

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	ENVIRONMENT, HEALTH AND HOUSING COMMITTEE	11 JUNE 2019	6

PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The enforcement officers within the Housing Services Team have a responsibility to enforce a range of legislation relating to private sector housing. The Private Sector Housing Enforcement Policy outlines these duties and powers and explains how enforcement will be carried out in a fair, equitable and consistent manner.

Supporting landlords, property owners and others to meet their legal obligations is the overall aim, but the policy also outlines the action that will be taken against those who flout the law or act irresponsibly.

In March 2019 this Committee approved the draft Private Sector Housing Enforcement Policy for consultation.

This report takes account of the consultation exercise along with recently issued government guidance and legislative changes and presents the amended policy document for approval.

RECOMMENDATIONS

The Committee is recommended:

1. To note the contents of the report;
2. To note the amendments to the draft policy arising from the consultation exercise and recently issued government guidance;
3. To approve the Private Sector Housing Enforcement Policy as detailed in Appendix 1 as the adopted policy of the Council with effect from 1 August 2019; and
4. To delegate the following powers and duties referred to within the Private Sector Housing Enforcement Policy to the Director of Development Services under section 101(2) of the Local Government Act 1972:

All powers under Part 2 and Schedule 1 of the Housing and Planning Act 2016 (and any regulations made thereunder) relating to banning orders, database of rogue landlords and rent repayment orders.

Exercising the council's functions under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

SUMMARY OF PREVIOUS DECISIONS

Policy and Services Review Committee, Housing Act 2004 9th June 2005

Following a full debate the Forum RESOLVED:

1. To request Mr Cottam to prepare a policy paper in respect of empty property management orders.
2. To provide the St David's Community Group with a written response to their questions.
3. To thank Mr Cottam for his presentation

Environment, Health and Housing Committee 9th June 2015

It was RESOLVED that

1. The enforcement of The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 (The Order) be delegated to the Director of Development Services. The enforcement to be in accordance with The Order and as detailed in the appendix to the report; and
2. The penalty fine for non-compliance with the requirements of The Order be £5,000 unless extenuating circumstances exist to justify a lower amount. Consideration of extenuating circumstances to be delegated to the Director of Development Services.

Environment, Health and Housing Committee 4th March 2019

It was resolved:

1. To note the contents of the report;
2. To approve the draft Private Sector Housing Enforcement Policy;
3. To approve the draft policy going out to consultation and
4. To note that a further report be presented to the Committee in due course prior to the policy being adopted.

CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services (Value for Money)	✓
Delivering the services that customers expect of an excellent council (Clean and Green)	✓
Working with all partners (Vibrant Economy)	✓
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	✓
Promoting Fylde as a great destination to visit (A Great Place to Visit)	

REPORT

THE DRAFT POLICY

1. In March this year, the committee approved the draft Private Sector Housing Enforcement Policy for consultation. The policy review had been prompted by new legislation that had broadened the scope of the housing enforcement role. This included regulations requiring the provision of smoke and carbon monoxide alarms in private rented sector accommodation and the extension of licensing for Houses in Multiple Occupation (HMOs) to cover a wider range of shared accommodation. In addition, the Housing and Planning Act 2016 introduced new powers to help councils to be more effective and efficient in taking action against those individuals or organisations regarded as “rogue landlords”.
2. The draft policy sought to cover the full range of new and existing powers and duties available to the Council for the efficient delivery of the private sector housing service. However, it did not cover the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. This was because the regulations were due to be amended during 2019. The amendments came into force on 1 April 2019 and the draft policy has been amended to take account of the amended regulations.
3. Income received from financial penalties can be retained by the Council provided that it is used to further the local housing authority’s statutory functions in relation to their enforcement activities covering the private rented sector, as specified in The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017.

CONSULTATION OUTCOME

4. During the consultation period (11 March 2019 to 26 April 2019) The following organisations and groups were invited to comment on the proposed policy:
 - Local landlords through the Fylde Coast Landlords Forum
 - Local letting agents through direct e-mailing

- Lancashire local authority housing enforcement teams through the Private Sector Housing Group
- Shelter (who represent tenants views) via e-mail
- Citizens Advice
- The general public, tenants and landlords through Facebook, Twitter and Fylde Borough Council's website

5. One response was received from the consultation exercise but this was not unexpected, as similar consultation exercises by the Council in the past have produced similar outcomes and this situation is replicated in other districts. The single response received was from a neighbouring local authority who were supportive of the policy as written.

SCHEME OF DELEGATION

6. Power to exercise the functions of the council under the Housing Act 2004 are already delegated to the Director of Development Services. That overarching delegation automatically includes the new powers under section 249A (Financial penalties for certain offences in England) and schedule 13A (Financial Penalties under section 249A) to that act. The following additions to the existing scheme of delegation are required to take account of the new powers and duties contained within the Private Sector Housing Enforcement Policy.

6.1. All powers under Part 2 and Schedule 1 of the Housing and Planning Act 2016 (and any regulations made thereunder) relating to banning orders, database of rogue landlords and rent repayment orders.

6.2. Exercising the council's functions under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

IMPLICATIONS	
Finance	The adoption of Civil Penalties and Rent Repayment Orders will be a source of additional income to the Council wherever such penalties are levied. It is not possible to quantify the value of this penalty income at this stage. The budget will remain under review and may be adjusted as part of a future update to the Financial Forecast as necessary.
Legal	The Council has a duty to enforce certain housing legislation.
Community Safety	Ensuring private rented properties meet minimum standards enhances community safety and HMO licensing can help in reducing anti-social behaviour.
Human Rights and Equalities	Everyone has the right to occupy a home which is free from significant hazards.
Sustainability and Environmental Impact	Effective enforcement of housing standards will secure safe accommodation for future occupation.
Health & Safety and Risk Management	Adopting a Private Sector Housing Enforcement Policy demonstrates that the Council has measures in place to meet its statutory responsibilities.

LEAD AUTHOR	CONTACT DETAILS	DATE
Ursula Seddon	Ursula.seddon@fylde.gov.uk	23 May 2019

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Rogue Landlord Enforcement – Guidance for Local Authorities	April 2019	https://www.gov.uk/government/publications/rogue-landlord-enforcement-guidance-for-local-authorities

Rent Repayment Orders under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities	April 2017	https://www.gov.uk/government/publications/rent-repayment-orders-under-the-housing-and-planning-act-2016
Housing health and safety rating system (HHSRS) enforcement guidance: Housing Conditions	August 2006	https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-enforcement-guidance-housing-conditions
Civil Penalties under the Housing and Planning Act 2016	April 2018	https://www.gov.uk/government/publications/civil-penalties-under-the-housing-and-planning-act-2016
Houses in multiple occupation and residential property licensing reform: guidance for local housing authorities	June 2018	https://www.gov.uk/government/publications/houses-in-multiple-occupation-and-residential-property-licensing-reform-guidance-for-local-housing-authorities
Lettings agents and property managers: redress schemes	October 2014	https://www.gov.uk/government/publications/lettings-agents-and-property-managers-redress-schemes
The Smoke and Carbon Monoxide Alarm (England) Regulations 2015	September 2015	https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-local-authorities
Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015	March 2019	https://www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents

Attached documents:

Private Sector Housing Enforcement Policy (Appendix 1)