

A PRIVATE SECTOR HOUSING ENFORCEMENT POLICY FOR BROMSGROVE DC

Relevant Portfolio Holder	Cllr Kit Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Head of Community Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Key Decision - Yes	

1. SUMMARY OF PROPOSALS

- 1.1 Local authorities are required to produce and publish an Enforcement Policy to demonstrate how national regulation will be enforced at a local level.
- 1.2 The responsibility for monitoring, maintaining and improving private sector housing standards and conditions remains within the Strategic Housing Section of Community Services which is now becoming a combined service for Bromsgrove DC and Redditch BC. The functions of this service includes licensing of both Houses in Multiple Occupation and Caravan & Mobile Home Sites, housing inspections and enforcement of the Housing, Health and Safety Rating System.
- 1.3 The service previously provided in each council has operated under the respective Council's Environmental Health Enforcement Policy. However, since the recent formulation of the Worcestershire Regulatory Service (which has developed its own enforcement policy particular to the functions for which it has responsibility) it has become appropriate for an Enforcement Policy to be developed for the Private Sector Housing Service covering Bromsgrove.
- 1.4 This report therefore seeks Members approval for the adoption of the Private Sector Housing Enforcement Policy attached at Appendix 1 which sets out the legal responsibilities, policies, principles and priorities that the Private Sector Housing Service will follow when enforcing legislation.

2. RECOMMENDATIONS

- 2.1 That the Private Sector Housing Enforcement Policy attached at appendix 1 be approved and adopted, subject to the proposed charges set out at Section 11 of the Policy being considered as part of a separate Cabinet report on Fees and Charges for 2012/13.

3. KEY ISSUES

3.1 Financial Implications

3.2 The costs of implementation will be contained within existing budgets representing improved Value for Money as the new policy will enable a targeted use of resources with better outcomes to customers.

3.3 Section 10 of the policy makes reference to the power under Section 49 of the Housing Act 2004 to make a reasonable charge as a means of recovering certain administrative and other expenses incurred in serving enforcement notices. The charges set out in the policy are based upon 9 officer hours at a salary and overheads based upon £35,000pa. We will use these powers to recover our costs from those who have not complied with informal requests to carry out works or where charges are necessary to recover costs for carrying out works to protect public health or the environment.

3.4 Legal Implications

3.5 The statutory powers of Local Authorities to take enforcement action in relation to private sector housing are set out in a number of pieces of legislation. Where relevant reference is made in the Enforcement Policy to the enabling legislation. To summarise, the main provisions are contained in the following Acts:-

- Housing Act 1985
- Housing Act 2004
- Building Act 1984
- Environmental Protection Act 1990
- Public Health Act 1961

When determining any general policy or principles about the exercise of “regulatory functions” or when setting standards or giving general guidance about “regulatory functions”, the Council has a duty to have regard to the Statutory Regulator’s Compliance Code. This means that the Council must take into account the Code’s provisions and give them due weight in developing their policies or principles or in setting standards or giving guidance. “Regulatory functions” are only those functions specified by the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, as may be amended from time to time. Many of the functions, including enforcement functions, undertaken by the Private Sector Housing team are covered by this Order.

Members are asked to note that although the Private Sector Housing Enforcement policy is a new document, it covers a range of activities

that are already being undertaken by the Strategic Housing Team in terms of enforcement work.

In relation to Empty Homes which are covered at part 10 of the Private Sector Housing Enforcement policy, Members are asked to note that although powers exist under the Housing Act 2004 to apply for Empty Dwelling Management Orders officers do not envisage that circumstance would arise for use of such powers except in extremely limited circumstances. The rules around EDMOs are very detailed and officers are intending to develop some specific guidance to look at the general issue of management of empty dwellings in due course.

3.6 Service/Operational Implications

3.7 The Private Sector Housing Enforcement Policy gives specific guidance on issues that are particular to enforcement in Private Housing

3.8 Officers will always need to judge each case on its own merits and it is important officers use their discretion when making decisions within the framework of this policy.

3.9 Customer / Equalities and Diversity Implications

3.10 A full Equalities Impact Assessment has been carried out and was made available as part of the consultation process.

3.11 The issues emerging from the Equalities Impact Assessment are:

- The importance of the policy to set out clearly how the service will approach enforcement issues including the flexibility to adapt to each case dealt with. Officers should be able to use the document as a reference to make sure their actions are justified and those who have enforcement action taken on them will be able to see that council officers are acting appropriately.
- The need to develop a guidance checklist for officers and managers to guide their decision-making particularly in relation to decisions to take formal legal action against someone.
- There will still be a need to guard against prejudice throughout the system particularly where discretion can be applied.
- When communicating on Enforcement issues there is the potential that a person may not understand what is expected of them or the consequences of not complying with what has been required as a result of a disability. This could include problems with literacy or language barriers, so it will be important to make sure that people

understand what is required of them and the consequences of them not taking action and that assistance can be provided where appropriate.

4. RISK MANAGEMENT

4.1 The risks of not adopting this policy are that:

- Enforcement Action is not targeted to benefit those who are most disadvantaged or who would benefit most.
- The opportunity to improve clarity, consistency and transparency on why and how we take enforcement action may not be achieved.
- The profile of taking enforcement action to protect residents is not raised nor receives further political endorsement.
- There may be a greater risk of legal challenge against enforcement decisions.

5. APPENDICES

Appendix 1 - Bromsgrove District Council – Private Sector Housing Enforcement Policy. (Draft for approval)

6. BACKGROUND PAPERS

None

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