

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Cllr Paul Myers, Cabinet Member for Economic & Community Regeneration	
DECISION DATE:	On or after 4th August 2018	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3077
TITLE:	Housing Services Enforcement Policy 2018	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1: Housing Enforcement Policy 2018		

1 THE ISSUE

1.1 Housing Services aims to protect the health, safety and welfare of residents by enforcing minimum housing standards. The attached enforcement policy articulates how Housing Services will adopt the principles of good enforcement practice and how the Service will liaise with individuals and organisations who do not comply with the requirements of the Housing Act 2004 and other relevant housing legislation. It updates the existing enforcement policy, notably around: the inclusion of powers in relation to financial penalties as an alternative to prosecution; Banning Orders; and the database of rogue landlords and agents.

2 RECOMMENDATION

2.1 That the Housing Services Enforcement Policy, attached in Appendix 1, is adopted.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 There are no additional resource implications arising from this report. However, following changes introduced by the Housing and Planning Act 2016 the Council can, in certain circumstances:

- apply a financial penalty as an alternative to a prosecution for certain offences;
- apply for an order to ban (Banning Order) landlords and property agents from renting out property in the private rented sector after certain offences have been committed. The Council can impose a financial penalty on a breach of a Banning Order.

The Enforcement Policy has therefore been updated in relation to the inclusion of these new powers.

3.2 Income received from a financial penalty 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.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

4.1 The legislative framework to support the Enforcement Policy is contained in a range of Acts of parliament, including:

- Public Health Act 1936
- Public Health Act 1961
- Protection from Eviction Act 1977
- Local Government (Miscellaneous Provisions) Act 1982
- Landlord and Tenant Act 1985
- Environmental Protection Act 1990
- Housing Act 1996
- Housing Act 2004
- Housing Act 2005
- Housing & Planning Act 2016

5 THE REPORT

5.1 In April 2014 the Department for Business Innovation & Skills published the Regulators Code. This document sets clear expectations on how regulators should operate. It includes six key principles, these being that:

- Regulators should carry out their activities in a way that supports those they regulate to comply and grow;
- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views;
- Regulators should base their regulatory activities on risk;

- Regulators should share information about compliance and risk;
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply;
- Regulators should ensure that their approach to their regulatory activities is transparent.

5.2 The Enforcement Policy supports the principles contained in the Regulators Code and therefore aims to ensure that enforcement functions are conducted in a fair, consistent and helpful manner. The policy provides guidance on the types of enforcement action taken by the Council to promote compliance with housing legislation, including the rights of appeal and the Councils complaints procedure. The policy will assist the Council in adhering to good enforcement practice. It will provide guidance to landlords, businesses and others on what enforcement service they can expect to promote compliance with housing law.

5.3 Having reviewed the existing policy the following amendments have been made:

- Updating the legal references, including new powers under statute and addressing the Regulators Code;
- Introducing the option of financial penalties as alternative to a prosecution. The level of fine ranges from £50 to £30,000 for the most serious cases. The policy details how the factors of: culpability; harm; aggravating and mitigating factors, previous offences etc. will be used to assess the seriousness of the offence and thus the level of any fine. On receipt of a final notice imposing a financial penalty a landlord can appeal to the First-tier Tribunal against the decision to impose a penalty and/or the amount of the penalty. The appeal must be made within 28 days of the date the final notice was issued.
- Including the enforcement powers related to Banning Orders and the database of rogue landlords and agents.

6 RATIONALE

6.1 An enforcement policy is consistent with the requirements of the Regulators Code and aims to ensure that the Council operates in an open, proportionate, consistent and helpful manner. It is also a prerequisite for the use of Civil Penalties.

7 OTHER OPTIONS CONSIDERED

7.1 None

8 CONSULTATION

8.1 The updated Enforcement Policy was developed following consultation with: the West of England Landlord Forum; the other West of England Councils and the Planning, Housing and Economic Development Policy Development and Scrutiny Panel. The later confirmed their support for the principles of the policy.

8.2 The draft policy was then subjected to a further 6 week on-line consultation exercise. This was consultation was brought to the attention of all landlords on our database. A total of 15 responses were received of which: 7 were broadly

supportive of the policy; 5 were broadly unsupportive and 1 was mixed. The consultation did not result in any changes to the policy.

8.3 Section 151 Officer and Monitoring Officer have had opportunity to review and input into this report.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance. The previous Equality Impact Assessment has been reviewed. Adverse impacts were identified and have been mitigated in the following ways:

- Landlords are required to consider the needs of disabled occupants living in rented properties when carrying out works to comply with an informal schedule or enforcement notice;
- A translation sheet, in 6 of the most common languages spoken in Bath & North East Somerset, is included with formal documents; and
- Cultural and religious festivals are respected and considered when programming inspections.

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Background papers	None
Please contact the report author if you need to access this report in an alternative format	