

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**COMMUNITIES and HOUSING ADVISORY BOARD**

**15 February 2022**

**Report of the Director of Planning, Housing and Environmental Health**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)**

**1 PRIVATE SECTOR HOUSING ENFORCEMENT POLICY**

**Summary**

**This report recommends an update to the existing Private Sector Housing Enforcement Policy to reflect the latest legislation changes that apply to private sector housing and make some minor changes to the “Policy for Imposing Financial Penalties under the Housing Act 2004 and the Housing and Planning Act 2016”.**

**1.1 Introduction**

- 1.1.1 In accordance with the Regulators’ Code under the Legislative and Regulatory Reform Act 2006, local authorities are required to develop clear enforcement policies and operational procedures that guide their regulatory activities. This helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens.
- 1.1.2 Part of the role of the Housing Improvement Team is to maintain and improve housing conditions in all property tenures and particularly in the private rented sector. This is by ensuring compliance with the appropriate legislative framework.
- 1.1.3 Generally, we provide advice and support to those seeking to comply with legislation and standards, and various enforcement powers are available where owners/ landlords do not comply.
- 1.1.4 The Private Sector Housing Enforcement Policy details what action we can take and when we will take it.
- 1.1.5 In recent years there has been several legislative changes for example the Mobile Homes Act 2013, the Housing and Planning Act 2016, the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended) and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. These all impact on private sector housing enforcement and it

felt appropriate to review the existing policy and bring the resulting individual financial penalty policies under the Private Sector Housing Enforcement Policy umbrella.

## **1.2 Conclusion**

- 1.2.1 The revised Private Sector Housing Enforcement Policy following a review of the existing policy and incorporation of other private sector housing regulatory related policies is shown in **Annex 1**.
- 1.2.2 This policy also includes some minor amendments to the “Policy for Imposing Financial Penalties under the Housing Act 2004 and Housing and Planning Act 2016” in Appendix 2 of **Annex 1** including to reflect this is now not a new policy and to reflect the change in name of the Private Sector Housing Team to the Housing Improvement Team.

## **1.3 Legal Implications**

- 1.3.1 The Regulators’ Code under the Legislative and Regulatory Reform Act 2006 requires local authorities to develop clear enforcement policies and operational procedures that guide their regulatory activities.
- 1.3.2 The revised policy incorporates recent legislative changes. For example, the Mobile Homes Act 2013, the Housing and Planning Act 2016, the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended) and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
- 1.3.3 The update to the Private Sector Housing Enforcement Policy in consultation with Legal Services includes the resulting recommended changes into the policy shown in **Annex 1**.

## **1.4 Financial and Value for Money Considerations**

- 1.4.1 None.

## **1.5 Risk Assessment**

- 1.5.1 Not having an up-to-date policy could lead to legal challenges being made against the Council as well as harming the Councils ability to enforce minimum housing standards in the Borough.

## **1.6 Equality Impact Assessment**

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.7 Policy Considerations**

- 1.7.1 The Private Sector Housing Enforcement Policy links in with the Council's Corporate Strategy, Corporate Enforcement Policy, Private Sector Housing Civil Penalties Policy and the Housing and Homelessness strategy.

## **1.8 Recommendations**

- 1.8.1 It is recommended the Council agree the changes to the Private Sector Housing Enforcement Policy in **Annex 1** including the changes to the "Policy for Imposing Financial Penalties under the Housing Act 2004 and Housing and Planning Act 2016".

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

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Nil

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