

Private Sector Housing Enforcement Policy 2021-2025

Final Decision-Maker	Communities Housing and Environment Committee
Lead Head of Service	John Littlemore, Head of Housing & Communities
Lead Officer and Report Author	Nigel Bucklow Housing & Health Manager & Philip Jennings Senior Housing & Health Officer
Classification	Public
Wards affected	ALL

Executive Summary

The Private Sector Housing Enforcement Policy 2021-2025 updates the previous policy agreed in 2016. This updated policy reflects new legislative and regulatory changes placed upon the authority since that time and ensures consistency of approach in line with the Regulators' code.

Purpose of Report

For decision.

This report makes the following recommendations to this Committee:

1. The Committee approve the updated Private Sector Housing Enforcement Policy 2021-2025 attached at appendix A including the table of financial penalties to be applied under sections 23, 126 and Schedule 9 of the Housing and Planning Act 2016 as drafted.

Timetable

Meeting	Date
Communities Housing and Environment Committee	6 April 2021

Private Sector Housing Enforcement Policy 2021-2025

CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p><i>The four Strategic Plan objectives are:</i></p> <ul style="list-style-type: none"> • <i>Embracing Growth and Enabling Infrastructure</i> • <i>Safe, Clean and Green</i> • <i>Homes and Communities</i> • <i>A Thriving Place</i> <p><i>Approval of the revised policy supports our priority in relation to Homes and Communities for the importance of improving housing to promote good health and wellbeing</i></p>	Head of Housing & Community Services
Cross Cutting Objectives	<p><i>The four cross-cutting objectives are:</i></p> <ul style="list-style-type: none"> • <i>Heritage is Respected</i> • <i>Health Inequalities are Addressed and Reduced</i> • <i>Deprivation is reduced and Social Mobility is Improved</i> • <i>Biodiversity and Environmental Sustainability is respected</i> <p><i>The report recommendation support the achievement of Health Inequalities being addressed and reduced by ensuring appropriate enforcement action is taken to reduce serious hazards in private sector homes across the Borough</i></p>	Head of Housing & Community Services
Risk Management	<ul style="list-style-type: none"> • <i>Having a current enforcement policy would mean that the Council would be compliant with the requirements of the Regulators' code. Enforcement actions introduced to broaden the range of options to deal with the requirements of new legislation and regulations introduced since 2016 would be lawful.</i> 	Housing & Health Manager
Financial	<ul style="list-style-type: none"> • <i>The proposals set out in the recommendation are all within already approved budgetary headings and so</i> 	Section 151 Officer &

	<i>need no new funding for implementation.</i>	Finance Team
Staffing	<ul style="list-style-type: none"> <i>We will deliver the recommendations with our current staffing establishment.</i> 	Housing & Health Manager
Legal	<ul style="list-style-type: none"> <i>The recommendations provide a comprehensive enforcement policy in respect of private sector housing enforcement.</i> <i>The legal implications are set out in the body of the report and in particular pages five and six of the draft policy, Governance and Ethics and references to relevant legislation throughout.</i> 	Contentious Team Leader, Legal Team
Privacy and Data Protection	Accepting the recommendations will not increase the volume of data held by the Council. We will hold that data in line with our retention schedules.	Policy and Information Team
Equalities	The Equalities Impact Assessment has been revisited as part a Policy revision.	Senior Equalities and Policy Officer
Public Health	<ul style="list-style-type: none"> <i>We recognise that the recommendations will have a positive impact on population health or that of individuals.</i> 	Housing & Health Manager
Crime and Disorder	<ul style="list-style-type: none"> <i>The recommendation will contribute towards tackling Crime and Disorder.</i> 	Housing & Health Manager
Procurement	<ul style="list-style-type: none"> <i>Not applicable</i> 	Section 151 Officer

1. INTRODUCTION AND BACKGROUND

- 1.1 The Council's Strategic Plan (2019-2045) identifies our vision "Maidstone: a vibrant, prosperous, urban and rural community at the heart of Kent where everyone can realise their potential". Under the priority for Homes and Communities the Council places particular importance on improving housing to promote good health and wellbeing
- 1.2 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.
- 1.3 The Team use a range of methods to achieve these outcomes including assessing properties and enforcement using the Housing Health and Safety Rating System; improving the management of and licensing of Houses in Multiple Occupation; overcrowding; Public Health matters and provision of housing assistance programmes.
- 1.4 Where possible the team's approach is to give informal advice and information to those seeking assistance.
- 1.5 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 the necessary enforcement action.
- 1.6 The draft Private Sector Housing Enforcement policy 2021-2025 set out in in the attachment (appendix 1) updates the previous policy approved in 2016.
- 1.7 It sets out what enforcement action we can take and when we will take it; so it is clear, proportionate, consistent, transparent and accountable.
- 1.8 The draft policy reflects changes in legislative responsibilities and regulation changes. These responsibilities are the Tenant Fees Act 2019; the Minimum Energy Efficiency Standards (Private Rented Property)(England and Wales) Regulations 2015; The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 and the Housing & Planning Act 2016.
- 1.9 Civil penalties were introduced in the Housing and Planning Act 2016 as an alternative to prosecutions for non-compliance with certain offences set out in the Housing Act 2004. The draft policy sets out the Council's approach on deciding when to impose a civil penalty notice and how we will determine the penalty amount.
- 1.10 Local Authorities are required by the Regulators' Code (published by the Better Regulation Delivery Office, part of the Department for Business, Energy and Industrial Strategy in 2014) to publish their policy setting out their approach to compliance and enforcement.
- 1.11 The Regulators' Code establishes how Local Authorities and many other defined regulatory bodies should interact with those they regulate.

1.12 The purpose of this document is to provide a policy framework that outlines the overarching principles that will be applied by officers when making enforcement decisions in the regulation of housing standards in the Housing & Health service. Officers will have regard to the policy when deciding what action to take when carrying out their statutory duties on behalf of the Council. The policy is not intended to be a practice document and is not a definitive procedural guide but aims to outline the issues associated with enforcement decision making. It defines the approach to enforcement and instances when enforcement powers are initiated and under what circumstances each action is taken.

2. AVAILABLE OPTIONS

- 2.1 The Committee approve the Private Sector Housing Enforcement Policy 2021-2025 attached at appendix A including the table of financial penalties to be applied under sections 23, 126 and Schedule 9 of the Housing and Planning Act 2016 as drafted.
- 2.2 The Committee approve the Private Sector Housing Enforcement Policy 2021-2025 attached at appendix A including the table of financial penalties to be applied under sections 23, 126 and Schedule 9 of the Housing and Planning Act 2016 subject to amendments.
- 2.3 The Committee do not adopt the draft policy. Not adopting the policy would mean that the Council would not be complying with the requirements of the Regulators' code. Additionally, enforcement actions created to deal with the requirements of new legislation and regulations introduced since the last policy in 2016 would not be lawfully operable.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 The preferred option is the approval and adoption of the Private Sector Housing Enforcement Policy 2021-2025 (appendix 1) including the table of financial penalties to be applied under sections 23, 126 and Schedule 9 of the Housing and Planning Act 2016 as drafted. This will ensure that the policy includes all private sector housing enforcement options contained in legislation and that it complies with the requirements of the Government's Regulators' Code. This will enable staff in the Housing & Health team to consider a range of options to achieve regulatory compliance to ensure the health and safety of tenants and occupiers and improve standards in the private sector.

4. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 4.1 No consultation has been sought as the amendments to this policy have been brought about in order to comply with the amended statutory provisions that the Council must implement.
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5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 Should the revised policy be approved then it will be published on the Council's web pages.
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6. REPORT APPENDICES

Appendix 1: Private Sector Housing Enforcement Policy 2021

7. BACKGROUND PAPERS

None