

<b>DECISION-MAKER:</b>	<b>CABINET</b>		
<b>SUBJECT:</b>	<b>PRIVATE RENTED ENFORCEMENT POLICY</b>		
<b>DATE OF DECISION:</b>	<b>20<sup>th</sup> August 2019</b>		
<b>REPORT OF:</b>	<b>CABINET MEMBER FOR HOMES AND CULTURE</b>		
<b><u>CONTACT DETAILS</u></b>			
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<b>STATEMENT OF CONFIDENTIALITY</b>			
Not applicable			
<b>BRIEF SUMMARY</b>			
<p>Approval is sought to implement a policy to support private sector housing enforcement in the city. Enforcement of the private sector is taken in accordance with statutory requirements and with reference to the Corporate Enforcement Policy. Establishing a new policy on private sector enforcement allows Southampton City Council to provide updated guidance to officers, businesses and the public following legislative updates and ensures that council policy reflects the following national legislative updates;</p> <ul style="list-style-type: none"> <li>- The issuing of Civil Penalties which are new legal powers for local authorities to use in certain housing act offences including HMO licencing.</li> <li>- The use of Banning Orders, in the case of the most serious offenders and rogue landlords the council can apply to the first-tier tribunal to impose a banning order on a person to prevent them from acting as a landlord.</li> </ul>			
<b>RECOMMENDATIONS:</b>			
	(i)	That Cabinet considers and approves the proposed policy, attached as Appendix 1.	
	(ii)	That Cabinet delegates authority to the Director of Transactions & Universal Services to make minor amendments to the policy to reflect technical clarifications or legislative changes.	
<b>REASONS FOR REPORT RECOMMENDATIONS</b>			
1.	The Enforcement of a Private Sector Housing Policy will provide clearer guidance to officers, business and the public on the council's administration of private sector housing enforcement in the city.		
2.	Following the introduction of the Housing and Planning Act 2016, the council has new statutory powers in relation to civil penalty notices and banning orders. The council is expected to implement its own policy on the use of these powers and as such these are contained within this policy.		
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>			
3.	Not having an updated enforcement policy would mean that the council would be open to challenge on our use of the updated and new powers contained		

	<p>within the Housing and Planning Act 2016 and Housing Act 2004 (where amended).</p> <p>The statutory guidance on the use of Civil Penalties states that Local Authorities are expected to develop and document their own policy on when to prosecute and when to issue civil penalties and what the appropriate penalties are.</p> <p>Also separate non-statutory guidance on the use of Banning Orders states that Local Authorities are expected to develop their own policy on when to pursue banning orders.</p>
<b>DETAIL (Including consultation carried out)</b>	
4.	Southampton has a large private rented sector of around 25,000 properties, accounting for approximately a quarter of the housing stock in the city.
5.	The council has statutory responsibilities under the Housing Act 2004 and Housing and Planning Act 2016 to undertake duties in relation to the enforcement of the private rented sector in Southampton.
6.	The Housing and Planning Act 2016 introduced new powers for local authorities and updated the Housing Act 2004 in relation to certain functions
7.	The Housing and Planning Act 2016 introduced Civil Penalty Notices as an alternative to prosecution for certain Housing Act 2004 offences. Financial penalty notices to the maximum value of £30,000 can be issued. Before making use of these powers Southampton City Council should determine its own level of fees and publish these within a policy. Southampton City Council's private rented enforcement policy includes detail on the scheme and the matrix used to determine the level of fines. In summary there are twelve categories of fines ranging from £25 to £30,000. The level of fine will be determined by assessing the culpability of the landlord and the harm caused by the offence to the tenant.
8.	In 2018 the secretary of state established a national database of rogue landlords and property agents. The council is authorised to add any qualifying rogue landlords to the database and the policy details how this will be administered.
9.	Under new powers contained in the Housing and Planning Act 2016 the council can apply to a First-tier tribunal for a banning order to prevent a landlord from operating. The policy establishes the council's policy on banning orders.
10.	The policy contains guidance on the use of management orders and empty dwelling management orders following updates to the legislation relating to the use of banning orders.
11.	The published policy provides guidance on all aspects of the enforcement regime and will ensure that the council operates in a consistent manner in relation to the enforcement of the private housing sector.

<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
12.	Private sector housing enforcement is a statutory function. Enforcement work is a General Fund cost contained within the Private Sector Housing budget and recoverable through penalty, work in default recovery or enforced sale.
13.	Any income generated by the use of civil penalty notices can only be used by the council to support Private Sector Housing enforcement. This is a provision under the Housing and Planning Act 2016.  Work in Default or the use of the Enforced Sale procedure may recover reasonable costs incurred by the council. Due to the long term nature of property sales, recovery may take several years.
<b><u>Property/Other</u></b>	
14.	None
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
15.	Private sector housing enforcement is undertaken in accordance with the Housing Act 2004, The Housing and Planning Act 2016 and other legislation as listed in the policy.
<b><u>Other Legal Implications:</u></b>	
16.	The council must have due regard to the Public Sector Equality Duty under the Equality Act 2010 when carrying out any functions including developing any policies that may have any effect on any protected persons, in particular the duty to eliminate discrimination, harassment and victimisation and advance equality of opportunity and fostering good relations. Local Authorities also have a duty under the Human Rights Act 1998, when carrying out any function, not to act incompatibly with rights under the European Convention for the Protection of Fundamental Rights and Freedoms.
<b>RISK MANAGEMENT IMPLICATIONS</b>	
17.	If the council does not publish a policy there is a risk that it any enforcement action could be successfully challenged, in particular on its use of banning orders, civil penalties and management orders.
18.	
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
19.	The Private Sector Enforcement Policy supports the Southampton City Council Housing Strategy 2016-2025 priorities and outcomes; <ul style="list-style-type: none"> <li>• People in Southampton live safe, healthy, independent lives</li> </ul>
20.	The Private Sector Enforcement Policy 2019 is supported by the HMO licensing Policy 2019.

<b>KEY DECISION?</b>	Yes	
<b>WARDS/COMMUNITIES AFFECTED:</b>	All	
<u>SUPPORTING DOCUMENTATION</u>		
<b>Appendices</b>		
1.	Private Sector Enforcement Policy	
2.	ESIA	
3.	DPIA	
<b>Documents In Members' Rooms</b>		
1.	None	
<b>Equality Impact Assessment</b>		
<b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b>		Yes
<b>Data Protection Impact Assessment</b>		
<b>Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.</b>		Yes
<b>Other Background Documents</b>		
<b>Other Background documents available for inspection at:</b>		
<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>	
1.	None	