

CABINET

THURSDAY, 7 SEPTEMBER 2017

COUNCIL

TUESDAY, 12 DECEMBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR HOUSING SERVICES

PRIVATE SECTOR HOUSING- HOUSING ENFORCEMENT POLICY

EXEMPT INFORMATION

N/A

PURPOSE

To agree to the adoption and implementation of a revised Private Sector Housing Enforcement Policy. Additionally, recommendations in the report are made to agree to the adoption and implementation of The Disrepair Policy 2017; The Harassment and Illegal Eviction Policy 2017; The Housing and Planning Act 2016 Policy 2017; The Smoke and Carbon Monoxide Regulations Policy; The Redress Scheme for Letting Agency Work and the Houses in Multiple Occupation Policy. This report will also be required to go to full Council for endorsement of the aforementioned policies.

RECOMMENDATIONS

- ✓ That Cabinet approve the adoption and implementation of The Private Sector Housing Enforcement Policy.
- ✓ That Cabinet approve the adoption and implementation of The Disrepair Policy 2017.
- ✓ That Cabinet approve the adoption and implementation of The Harassment and Illegal Eviction Policy 2017.
- ✓ That Cabinet approve the adoption and implementation of The Housing and Planning Act 2016 Policy 2017.
- ✓ That Cabinet approve the adoption and implementation of The Smoke and Carbon Monoxide Regulations Policy.
- ✓ That Cabinet approve the adoption and implementation of The Redress Scheme for Letting Agency Work.
- ✓ That Cabinet approve the adoption and implementation of Houses in Multiple Occupation Policy.
- ✓ That Cabinet agree, in accordance with the Scheme of Delegation contained in the Council Constitution 16th May 2017, for the Corporate Director Communities, Partnerships and Housing to implement arrangements for the enforcement of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, made under the Energy Act 2013. The adoption of any new powers will be incorporated into Scheme of Delegation and where required will be put to full Council.
- ✓ That Cabinet agree, in accordance with the scheme of delegation contained in the Council Constitution 16th May 2017, for the Corporate Director Communities, Partnerships and Housing to implement arrangements for the enforcement of the Redress Scheme for Letting Agency Work and Property

Management Work Order 2014 made under the Enterprise and Regulatory Reform Act 2013. The adoption of any new powers will be incorporated into Scheme of Delegation and where required will be put to full Council.

- ✓ **That Cabinet agree, in accordance with the scheme of delegation contained in the Council Constitution 16th May 2017, for the Corporate Director Communities, Partnerships and Housing to implement arrangements for the enforcement of the provision made under the Housing and Planning Act 2016. The adoption of any new powers will be incorporated into Scheme of Delegation and where required will be put to full Council.**

EXECUTIVE SUMMARY

A full review of Tamworth's Private Sector Housing Enforcement Policy (attached at **Appendix 1**) and revised accompanying policies has been undertaken.

These are:

- ✓ Disrepair Policy 2017 which details our approach to disrepair in the private sector. **(Appendix 2)**
- ✓ Harassment and Illegal Eviction Policy 2017 which details our approach to illegal evictions by private landlords. **(Appendix 3)**
- ✓ Houses in Multiple Occupation Policy 2017 which details our approach to the licensing and regulation of HMOs. **(Appendix 7)** has been undertaken.

All policies have been revised to both incorporate new powers and to clarify to private tenants and homeowners the enforcement and educational role of the local authority.

In addition, new policies have been produced where legislation has brought in new powers that require a clear policy to implement.

These are:

- ✓ *The Smoke and Carbon Monoxide Alarm Regulations 2015.* (attached at **Appendix 5**)
These regulations enable Local Authorities to take enforcement action and fine against landlords who do not provide smoke detection in privately rented units.

- ✓ *The Redress Scheme for Letting Agency Work and Property Management Work Order 2014* (attached at **Appendix 6**)
These regulations enable Local Authorities to issue fines to landlords and agents who do not belong to a recognised ombudsman scheme.

- ✓ *The Housing and planning Act 2016 Policy* **(attached at Appendix 4)**
The Housing and Planning Act 2016 enhances powers granted to local authorities under the Housing Act 2004. Significant changes incorporated within the Act include the ability to issue civil penalty notices as an alternative to prosecution following noncompliance with housing act notices with regard to disrepair. The act also grants additional powers in relation to issuing civil penalty notices to deal with noncompliance of HMO management regulations as detailed in the revised HMO policy **(Appendix 7)**.

Full details of the scope of the changes and implementation of the new powers can be found in the policies attached as appendices to this report.

OPTIONS CONSIDERED

No alternative options other than those put forward within this report have been considered due to the requirement to comply with relevant legislation as detailed in the appendices.

RESOURCE IMPLICATIONS

There will be no immediate additional cost to the Council in carrying out the enforcement duties as it will be met through existing resources in the Housing Conditions and Supply Team. However, the number of landlords the new regulations will apply to and the number of fines which may be issued is currently unknown.

This may (given the possibility demand may be higher than anticipated, together with the expansion of private rented sector, the activity this generates and it's valuable contribution to the homelessness prevention agenda / introduction of the Homelessness Reduction Act in 2018) require a review of capacity within Housing Conditions and Supply and especially the Private Sector Housing Team (which currently consists of 2 officers). This review will be undertaken over the coming months to take account of organisational requirements associated with the introduction of the Homelessness Reduction Act and analysis of the impact of the introduction of these measures following their implementation. It is anticipated this review will be completed by April 2018.

Proceeds from the enforcement of the Regulations can be redeployed for private sector activity in line with guidance and the regulation in The Rent Repayment Order and Financial Penalties Regulations 2017

LEGAL/RISK IMPLICATIONS BACKGROUND

The revised regulations are in line with powers delegated from government and are enforceable by law.

Procedures for challenge are detailed in each policy if applicable.

A Staffordshire wide approach has been agreed to establish the level of fines under the Housing and Planning Act where discretion was permitted. This will reduce challenge and provide a standard approach across Staffordshire.

All of the Policies covered within this report have been subjected to scrutiny by the Council's Legal Services Team.

SUSTAINABILITY IMPLICATIONS

There are significant beneficial implications of raising standards in the private sector by implementing new enforcement powers. These include:

1. contributing to healthier outcomes for occupants
2. contributing to a sustainable and good quality private rented sector
3. encouraging improvements to private sector stock

These and other associated outcomes would contribute towards the delivery of key priorities identified by the Tamworth Strategic Partnership and adopted by Tamworth Borough Council.

BACKGROUND INFORMATION

The private sector makes up 81% of Tamworth's housing stock with a mix of 10% rented accommodation and 71 % owner occupied. A recent stock condition survey showed 14% of this stock to have a least one category one hazard. In recent years the government has recognised increasing issues with disrepair and rogue landlords and has granted local authorities additional powers to regulate and enforce in the private sector.

A full review of Tamworth's Private Sector Housing Enforcement Policy (attached at **Appendix 1**) and revised accompanying policies (attached at **Appendices 2,3 and 7**) has been undertaken and a revised policy has been produced to both incorporate new powers and to clarify to private tenants and homeowners the enforcement and educational role of the

local authority.

Included in the new powers are the following:

The Smoke and Carbon Monoxide Alarm Regulations 2015.(attached at **Appendix 5**)

This power allows local authorities to serve landlords who do not install working smoke detections at start of tenancies with remedial action notices, undertake works in default to install alarms and to issue civil penalties upon landlords who do not comply with the notice up to a value of £5,000.

The Redress Scheme for Letting Agency Work and Property Management Work Order 2014 (attached at **Appendix 6**)

This order requires that letting agents and property management companies must be members of one of three recognised official ombudsman schemes. This enables tenants to have a form of redress if they are unhappy with the conduct of the service provider. Noncompliance with the order may result in the local authority using the power to issue a civil penalty notice up to the value of £5,000.

The Housing and Planning Act 2016 (attached at **Appendix 4**)

The Housing and Planning Act 2016 enhances powers granted to local authorities under the Housing Act 2004. Significant changes include the ability to issue civil penalty notices as an alternative to prosecution following noncompliance with housing act notices with regard to disrepair. The act also grants additional powers in relation to issuing civil penalty notices to deal with noncompliance of HMO management regulations.

Full details of the scope of the changes and implementation of the new powers can be found in the policies attached as appendices to this report.

REPORT AUTHOR

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LIST OF BACKGROUND PAPERS

Housing Act 2004

The Redress Scheme for Letting Agency Work and Property Management Work Order 2014

The Housing and Planning Act 2016

The Smoke and Carbon Monoxide Alarm Regulations 2015

APPENDICES

Appendix 1 Enforcement Policy 2017

Appendix 2 Disrepair Policy 2017

Appendix 3 Harassment and Illegal Eviction Policy 2017

Appendix 4 Housing and Planning Act 2016 Policy 2017

Appendix 5 The Smoke and Carbon Monoxide Regulations Policy

Appendix 6 The Redress Schemes for Letting Agency Work

Appendix 7 Houses in Multiple Occupation Policy