

EAST HERTS COUNCIL

EXECUTIVE – 1 OCTOBER 2013

REPORT BY EXECUTIVE MEMBER FOR HEALTH, HOUSING AND
COMMUNITY SUPPORT

REVIEW TO UPDATE EAST HERTS PRIVATE SECTOR HOUSING
ENFORCEMENT POLICY

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To consult Members on the periodic review of the Council's Private Sector Housing Enforcement Policy and seek approval for the draft revised policy.

RECOMMENDATION FOR COUNCIL: That:

(A)	the draft revised policy for housing enforcement, as now submitted, be adopted.
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1.0 Background

1.1 The Council adopted its Private Sector Housing Enforcement Policy on 6th February 2007. The policy has steered the Council's approach to securing compliance with the law in relation to private sector housing, and in particular outlines use of the powers contained within the Housing Act 2004.

1.2 Since adopting the policy, the Council has revised its overarching enforcement policies for Neighbourhood Services and Environmental Health, under which this policy sits, following those general principles and providing detail in respect of housing legislation.

1.3 In April 2008 the Government's Regulators Compliance Code came into force. In July 2013, following a period of review and consultation, the Government published its Regulators' Code, which it anticipates will be given statutory force in Spring 2014.

The proposed revised document is updated to take account of those changes.

2.0 Report

- 2.1 Use of the policy has not revealed any significant problems, however a review has become necessary due to elapsed time. The draft document is attached as **Essential Reference Paper B**. For ease of reading, changes from the original are not tracked in the document, but are instead summarised below.
- 2.2 Some of the changes from the original adopted policy merely improve layout, such as adding a contents page and foreword, and others provide more detail and clarity, for example about the enforcement options. The introductory section about the guiding principles of good regulation has been updated to reflect the introduction of the Regulators' Code.
- 2.3 Other changes include at section 14 new text about the duration of House in Multiple Occupation (HMO) licences. This is to clarify that if an unlicensed licensable HMO is encountered, or the applicant is slow to provide a full licence application, the applicant can expect the usual five year licence period to be reduced commensurate with the period the HMO remained unlicensed.
- 2.4 Section 14 also gives details of the licensing process, the requirements for an application, and the time for approval, to reflect the tacit approval timescale of seven months on the licensing website.
- 2.5 Section 15 provides new information about discretionary licensing, and states that no areas have been identified as so problematic as to warrant use of these tools, so there are no current plans to consult on their introduction.
- 2.6 Section 16 provides new information about HMO Management Regulations.
- 2.7 There is sometimes confusion about Planning and Housing law in relation to HMOs, and there has been some controversy nationally about Article 4 Directions under Planning legislation to restrict the proportion of HMOs in an area. This is now explained in section 18. Affordability is a particular concern in East Herts, and there is likely to be an increasing need for affordable shared housing, so section 18.4 states that the Council has no plan to

consult on and implement an Article 4 Direction.

- 2.8 Section 24 gives a new overview of overcrowding. Section 25 proposes a general approach to the limited use of discretionary powers under the Local Government (Miscellaneous Provisions) Act 1976 to restore gas, electricity or water supplies. This was not covered by policy before, and proposes that this is only considered as an emergency approach where vulnerable persons are at risk.
- 2.9 New information about accreditation schemes is given at section 26. In the past a local scheme has been suggested to our Private Rented Sector Forums, but there was very little support for the initiative, which is generally less attractive in areas of high demand for housing. Since then, other national schemes have emerged. The National Landlords Association in particular has asked if the council would give certain incentives such as reduced licensing fees to members of their accreditation scheme. The scheme provides for training and dispute resolution, and Members may therefore wish to consider this. However, as there is no current evidence that membership of such a scheme would reduce the cost of licensing which the Council aims to recover through its fees and charges policy, the draft policy does not propose a fee reduction. Officers are not aware of any other local councils offering such a fee reduction.
- 2.10 Section 28 on Simple Cautions (previously Formal Cautions) has been updated. A data protection clause has been added at section 35.

3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.
- 3.2 A presentation on the existing enforcement policy was given to a forum held jointly with the National Landlords Association in Sawbridgeworth in February 2013. Minutes of the meeting are on the Council website. There was strong support for the Council's staged approach to enforcement, and for formal enforcement action to be taken where landlords flout the law. Some landlords supported the idea of recharging punitive administration costs where officers need to take action in default, reduced if paid within 14 days. However, there is case law that we need to be able to

demonstrate that charges are justifiable, so this has not been included in the draft policy.

- 3.3 As mentioned at 2.10, the National Landlord Association local representative also suggested 10% discount on licensing fees for landlords accredited under a scheme recognised by the Council. This request has not been included in the draft, due to the Council's cost recovery objectives.
- 3.4 Environmental Health staff and Development Control had input into the preparation of the draft document, and two Herts authorities have also been consulted. Private sector landlords and key Housing Associations have been invited to comment, and the document has been available for comment on the council's website during September.

Background Papers

- East Herts Public Health Strategy ([link](#))
- Regulators' Code. <http://www.bis.gov.uk/brdo/publications>

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