



Title of meeting: Cabinet Member for Housing Decision meeting

Date of meeting: 3 July 2018

Subject: Proposed changes to the Enforcement Policy used by Private Sector Housing.

Report by: James Hill, Director of Housing, Neighbourhoods and Building Services

Wards affected: All

Key decision: No

Full Council decision: No

1 Purpose of report

- 1.1 To propose changes to the current private sector housing enforcement policy so that council officers are better placed to deal the detrimental impacts that the build-up of rubbish on private properties can have on the local area.

2. Recommendations

- 2.1 That the Cabinet Member for Housing approves the changes to the Enforcement Policy and fixed penalty charges under Section 249A Housing Act 2004.

3. Background

- 3.1 In line with the policy for a cleaner Portsmouth, the council wants to tackle the problems that residents can face when landlords are not managing and maintaining their properties in accordance with legislation.
- 3.2 The Housing Act 2004 introduced a range of enforcement powers to enable local authorities to ensure that landlords or owner occupiers undertake specific remedial measures to their properties.
- 3.3 The Housing and Planning Act 2016 introduced further measures to help local authorities deal with problem landlords, with one of the main changes being the ability to issue civil penalties as an alternative to prosecution for certain specific offences.
- 3.4 This Act received royal assent on the 12 May 2016, with specific chapters coming into force at different times.
- 3.5 The Policy has been changed to reflect the following amendments which have come into place since the policy was last undated. By making these changes it ensures that council officers have all of the available authorities to deal with problem landlords.

4. **Section 234**

4.1 Section 234 (Housing Act 2004) allows the appropriate national authority to make additional regulations in relation to every House of Multiple Occupancy (HMO) to ensure that there are satisfactory management arrangements in place and satisfactory standards of management are observed. These regulations are known as The Management of Houses in Multiple Occupation (England) Regulations 2006 (As Amended):

4.2 The main heading for this area of legislation as follows:

- Duty of manager to provide information to occupier
- Duty of manager to take safety measures
- Duty of manager to maintain water supply and drainage
- Duty of manager to supply and maintain gas and electricity
- Duty of manager to maintain common parts, fixtures, fittings and appliances
- Duty of manager to maintain living accommodation
- Duty of provide waste disposal facilities
- Duties of occupants of HMO's

4.3 The stipulation set within Section 234 (3) is that a person commits an offence if he fails to comply with a regulation under this section.

4.4 The Private Sector Housing team have seen a steady increase year on year with complaints being received from concerned residents regarding waste in forecourts of Houses in Multiple Occupation or waste being left on the street.

4.5 The table below indicated the number of complaints received:

Year	Number of complaint received
2015/16	94
2016/17	136
2017/18	187
2018/19	66

5. **Financial Penalties for Certain Housing Offences**

5.1 The introduction of civil penalties, with a maximum level of £30,000, as an alternative to prosecution for certain specific areas was seen as a way local authorities can be more proactive in clamping down on poor landlords.

5.2 The Housing and Planning Act 2016 introduced the ability for the Council to issue a civil penalty for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (Section 30)
- Offences in relation to licensing of Houses in Multiple Occupation (Section 72)

- Offences in relation to licensing of Houses under Part 3 of the Act (section 95).
 - Offences of contravention of an overcrowding notice (section 139),
 - Failure to comply with management regulation in respect of Houses in Multiple Occupation (section 234)
- 5.3 Section 249A is the specific section within the Housing Act 2004 that enables the use of financial penalties for certain housing offences, with Schedule 13A providing the specific process the Council must adhere to.
- 6. Setting the level of the penalty.**
- 6.1 The Council has the ability to impose a financial penalty of up to £30,000 for any of the breaches mentioned within this report or the subsequent Private Sector Housing Enforcement Policy. It is proposed that no changes are made to the current method of setting the financial penalty for the following areas:
- Failure to comply with an Improvement Notice (Section 30)
 - Offences in relation to licensing of Houses in Multiple Occupation (Section 72)
 - Offences in relation to licensing of Houses under Part 3 of the Act (section 95).
 - Offences of contravention of an overcrowding notice (section 139),
- 6.2 The Private Sector Housing Enforcement Policy has been amended to take into account the financial penalties that will be imposed for failure to comply with management regulation in respect of Houses in Multiple Occupation (section 234). This has set the maximum level at £5,000 per offence; subject the charging process as found within the Private Sector Housing Enforcement Policy 2018, Schedule 1 (Determining the level of penalty charge).
- 6.3 Appendix 01 provides a more comprehensive breakdown of how we will undertake this assessment.
- 7. Equality Impact Assessment (EIA)**
- 7.1 An equalities Impact assessment is not required as this change to the policy is due to specific legislative changes issued by Central Government.
- 8 City Solicitor's comments**
- 8.1 The policy is reflective of the current legal position and sets out appropriately the legal basis for fine imposition and the institution of legal proceedings in the alternative. The policy outlines the basis upon which the landlord can appeal. The report sets out the basis for maintaining the current penalty tariff.
- 9 Director of Finance comments**
- 9.1 The changes recommended in this report to the Enforcement Policy will not result in an increase expenditure and the cost will be met from the existing staff already accounted for in the cash limited budget.

9.2 Changes to Fixed Penalty charges are unlikely to lead to a material increase in Income.

Signed by:
James Hill, Director of Housing, Neighbourhoods and Building Services

Appendices:

Appendix 01 - Breakdown of how the financial penalty is set per regulation.
Appendix 02 - Private Sector Housing - Enforcement Policy 2018.

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Civil Penalties under the Housing and Planning Act 2016 - Guidance for local authorities.	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697644/Civil_penalty_guidance.pdf

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

.....
Signed by:
Councillor Darren Sanders
Cabinet Member for Housing