



2016 CHAPTER 22

PART 3

Enforcement of licensing requirements

Rectification of breaches of conditions

Power to require rectification of breach of condition

35.—(1) This section applies where the council is satisfied that—

- (a) a condition in an HMO licence has been breached and the breach is ongoing or has not been rectified, or
- (b) a condition in an HMO licence is likely to be breached.

(2) It does not matter whether the council has taken any other action, or whether criminal proceedings have been commenced, in respect of the breach or anticipated breach.

(3) The council may serve on the owner of the HMO a notice (a “rectification notice”) which requires the owner to take such action, specified in the notice, as the council considers appropriate for the purpose of rectifying or (as the case may be) preventing the breach.

(4) The action which may be specified includes the carrying out of work in or to the HMO.

(5) The notice must specify a date by which the action must be taken.

(6) Different dates may be specified for different actions.

(7) A date specified under subsection (5) must not be earlier than the date by which the council reasonably considers that the action can be taken.

(8) A notice which requires work to be carried out in or to the HMO may also specify particular steps which the council requires to be taken in carrying out that work.

(9) Where the action specified in a notice is or includes the carrying out of work in or to the HMO, Parts 1 and 2 of Schedule 3 apply to the notice.

(10) The council must send a copy of the notice to the occupants of the HMO.

Revocation of rectification notice

36.—(1) The council—

- (a) may revoke a rectification notice, and
- (b) must do so if it is satisfied that the owner has complied with the requirement (or all the requirements) in the notice.

(2) A notice may be revoked under this section—

- (a) on the application of the owner, or
- (b) on the council's own initiative.

(3) The council must serve the following on the owner and the occupants of the HMO—

- (a) notice of any revocation under this section;
- (b) if the owner applies for a revocation but the council decides to refuse it, notice of that refusal.

Failure to comply with rectification notice

37.—(1) If the owner of an HMO fails to take any action specified in a rectification notice by the date specified in relation to that action, the owner commits an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding £10,000.

(3) In determining the seriousness of an offence under subsection (1), regard is to be had to the following matters (as well as to the seriousness of the failure to take the action specified in the rectification notice)—

- (a) the seriousness of the breach of the condition (if any) which resulted in the issuing of the rectification notice, and
- (b) whether any such breach amounted to an offence under section 31(2) or (3).

(4) Subsection (3) applies—

- (a) to a court for the purposes of sentencing, and
- (b) to a council in determining the amount of a fixed penalty under section 64.