

Cabinet Report



Listening Learning Leading

Report of Head of Housing and Environment

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To: CABINET

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Housing Enforcement Policy

Recommendations

It is recommended that Cabinet;

(a) Approve the adoption of the Housing Enforcement Policy.

(b) Subject to approval of the policy, to delegate authority to the Head of Housing and Environment to make minor amendments to the policy in the future.

Implications (further detail within the report)	Financial	Legal	Climate and Ecological	Equality and diversity
	Yes	Yes	Yes	Yes
Signing off officer	P Connell	E Creed	J Fieth	T Mayling

Purpose of report

1. The purpose of the report is to seek approval from Cabinet to adopt the Housing Enforcement Policy.

Corporate objectives

2. The Housing Enforcement policy will help to achieve the corporate objective of providing homes and infrastructure that meet local needs by ensuring that acceptable rented housing standards are met in the district.

Background

3. Local authorities have a legal duty¹ to tackle unsatisfactory housing that has a negative impact upon the health, wellbeing, or safety of tenants or occupants.
4. The Housing Delivery Strategy, approved by Cabinet on 10 November 2022, identified the need to develop a Private Rental Sector Strategy to increase the availability of affordable and good quality private rented accommodation.
5. The Housing Enforcement policy supports the development of the strategy by setting out the council's approach to ensuring that acceptable housing standards are achieved and by further enabling, where necessary, robust action against rogue landlords.
6. The policy explains in a clear and transparent manner the approach to housing enforcement by the council in relation to residential dwellings. It provides guidance to officers, landlords, managing agents and tenants on the rental standards expected by the councils, including Houses in Multiple Occupation (HMOs). The policy sets out when and how the council may take enforcement action, including in exceptional cases through the courts or by issuing civil penalties.
7. The Private Sector Housing team are responsible for enforcing housing standards in licensable and non-licensable rental properties. The team respond to service requests from tenants concerning the condition of their property and offer advice and support to tenants and landlords to resolve issues at the earliest opportunity. If a service request is not resolved in a timely manner to the satisfaction of officers and the tenant, further enforcement action may be taken.
8. Between September 2022 and September 2023, the Private Sector Housing team acted upon 122 service requests from tenants in South Oxfordshire, mainly concerning the condition of their property.
9. As of January 2024, there are 57 licensable HMOs² in South Oxfordshire. The HMO standards set out in this policy apply to both licensable and non-licensable HMOs.

¹ The relevant legislation includes, but is not restricted to; Housing Act 1985, Housing Act 2004, Building Act 1984, Environment Protection Act 1990, Local Government Act 1976, Equality Act 2010, and the Housing and Planning Act 2016.

² Licensable HMOs are normally shared rented properties consisting of two or more households and five or more persons.

10. The Private Sector Housing team's approach to enforcement is to expect landlords to behave in a responsible manner when letting their properties and therefore normally provide the landlord an opportunity to rectify reported breaches concerning the condition of their property. If a landlord fails to rectify the issue, the team will decide whether to take an informal or formal approach to resolve the matter.
11. An informal approach will normally be adopted for relatively minor issues and may include advice and support for the landlord or issuing written advisory notices.
12. If the informal approach is unsuccessful, or it is not appropriate due to the seriousness of the breach, formal action will be considered. Officers will decide upon the most appropriate course of action on a case-by-case basis and will normally conduct a formal inspection of the property. The enforcement options available include serving a hazard awareness or improvement notice; a prohibition notice; or a notice to take emergency remedial action.
13. Failure by a landlord to resolve breaches of housing legislation may lead to a prosecution; a formal caution; a civil penalty³; and/or the works being carried out by the council in default and re-charged to the landlord.
14. The Housing Enforcement Policy sets out what can be expected from the council's Private Sector Housing team when regulating housing standards and issuing HMO licences.
15. The policy also sets out the expectations for tenants, landlords, and managing agents, and what actions may be taken by officers if there are breaches of legislation.
16. By adopting and publishing a clear, consistent, and transparent Housing Enforcement policy, the council has a policy platform and a framework that supports and builds upon the ongoing work to improve housing standards in the district.

Options

17. The alternative would be not to adopt the Housing Enforcement policy.
18. By not adopting the policy, the council will not have an up-to-date policy that defines its approach to housing enforcement. It would not be able to consider the full range of enforcement options available which requires a published policy. The absence of a policy may increase the risk that the councils may lose enforcement cases or appeals.

Financial Implications

19. There are no additional budgetary requirements associated with adopting the Housing Enforcement policy. The policy will be implemented and delivered within existing budgets. It is not envisaged that there will be a significant increase in legal cases, with targeted work focused upon a small number of non-cooperative landlords.
20. The ability to issue civil penalties may generate some limited additional income for the council. Any income from civil penalties is ringfenced by legislation to supporting housing enforcement activities.

³ A civil penalty can only be considered where the council has a published a Housing Enforcement policy.

Legal Implications

21. Further consideration and discussions will be held with the Legal and Finance teams to confirm the governance, processes, and resource implications in advance of any punitive enforcement action. Private sector housing officers already work closely with the legal team when taking housing enforcement action. In circumstances where the Private Sector Housing team may be considering punitive enforcement action advice will be sought from the legal team at an early stage and any further action agreed and authorisation obtained.
22. Any recommendation by the Private Sector Housing team to prosecute a landlord would need the approval of the Head of Legal. There will also need to be discussions with any other council teams that may have an involvement with the property, including planning and environmental health.
23. The council's constitution will need updating to delegate authority to the Head of Housing and Environment to take all the enforcement action decisions (excluding the decision to prosecute) that are set out in this policy.
24. The enforcement measures set out in this policy provide a wider range of enforcement options to the council including Rent Repayment Orders, Banning Orders for rogue landlords, and issuing civil penalties. The issuing of civil penalties, where considered appropriate, provides an alternative to prosecution.

Climate and ecological impact implications

25. The council's climate impact assessment tool has been used to assess the impact of the Housing Enforcement policy. The assessment showed that the policy has no negative environmental impacts, and a potential small positive impact for greenhouse gas emissions, energy use, air quality and waste disposal. The Housing Enforcement policy offers an opportunity for the council to use its enforcement powers to increase the energy efficiency of homes in the district. This will mean that less greenhouse gas emissions are released, and the homes will be more comfortable with lower energy bills.

Equalities implications

26. In line with the public sector equalities duties, officers have assessed the implications of the policy on persons protected by the Equality Act 2010. An Equality Impact Assessment has been completed that concludes the policy will have a positive impact upon households with protected characteristics. The enforcement policy will help protect vulnerable tenants.

Risks

27. The risks of adopting the Housing Enforcement Policy are that the council may suffer loss of reputation if enforcement actions are not handled well, and that the community may not support the enforcement action undertaken. Any decision to take enforcement action must take into account the resources required and ensure that the correct legal procedures are followed.

28. The risk of not approving the policy is the council will not have a published policy that transparently explains its approach to enforcement and that provides a fair and consistent basis for any actions taken. The absence of the policy may increase the likelihood the councils may lose enforcement cases or appeals, either as a direct result of not having an enforcement policy, or the absence of a policy leading to incorrect or inconsistent decisions.

Other Implications

29. None

Conclusions

30. The adoption of a clear and transparent Housing Enforcement policy will provide guidance to officers, landlords and letting agents to ensure a fair and consistent approach to maintaining housing standards in the districts.

31. The policy is complimentary and supports the work already being undertaken by the Private Sector Housing team to promote acceptable housing standards in South Oxfordshire, and enforce where appropriate.

32. The policy will help build upon the positive relationships the council has developed with private landlords, while broadening the enforcement options available to tackle the small number of rogue landlords to bring properties up to acceptable standards for current and future tenants.

Background Papers

- Appendix 1: Housing Enforcement policy