

London Borough of Enfield

Cabinet

Meeting Date **16 September 2020**

Subject: **Approval of the Private Rented Sector Housing Enforcement Policy**

Cabinet Member: **Cllr George Savva**
Executive Director: **Sarah Cary**

Key Decision: **KD5144**

Purpose of Report

1. This report seeks the approval of the Enforcement Policy for enforcement in the private rented sector, which is supplemental to the Enfield Enforcement Policy approved in 2016.
2. The Private Rented Sector Housing Enforcement Policy details how the Council will regulate housing standards in private rented sector in the borough and sets out the Council's staged approach to dealing with non-compliance and breaches of housing legislation and other public health legislation.
3. In exercising the Council's statutory obligations under the Housing Act 2004, The Housing and Planning Act 2016 and other associated public health legislation, the Housing Enforcement Policy is intended to provide guidance on the principles and processes that will be expected to be applied by officers to secure effective compliance and improvement in housing conditions in the private rented sector, in particular to promote consistency and transparency on the use of the Council's enforcement powers.
4. The Private Rented Sector Housing Enforcement Policy will also support robust enforcement of the additional and selective licensing schemes approved by Cabinet on 22 January 2020.

Proposal(s)

5. To approve the Private Rented Sector Housing Enforcement Policy at Appendix 1, which details the principles and processes to regulate and improve housing standards in the private rented sector in the borough.
6. To delegate to the Executive Director of Place and in consultation with the Lead Cabinet Member for Licensing and Regulatory Services to make any

minor amendments to the Private Rented Sector Housing Enforcement Policy.

Reason for Proposal(s)

7. It is considered best practice to have an agreed and published Private Rented Sector Housing Enforcement Policy, which has regard to the Regulator's Code, and also encompasses the latest legislation on licensing and sanctions against non-compliant landlords and property agents.

Relevance to the Council Plan

8. The Private Rented Sector Housing Enforcement Policy contributes to the Council Plan as follows:

- **Good homes in well-connected neighbourhoods:**

9. One of the Council's key promises in the Council plan is "Delivering initiatives to improve standards in the private rented sector and tackle rogue landlords." The Private Rented Sector Housing Enforcement Policy will significantly contribute to improving standards in the private rented sector and tackling rogue landlords, making Enfield a place that does not tolerate non-compliant or rogue landlords.

10. Tackling rogue landlords will improve the neighbourhood as a whole and will help to encourage investment in regeneration and housing in the borough. This will enable the Council to deliver on its aim of, "Working with the public and private sector to deliver decent, safe housing that meets residents' needs."

- **Safe, healthy and confident communities:**

11. A poorly managed rented sector, with badly maintained properties, not only encourages a faster turnover of tenants but often distracts from the look and feel of neighbourhoods. This can put off residents of all tenures from remaining in the borough and destabilises the community.

12. A robust Private Rented Sector Housing Enforcement Policy supports the health and wellbeing of residents by addressing poor housing conditions. This supports the Council Plan's aim to "Build measures into all our strategies and projects that will help improve public health and people's wellbeing."

13. Other objectives of the Private Rented Sector Housing Enforcement Policy in Enfield is to reduce property-related ASB. This is consistent with Enfield's Council plan pledge of "Working with partners to make Enfield a safer place by tackling all types of crime and anti-social behaviour; and protecting the local and urban environment."

- **An economy that works for everyone:**

14. A robust Private Rented Sector Housing Enforcement Policy will support the work of enforcement officers to provide an improved standard of housing within the private rented sector. Poor property conditions are borne by the most vulnerable and economically disadvantaged in the community so, by improving housing conditions through enforcement, the Council can deliver on its pledge to “work on reducing inequalities to make Enfield a place for people to enjoy from childhood to old age.”
15. An improvement in property conditions also has an inevitable positive effect on the street scene and will help to ensure “our high streets and town centres thrive and attract people to live, work and visit.”

Background

16. Local authorities are required by the Regulator’s Code to publish a clear set of service standards, including their enforcement policy, explaining how they respond to non-compliance. On 20 January 2016, Cabinet approved an Enforcement Policy covering a number of service areas, including the Private Rented Sector Housing.
17. This Private Rented Sector Housing Enforcement Policy should be read in conjunction with the Enforcement Policy, which sets out the general parameters of enforcement. It also follows the principles laid down in the Code for Crown Prosecutors, Enforcement Concordat and the Regulators Code.
18. The Private Rented Sector Housing Enforcement Policy sets out the Council’s approach to ensuring that all private rented accommodation is well managed, properly maintained and safe and habitable and its tackling of non-compliance by landlords and agents using a wide range of enforcement powers. The policy also covers the enforcement of private rented properties that should be licensed and have not licensed.
19. The Private Rented Sector Housing Enforcement Policy gives transparency to the Council’s enforcement activities in this area, and acts as a guide to officers, landlords, letting and managing agents on the informal and formal actions that the Council may take to achieve compliance to safeguard housing standards in the private rented sector.

Main Considerations for the Council

20. There is a potential risk in not taking enforcement action in accordance with the Private Rented Sector Housing Enforcement Policy. Where it is considered necessary to deviate from the approach in the Policy, this will only be done where it is justifiable, proportionate and the reasons are outside the scope of the policy. In addition, officers will receive necessary training and will be guided by procedures that will be regularly reviewed and updated. This risk is further mitigated by taking expert legal advice upon any decisions to be taken.

Safeguarding Implications

21. Housing inspection and enforcement officers are trained and aware of potential safeguarding concerns for both children and adults. During the normal course of their duties they inspect the living conditions of occupants in private rented housing and sometimes identify issues for concerns such as attendance of children at school, and the physical and mental health of both adults and children. Where officers identify safeguarding concerns during inspections, visits and enforcement these are referred to the appropriate safeguarding hub. As a result of the additional HMO licensing scheme to be introduced from September 2020, the number of inspections undertaken will increase and so will the opportunity for officers to identify safeguarding concerns for intervention.

Public Health Implications

22. An improvement in the living conditions of the most vulnerable and deprived in the borough is one of the aims of introducing the licensing schemes. This must be backed by a robust Private Rented Sector Housing Enforcement Policy. Enforcement to improve housing conditions and management will help reduce the factors that make deprivation worse. As a result, the enforcement policy contributes to an improvement in the health outcomes of private tenants.

23. A co-ordinated approach with other Council strategies and agencies is needed to tackle housing standards, deprivation, homelessness, empty properties and antisocial behaviour in the private rented sector.

Equalities Impact of the Proposal

24. The EQIA is attached. The Private Rented Sector Housing Enforcement Policy aims to ensure consistent and appropriate enforcement action is taken, particularly where landlords and letting and managing agents blatantly flout their legal obligations and put their tenants at risk.

25. The Policy reinforces the Enfield Enforcement Policy adopted by the Council in 2016 and provides a clear and transparent framework for tackling poor compliance and criminal landlords operating in the private rented sector.

26. The positive impacts of enforcing poor housing conditions will also benefit compliant landlords; residents and communities and will not be adversely affected on the basis of their protected characteristics, for example age, gender, and ethnicity. The positive impacts will directly benefit tenants in the private rented sector.

27. Robust enforcement of the proposed licensing schemes help those that are most vulnerable by ensuring that poor and dangerous property standards are brought into compliance.

Environmental and Climate Change Considerations

28. These are the considerations:

Consideration	Impact of Proposals
Adaptation and resilience	This policy does not deal with matters which directly impact on climate change adaptation and resilience.
Energy consumption	The policy covers enforcement of minimum energy efficiency ratings (minimum of 'E') in privately rented properties. It is illegal to rent out properties that are EPC rated lower than this (rated 'F' or 'G') so by enforcing this energy consumption should be reduced in private rented housing (approximately 6.3% of all privately rented stock are rated 'F' or 'G').
Carbon emissions and offsets	Delivery of the policy should not in itself lead to any increase in emissions and no offsets are proposed.
Environmental	Delivery of the policy should have positive environmental impacts in respect of the street scene and quality of life for residents.
Procurement	No additional procurement of goods or services is proposed.

Risks that may arise if the proposed decision and related work is not taken

29. If the Private Rented Sector Housing Enforcement Policy is not approved there is a risk that it might be challenged that good practice guidance about having a policy is not being followed and might lead to unnecessary legal challenge/argument in any legal proceedings.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

30. There are no risks in approving this enforcement policy. It is good practice to have an enforcement policy providing the framework in which to make enforcement decisions.

31. There is a risk of not taking enforcement action in accordance with the Private Rented Sector Housing Enforcement Policy. Where it is considered necessary to deviate from the approach in the Policy, it will only be done where it is justifiable, proportionate and the reasons are outside of the scope of the Policy. In addition, officers will receive necessary training and will be

guided by procedures that will be regularly reviewed and updated. This risk is further mitigated by taking expert legal advice upon any decisions to be taken.

Financial Implications

32. This report seeks the approval of the Private Rented Sector Housing Enforcement Policy. The Policy outlines the options for enforcement notices, financial penalties and prosecutions. Where the legislation allows, the Council seeks to recover the full cost of undertaking enforcement action via these enforcement sanctions.
33. The fees and charges related to this policy are outlined in the Council's annual fees and charges report (see table below). The charges are reviewed annually to ensure full cost recovery, and charges will reflect current rates at the time of notice service.
34. A demand for payment will be served at the time of service of the notice to which it relates. Once a demand for payment becomes operative, the sum recoverable by the Council is, until recovered, a charge on the premises concerned and is a local land charge.

2020/21 Approved Fees & Charges	
Description of Fees & Charges	Fees & Charges
Hazard Awareness Notice (if a subsequent notice is required)	£195.90
Improvement Notice	£391.70
Prohibition Order	£391.70
Emergency Prohibition Order	£391.70
Emergency Remedial Action	£391.70
Demolition Order	£391.70
Review of a suspended Improvement Notice	£224.50
Review of a suspended Prohibition Order	£224.50
Charge for any subsequent notice served at the same time for the same property	£168.40

35. The Private Rented Sector Housing Enforcement Policy will be implemented within the existing Housing Enforcement Team's staffing resources. There are no additional costs due to the proposal in this report.

Legal Implications

36. The Council has a statutory duty as a Local Housing Authority to enforce relevant Housing Legislation. The Housing and Planning Act 2016 introduced a new financial penalty regime which took effect from 6 April 2017. This enables the Council to impose a civil penalty up to £30,000.

37. The legal basis for these powers is contained in section 126 and Schedule 9 of the Housing and Planning Act 2016, which allows financial penalties to be given as an alternative to prosecution.
38. Statutory guidance issued in April 2017 gives guidance for local authorities when exercising their functions in respect of civil penalties. The guidance provides that local authorities will be able to impose a civil penalty as an alternative to prosecution for certain offences.
39. The Council cannot issue civil penalties or rent repayment orders without a Private Rented Sector Housing Enforcement Policy in place which will limit the Council's powers to improve housing conditions. This Private Rented Sector Housing Enforcement Policy (Appendix 1) sets out a framework in which officers will operate when considering the most appropriate course of enforcement action against landlords, letting and managing agents for breaches of housing offences and non-compliance, including the use of informal and formal action.
40. The powers introduced by the Housing and Planning Act 2016 are intended to provide a significant incentive to landlords to comply with their legal obligations. The use of enforcement powers should mean that landlords comply more quickly and/or proactively in order to avoid financial and other penalties, which should result in fewer private tenants being exposed to housing conditions that have an adverse health impact.

Workforce Implications

41. The Private Rented Sector Housing Enforcement Policy will be followed by existing officers as a framework to carry out their enforcement activities and will support the broadening of their housing enforcement capability.
42. To support the introduction of the proposed additional and selective Licensing schemes, additional staff resources will be required to enable the effective delivery of the schemes and associated enforcement. These officers will also be experienced, trained and qualified housing professionals to deliver the schemes and enforcement service in accordance with the Private Rented Sector Housing Enforcement Policy.

Property Implications

43. There are no property implications.

Other Implications

44. None.

Options Considered

45. There are no viable alternative options. To not have a specific Private Rented Sector Housing Enforcement Policy in place could potentially lead to an inconsistent approach in the exercising of the Council's enforcement duties and approach to enforcement decisions which could leave the Council open to legal challenge.

Conclusions

46. Approval of the private rented sector enforcement policy sets out the Council's staged approach to dealing with non-compliance and breaches of housing legislation in privately rented property. Local authorities are required by the Regulator's Code to publish a clear set of service standards, including their enforcement policy, explaining how they respond to non-compliance. This private rented sector housing enforcement policy should be read in conjunction with the Enforcement Policy approved by Cabinet on 20 January 2016 which follows the principles laid down in the Code for Crown Prosecutors, Enforcement Concordat and the Regulators Code.

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Appendices

Appendix 1: Private Rented Sector Housing Enforcement Policy

Background Papers

The following documents have been relied on in the preparation of this report:

None.