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| Key Decision Required: | Yes | In the Forward Plan: | Yes |
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CABINET

7 SEPTEMBER 2018

REPORT OF THE PORTFOLIO HOLDER FOR HOUSING

A.4 ADOPTION OF A PRIVATE SECTOR HOUSING ENFORCEMENT POLICY FOR CIVIL PENALTIES UNDER THE HOUSING AND PLANNING ACT 2016

(Report prepared by Tim Clarke)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek agreement from Cabinet to adopt a policy in relation to the issue of Civil Penalties under the Housing and Planning Act 2016.

EXECUTIVE SUMMARY

The Housing and Planning Act 2016 has introduced the option to issue Civil Penalties in respect of certain offences committed by private housing landlords under the Housing Act 2004, as an alternative to prosecution.

The Council needs to adopt a policy on how it will apply the new powers before they can be used and a policy has been drafted and appended to this report. This policy is underpinned by the Corporate Enforcement Strategy adopted by Cabinet in September 2017.

Tendring District Council is committed to raising standards in the private rented sector, ensuring that residents of the district are provided with accommodation that is free from hazards that could adversely affect their health and safety, whilst making sure that the said accommodation is suitably managed and maintained for those occupying it.

We aim to focus our resources to take action against landlords who rent out properties that are in a substandard condition, and where necessary take formal enforcement action to ensure these landlords are prevented from continuing to flout the law. Formal enforcement action will also be taken against landlords who have failed to licence their properties and made financial gain as part of their non-compliance.

It is Tendring District Council's view that the non-compliant landlords in the district should bear the cost of enforcement action and be punished accordingly, and not the good landlords who continue to provide decent affordable accommodation for their tenants and who work with the Council to ensure these standards are maintained.

The Council is committed to implementing the new powers under the Housing & Planning Act 2016 to ensure good quality, safe and affordable private rented accommodation is available to residents of our District.

RECOMMENDATION(S)

That Cabinet:

- (i) Notes the new powers available to the Council to impose financial penalties on irresponsible landlords who continue to provide sub-standard accommodation across the district;
- (ii) Adopts the Private Sector Housing Enforcement Policy for Civil Penalties under the Housing and Planning Act 2016 as set out in Appendix A;
- (iii) Authorises the Corporate Director for Operational Services, in consultation with the Portfolio Holder for Housing, to amend the Policy to reflect any future amendments to legislation and/or best practice; and
- (iv) Authorises the Head of Housing and Environmental Health to issue Civil Penalties and determine the level of the financial penalty to be imposed, in accordance with the Policy.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The decisions will contribute to the following priorities in the Corporate Plan 2016-2020:

Health and Housing – The policy will introduce a new suite of enforcement options that are aimed at improving the living conditions of private sector tenants.

Our Council Our Community – The new powers give additional protection to vulnerable tenants who may be living in poorer quality accommodation.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

There are no costs associated with the proposal to adopt the policy other than the proposed penalties which could result in an income to the Council for use within the Private Sector Housing service. As it is impossible to predict how often the new powers are likely to be used an annual figure cannot be calculated.

The Private Sector Housing team will continue with the work that is undertaken to ensure housing standards in the private rented sector are maintained which is both proactive and reactive. Many reactive cases are however becoming more complex and taking longer for officers to resolve although this is not necessarily because property conditions are becoming worse. The wider challenges of deprivation and mental health illness within the District are contributors to this by making engagement with tenants more difficult along with a consequent need to engage with other statutory partners such as adult social care and healthcare providers.

Risk

There are few risks associated with the proposals. It is important that the Council has a robust policy around the enforcement of the new measures and this will reduce the possibility of legal challenge should it become necessary to make use of them.

LEGAL

The proposed actions are within the Council's legal powers

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the

following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Crime and Disorder – the policy provides additional enforcement options in cases where an offence has been committed by a landlord.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Housing and Planning Act 2016 introduces the option for local housing authorities to impose Civil Penalties and Rent Repayment Orders as an alternative to prosecution in respect of certain offences committed by landlords under the Housing Act 2004.

The policy appended to this report sets out much of the legal framework that underpins it along with the proposed penalties and method used to calculate them.

The Private Sector Housing team inspect over 300 privately rented dwellings each year with most inspections resulting in some action under the Housing Act 2004. Due to a good working relationship with many landlords and a positive track record of resolving matters informally the level of formal enforcement action taken against landlords is reasonably low and it is several years since the Council found it necessary to prosecute a landlord for offences relating to poor housing conditions.

The new powers are an alternative to prosecution with the penalty paid by the landlord being available to the Council to use within the service.

It is proposed that the decision to apply for and issue a Civil Penalty or Rent Repayment order will be undertaken by the Head of Housing and Environmental Health in consultation where necessary with the Council's Legal service.

APPENDICES

Appendix A - Private Sector Housing Enforcement Policy for Civil Penalties under the Housing and Planning Act 2016