

10/14



Havering

LONDON BOROUGH

Notice of executive decision by individual Cabinet member

THIS IS NOT A KEY DECISION

Subject Heading:	Recovery of cost for Housing Act inspection and Statutory Notices
Cabinet Member:	Councillor Roger Ramsey
CMT Lead:	Cynthia Griffin
Report Author and contact details:	Yonnette Roberts Environmental Protection & Housing Divisional Manager Tel 432693
Policy context:	Private Sector Housing Strategy
Financial summary:	
Forward Plan entry number:	
Relevant OSC:	Environment
Is this a Strategic Decision?	Yes/No
If it is a Strategic Decision, when should this matter be reviewed?	
Is it an urgent decision? If so, please refer to the note at the end	Yes/No

The subject matter of this report deals with the following Council Objectives

High customer satisfaction and a stable council tax

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Member Key Decision

SUMMARY

The Housing and Public Protection Service is seeking to amend the present Fees and Charges policy. We would like to introduce charging for statutory and non statutory action taken under sections the Housing Act 2004 and for immigration inspections to determine whether a dwelling is overcrowded for the purposes of Part 10 of the Housing Act 1985. This is where a visitor to the UK making an application to the UK Border Agency for entry clearance into the United Kingdom, and the Border Agency need information about whether the accommodation is sufficient.

With effect from April 2006 the Housing Act 2004 repealed many parts of the Housing Act 1985, however local authorities are still permitted to operate their own enforcement schemes in relation to charging for certain statutory action. It is proposed to continue to operate a similar procedure as that previously operated under the Housing Act 1985, for certain statutory actions and to make a charge to recover the Council's reasonable costs in line with the practice of other local authorities.

This Service strives to deter rogue landlords and penalise them for failing to co-operate with the Council. Most private landlords are responsible and honest in how they deal with their tenants and look after their properties. There are however a minority of landlords who are exploitative or even abusive in their treatment of tenants, including willfully putting tenants at risk by refusing to carry out repairs to their properties and unlawfully evicting their tenants.

The damage that rogue landlords cause to the lives of often vulnerable tenants is enormous, and poorly maintained and overcrowded properties can often blight communities. Taking action against rogue landlords is time consuming and utilises significant resources and may include liaison with housing benefit, council tax, electoral service and legal staff to investigate a case before the Council can take enforcement action.

A recent survey with the Chartered Institute of Environmental Health (CIEH) found that of those officers working on housing enforcement in the private rented sector, nine out of ten had encountered landlords engaging in harassment or illegal eviction, and 78% had dealt with landlords who persistently refuse to maintain their property to a safe condition.

The Housing & Public Protection Service wants good landlords to carry on doing a good job with less interference from the local authority and to use its resources to deal with those landlords who do not co-operate with the Council and provide sub-standard properties to vulnerable households.

We believe that recharging rogue landlords for work undertaken by the Council's officials in dealing with matters that are their responsibility is one way to improve the condition of private sector properties. Good landlords pay professionals to identify defects, prepare schedules of work and undertake repairs while Havering does not charge for its service to bad landlords.

Secondly, the Housing & Public Protection Service does not currently charge when carrying out immigration inspections of properties to ensure the accommodation is adequate and meets the minimum standards. The information obtained by the department provides this service with local intelligence on the condition of private sector properties. Most local authorities either charge for this discretionary service or

Member Key Decision

do not provide a service.

Part A

DETAIL OF THE DECISION

The decision is:

- (i) To introduce a standard charge of £443.36 for each type of Statutory notice served under the Housing Act 2004 with the ability to add the cost of any report required from external experts such as Gas, Electricity or Structural Surveyors.
- (ii) To introduce a charge of £100.00 plus VAT per visit for Housing Inspection and Assessment for Immigration

AUTHORITY UNDER WHICH DECISION IS MADE

Constitution Part 3. Section 3 paragraph 2. 5 (x) To approve all in year changes to both fees and charges.

STATEMENT OF THE REASONS FOR THE DECISION

Applications to determine if accommodation is suitable for the purpose of immigration to the United Kingdom

Visitors to the UK making an application to the UK Border Agency for entry clearance into the United Kingdom may be required to 'obtain an independent assessment of the number of rooms and occupants of the proposed accommodation'.

The Housing & Public Protection Service provides a service by carrying out immigration inspections of properties to ensure the accommodation is adequate and meets the minimum standards as required by the Housing Act 1985 (as amended) and Part 1 of the Housing Act 2004. The property is required to meet both the Housing Standard and the Overcrowding Standard.

If the property meets the required standards then we issue documentation that can be used as part of a visa application. We currently do not charge a fee for this service and carry them out as part of the team's work load.

Charging for statutory action taken under sections 11; 12; 20; 21; 40; 43 of the Housing Act 2004.

With effect from April 2006 the Housing Act 2004 repealed many parts of the Housing Act 1985. Local authorities are still permitted to charge certain statutory action. It is proposed to continue to operate a similar procedure as that previously operated under the Housing Act 1985, for certain statutory actions and to continue to make a charge to recover the Council's reasonable costs in line with other local authorities.

Section 49 of the Housing Act 2004 enables local authorities to recover such reasonable charges, as it considers appropriate, incurred in serving an Improvement

Member Key Decision

Notice (Sections 11 and 12) a Prohibition Order (Sections 20 and 21), taking Emergency Remedial Action (Section 40) and serving an Emergency Prohibition Order (Section 43).

The former ODPM Guidance sets out actions that may be charged for as those in connection with the inspection of premises, the subsequent consideration of any action to be taken and the service of notices.

It has been calculated that the Council's reasonable costs associated with serving notices would be in the order of £496.58 and it is recommended to set a recharge rate at £443.36 per Notice. (see Appendix 1 attached) If the Council has incurred additional expenses, for example, in obtaining an electrical, gas or structural report, these would be added to the charge.

(NB. The previous and maximum allowable charge under the Housing Act 1985 was £300). Therefore it is not considered that the present charge is unreasonable.

It should be noted that the Local Government Regulation' Co-ordinators of Regulatory Services (LGR) has been given the task of overseeing the implementation of the Housing Act 2004 and it is possible they may recommend a fee structure for Local Authorities to adopt. Should the Council introduce the charging procedure proposed in this report and LGR subsequently introduce a nationally recognised fee structure it would be recommended to adopt the LGR' recommended fee structure.

In accordance with the Council's Enforcement Concordat and other enforcement guidance it is considered reasonable to give owners the opportunity to carry out any necessary works prior to serving a formal Statutory Notice. Both the Government and Council's have policies to educate business so they can avoid statutory action taken against them along with incurring any charges if they take appropriate remedial action within an agreed timescale.

Therefore, apart from when emergency action is required, it is proposed to serve an 'informal notice' detailing the works required and the consequences for not co-operating encouraging owners to set their own reasonable time to start and finish the required improvement/repairs, prior to serving any formal notice.

It would only be after a landlord failed to carry out the required works within a reasonable time scale or did not make any response to the informal approach that a statutory notice would be served and a charge incurred.

OTHER OPTIONS CONSIDERED AND REJECTED

To refrain from introducing a charging procedure for statutory notices would provide a free service to those landlords who fail to operate their businesses within the law.

To cease to provide immigration inspections would lose valuable local intelligence on new entrants to the borough along with the occupancy status and condition of the private sector.

To set an alternative charge for the service of statutory notices under Housing Act 2004, if lower, this would fail to recognise the true cost of the resources used and to set it higher would leave the Council open to criticism that the Council is

Member Key Decision

Samantha Dogget Strategic HR Partner C&C
No addition resource implication since work undertaken within existing resources

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The majority of private tenants the Public Protection service deals with are vulnerable households, who are on low income, housing benefit, single mothers or elderly owner occupier(s). This report seeks to ensure all tenants receive a responsive and effective service but it is necessary for Havering Council to direct its resource to tenants who are less likely to be in a position to defend themselves either financially or practically. The housing charity Shelter has said 6 out of 10 Environmental Health Officers said more than half of the cases they dealt with involving rogue landlords also involved people from vulnerable groups.

It is possible that some landlords may also be vulnerable and unaware of the legalisation on landlord and tenants obligations. All landlords would be given the opportunity to comply with an officer's request before any statutory notices are served.

Along with support from the Council staff, Havering has signed up to the London Landlord Accreditation Scheme (LLAS) where new landlords can apply for training to become an accredited landlord. All landlords and agents are provided with information on the LLAS scheme with the first informational letter sent out to advise that a complaint has been received from their tenant and they are given the opportunity to resolve these matters before the staff from the Housing team visits.

BACKGROUND PAPERS

The Housing Act 2004
Tackling rogue landlords Shelter/CIEH Survey, July 2010

Confirmation of decision

I confirm that I have made this executive decision, in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Signed 

Name: ROGER RAMSEY

Portfolio held: VAMU

Member Key Decision

Date: 19/12/11

Lodging this notice

This notice should be delivered to the proper officer, currently the Democratic Services Manager via Ian Buckmaster, in the Town Hall. A copy of this notice should be retained by the individual Cabinet member making the decision in question.

Urgency

Where the executive decision recorded in this notice has been made in accordance with the special urgency provisions of the Overview & Scrutiny Procedure Rules, a copy of the written agreement obtained under rule 18 must be attached to all copies of this notice.

For use in Democratic Services

I confirm that this notice was lodged with me on

23/11/12

Signed

A large, stylized handwritten signature in black ink, written over the signature line of the confirmation box.