet

The exception to this definition is self-contained flats that do not comply with the Building Regulations of 1991 (*i.e. they were converted before these regulations were in force or after without obtaining the necessary approvals*). Despite the fact that there is likely to be no sharing of basic amenities in this type of property, they are classed as HMOs for the purposes of the HA2004.

Typical examples of a HMO are:

- Single room bedsits – may have exclusive use of, or may share, personal washing, WC and kitchen facilities.
- Flatlets – multi-room lettings sharing some personal washing, WC and kitchen facilities.
- Non – self-contained conversions.
- Buildings converted into 2 or more self-contained flats where the conversion did not comply with Part B of the Building Regulations 1991 (*Fire protection facilities and means of escape*)

Please see Appendix 1 for further examples

Temporary accommodation

These properties will be specifically used for the provision of temporary accommodation under Section 188 & 193 of the HA1996 with a maximum occupation of 6 weeks. They may be of a mixed use comprising permanent and temporary residence. Occupants will have no other permanent place of residence and no more than 5 persons are to occupy a single room.

Exemptions

The following are exempt from the HMO definition:

- Building occupied by only two people who do not form a single household;
- Buildings managed by specified educational establishments, Local Housing Authorities, Registered Social Landlords, Police, Fire, Health Authority or regulated by other legislation such as some residential care homes etc.
- Buildings occupied by religious communities;
- Buildings predominantly owner occupied, including residential landlords where the owner occupier (*and family members*) occupies the building (*or flat*) with no more than 2 other persons;

- Buildings converted into self-contained flats, where the conversion meets 1991 Building Regulations.

What is a single household?

A single household includes members of the same family either by blood, marriage, including same sex partnerships or other recognised means such as adoption or fostering. As an example, four friends sharing a student dwelling will be classed as four individual households and therefore a HMO. For further information please see The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (SI 2006 No.373)

Mandatory Licensing for HMO's

A property will need a mandatory HMO licence if it:

- contains 5 or more people in two or more households; and
- contains shared (or lacks) facility such as a kitchen, bathroom or toilet.

There are national minimum standards for licensed HMO's set out in SI 2006 No373 amended by The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 (SI 2007 No.1903) which must be complied with, in addition there are national minimum room sizes set out in The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 (SI 2018 No.616) which must be complied with. A Housing Health and Safety Rating (*HHSRS*) assessment (as described in Part 2) will be carried out within the 5 years of an HMO Licence being issued.

Planning Permission and Building Regulation Approval

These standards have been adopted without prejudice to other legislation applicable to HMO's and residential accommodation generally. Change of use, alterations or extensions carried out to a building in order to comply with these standards will continue to require any necessary Planning Permission and/or Building Regulation approval.

Contact Details

Enquiries about HMO's can be made to:
Community Safety, Housing Standards, Torbay Council, Town Hall, Torquay, TQ1 3DR

Tel: 01803 208025 **Fax:** 01803 208854 **Email:** Housing.Private.Sec@torbay.gov.uk

Part 2 – Housing, Health & Safety Rating System (HHSRS)

Inspections are carried out to assess the condition of a property in accordance with the Housing Health and Safety Rating System (*England*) Regulations 2005 & the Housing Health and Safety Rating System (HHSRS) Operating Guidance, this will be followed by a risk-based assessment which identifies Category 1 or serious Category 2 hazards. Inspecting officers will consider all 29 potential hazards and may use powers under Parts 1 and 2 (*HHSRS enforcement and HMO licensing*) of the HA2004 and associated legislation as appropriate to protect the health, safety and welfare of occupiers, such as requiring a landlord to carry out improvements to the property. Local authorities have powers to prohibit the use of the whole or part of a dwelling or restrict the number of permitted occupants. Where an occupier is at immediate risk, the authority can take emergency action.

If a property owner feels an assessment is wrong, they can discuss matters with the inspector and will be able to challenge an enforcement decision through the First-tier Tribunal (Property Chamber).

The Ministry of Housing, Communities & Local Government give guidance regarding the Housing Health and Safety Rating System. The How to Let Guide and Guidance for Landlords and Property Related Professionals are available online via the website: www.gov.uk

There are 29 hazards which can be assessed, these are listed below:

A. Physiological requirements	B. Psychological requirements	C. Protection against infection	D. Protection against accidents
1. Damp and mould growth.	11. Crowding and space	15. Domestic hygiene, pests and refuse	19. Falls associated with baths etc.
2. Excess cold	12. Entry by intruders	16. Food safety	20. Falling on level surfaces etc.
3. Excess heat	13. Lighting	17. Personal hygiene, sanitation and drainage	21. Falling on stairs etc.
4. Asbestos and Manufactured Mineral Fibres (MMF)	14. Noise	18. Water supply	22. Falling between levels
5. Biocides			23. Electrical hazards
6. Carbon monoxide and fuel combustion products			24. Fire
7. Lead			25. Flames, hot surfaces etc.
8. Radiation			26. Collision and entrapment
9. Un-combusted fuel gas			27. Explosions
10. Volatile organic compounds			28. Position and operability of amenities etc.
			29. Structural collapse and falling elements

Part 3 – General Management

The person having control of the house must ensure the following:

- The manager must be capable of inspecting the accommodation and arranging for any necessary works to be carried out.
- All services, furnishings, fixtures and fittings are maintained in good, sound, and clean condition.
- The structure is kept in good order
- All communal areas of the interior are regularly cleaned and redecorated as necessary
- All yards, boundary walls, fences, gardens and outbuildings are maintained in a safe and tidy condition
- Satisfactory arrangements for the disposal of refuse and litter have been made (*see Appendix 3*)
- At the commencement of all tenancies the lettings are clean, in a satisfactory state of repair and decoration, and comply in all respects with these standards.
- All staircases and multiple steps should be provided with suitable handrails
- All tenants should fulfil their tenancy obligations

These requirements are set out in the The Management of Houses in Multiple Occupation (*England*) Regulations 2006 and the Licensing and Management of Houses in Multiple Occupation Regulations (*England*) 2007 which place specific duties on the manager of an HMO. Failure to comply with the regulations is a criminal offence.

The Management of Houses in Multiple Occupation (England) Regulations 2006 apply to any HMO in England other than a converted block of flats to which section 257 of the Act applies. The regulations can be accessed via the following web address;

<http://www.legislation.gov.uk/uksi/2006/372/contents/made>

The Licensing and Management of Houses in Multiple Occupation Regulations (*England*) 2007 apply to any HMO in England which is described by section 257 of the Housing Act 2004. The regulations can be accessed via the following web address;

<http://www.legislation.gov.uk/uksi/2007/1903/contents/made>

Part 4 – Standards Applicable to all HMOs

<p>The following standards should be followed in order to demonstrate compliance with the HMO management regulations, to reduce the likelihood of Category 1 or 2 hazards (see HHSRS above) developing and to comply with supplementary regulations described below;</p>	
Gas supply	<p>If you provide any gas appliances you must have an annual inspection carried out by a competent person (<i>an engineer registered with GAS SAFE as being competent to undertake such testing.</i>) You must keep copies of the original current certificate for inspection and should provide all tenants with a copy.</p>
Electrical Installation	<p>All electrical installations must be inspected periodically and a test carried out to BS7671 by a competent person (<i>e.g. an engineer recognised by NICEIC or ECA or equivalent as being competent to undertake such testing</i>). The certificate (Electrical Installation Condition Report) will state when the next inspection is required and when the certificate expires. You should keep an original current certificate available for inspection every 5 years.</p>
Artificial Lighting	<p>Adequate artificial lighting shall be provided in all areas sufficient for:</p> <ul style="list-style-type: none"> (a) the safe use of the accommodation (<i>including external and common areas</i>) (b) the maintenance of its cleanliness and the carrying out of normal domestic activities.
	<p>Time switches will only be allowed to operate lighting in common landings, passages and staircases if they are programmed to stay on long enough to allow for a person to safely climb stairs and enter accommodation. Such switches to be operable on each level.</p>
	<p>There should be suitably located light switches that when operated allow the safe passage of residents and visitors within the building.</p>
Electrical Appliances	<p>If you provide any portable electrical appliances over 1 year old (<i>e.g. fridges, freezer, microwave, kettle, etc.</i>) these should be inspected annually by a competent person (<i>e.g. an engineer recognised by NICEIC or ECA as being competent to undertake such testing</i>). This type of test is commonly referred to as PAT testing.</p>
Furniture	<p>If you provide any furniture to which the Furniture and Furnishings (<i>Fire</i>) (<i>Safety</i>) Regulations 1988 apply (<i>e.g. beds, sofa's, curtains</i>) it must comply with the regulations.</p>
Natural Lighting	<p>Where practicable every habitable room should be provided a clear glazed window and/or a door with clear glazing, opening directly to the external air and having a glass area equal to at least 1/10th of the floor area</p>
	<p>All glazing to windows in bathrooms and WC's shall be obscured where considered necessary by the Council.</p>
Ventilation	<p>Where practicable all habitable rooms should be ventilated direct to the external air by a window, the openable area of which shall be equivalent to at least 1/20th of the floor area.</p>
	<p>All kitchens, bathrooms, WC's should comply with the above standard, but where this is not practicable mechanical ventilation meeting current Building Regulations shall be provided.</p>

Electricity, gas and water supplies	The supplies of electricity, gas (<i>where provided</i>) and water to each letting shall be sufficient to carry out normal domestic activities. Where landlord's sub-meters are provided, the charge for the power used shall be within the limits set by the maximum retail price of electricity and gas.
	Where lighting, heating, ventilation, kitchen, hot water, electrical sockets or alarm systems are provided for the shared use of all, or several households: <ul style="list-style-type: none"> • These services shall be available at all times, and sufficient for the needs of the users in the function being carried out.
Water Supply	Each property should be provided with piped cold water of potable quality supplied at an adequate pressure. To maintain water quality any storage tank supplying water shall be suitably covered. Each occupier to be able to access the above.
Refuse Storage	See waste guidance document (<i>Appendix 3</i>).
Minimum Standards of Security	The standards listed below are those currently identified by Secured by Design under the 'Police Preferred Specification' scheme. Additional standards will be added if and when appropriate.
	<p>Door and lock standards: BS 3621, 2007</p> <ul style="list-style-type: none"> • The minimum standard for locks on external or entrance doors to be acceptable to the Association of British Insurers (<i>ABI</i>) and the police service. The effectiveness of the lock also depends on the quality of the door, frame and other hardware which is not tested by this standard and which may fail before the lock. Locks must be of a type that do not require a key to open them from the inside. Any glazing in or adjacent to the door must be robust e.g. laminated glass.
	<p>Window standards: BS 7950, 1997 specification for enhanced security performance of casements, tilt/turn windows for domestic applications. BS 7950 must be supported by performance standards relevant to the materials used:</p> <ul style="list-style-type: none"> • BS 4873, 2005 Specification for aluminium windows. • BS 7412, 2007 Specification for plastic windows made from PVC-U extruded hollow profiles. • BS 644-1, 2003 Wood windows. Specification for factory assembled windows - various types. • BWF:TWAS Timber window accreditation scheme. • BS 6510, 2005 Specification for steel windows, sills, window boards & doors. <p>LPS 1270 Burglary resistance of security glazing and glazing films. Based on LPS 1175, this standard enables specifiers to select glazing films that offer resistance to manual attack equivalent to the building products in which the glass or film is to be used.</p>

Part 5 – Fire Safety

When deciding whether it is appropriate for the local housing authority to issue an HMO licence consideration will be given to SI 2006 No373. Schedule 3 (5) of these regulations states; ‘*Appropriate fire precaution facilities and equipment must be provided of such type, number and location as is considered necessary*’.

The following duties and provisions will be taken into account when deciding whether Paragraph 5 has been met:

1. Owners/managers have a duty to carry out a fire risk assessment under the Regulatory Reform (*Fire Safety*) Order 2005. This must be written down if there are 5 or more persons employed by the company or any form of licence or certification applies to the use of the premises. The significant findings of the fire risk assessment must be recorded.
2. The level of fire precautions required will depend on the type of accommodation and the risk it presents. For instance temporary accommodation for homeless persons will generally be considered higher than normal risk due to the type of occupation. A house share where the occupiers live as a family will generally be considered a lower risk.
3. It is expected that all units of accommodation and communal areas shall be fitted with appropriate automatic fire detection, emergency escape route lighting, firefighting equipment (*portable*) and fire precaution equipment as identified by a comprehensive fire risk assessment.
4. All properties will be expected to meet the appropriate standards for structural resistance to the spread of smoke and fire. Typically a HMO will require a full 30 minute protected escape route to an ultimate place of safety. This escape route should not be obstructed by stored items or be vulnerable to a fire starting upon it due to the presence of ignition sources (*electrical items etc.*) or combustible items (*paints and solvents etc.*).
5. All kitchens must have a suitably sited fire blanket, adequate provision of fire doors and an appropriate automatic fire detection.
6. Inspecting officers reviewing fire safety will ask to see annual service and maintenance certificates for fire safety installations. They should be in accordance with the following British Standards:
 - Automatic fire detection and warning systems: BS 5839: part 1 or Part 6 (*as appropriate*)
 - Emergency escape lighting: BS 5266-8: 2004 (*BS EN 50172: 2004*)
 - Fire Extinguishers where provided: BS 5306-3 and with the manufacturer’s recommendations.
7. The standards expected (*as set out above*) are generally those recommended in the “Housing - Fire Safety - Guidance on fire safety provisions for certain types of existing housing” published by LACORS (*July 2008*). You are advised to consider the document to ensure that you are providing adequate protection for occupiers. The document can be accessed via the www.gov.uk website.
8. The Regulatory Reform (*Fire Safety*) Order 2005 also applies to the common parts of HMO’s. This is enforced by the Fire & Rescue Authority (Devon and Somerset Fire and Rescue Service). Where considered appropriate, and following consultation with the Fire & Rescue Authority, the Council may require additional precautions.

9. The Fire and Rescue Authority are the lead enforcement authority for commercial premises such as hotels and B&B accommodation. For such properties the appropriate guidance is the Home Office: Sleeping Accommodation Guide.
10. Where hotels and B&B accommodation are used for residential purposes such as homeless person's placements or a change in occupation out of the key tourism season, the premises may become a House in Multiple Occupation (*HMO*). In such circumstances the property may require a licence and Torbay Council will be the lead authority.

Fire detection and testing

The "Housing - Fire Safety - Guidance on fire safety provisions for certain types of existing housing" published by LACORS (*July 2008*) as mentioned on Page 6 describes in detail the different types of fire detection system and gives guidance in which circumstances each type is most appropriate.

In HMO's the most prevalent grades of fire detection systems are Grades A & D. Grade A systems must be tested by a competent person, i.e. someone with "the necessary training, expertise, and with the access to the requisite tools, equipment and information and capable of carrying out" the tests for fire detection and alarm (*BS5839*) and emergency lighting (*BS5266*). In practice, a reputable alarm installation company will be able to carry out these tests and provide an annual certificate. Grade D and battery systems can be tested by the owner or manager. However, the manufacturer's instructions must be followed in these tests.

Part 6 - Amenities

The information in this part provides guidance on the facilities that should be provided in an HMO as described by section 254 Housing Act 2004.

These standards represent the authority’s expectation for all HMO’s. Whilst these are not directly enforceable, they will be used to decide whether a licence will be issued and if so for how many persons the licence can be issued for.

Shared Personal Washing & WC Facilities

Occupiers	Up to 5	6-7	8-10	11-15
WC	1	2	2	3
Bath or shower	1	2	2	3
	<i>If there is only 1 WC it must be separate from the bathroom</i>	<i>WC’s can be contained within the bathrooms</i>	<i>At least 1 WC must be separate from the bathroom</i>	<i>At least 2 WC’s must be separate from the bathroom</i>
Wash Hand Basins	A wash hand basin must be provided within every separate WC. Each WHB to be provided with adequate supply of cold and constant hot water.			
	In licensable HMOs 1 WHB is to be provided within each unit where it is reasonably practicable. It will be the responsibility of the landlord to demonstrate that is not reasonably practicable for WHB to be provided in each room. Regard should be had to the age and character of the HMO, the size and layout of each room and its existing provision for WHBs toilets and bathrooms.			

No personal washing facility should be more than one floor distant from the users of those facilities.

Shared Kitchen Facilities

Cooker	A cooker is an oven and grill with 4 ring hob
Up to 5 occupants	1 cooker
6-7 occupants	1 cooker and 1 microwave oven with grill
8-10 occupants	2 cookers
Sink and drainer	1 per 5 occupiers/unit
Electrical power points	4 single sockets or 2 double sockets per 5 occupiers/unit. The above excludes sockets for a cooker, refrigerator and washing machine.
Worktops	2m x 0.6m per 5 occupiers
Cupboards	Double wall unit or single base unit (0.16m ³) for each occupier/unit. Storage in communal areas should be lockable.
Refrigerated storage	Standard sized fridge (73-120 litre) with adequate freezer compartment per occupier/unit. Individual

	fridges can be sited in the bedroom if the room is large enough.
	If no freezer compartment in the fridge, separate freezers should be provided. Storage in communal areas should be lockable.

Kitchens Facilities (not shared)

1 person bedsit with exclusive use of kitchen facilities	2 ring hob, oven or grill or 2 ring hob and combined microwave oven with grill
2 person bedsit with exclusive use of kitchen facilities	3 or 4 ring hob and oven or grill
Sink and drainer	1 per unit
Electrical power points	4 single sockets or 2 double sockets per unit. The above excludes sockets for a cooker, refrigerator and washing machine.
Worktops	1m x 0.6m per 2 occupiers
Cupboards	Double base unit or 1.5 single wall units per 2 occupiers
Refrigerated storage	Fridge with adequate freezer compartment

Note: If a kitchen facility is more than one floor distant from the users of that facility, a communal living space or dining space must be available on the same floor or not more than one floor away from the kitchen. An extractor fan must be provided. Cooking facilities must be available. Kitchens must have a 30 minute self-closing fire door set with cold smoke seals and intumescent strips. A fire blanket must be supplied but not sited immediately adjacent to or over the cooker.

Part 7 – Space Standards

These standards represent the authority’s expectation for all HMO’s. In licensable HMOs they will be used to decide how many persons a licence will be issued for.

Room sizes are subject to each room being of a shape and a floor to ceiling height that provides adequate useable living space. Only the floor area where the ceiling height is more than 1.5m or higher will be counted. The following information sets out the minimum room sizes required by Torbay Council. For the national minimum room sizes, see Appendix 2, the national minimum room sizes will apply to temporary accommodation:

	No. of occupiers	Size
Bedsit room with separate shared kitchen	1	8m ²
	2	14m ²
Bedsit room with cooking facilities	1	13m ²
	2	19m ²
Shared kitchen	Up to 5	7m ²
	6-10	10m ²
	11-15	17m ²

The table below presumes the accommodation is being occupied by a single household unless otherwise specified.

If 3 or more persons in 2 or more households share a flat, it may be an HMO in its own right. In this instance you will need to contact Torbay Council to discuss whether this arrangement is appropriate and what facilities should be in place.

	Room	Size
Two roomed unit for one person	<u>Either</u> Living/kitchen and Separate bedroom	11m ² 6.51m ²
	<u>Or</u> Kitchen and Separate living room/ bedroom	4.5m ² 11m ²
Three roomed unit for one person	Kitchen and Separate living room and Separate bedroom	4.5m ² 9m ² 6.51m ²
Two roomed unit for two persons	<u>Either</u> Living/kitchen and Separate bedroom	14m ² 10.22m ²
	<u>Or</u> Kitchen and Separate living room/bedroom	6.5m ² 14m ²
Three roomed unit for two persons	<u>Either</u> Separate kitchen/living room and 2 bedrooms	15m ² Refer to Appendix 2

If more than 1 household in occupation	<u>Or</u> Separate kitchen Separate living room Separate bedroom	6.5m ² 12m ² 10.22m ²
	2 Bedroom/living rooms Separate kitchen	11m ² 7m ²

Part 8 – Space Heating

When deciding whether it is appropriate for the local housing authority to issue an HMO licence consideration will be given to SI 2006 No373. Schedule 3 (1) of these regulations states; *‘Each unit of living accommodation in an HMO must be equipped with adequate means of space heating.’*

We will refer to Torbay Council’s Excess Cold policy and other appropriate guidance such as Chartered Institute of Environmental Health (CIEH) excess cold enforcement guidance in order to determine whether Schedule 3 (1) has been met.

Appendix 1 – Examples of HMOs

Houses	
A house occupied by 5 students (<i>2 of whom are living together</i>), who share a kitchen and bathroom.	Licensable because there are 5 occupiers in 4 households sharing basic amenities.
Two bedroom bungalow shared by 2 couples.	Not licensable because there are only 4 occupants.
A house owned and occupied by a couple with 2 children and a lodger, who shares the kitchen, living room and bathroom with the family.	Not licensable because although there are 5 people, where a landlord lives in the property his/her family unit counts as only 1 person.
Converted houses	
Multi-storey house, with a self-contained basement flat occupied by the landlord and partner. Upper floors comprising 3 self-contained studio flats and 1 non self-contained (<i>kitchen on landing, but not shared</i>).	Licensable because there are at least 5 persons occupying the building in four separate households (<i>landlord and family count as 1</i>). If all flats had been self-contained the property would not be in scope.
House converted into 2 non self-contained flats occupied by 2 couples and their 2 children. Each couple has a separate tenancy agreement. The families share amenities. One of the couples is the cousin of one of the other couple.	Not licensable because it is occupied by a single household by way of an extended family.
Multi-storey house converted into self-contained flats owned by separate leaseholders with long leases.	Individual flats may be in scope but only if they are occupied by 5 or more people from 2 separate households.
Flats above shops	
A purpose built fish and chip shop with residential accommodation above which the owner lets out as 5 bedsits, with shared use of kitchen and bathroom.	Licensable because it is occupied by at least 5 people in at least 5 households, who share basic amenities.
Self-contained flat above 24 hour kebab shop. At least 6 occupiers sharing 3 bedrooms plus living room. All employed in the business and none pay rent.	Licensable because there are 6 occupiers sharing facilities. The fact that rent isn't paid is not relevant because their occupation of the property is linked to their employment.
A 3 storey purpose built block of flats above a parade of shops comprising 10 self-contained flats. Five of those flats have been let out by their owners and 3 are in multiple occupation, all with at least 5 persons living in 2 or more separate households.	Not licensable because mandatory licensing does not apply to purpose built blocks with 3 or more self-contained flats.
Purpose built blocks	
A purpose built development of 30 units, designed for singles and couples, comprising self-contained flats and studio flats and a number of non-self-contained studio flats which have access communal kitchen/diner facilities.	Licensable because although the development is purpose built, there is some sharing of facilities between different households. Purpose built blocks are only excluded where all flats are self-contained.
A flat on the sixth floor owned by a long leaseholder and let to 5 sharers in a 10 storey tower block of 30 flats.	Not licensable because mandatory licensing does not apply to purpose built blocks with 3 or more self-contained flats.

Appendix 2 – Space Standards

- a. Rooms must have a minimum floor to ceiling height of at least 2.1m over not less than 75% of the room area. Any floor area where the ceiling height is less than 1.5m should be disregarded.
- b. The space standards specified in this guide for temporary accommodation are low, reflecting the temporary nature of the accommodation. No further reduction in the room size by including floor space which does not contribute practically towards the useable space will be considered.
- c. The floor area taken up by a solid chimney breast should be discounted.
- d. Built in storage space (*cupboards, wardrobes etc.*) should be counted as this would occupy the room's main floor space if it were not present.
- e. En-suite's should not be included in the minimum size required
- f. Single rooms should have a minimum width of 1.8m. Rooms for two or more persons should have a minimum width of 2.3 m.

Table 2: Sleeping rooms not containing cooking facilities

Floor Area of Sleeping Room	Maximum Number of Persons
Less than 6.51 m ²	Nil
Not less than 6.51 m ²	1
Not less than 10.2 m ²	2
Not less than 14.9 m ²	3
Not less than 19.6 m ²	4
Not less than 24.2 m ²	5
No more than 5 persons should be required to occupy any room	

Table 3: Sleeping rooms containing cooking facilities

Floor Area of Sleeping Room	Maximum Number of Persons
Less than 10.2 m ²	Nil
Not less than 10.2 m ²	1
Not less than 13.9 m ²	2
Not less than 18.6 m ²	3
Not less than 23.2 m ²	4
Not less than 27.9 m ²	5
No more than 5 persons should be required to occupy any room	

Appendix 3 – Waste Guidance

1. The Licence holder shall comply with the Council's scheme which relates to the storage and disposal of household waste. The licence holder shall ensure so far as is reasonably practicable that the occupiers make arrangements for the collection of waste in accordance with these provisions and, when the property is unoccupied, or the occupiers fail to do so the licence holder adhere to these provisions themselves.
2. The licence holder shall at the beginning of a tenancy, provide written information to the occupiers of the property indicating:
 - a) which day refuse collections will take place;
 - b) what type of bins to use for household and recycling waste;
 - c) details of the Council's bulky waste collection service;
 - d) details of the Council's missed bin collection service;
 - e) the occupiers responsibility to put recycling boxes, food bin and wheeled bin or seagull proof bag at the boundary of the property so easily accessible from the highway by 6am on the collection day;
 - f) that occupiers should make arrangements for any extra rubbish that cannot fit in the bins to be collected within 48 hours and/or disposed of as soon as is reasonably practicable and ensure that such rubbish, where possible, is stored within the boundary of the property until collection/disposal. Occupiers should ensure the receptacle is kept locked at all times to prevent access by seagulls and/or vermin and members of the public to potentially unsafe waste.
3. The licence holder shall ensure that suitable and adequate provision for refuse storage and collection is provided at the house. This shall include a closable bin(s) kept in good working order and of suitable capacity as specified by the Council.
4. The licence holder shall ensure that commercial and/or trade rubbish/waste is not disposed of in the domestic household bins. Any trade rubbish/waste shall be disposed of as soon as is reasonably practicable and ensure that such rubbish/waste, where practicable, is stored within the boundary of the property. The licence holder shall make adequate arrangements for the collection and disposal of commercial waste and must use a licenced waste carrier.
5. Residents will need to separate their food waste and recycling from their residual waste. For further details of how waste should be separated please see www.torbay.gov.uk/recycling/what-goes-in-my-bin
6. Torbay Council will supply one set of waste and recycling containers per council tax account as per the Environmental Protection Act 1990, and provide a comprehensive and frequent waste collection for these containers.