

CABINET

Housing Standards Enforcement Policy

4 December 2018

Report of Director for Communities and the Environment

PURPOSE OF REPORT				
To consider and adopt the Private Sector Housing Enforcement Policy and associated charges.				
Key Decision	X	Non-Key Decision		Referral from Cabinet Member
Date of notice of forthcoming key decision		5 November 2018		
This report is public.				

RECOMMENDATIONS OF COUNCILLOR ANDREW WARRINER

- (1) To consider and adopt the overarching Housing standards, Private Sector Housing Enforcement Policy (Appendix 1).
- (2) To consider and adopt the specific Housing Standards policies/statement of principles, set out below, together with the fine matrices contained therein:
 - (a) Housing Standards, Civil Penalties Enforcement Policy (Appendix 2);
 - (b) Housing Standards, the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Statement of Principles (Appendix 3);
 - (c) Housing Standards, The Redress Schemes for letting agency work and property management work (requirement to belong to a scheme, etc.) (England) Order 2014 policy (Appendix 4).
- (3) That an evaluation of the effectiveness of the policies referred to above, be included in the report back to Cabinet on the implementation of the alternative approach to selective licensing approved by Cabinet in March 2018 (minute 84 refers).

1.0 Introduction

The private rented sector is an important part of our housing market and there is a commitment to improving standards within it. The council want to support

good landlords who provide decent, well maintained homes, but will take action against those landlords who knowingly rent out unsafe and substandard accommodation.

The proposed Private Sector Housing Enforcement Policy is designed to help deliver the council's priorities identified in the Corporate Plan to improve the quality and availability of housing. This policy aims to promote efficient and effective approaches to regulatory inspection and enforcement in residential dwellings in accordance with the Governments Regulators Code.

2.0 Proposal Details

2.1 The current Private Sector Housing Enforcement Policy has been in place since 2006. The policy has been subject to review with technical and legislative amendments but, because of recent changes introduced in the Housing and Planning Act 2016, it requires a full review.

2.2 The new Private Sector Housing Enforcement Policy aims:

- To improve the standard of homes in the private sector
- To assess local housing conditions
- To reduce the number of properties with serious risks to health and safety
- To reduce the number of vulnerable households living in non-decent homes
- To improve the energy efficiency and warmth of homes and to help reduce fuel poverty
- To improve standards in private rented accommodation
- To improve the standards in HMOs (houses in multiple occupation)
- To work closely with private sector landlords towards improving conditions and the standard of management of private rented housing
- To meet the council's statutory obligations

2.3 The new policy reviews existing enforcement powers and introduces civil penalties, rent repayment orders, banning orders and the Rogue Landlords Database.

2.4 Recent legislation has introduced new civil penalties for Local Housing Authorities and associated charges.

2.4.1 The Housing and Planning Act 2016 provides powers that permit local authorities to impose a civil penalty of up to £30,000 as an alternative to prosecution for a range of offences under the housing Act 2004, and where a landlord or property agent has breached a banning order under the Housing and Planning Act 2016.

Local housing authorities are expected to develop and document their own policy on when to prosecute and when to issue a civil penalty, and on determining the appropriate level of civil penalty.

Any income from civil penalties is retained by the local housing authority which imposed the penalty. The council must use any income from civil penalties to further its statutory functions in relation to enforcement activity covering the private rented sector.

2.4.2 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduced the requirement to provide a smoke alarm installed on every storey of a property and a carbon monoxide alarm in any room containing a solid fuel burning appliance. Local authorities can impose a civil penalty of up to £5,000 where a landlord fails to comply with a remedial notice. A local housing authority must prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge.

2.4.3 The Redress Schemes for letting agency work and property management work (requirement to belong to a scheme, etc.) (England) Order 2014, introduce a fine of up to £5,000 where a lettings agent or property manager who should have joined a scheme has not done so.

3.0 Details of Consultation

The principles of the new policy were considered by enforcement officers in the Housing Standards Team and the proposals were presented to the Private Sector Landlord Forum held on the 10 October 2018. Comments received back were that landlords are broadly supportive of robust enforcement against landlords who they feel give the sector a bad name, but wanted the council to be fair and transparent in their actions and to acknowledge that some private landlords provide a good and necessary service.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Adopt the policy	Option 2: Do not adopt the policy
Advantages	Provides clarity for the Local Authority and stakeholders. Assists the Local Authority in meeting its statutory obligations and deliver one of its priorities.	None
Disadvantages	None	The council could be subject to challenge. The authority is obliged to determine the level of penalties to be levied in relation to the legislation referred to in this report and has to

		publish a statement of principles in relation to the Smoke and Carbon Monoxide Alarm Regulations.
Risks	None	The council could be subject to challenge and may not be in a good position to meet its statutory obligations.

5.0 Officer Preferred Option (and comments)

To adopt the Private Sector Housing Enforcement Policy and the specific policies (including the fine matrices contained therein).

6.0 Conclusion

- 6.1 Adoption of the new policy will assist the council to provide efficient and effective regulatory enforcement to support the delivery of a statutory function and corporate priority.

RELATIONSHIP TO POLICY FRAMEWORK

It is a statutory function.

Corporate Plan: The proposals support the Council's objectives to promote sustainable communities and support the positive health and wellbeing of residents in the district.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing):

Diversity – There is a risk that enforcement may have a short-term impact on people on low incomes with limited housing choices, but measures will be put in place to provide support and the policy will make a positive long-term contribution to reducing inequalities.

Human Rights – There will be no impact if the implementation is undertaken correctly.

Community Safety – The proposed approach should have a positive impact on community safety.

Sustainability – None.

Rural proofing – None.

LEGAL IMPLICATIONS

Legal Services have been consulted on the drafting of the policies/statements of principles. If the policies are adopted, officers will have to ensure that they carry out their investigative and enforcement duties in accordance with the policies and national guidance.

Officers should also ensure that the Statement of Principles, required by the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 are published, on approval, in accordance with the relevant statutory provision.

Save for the above, there are no further legal implications stemming from this report or the policies annexed.

FINANCIAL IMPLICATIONS

The Housing and Planning Act 2016 has introduced powers permitting local authorities to impose a civic penalty of up to a maximum of £30K, noting that it is for each Council to determine its own policy and appropriate charging regime. It is re-iterated that any income from civic penalties should be retained by the local authority which imposed the penalty, with such income being used to further its statutory functions in relation to enforcement activity covering the private rented sector, e.g. through additional staff capacity and associated enforcement legal costs, etc.

It is not possible to accurately project the likely level of income arising from the proposed Private Sector Housing Enforcement Policy, although it is not expected to be significant at this stage. This will be kept under review and fed into future corporate monitoring reports with budgets updated during the annual budget process in the usual way.

It should be further noted that it is considered highly unlikely that there will be a need to issue civic penalty notices in relation to the respective 'Smoke' and 'Redress' Schemes due to the relatively low cost of corrective action required by landlords compared with the potential high value penalties which could be imposed if they choose not to comply.

Similarly in terms of the wider enforcement powers, this is very new for the council and it has not in recent years had to deal with specific cases which might potentially attract the maximum £30K civic penalty going forward and so is difficult to predict with any certainty.

OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces:

None specifically arising from this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Housing Act 2004

Housing and Planning Act 2016

Lancaster City Council, Health and Housing Service Enforcement Policy

Lancaster City Council, Housing Standards, Private Sector Enforcement Policy

Lancaster City Council, Housing Standards, Civil Penalties Enforcement Policy

Lancaster City Council, Housing Standards, The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, statement of principles.

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<p>Lancaster City Council, Housing Standards, The Redress Schemes for letting agency work and property management work, (requirement to belong to a scheme etc.) (England) Order 2014,</p>	
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