

Communities Housing and Environment Committee

19th July 2016

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Housing Enforcement Policy 2016

Final Decision-Maker	Communities Housing and Environment Committee
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Ellie Kershaw/Nigel Bucklow
Classification	Public
Wards affected	All

This report makes the following recommendations to this Committee:

1. To approve adoption of the draft revised Housing Enforcement Policy 2016(appendix I) including the statement of principles for determining financial penalties under The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
2. To delegate authority to the Head of Housing and Community Services to hear mitigation for non-compliance of a landlord's responsibilities under The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 to reduce the level of fine imposed as set out under the statement of principles

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

Timetable

Meeting	Date
Communities Housing and Environment Committee	19 th July 2016

Housing Enforcement Policy 2016

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To update the current housing enforcement policy taking account of new legislative responsibilities of the Council.
 - 1.2 The Council's Housing Strategy 2016 sets out the Council's strategy for tackling housing priorities within the borough. It also refers to public health priorities for reducing inequalities in health and wellbeing, and aims to achieve some of these through targeted housing interventions.
 - 1.3 As a regulatory service the Housing and Health team's role is to maintain and improve housing conditions in the Borough across a range of tenures.
 - 1.4 The team use a range of methods to achieve these outcomes including assessing properties and enforcement under the Housing Health and Safety Rating System; improving the management of and licensing of Houses in Multiple Occupation; empty homes; overcrowding; public health matters; and provision of housing assistance.
 - 1.5 Where possible the team's approach is to give informal advice, information to those seeking assistance.
 - 1.6 Where this approach fails or it is necessary to protect the health, safety or welfare of residents in line with the Council's statutory responsibilities the team will take necessary enforcement action.
 - 1.7 The Housing Enforcement Policy 2016 sets out the criteria and priorities that we will use when enforcing a range of legislation so it is clear, proportionate, consistent, transparent and accountable.
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2. INTRODUCTION AND BACKGROUND

- 2.1 The draft Housing Enforcement policy 2016 set out in appendix I updates the previous policy introduced in 2007.
- 2.2 The new draft policy reflects new legislative responsibilities placed upon Local Authority Housing authorities since then.
- 2.3 These responsibilities are The Redress Scheme for Lettings Agency work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014 and The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
- 2.4 These regulations introduced the use of penalty charge notices for non-compliance with the regulations.
- 2.5 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 further require that the Housing Authority prepare and publish a statement of

principles which it proposes to follow in determining the amount of penalty charge to be levied in the event of non-compliance. The draft statement is set out in the policy document to this report.

- 2.6 Since the introduction of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 only one direct complaint has been made to the Council. However, it is expected that taking a pro-active approach will see this increase significantly.
- 2.7 Where penalty notices are issued, the Regulations provide for a review of the level of the penalty charge issued. It is recommended that any review request in the first instance be considered by the Head of Housing and Community Services.
- 2.8 Linked to the enforcement of Housing Standards in privately rented property by way of Housing Act notice is the Deregulation Act 2015. On 1 October 2015 a number of provisions affecting private housing tenants was introduced. These provisions apply to all new shorthold tenancies that start on or after 1 October 2015. (They are not retrospective)
- 2.9 Among a number of simplified processes introduced for the benefit of both the landlord and the tenant the Act deals with the matter of retaliatory eviction. This is where a tenant makes a legitimate complaint to their landlord about the condition of their property and, in response, instead of making the repair their landlord serves them with an eviction notice.
- 2.10 Where a tenant makes a genuine complaint about the condition of their property that has not been addressed by their landlord, their complaint has been verified by a local authority inspection, and the local authority has served either an improvement notice or a notice of emergency remedial action, a landlord cannot evict that tenant for 6 months using the 'no-fault' eviction procedure (a section 21 eviction). A 'no fault' eviction is one where the tenant does not have to have done anything wrong, for example not paying the rent, to be asked to leave. The landlord is also required to ensure that the repairs are completed.
- 2.11 Examples of repairs that are covered by these rules would include a leak in the property or a problem with the heating, especially in colder weather. The sort of repair that would not be covered by these rules is a dripping tap, or changing a lightbulb. The vast majority of landlords will address these sorts of serious issues quickly. This legislation is targeted at those who not only fail to make these repairs, but then attempt to evict the tenant in response to their complaint.
- 2.12 Retaliatory eviction is an unacceptable practice and no tenant should fear becoming homeless because they have asked for a necessary repair.
- 2.13 These provisions also require that landlords provide all new tenants with information about their rights and responsibilities as tenants. They provide that a landlord cannot serve a section 21 notice (unless they have complied with certain legal responsibilities, and introduce a new standard form that landlords must use when evicting a tenant under the 'no fault' (section 21)

procedure. This will make it more straightforward for landlords to evict a tenant where it is legitimate to do so.

3. AVAILABLE OPTIONS

- 3.1 The committee can approve the draft policy (appendix I) and the statement of principles for determining the amount of civil penalty charges under regulation 13 of The Smoke and Carbon Monoxide Alarm(England) Regulations 2015 as drafted.
- 3.2 The committee can approve the draft policy (appendix I) including the statement of principles for determining the amount of civil penalty charges under regulation 13 of The Smoke and Carbon Monoxide Alarm(England) Regulations 2015 subject to amendments; or
- 3.3 To not adopt the draft policy.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is the approval and adoption of the draft policy (appendix I) and the statement of principles for determining the amount of civil penalty charges under regulation 13 of The Smoke and Carbon Monoxide Alarm(England) Regulations 2015 .The current policy requires updating to reflect the recent changes in legislation.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 No consultation has been sought as this is an update in accordance with legislation.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Should the revised policy be approved the enforcement policy will become published on the Housing and Health website.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Supports the delivery of key priorities under the Housing Strategy 2016and the wider strategic vision for the borough	[Head of Service or Manager]
Risk Management	Having a current enforcement policy ensures that the Council are able to consider a range of	[Head of Service or Manager]

	options to achieve regulatory compliance.	
Financial		[Section 151 Officer & Finance Team]
Staffing	None	[Head of Service]
Legal		[Legal Team]
Equality Impact Needs Assessment		[Policy & Information Manager]
Environmental/Sustainable Development		[Head of Service or Manager]
Community Safety		[Head of Service or Manager]
Human Rights Act	This policy is compliant with the Human Rights Act	[Head of Service or Manager]
Procurement	None	[Head of Service & Section 151 Officer]
Asset Management	None	[Head of Service & Manager]

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

Appendix I:

Housing Enforcement Policy 2016 including the statement of principles for determining the amount of civil penalty charges under regulation 13 of The Smoke and Carbon Monoxide Alarm(England) Regulations 2015