

## REPORT TO CABINET

<b>Open</b>		Would any decisions proposed :		
<b>Any especially affected Wards</b>	Discretionary / Operational	Be entirely within Cabinet's powers to decide	NO	
		Need to be recommendations to Council	YES	
		Is it a Key Decision	YES/NO	
Lead Member – Cllr Adrian Lawrence		Other Cabinet Members consulted:		
E-mail: : Adrian.lawrence@west-norfolk.gov.uk		Other Members consulted:		
Lead Officer: Sheila Farley E-mail: sheila.farley@west-norfolk.gov.uk Direct Dial: 01553 616714		Other Officers consulted: Ray Harding, Duncan Hall, Lyn Ibbitson		
Financial Implications YES	Policy/Personnel Implications YES	Statutory Implications YES	Equal Impact Assessment NO	Risk Management Implications NO

### Charging for Housing Act 2004 Enforcement

Date of meeting: 28 November 2017

#### Summary

This report reviews powers to introduce charges in relation to the recovery of costs associated with private sector housing enforcement under Housing Act 2004.

#### Recommendation

Cabinet recommend the approval of a policy to introduce charges in relation to housing enforcement notices and reasonable administrative costs for emergency remedial action and works in default as set out in the report

#### Reason for Decision

To ensure that the Council is able to recover legitimately incurred costs for housing enforcement as set out in Housing Act 2004.

### 1 Private rented sector and housing standards

1.1 In Kings Lynn and West Norfolk private landlords provide an essential and valuable contribution to the housing available in area – including those moving for employment and those who do not wish or cannot afford to buy a property.

1.2 In the majority of cases, the Council has no need to intervene in the matter of housing conditions including in the private rented sector.

1.3 In the case of a rented property our expectation is that the tenant, landlord and any lettings agent would normally discuss the situation and try to resolve issues before any visit or action is taken by the Council.

1.4 Where the Council becomes involved, Officers will normally investigate the situation and try to resolve the issues without having to take formal action although this may not be possible with emergency situations where there is an imminent risk to health and safety of occupiers.

1.5 In a small minority of cases the Council has to take action ranging from the service of a formal notice to undertaking works to remedy defects or prosecuting landlords

## **2 Housing Act 2004**

2.1 The Housing Act 2004 introduced a risk based inspection system called the Housing Health and Safety Rating System (HHSRS). When a dwelling is inspected by a housing standards officer, they will assess the housing hazards in the property and give each hazard a score dependant on its likelihood to cause harm and the type and use of the property. This national method facilitates a consistent approach for inspecting properties and determining risks.

2.2 Hazards can be category 1 and category 2. The Council has a duty to take appropriate action to deal with Category 1 hazards and a power to deal with Category 2 hazards – which can still affect the health and safety of occupants.

2.3 There are a range of enforcement options within Housing Act 2004 that can be taken including

- Improvement and Suspended Improvement Notices (s11, 12 and 14)
- Prohibition and Suspended Prohibition Orders (s20,21 and 23)
- Emergency Remedial Action (s40)
- Emergency Prohibition Orders (s43)
- Demolition Order (s265 Housing Act 1985 as amended by s46 Housing Act 2004)

## **3 Charging for notices**

3.1 The adoption of charging for the service of enforcement notices is intended for Councils to recover costs for undertaking the work.

3.2 Currently, the Council does not make charges for the above although it has a power to do so.

3.3 The introduction of such charges may provide an incentive for property owners to remedy defects in a more timely manner and reduce abortive work in officers chasing and reminding owners of their responsibilities.

3.4 Officers recommend that fixed charges are applied for notices based on average officer time and costs associated with preparing and serving a notice, including investigations, inspecting a property and undertaking a HHSRS assessment. The rationale for this is to ensure that charges are clear and transparent to all.

3.5 It is further recommended that no charges are made for Hazard Awareness Notices (It is a method of making landlords and owners aware of the existence of a minor hazard and that some action might be necessary) do not set out a detailed course of action to be taken and, hence, are not as complex – requiring less officer time for preparation. Examples of where a Hazard Awareness Notice may be used could include where an owner has agreed to undertake work or in an owner occupied property where the owner may have made a lifestyle choice.

3.6 The standard charge for a Notice would be £550 based on legitimately incurred costs. If more than 2 housing hazards are identified in a notice, there would be an additional charge of £46 per additional hazard (for every additional hazard). In some circumstances it may be deemed appropriate to serve multiple notices arising from the same investigation and inspection. Where this occurs the additional notices will be charged based on the additional hazard rate of £46. This will ensure the charge will accurately reflect the Councils time and costs and ensure the charges are made in a proportionate way.

3.7 In addition to this, the Council would also add the cost of any specialist report that is necessary e.g. gas, electrical, structural damp reports.

#### **4 Works in default/emergency remedial action**

4.1 The repair and maintenance of a property is the responsibility of the owner.

4.2 However, in exceptional circumstances, the Council may arrange the carrying out of works itself. This has rarely been done and would normally be limited to situations where there is an imminent risk to the health and safety of the occupants or public and where an owner has not carried out works; the owner has no intention to carry out works or where there are significant issues which prevent works being commissioned by an owner e.g. ownership disputes, death of an owner.

4.3 Powers also exist to charge for reasonable administration costs in undertaking works in default and emergency action in addition to the actual cost of the works if the Council adopts a policy to do so.

4.4 It is further **recommended** that BCKLWN adopt a policy to recover all of the costs associated with undertaking works in default or emergency remedial action – including time spent by Officers, administrative costs, contractor costs, the cost of specialist reports, legal costs. This would be done on a case by case actual basis including Officer time due to the varied nature of works and commissioning that may be required.

## **5 Legal implications**

5.1 The introduction of charging for Housing Act notices is provided for in Section 49 of Housing Act 2004 and a policy must be approved by Council before such charges can be made.

5.2 A person served with a notice has a right of appeal to the Residential Property Tribunal.

## **6 Policy Implications**

6.1 The Council's Corporate Enforcement Policy 2017 sets out the policy background to this report.

6.2 To impose charges available within the Housing Act 2004 the Council must prepare and adopt a formal policy. This is explained in the report.

## **7 Financial Implications**

7.1 The introduction of charging for enforcement notices and reasonable administrative charges for emergency remedial action/works in default enables the Council to apply cost recovery charges for work undertaken by Council officers. Normal cost recovery mechanisms will be used if landlords/owners fail to pay charges for notices.

## **8 Staffing implications**

8.1 The enforcement will be undertaken by members of the Housing Standards Team.

## **9 Equality Impact Assessment (EIA)**

(Pre screening report template attached)

9.1 The proposals do not impact on any particular equality group

## **10 Risk Management Implications**

10.1 The Council is the regulatory and enforcement organisation for Housing Health and Safety Rating System, Houses in Multiple Occupation licensing, management regulations and overcrowding as detailed in the report

10.2 Adopting a policy to introduce charges as detailed in the report may be a further incentive to improve housing conditions in the area and contribute to some costs in relation to carrying out the housing standards function

## **11 Declarations of Interest / Dispensations Granted**

None

## **12 Background Papers**

Various government documents  
Corporate Enforcement Policy

# Pre-Screening Equality Impact Assessment

Borough Council of  
**King's Lynn &  
West Norfolk**



Name of policy/service/function	Charging for notices and remedial works – Housing Act 2004				
Is this a new or existing policy/ service/function?	New charging policy pertaining to existing function				
Brief summary/description of the main aims of the policy/service/function being screened.  Please state if this policy/service rigidly constrained by statutory obligations	To recover legitimately occurred costs for housing enforcement as set out in the Housing Act 2004				
<b>Question</b>	<b>Answer</b>				
<p><b>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups <b>according to their different protected characteristic</b>, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</b></p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
	Age			X	
	Disability			X	
	Gender			X	
	Gender Re-assignment			X	
	Marriage/civil partnership			X	
	Pregnancy & maternity			X	
	Race			X	
	Religion or belief			X	
	Sexual orientation			X	
Other (eg low income)			X		
<b>Question</b>	<b>Answer</b>	<b>Comments</b>			
<b>2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?</b>	No				
<b>3. Could this policy/service be perceived as impacting on communities differently?</b>	No				
<b>4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?</b>	No				
<p><b>5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions?</b> If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section</p>	N/A	<b>Actions:</b>			
		<b>Actions agreed by EWG member:</b> .....			
<b>Assessment completed by:</b> <b>Name Sheila Farley</b>					
<b>Job title Housing Services Operations Manager</b>	<b>Date 31 October 2017</b>				