

REPORT TO	ON
CABINET	12 September 2018



TITLE	PORTFOLIO	REPORT OF
Approval of the Housing Enforcement Policy and Civil Penalties Guidance Document	Strategic Planning, Housing and Economic Growth	Director of Neighbourhoods and Development

Is this report a <b>KEY DECISION</b> (i.e. more than £100,000 or impacting on more than 2 Borough wards?)	<b>Yes</b>
Is this report on the <b>Statutory Cabinet Forward Plan</b> ?	<b>Yes</b>
Is the request outside the policy and budgetary framework and therefore subject to confirmation at full Council?	<b>No</b>
Is this report confidential?	<b>No</b>

## 1. PURPOSE OF THE REPORT

- 1.1 The report seeks Members' approval of the draft 'Private Sector Housing Enforcement Policy' and 'Private Sector Housing Civil Penalties Enforcement Guidance'.

## 2. PORTFOLIO RECOMMENDATIONS

- 2.1 That Cabinet agree to adopt the draft 'Private Sector Housing Enforcement Policy' and 'Private Sector Housing Civil Penalties Enforcement Guidance'.

## 3. REASONS FOR THE DECISION

- 3.1 Statutory guidance issued by the Ministry of Housing, Communities and Local Government specifies that Local authorities are expected to develop their own policies and procedures on how the new powers are to be implemented.
- 3.2 The Private Sector Housing Enforcement Policy has been developed and outlines the enforcement approach and the available enforcement powers the council have at our disposal to manage non-compliance with the law within a private housing setting.
- 3.3 The policy seeks to:
- 3.3.1 clearly set out in one place our approach to enforcement and the range of enforcement options available to officers under multiple pieces of legislation
  - 3.3.2 ensure our enforcement is consistent and transparent
  - 3.3.3 ensure all new legislation is incorporated and acted on within working practices. This includes clearly stating what monetary amounts will be charged if a civil penalty is issued - The Housing and Planning Act 2016 introduced a new financial penalty regime in April 2017, permitting local authorities to impose a civil penalty of up to £30,000.

3.4 The Private Sector Housing Civil Penalties Enforcement Guidance details the methodology to be utilised when issuing Civil penalties in line with the enforcement policy to ensure that a suitable, fair effective penalty is imposed in each case.

**4. CORPORATE PRIORITIES**

4.1 The report relates to the following corporate priorities:

Excellence and Financial Sustainability	
Health and Wellbeing	X
Place	X

Projects relating to People in the Corporate Plan:

People	
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**5. BACKGROUND TO THE REPORT**

5.1 Under the Housing and Planning Act 2016 a range of new measures were introduced designed to ‘crackdown’ on rogue landlords. These included new powers for Local authorities in relation to the administration of civil penalties, the use of Banning Orders for rogue landlords, extension of Rent Repayment Orders and a Rogue Landlord database.

5.2 The draft ‘Enforcement Guide’ sets out the procedures to be followed when dealing with housing related issues and those matters which need to be considered when taking enforcement action, while the ‘Civil Penalties Guidance’ document provides further details on how civil penalties will be calculated in each individual case should a decision be made to issue a civil penalty.

5.3 The two documents have been written in line with statutory guidance and discussions with a number of local authorities across the country.

5.4 The Civil Penalties would range from £500 to £30,000 (the maximum allowed by the Act) as an alternative to prosecution depending on the individual circumstances of each case. These would have the same standard of proof as for a prosecution. The imposition of a Civil Penalty could provide a way to deal with offences in a more straightforward and efficient manner without the need for criminal proceedings. Criminal Proceedings would still be considered where serious breaches of legislation have occurred.

5.5 While the decision to impose a civil penalty would be the responsibility of the Director of Neighbourhoods and Development, the decision would be made following consultation with the Council’s legal team as to whether the civil penalty would be appropriate.

**6. PROPOSALS**

6.1 That the draft ‘Private Sector Housing Enforcement Policy’ and ‘Private Sector Housing Civil Penalties Enforcement Guidance’ be approved.

**7. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION**

7.1 None, the provisions have been provided via a statutory instrument.

## **8. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

8.1 None.

## **9. FINANCIAL IMPLICATIONS**

9.1 Approval of the policies and guidance will have no direct financial implication. Any sums paid in respect of a civil penalty are ring-fenced for use to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.

## **10. LEGAL IMPLICATIONS**

10.1 The '*Private Sector Housing Enforcement Policy*' has been written in line with the Council's general enforcement policy taking into account the Regulators Compliance Code & the Enforcement Concordat. Any decisions would need to be in line with the Planning and Housing Act 2016, and the Housing Act 2004.

10.2 The '*Private Sector Housing Civil Penalties Enforcement Guidance*' details the process to be followed to determine an appropriate and fair penalty for housing offences. The document has been written in line with the statutory guidance accompanying the Planning and Housing Act 2016.

## **11. HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT IMPLICATIONS**

11.1 None.

## **12. ICT/TECHNOLOGY IMPLICATIONS**

12.1 None.

## **13. PROPERTY AND ASSET MANAGEMENT IMPLICATIONS**

13.1 None.

## **14. RISK MANAGEMENT**

14.1 May result in additional appeals.

## **15. EQUALITY AND DIVERSITY IMPACT**

15.1 The '*Private Sector Housing Enforcement Policy*' and '*Private Sector Housing Civil Penalties Enforcement Guidance*' apply to all housing enforcement work undertaken by the Council.

## **16. RELEVANT DIRECTORS RECOMMENDATIONS**

16.1 That Cabinet agree to adopt the draft '*Private Sector Housing Enforcement Policy*' and '*Private Sector Housing Civil Penalties Enforcement Guidance*'.

## **17. COMMENTS OF THE STATUTORY FINANCE OFFICER**

17.1 *This section is to be completed by the Chief Finance Officer (s151) (or by the Deputy Section 151 Officer if not available) as it must also comment on the impact on all aspects of the total organisational budget.*

## **18. COMMENTS OF THE MONITORING OFFICER**

- 18.1 *The relevant statutory provisions underpinning the proposals are set out in the Housing and Planning Act 2016 (the 2016 Act) and the Housing Act 2004 (the 2004 Act).*
- 18.2 *By virtue of section 126 and Schedule 9 of the 2016 Act the council now has the power to issue a financial penalty as opposed to a prosecution in respect of a number of specified offences under the 2004 Act.*
- 18.3 *The maximum penalty that the council can impose is £30,000. The council must be satisfied that they can prove their case beyond reasonable doubt. Whilst the decision to impose a financial penalty will rest with the Director of Neighbourhoods and Development nevertheless it is important that advice is obtained from the Legal services team before making any such decision in order to assess whether the evidence is sufficiently strong and robust.*
- 18.4 *Schedule 13 A to the 2016 Act sets out the detailed procedural steps that must be followed as well as explaining that an individual has a right of appeal to the First Tier Tribunal against any decision to impose a financial penalty or against the amount of such a penalty.*
- 18.5 *The attached Civic Penalties Enforcement Guidance is intended to provide detailed guidance on how this new regime will apply.*
- 18.6 *The Private Sector Housing Enforcement Policy has been written in line with relevant guidance and statutory provisions.*

## **19. BACKGROUND DOCUMENTS**

- 19.1 Housing Act 2004  
 19.2 Planning and Housing Act 2016  
 19.3 Civil penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities

## **21. APPENDICES**

- 21.1 Appendix A - Private Sector Housing Enforcement Policy  
 Appendix B - Private Sector Housing Civil Penalties Enforcement Guidance

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