

Transcript

RRA Unit 6.1.2 **Implementing the RRA**

Hi, everyone. In this video, we're going to have a look around the implementation of the Renters' Rights Act, but focusing on the council itself: which team is likely to do what within the council on the operational side of the implementation of the Renters' Rights Act. Okay, let's have a look at the slides.

Who does what within the council is going to be pretty important, and it's not like, say, an Education Act legislation from the council, which is looking at education. That would just be the Education Department. Within this, you have two big bits of the council, two separate teams, that have some quite big responsibilities for operating and implementing the Renters' Rights Act.

So who are those two teams? Number one is what most of the people watching this video will be: they will be from the housing options team. They'll be the team within the council that deals with statutory homelessness and homelessness prevention. I know some councils call them the housing solutions team, the housing needs team, the housing advice team. But the common term for that team is the housing options team, and that's what we'll refer to here. So we have the housing options team.

We then have a second team, which is the team responsible for the enforcement and improving private rented sector conditions. Now, that team has always existed. There's an enforcement role now, and that team focuses on both policing the private rented sector and also working with landlords to improve the private rented sector. But remember, now that the Renters' Rights Act is in, there is an enforcement process which is now a civil penalty process, and obviously the private rented conditions side will not all be around the original, current arrangements and legislation for policing the private rented sector, because we'll now have a decent homes standard brought in by the government, and we will have Awaab's Law, both of those brought in by the Renters' Rights Act.

So there are our two broad teams within the council. There may be others with a more minor role, but these are the two big teams. In broad terms, the housing options service or the housing options team will lead on trying to prevent homelessness, and the private rented sector team will lead on the enforcement side and on the improvement of the conditions in the sector.

But there will need to be close working between the two teams, and that will mean there will need to be clarity within the council as to who will do what. For some of these issues, it's not as straightforward as saying it's always going to be one team or it's always going to be the other team that leads. There will need to be coordination, close cooperation, and close working arrangements between those two teams.

I'm going to give you an example for that in the question of who does what within the council. Let's take the database as an example. As you know, in phase two, we will have the landlord's database introduced. It starts to be rolled out in late 2026, so it will be mainly rolled out in 2027, and all landlords with properties in your area, of course, will have to register on the landlord database. Every landlord will have to register on the database if they own properties in England.

The database will be used by the housing options service to identify the properties rented. Why would they do that? So that tenants could be written to and told to approach the housing options service, the HOS, as soon as a Section 8 notice is issued if they have nowhere else to go. That's going to be a pretty important task, isn't it? You don't want tenants being issued a notice, then just leaving and presenting as homeless. If you're going to try and prevent it, you're going to want to know those tenants. If they've received a notice, you're going to want to see those tenants as early as possible.

To be proactive, you're going to want to use the database to contact all tenants who are renting in your area to tell them that if they receive a Section 8 notice and they have nowhere else to go, then they should get themselves down to the council as fast as possible. The HOS as well may want to contact all landlords to inform them of a new Call Before You Serve initiative. Some of you will have heard that the government are encouraging councils to introduce Call Before You Serve initiatives for landlords. That could be a hotline, that could be an email process. What that's all about is: if you're going to issue a Section 8 notice, landlord, contact us beforehand and let's see if we can help resolve the problem so you don't need to issue a notice. That's not going to be done by the enforcement team. That's clearly going to be an action around the prevention side of the service, the HOS side of the service.

Now, if that's why HOS need to use the database, what about the other side, the private sector housing team? The team responsible for enforcement in the private rented sector will need to use the database to help decide if a breach or offence has taken place, and also to inform landlords of all new requirements in respect of the RRA in general, the new decent home standard, and the new Awaab's Law requirements when they come in. So there's a bit of a carrot-and-stick approach there, isn't there,

with the enforcement team? We want to work with landlords to get them to improve the private rented sector. To do that, we need to proactively go out to landlords. We might be inviting them to training events. We might be providing them with helpful information. But then there's the other side, the sting in the tail, the enforcement side, where the enforcement team will use the database to help decide if a breach or an offence has taken place, because they will know all the properties rented in the council's area, and they have the contact details for all the landlords. So that's an example, really, on the database.

That's not the only example. Another one: landlord forums. At the moment in councils, quite often you might have two types of landlord events going on. You might have a landlord forum which is being initiated by the homelessness side, the HOS, and that might be about trying to encourage landlords to let their property through the council's private sector access scheme to try and discharge duty on homelessness cases. Separately, you might have the council's private housing team, and with their focus they might be running landlord forum events which are all about improving the standards in the private rented sector, etc.

So what now, instead of having a landlord forum that might have a focus on the HOS issues in one forum and a focus on the private sector housing standards side in another forum, they need to be jointly run. It's pretty obvious, isn't it? If you jointly run these landlord forums, you're going to want to promote the private rented access scheme to discharge duty. The HOS is going to want to talk to the landlords about contacting the HOS early before they serve Section 8 notices. The HOS is wanting to get across to landlords what can be done by the council to support them and help them to resolve issues such as rent arrears or tenant behaviour. And the private sector housing team of the council are going to want to talk to landlords to educate them on the Renters' Rights Act so that they don't end up getting civil penalties issued. They want to work with landlords around improving the quality of their properties to meet the decent home standard in the private rented sector, and so on. So that's another example of joint working.

There will need to be clarity in the council as to how the money raised from enforcement will be used, in the context of more enforcement (boosting the resources for the private sector housing enforcement role), but also potentially boosting the resources in terms of the HOS, the homelessness prevention side. The government guidance is that penalty fines from the civil penalties regime should go back into the resources for policing the sector, for the enforcement side, but there's nothing to say that that money needs to be ring-fenced. In the context of joint working, the HOS itself may need access to some of the money that comes through from the civil penalties in

order to have the resources to work with the private sector enforcement team jointly. If the resources aren't there, then there's little that the HOS can do.

Those are just examples where it isn't necessarily clear-cut that this part of the Renters' Rights Act operationally is for the housing options service, and this bit is for the private sector housing team that does enforcement. By the way, some of you might be thinking, "Well, you're talking about private sector housing team. That's not the name in our council." What happens is: in different councils, that sort of private sector role—standards and enforcement—can have different team names. In some councils, it's called environmental health. In some councils, it's called housing standards. In some councils, it's called private sector enforcement, and so on. It's just the function that deals with the standards and the enforcement in your council. It may have a different name from the name I'm giving it.

Okay, so that's the slide on the areas of joint working. I'll just give you an example of why close working will be required between the housing options service and the council's private rented sector team that leads on enforcement. This is just a worked example.

We might have a case where the landlord has obtained possession to sell their property, using Ground 1. If you're looking to sell your property, you have to give four months' notice, and then you can, if you provide the evidence to the county court, be provided with possession. But what happens if the landlord then changes their mind? For example, the landlord might find out that the price they were expecting to get for their home is not the price that they're going to get. Just as this video is being recorded, we're in the early days of the Renters' Rights Act. The Financial Times are estimating around 700 rented homes are going on the market every single day. At that level, what's going to happen is the number of properties being put up for sale will end up bringing down the price of properties because there'd be a flood of properties for sale.

So a landlord might say, "Right, I want to sell my property." They might then realise they can't get the price they want for their property. Now we know, don't we, that under the Renters' Rights Act, if a landlord changes their mind, they're restricted from remarketing or reletting that property for 12 months from the expiry of the four-month notice. So there's a 12-month restriction on them being able to relet that property. In this example, what happens if the landlord is now in severe financial difficulty? The landlord may be coming to the council and saying, "I'm going to lose my own home because of the financial difficulty of not being able to sell the property for the price I need and not now being able to relet that home for 12 months."

You might have a situation where the HOS, the Housing Options Service, negotiate for the landlord to rent that property to a homeless family, and that can happen immediately. What needs to happen in terms of that joint working is that the Housing Options Service need to be liaising and working with the enforcement team in the council to agree not to issue a civil penalty for the landlord letting the property within the 12-month restricted period. That's an example of where joint working would be required and where joint working could successfully end up with a position where the council is able to find a much-needed tenancy for the homeless family, and the landlord doesn't have to wait for the 12-month period because the council has agreed as a whole not to enforce that 12-month period and issue a civil penalty. That's all going to be down to joint working.

Again, who does what within the council? In this section, we're going to look at evidence gathering. You might say, well, for enforcement, surely that's down to the private sector housing team to gather the evidence and so on. It will certainly be down to the private sector housing team, the enforcement side, to issue the civil penalty. But the evidence gathering might involve the Housing Options Service. If you think about it, in many cases where there is some form of breach or offence, many tenants will have come first to the council, or maybe prospective tenants. It might be a tenant that thinks they've been dealt with inappropriately under the rental discrimination rules. People will be coming to the housing options side of the service, and it might well be that a decision is taken locally that the evidence gathering might be with the Housing Options Service. It might not always be with the housing enforcement team.

For many breaches—many offences and breaches under the Renters' Rights Act—the burden of proof is on the lower threshold of the balance of probabilities. It's not always beyond all reasonable doubt. You might say, well, if it's on the balance of probabilities, surely it's not so difficult to gather evidence. But in order to issue a civil penalty, the evidence still must meet a required standard. HOS officers might often be the first to realise that an offence has taken place because the tenant maybe has approached the HOS at risk of homelessness, or they've applied to join the housing register. The council itself as a whole must be satisfied that there is credible, reliable, and sufficient documentary evidence to determine that a breach of the standard has happened. If you can't provide that evidence base, then you can't issue a civil penalty.

HOS officers themselves, the Housing Options team, will need to be trained on how to take and confirm witness statements from a tenant. These are issues that HOS officers don't do in their normal homelessness decision-making or prevention work: how to obtain timestamped copies of communication with landlords or maybe property agents, managing agents; how to deal with evidence such as text evidence,

voicemails, or emails. This is an example where the HOS officers would be gathering the evidence for the enforcement team to decide whether to issue a civil penalty or not. That evidence has to meet required standards even though the evidence for issuing the civil penalty is based on the lesser evidence base of the balance of probabilities that the offence or the breach has occurred—in other words, that it's more likely than not to have occurred.

Again, that's an example where there has to be close working between the housing options side and the enforcement side, where roles need to be clear, and where it's clear what the role of the HOS is in terms of enforcement action. In many councils, that might mean that it is the Housing Options officers, if they're first approached, who will be gathering evidence. I say it might be because, of course, each of those decisions as to who does what will be down to each of the individual councils in England to decide.

So that's our video looking at the Renters' Rights Act in terms of who does what within the council. Two main teams: the Housing Options Service and the private sector housing team that deals with standards and enforcement. Some of the roles and responsibilities as to what HOS does and what the private renter team does is absolutely clear-cut. Some of it is less clear-cut. Much of it will need good joint working and coordination between those two teams.

I'll see you on another video.