

**EXECUTIVE
COMMITTEE**

13th March 2012

PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

Relevant Portfolio Holder	Cllr Brandon Clayton, Housing, Local Environment & Health
Portfolio Holder Consulted	Yes
Relevant Head of Service	Angie Heighway, Head of Community Services
Wards Affected	All Wards
Ward Councillor Consulted	Not Applicable
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 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, principles and priorities that the Private Sector Housing Service will follow when enforcing legislation to demonstrate compliance with national regulatory requirements.
- 1.2 The Private Sector Housing Enforcement Policy also incorporates a new Compulsory Purchase Policy.

2. RECOMMENDATIONS

The Committee is asked to RESOLVE that

The Private Sector Housing Enforcement Policy attached at Appendix 1 be approved and adopted.

3. KEY ISSUES

Financial Implications

- 3.1 Section 49 of the Housing Act 2004 provides a power to levy reasonable charges as a means of recovering certain administrative and other expenses incurred in serving Enforcement Notices. Where it has been determined under the Enforcement Policy that the service of formal Notice is the most appropriate action to obtain statutory compliance charges will be levied in accordance with the Councils Annual Scale of Fees & Charges.
- 3.2 The Financial Services Manager has been consulted with regard to the financial implications

**EXECUTIVE
COMMITTEE**

13th March 2012

Legal Implications

- 3.3 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 appropriate the Enforcement Policy makes reference to the enabling legislation. The main Acts concerned are :-
- a) Housing Act 1985
 - b) Housing Act 2004
 - c) Building Act 1984
 - d) Environmental Protection Act 1990
 - e) Public Health Act 1961
- 3.4 The Legislative and Regulatory Reform Act 2006 Section 21 imposes a duty on any person exercising a specified regulatory function to have regard to the five principles of good regulation. The principles provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.
- 3.5 The Regulators' Compliance Code is a Statutory Code of Practice relating to the exercise of regulatory functions issued under a provision of the Legislative and Regulatory Reform Act 2006 Section 22 and must be considered when determining general policies or principles by reference to which that person exercises those functions. The code is intended to promote efficient and effective approaches to regulatory inspection and enforcement and to improve the outcome of regulation without the imposition of unnecessary burdens.
- 3.6 Members are asked to note that whilst the Private Sector Housing Enforcement Policy is a new document it enshrines many of the principles previously incorporated within the Councils Voluntary Enforcement Concordat originally created to establish conformity of regulatory enforcement across the Council's Environmental Health, Building Regulation, Planning and other enforcement roles. The recent formulation of the Worcestershire Regulatory Service (which has developed its own Enforcement Policy particular to the functions for which it has responsibility) and the adoption of shared service provision for the remaining Private Housing functions have necessitated the development of an Enforcement Policy specific to Private Sector Housing in order to maintain statutory compliance and consistency.
- 3.7 The Compulsory Purchase Policy is specific to the compulsory purchase of property or land under the provisions of Section 17 of the Housing act 1985. Such actions are only taken as a last resort when all attempts to persuade owners to bring them back into use have failed.

**EXECUTIVE
COMMITTEE**

13th March 2012

- 3.8 The Legal Services Manager has been consulted with regard to the legal implications

Service/Operational Implications

- 3.9 Monitoring, maintenance and improvement of Private Sector Housing Standards and Conditions are functions of the Strategic Housing Section of Community Services, shortly to become a shared service with Bromsgrove District Council. Within Redditch Borough this function includes licensing of Houses in Multiple Occupation, housing disrepair inspections, statutory overcrowding, Empty Homes and enforcement of the Housing, Health and Safety Rating System.
- 3.10 Service demands and individual cases will vary and a degree of flexibility and discretion in the use of enforcement will always be required it is vital that the decision making process can be aligned to a policy designed to ensure consistency, proportionality and transparency in application at all levels from initial contacts, advice and guidance through to enforcement options, default measures and prosecution.
- 3.11 The Private Sector Housing Enforcement Policy provides a framework tailored specifically to the provision and enforcement functions currently within the remit of Redditch Private Sector Housing. It also displays a commonality of approach with a similar Enforcement Policy recently approved by Bromsgrove District Council.

Customer / Equalities and Diversity Implications

- 3.12 An Equalities Impact Assessment has been carried out in conjunction with Bromsgrove District Council Private Sector Housing Team
- 3.13 A core function of the Private Sector Housing Enforcement Policy is to ensure a balanced approach to service provision and the use of enforcement provisions, it will therefore provide a means by which Officers can reference and qualify actions and decisions whilst similarly enabling persons subject to enforcement or seeking use of the service to satisfy themselves that the service received is fair and appropriate.

4. RISK MANAGEMENT

- 4.1 Failure to formulate or adopt a Policy for Enforcement may constitute a material consideration in any challenge to enforcement action by the Council and may affect the ruling of the Residential Property Tribunal or in some circumstances a finding of maladministration by the Local Government Ombudsman.

**EXECUTIVE
COMMITTEE**

13th March 2012

- 4.2 The opportunity to improve clarity, consistency and transparency on why and how the Authority takes enforcement action may be lost.

5. APPENDICES

Appendix 1 - Redditch Borough Council Private Sector Housing Enforcement Policy (Draft for Approval)

6. BACKGROUND PAPERS

Local Better Regulation Office-Appling the Regulators Compliance Code and Enforcement Concordat. Link.
www.lbro.org.uk/docs/regulators-compliance-code.pdf

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