



CABINET

Subject Heading:

Private Sector Housing Enforcement Policy

Cabinet Member:

Councillor Damian White
Deputy Leader of the Council and
Cabinet Member for Housing

SLT Lead:

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Director of Neighbourhoods

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Policy context:

Following the decision taken at Cabinet in October 2017 (Private Rented Sector Landlord Licensing), Cabinet will be asked to give approval to the Private Sector Housing Enforcement Policy to enable the Council to enforce the scheme under the relevant legislation listed within the Councils Constitution.

Financial summary:

The Policy itself has no financial implications. Any enforcement action taken will consider financial risk to the council.

Is this a Key Decision?

Yes – Significant effect on two or more Wards. Indicate grounds for decision being Key:

When should this matter be reviewed?

December 2018

Reviewing OSC:

Towns & Communities Overview & Scrutiny Committee

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

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

SUMMARY

On 11th October 2017 Cabinet agreed an Additional Licensing Scheme for Houses in Multiple Occupation. To support related enforcement of the scheme a Private Sector Housing Enforcement Policy is required which has regard to the Regulator's Code (Legislative and Regulatory Reform Act 2006).

RECOMMENDATIONS

1. To agree the Private Sector Housing Enforcement Policy in Appendix 1.
2. To delegate to the Director of Neighbourhoods in consultation with the Lead Cabinet Member for Housing powers to make any minor amendments to the enforcement policy.

REPORT DETAIL

The Private Sector Housing (PSH) Enforcement Policy sets out a broad overview of the principles and processes in how the Council will deal with breaches of housing law and other public health legislation. Its' aim is to ensure the law is applied fairly and consistently; and that health and housing standards are protected within the borough by:

- Improving landlord professionalism and changing behaviour by providing a deterrent for non-compliant landlords;
- eliminating financial gain or benefit from non-compliance;
- providing transparent and consistent regulation within the private rental market;
- promoting professionalism and resilience within the private rented sector.

The Policy (see Appendix 1) defines;

- how we will investigate alleged offences;
- key principles of enforcement (consistency, proportionality, openness, transparency and accountability);
- how persons and individuals can engage with the Council i.e. complaints, feedback or compliments;
- any associated charges;
- any associated publicity.

REASONS AND OPTIONS

Reasons for the decision:

To assist the Council's enforcement action and statutory obligations under The Housing and Planning Act 2016, The Housing Act 2004 and other associated public health legislation to support the operation of the borough's Additional Licensing Scheme for Houses in Multiple Occupation.

Other options considered:

To not have an enforcement policy in place could lead to both an inconsistent approach to enforcement decisions and leave the authority open to legal challenge.

IMPLICATIONS AND RISKS

Financial implications and risks:

This policy is required in order to support the additional licensing scheme that was introduced on 11 October 2017. Provision has been made within the licence fee charges to generate income towards enforcement of the scheme. However, as this is a new scheme the exact number of licence applications is based upon prediction and therefore may impact upon the level of income that can be raised to use for enforcement. In addition, the amount of enforcement required within this sector has only been estimated using previous studies, if accommodation standards are worse than forecast this may require additional enforcement resources. There are contingencies in place to deal with any shortfall of increased enforcement, such as partnership working with other London Boroughs, partner agencies and the expected income from civil penalties.

Fixed penalty notices

On the 6th April 2017, the Housing and Planning Act 2016 came into effect which allows the authority to issue civil fixed penalties for offences under the Housing Act 2004 etc. with a report to Cabinet on 11 October 2017 seeking agreement to draw down these powers. Any income from civil fixed penalties will be retained by the authority and can only be used to improve the housing authority's statutory functions in relation to enforcement activities within the private rented sector as specified in the Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017.

Additional staffing resource of 1.5 FTE for an 18 months period has been agreed to bolster the enforcement of housing standards throughout the Borough. The Directorate will endeavour to meet this sum from within its approved budget.

However, any shortfall up to the value of £75,000 will need to be met from the Business Risk Reserve.

Legal implications and risks:

The Private Sector Housing Enforcement Policy sets out a useful framework in which officers of the Council will operate when considering the most appropriate course of enforcement action against landlords. Each complaint must be considered on a case by case basis and the policy sets out what action the Council can take and the reasons why.

Civil Penalties under The Housing and Planning Act 2016 may only be imposed for offences committed after 6th April 2017, and regard must be had to the Statutory Guidance under Schedule 9 (12) of the said Act in the exercise of their functions.

Human Resources implications and risks:

This is a new area of work for the Council and additional staff resources have been allocated to enable the effective deliver of the additional Houses in multiple occupation licensing scheme and the associated enforcement. The service is confident that the level of resources allocated to undertake enforcement is sufficient but intend to review this at key stages (6 and 12 months) and provide an update report as necessary.

A recruitment exercise has been undertaken to attract experienced and qualified housing professionals. A robust training programme for all existing staff involved in the delivering an effective HMO licensing scheme and enforcement service is also programmed over the coming months. Additional support and expertise will be sought from other London Boroughs who have a good track record in the area of private sector housing enforcement as required.

Equalities implications and risks:

An Equalities Impact Assessment is included within Appendix 2.

This policy is relevant to all equality groups in Havering and the overall impact has been assessed as positive. All private tenants, particularly those living in HMOs in the areas covered by the licensing scheme, will be positively affected by robust enforcement action where non-compliance is identified.

Generally the effect of this policy is to ensure consistent and appropriate action is taken where landlords blatantly flout their legal obligations and put their tenants at risk.

BACKGROUND PAPERS