

Report of the Head of Planning and Local Development

REVIEW OF PRIVATE SECTOR HOUSING POLICY

1 Purpose of report

This report gathers together amendments required to the Private Sector Housing Policy to respond to new legislation, together with rationalisation and improvements to the operation of the policy. The implementation of the changes proposed will assist with:

- Providing grant assistance up to the budgets available;
- Improving housing conditions and tenancies in the private rented sector;
- Increasing income through houses in multiple occupation (HMO) licence fees to cover the cost of administration; and
- Assisting in bringing empty properties back into use.

2 Executive summary

The report seeks members' approval of a number of changes to the Private Sector Housing Policy to assist in improving housing condition, bringing empty properties back into use and providing officers with the authority to implement new legislation.

3 Appendices

Appendix A: Private Sector Housing Policy with proposed revisions.
Appendix B: Smoke and Carbon Monoxide (England) Regulations 2015 – Statement of Principles

4 Proposed action: The committee is invited to;

4.1 RESOLVE to approve the proposed changes to the Private Sector Housing Policy (Appendix A).

4.2 RESOLVE to approve the statement of principles and charges in Appendix B.

4.3 RECOMMEND to full council that the powers listed in 5.2 be delegated to the Head of Planning and Local Development.

4.4 RECOMMEND to Resources Committee that the fees specified in 6.5 are adopted in the council's schedule of fees.

5 Background

- 5.1 Members approved the current Private Sector Housing Policy at Services Committee on 29 June 2015 with the recommendation that it be reviewed on an annual basis. As a result of this year's review the following amendments are proposed to improve the efficacy and efficiency of the policy in addressing poor housing conditions and adapting properties to meet the needs of the occupier:
- a) An increase in the maximum Renovation Grant (Appendix A.1)
 - b) Improvements to the Disabled Facilities Grant (DFG) process (Appendix A.2)
 - c) Changes to the Affordable Warmth Strategy (Appendix A.3), and
 - d) Amendments to the matrix for prioritising empty properties for compulsory purchase (Appendix A.4)
 - e) Revision of the charges for an HMO licence and renewal of a HMO Licence (Appendix A.5).
- 5.2 In addition new legislation has come into force which needs to be added to the Housing Enforcement Policy. New powers introduced by the following legislation have now become operational:
- a) Deregulation Act 2015 introducing a restriction on the right of landlords to evict a tenant in response to a complaint about their living conditions, known as retaliatory eviction (Appendix A.6).
 - b) Smoke and Carbon Monoxide (England) Regulations 2015 introducing a requirement for the provision and testing of smoke alarms by a landlord (Appendix A.7).
 - c) The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 (Appendix A.8).

6 Discussion

- 6.1 The Renovation Grant budget of £60,000 for 2015-16 was underspent and in the current year expenditure and commitment totals only £20,739 after 5 months. The low expenditure results from low demand and in some cases the reduced maximum grant of £5,000 has proved inadequate to address the repairs required. Action is being taken to increase the number of enquiries received by advertising on the council website and targeted promotion through leafleting properties in poor condition and displaying posters. It is also proposed to increase the maximum grant to £10,000 (Appendix A.1) to enable more extensive works to be carried out when required.
- 6.2 Amendments to the Disabled Facilities Grant procedure (Appendix A.2) will enable the more efficient use of the funding available by encouraging applicants to consider moving to more suitable, adapted or easily adapted, accommodation. For example an elderly lady living in a former family home may be able to move to ground floor sheltered accommodation saving the cost of adaptations such as

a stairlift, level access shower and access ramp. The option to move is particularly cost effective where extensive works such as building a ground floor extension would be required to the existing home.

6.3 Proposals for the Affordable Warmth Strategy incorporate the removal of the following:

- Carbon Emissions Reduction Target (CERT) and Green Deal funding are no longer provided by the government (Appendix A.3).
- The energy survey and advice service provided by the former Energy Efficiency and Carbon Reduction Officer. Officers continue to signpost enquirers to funding available through the Energy Company Obligation for thermal insulation and energy efficient products.

6.4 Members of the officers' CPO monitoring group are currently reviewing the process for prioritising and selecting properties, to ensure that the right properties are brought forward for compulsory purchase and to speed up the process, making best use of the budget available. The group have recommended revisions to the CPO scoring matrix on page 50 of the Private Sector Housing Policy (Appendix A.4). The changes are proposed to:

- Increase the objectivity of the scoring, reducing matters of individual judgement, by replacing subjective assessment of the severity of a problem with a "yes or no" response.
- Make the outcome of the assessment more balanced by reducing the points awarded for a single complaint and awarding equal scores to notices from the council and outside bodies.

6.5 The current fee for a HMO licence in Wellingborough is £346.60. Fees charged by other authorities in Northamptonshire range from £711 in Kettering to £434 in Corby. It is therefore proposed to increase the charge to £600 for a new HMO licence and £400 to renew a licence (Appendix A.5). The following table illustrates how the proposed fees for Wellingborough would compare with neighbouring authorities. Fees are subject to an annual inflation increase as appropriate.

Local Authority	HMO Licence	HMO Licence Renewal
Kettering BC	£711	£533
Northampton BC	£700 (+£30 for each person over 5 occupiers)	£700 (+£30 for each person over 5 occupiers)
Wellingborough BC	£600	£400
Daventry DC	£575	£431
E Northants DC	£471	£307
Corby BC	£434	

6.6 Deregulation Act 2015 – Section 33 Preventing Retaliatory Eviction (Appendix A.6)

6.6.1 A number of provisions in the Deregulation Act 2015 have come into force which are designed to protect tenants against unfair eviction. Where a tenant makes a genuine complaint about the condition of their property

that has not been addressed by their landlord, their complaint has been verified by an officer's inspection and the council has served either an improvement notice or a notice of emergency remedial action, a landlord cannot evict that tenant for six months. The landlord is also required to ensure that the repairs are undertaken.

- 6.6.2 The above restrictions relate to Section 21 Notices of eviction only and do not prohibit the landlord from taking action should other conditions of the tenancy be breached.
- 6.6.3 Should a complaint of retaliatory eviction be received from a tenant, then an authorised officer of the council will investigate and, where appropriate, take proceedings against the landlord.

6.7 Smoke and Carbon Monoxide (England) Regulations 2015 (Appendix A section 5.4.2).

- 6.7.1 These regulations require that a smoke alarm is installed by the landlord on every floor of privately rented accommodation and, where an appliance that uses solid fuel is installed, a carbon monoxide (CO) alarm must be provided in the same room as the appliance. Officers will react to complaints from residents and will carry out checks as part of planned inspections.
- 6.7.2 Where such alarms are not fitted, the council has powers to serve notice under The Smoke and Carbon Monoxide Regulations 2015, which require the landlord to install the necessary alarms within 28 days of the issue of that notice. Once a notice is served, checks will be made to ensure the alarms have been fitted.
- 6.7.3 Where alarms have not been fitted, the local authority has powers to install the alarms once the notice period has expired and issue a penalty charge to the landlord of up to £5,000. The authority must serve notice of its intention to impose such a charge on the landlord stating the amount of the charge and the payment period.
- 6.7.4 A reduction in the penalty charge can be applied if the landlord makes payment or written representation to the local authority within 14 days of the service of the penalty charge notice subject to a "statement of principles". A statement of principles for levying charges is proposed in Appendix B.

6.8 The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014 (Appendix A section 5.4.2)

- 6.8.1 The aim of the redress schemes is to provide a free, independent service for resolving disputes between letting/property management agents and their customers.
- 6.8.2 If a tenant wishes to complain about the service they have received from their letting or property management agent they can complain to the redress scheme to investigate. If a complaint is upheld the schemes have a number of options from requiring an apology to a fine or expulsion from the scheme.
- 6.8.3 Compensation is capped at £25,000 and if an aggrieved party wishes to claim more they have to proceed via the courts rather than the Ombudsman scheme.

6.8.5 If the tenant is unable to verify that their agent is registered to one of the schemes, they can contact the council to seek advice and for an officer to investigate. Following investigation, if the company is not a member of any scheme, the council can issue a fine of up to £5,000. The company will still be required to join a scheme.

7 Legal powers

In order for officers to implement the powers listed in section 5.4 the powers need to be delegated to the Head of Planning and Local Development.

8 Financial and value for money implications

Income from fines imposed for failing to comply with the legislation to be adopted can be used by the council for any of its functions. Otherwise the legislation will be implemented within the current council establishment and budgets.

9 Risk analysis

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
Too many renovation grant applications (6.1).	Over-commitment of renovation grant budget and unmanageable demand on officer time.	Medium	Monitoring demand and increasing promotion only as required.
Reduction in pro-active energy efficiency work (6.3).	Increase in fuel poverty.	Medium	Monitor fuel poverty statistics published and consider increased activity if the borough does not perform similarly to neighbouring authorities.
Excessive time spent enforcing the new legislation (6.4, 6.5 and 6.6)	Lack of time to adequately carry out all PSH functions.	Low	Additional staff in Housing assisting with PSH functions and penalties associated with legislation making compliance quickly achieved.

10 Implications for resources

The proposals will be implemented within the existing establishment in Housing services.

11 Implications for stronger and safer communities

The improved living conditions, tenancy rights and outcomes for DFG applicants will have a positive impact on health improvement, community cohesion and community safety.

12 Implications for equalities

The improved living conditions, tenancy rights and outcomes for DFG applicants will have a positive impact on equalities.

13 Author and contact officer

Clive Culling, Assistant Principal Housing Officer

14 Consultees

Julie Thomas, Head of Planning and Local Development
Patricia McCourt, Acting Principal Housing Manager
Liz Elliott, Head of Finance
Geoff Hollands, Principal Solicitor, District Law Legal Services

15 Background papers

The existing Private Sector Housing Policy can be accessed at:

http://www.wellingborough.gov.uk/downloads/file/6717/psh_policy

**Private Sector Housing Policy:
Summary of Proposed Changes**

Issue	Response	Existing Section of Private Sector Housing Policy
1. Housing Assistance: Maximum Renovation Grant	Current i) A maximum of £5,000 will be applied to renovation grants, with conversion grants limited to a maximum of £5,000 per unit of accommodation created.	2.2.2
	Amendment ii) A maximum of £10,000 will be applied to renovation grants, with conversion grants limited to a maximum of £5,000 per unit of accommodation created.	
2. Housing Assistance: DFG procedure	Addition ii) Where possible and when it is a more cost effective solution the council works with its partners to encourage and facilitate the applicant to move to a more suitable property which is already, or more easily, adapted to meet their needs. iii) Housing Associations are encouraged to contribute 50% of the cost of adapting properties for their tenants. Agreements are in place with Wellingborough Homes and EMH Housing to contribute 50% and Orbit HA contribute £2,500 towards the cost of eligible works.	2.2.3
3. Affordable Warmth Strategy	Current CERT The Carbon Emissions Reduction Target required all major domestic energy suppliers to make savings in the amount of CO2 emitted by householders. Suppliers were to meet the target by promoting the uptake of low carbon energy solutions to household energy consumers, thereby assisting them to reduce the carbon footprint of their homes. The primary aim of CERT was to make a contribution to the Kyoto protocol. CERT expired last year (2012) in December and	3.2

this had an impact on the cost of home insulation. Without CERT funding insulation (loft and cavity wall) costs start from approximately £400.

Green Deal and ECO - Two new schemes introduced by the Government.

The Energy Act 2011 includes provisions on Green Deal and Energy Company Obligation (ECO) and from January 2013 Green Deal and ECO replaced CERT and CESP (Community Energy Saving Programme) schemes, placing a new requirement on UK energy suppliers to deliver against both CO₂ and fuel poverty reduction targets.

Green Deal allows customers to carry out energy efficiency improvements to their properties and repay through their energy bill. The scheme 'Golden Rule' is designed to ensure repayments are lower than the energy bill savings that result from the efficiency improvements.

There are 45 measures or areas of home improvement approved to receive funding under the Green Deal, covering:

- insulation
- heating and hot water
- glazing
- microgeneration

Energy Company Obligation (ECO)

Where homes might not achieve the Golden Rule either because they are currently under-heated or where the property requires high cost measures, such as solid wall insulation, an ECO subsidy will be applied. ECO is focused on low income and vulnerable households, helping them to heat their homes to a healthy level.

The ECO is funded by energy suppliers. Energy suppliers will determine under the ECO scheme how much subsidy they provide to each customer.

Amendment ECO2

The Energy Act 2011 included provisions for the Green Deal and Energy Company Obligation (ECO) placing a new requirement on UK energy suppliers to deliver against both CO₂ and fuel poverty reduction targets.

The Green Deal experienced very limited take up

	<p>and has now been dropped.</p> <p>Where homes are currently under-heated or where the property requires high cost measures, such as solid wall insulation, an ECO subsidy may be applied. ECO is focused on low income and vulnerable households, helping them to heat their homes to a healthy level.</p> <p>The ECO is funded by energy suppliers who determine how much subsidy they will provide to each customer.</p>																																																							
<p>4. Empty Property Points System</p>	<p>Current Borough Council of Wellingborough – Empty Property Points System</p> <table border="0"> <thead> <tr> <th style="text-align: left;">Address:</th> <th style="text-align: right;">Score</th> </tr> </thead> <tbody> <tr> <td colspan="2">Length of time vacant</td> </tr> <tr> <td>Less than six months</td> <td style="text-align: right;">0</td> </tr> <tr> <td>6 Months – 1 year</td> <td style="text-align: right;">10</td> </tr> <tr> <td>1 Year – 2 Years</td> <td style="text-align: right;">20</td> </tr> <tr> <td>2 Years – 3 Years</td> <td style="text-align: right;">40</td> </tr> <tr> <td>3 Years – 4 Years</td> <td style="text-align: right;">50</td> </tr> <tr> <td>4 Years – 5 Years</td> <td style="text-align: right;">60</td> </tr> <tr> <td>5 Years plus</td> <td style="text-align: right;">80</td> </tr> <tr> <td colspan="2">Property Type</td> </tr> <tr> <td>Flat in private block</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Flats over shops</td> <td style="text-align: right;">5</td> </tr> <tr> <td>House</td> <td style="text-align: right;">20</td> </tr> <tr> <td colspan="2">Appearance</td> </tr> <tr> <td>Good</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Fair</td> <td style="text-align: right;">10</td> </tr> <tr> <td>Poor</td> <td style="text-align: right;">30</td> </tr> <tr> <td colspan="2">Enforcement action already taken</td> </tr> <tr> <td>Notices – points awarded per notice</td> <td style="text-align: right;">5</td> </tr> <tr> <td>Charges on Land Registry – per charge</td> <td style="text-align: right;">5</td> </tr> <tr> <td colspan="2">Council Tax Arrears</td> </tr> <tr> <td>0-1,000</td> <td style="text-align: right;">5</td> </tr> <tr> <td>1,000 – 2,000</td> <td style="text-align: right;">10</td> </tr> <tr> <td>2,000 – 3,000</td> <td style="text-align: right;">20</td> </tr> <tr> <td>3,000 – Plus</td> <td style="text-align: right;">40</td> </tr> <tr> <td colspan="2">Dangerous Structure</td> </tr> <tr> <td>No</td> <td style="text-align: right;">0</td> </tr> </tbody> </table>	Address:	Score	Length of time vacant		Less than six months	0	6 Months – 1 year	10	1 Year – 2 Years	20	2 Years – 3 Years	40	3 Years – 4 Years	50	4 Years – 5 Years	60	5 Years plus	80	Property Type		Flat in private block	0	Flats over shops	5	House	20	Appearance		Good	0	Fair	10	Poor	30	Enforcement action already taken		Notices – points awarded per notice	5	Charges on Land Registry – per charge	5	Council Tax Arrears		0-1,000	5	1,000 – 2,000	10	2,000 – 3,000	20	3,000 – Plus	40	Dangerous Structure		No	0	<p>Appendix C</p>
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Yes	50
Complaints	
Neighbours – one score per complainant	10
Members/Committees	30
Total	
Amendment	
Borough Council of Wellingborough – Empty Property Points System	
Address:	Score
Length of time vacant	
Less than six months	0
6 Months – 1 year	10
1 Year – 2 Years	20
2 Years – 3 Years	40
3 Years – 4 Years	50
4 Years – 5 Years	60
5 Years plus	80
Property Type	
Flat in private block	5
Flats over shops	10
House	20
Appearance	
Good	0
Overgrown	10
Poor repair	10
Enforcement action already taken	
Notices – points awarded per notice	10
Enforcement by other agencies per action	10
Council Tax Arrears	
0-1,000	5
1,000 – 2,000	10
2,000 – 3,000	20
3,000 – Plus	40
Dangerous Structure (assessed by Building Control)	
No	0
Yes	50

	<p>Complaints</p> <p>One score per complainant 5</p> <p>Total</p>	
<p>5. HMO Licensing</p>	<p>Current</p> <p>Apply for an HMO licence To make an application please contact Housing Renewal Tel. 01933 231851 or email: Housingrenewal@wellingborough.gov.uk</p> <p>Licence fees Each application must be accompanied by an application fee of £140.00 and a further payment of £195.00 must be paid prior to the issue of the license to cover the cost of processing the license and administering the system.</p> <p>Renewal of licence Renewals can be done where the property has previously been a licensed HMO and where the license is due to expire or has recently expired. The proposed license holder must be the same person or organisation/body as per the previous license.</p> <hr/> <p>Amendment</p> <p>Apply for an HMO licence To make an application please contact Private Sector Housing Tel. 01933 231851 or email: Privatesectorhousing@wellingborough.gov.uk</p> <p>Licence fees Each application must be accompanied by an application fee of £200 and a further payment of £400 must be paid prior to the issue of the license to cover the cost of processing the license and administering the system. The licence fees are subject to annual review.</p> <p>Renewal of licence Renewals can be done where the property has previously been a licensed HMO and where the licence is due to expire or has recently expired for a fee of £400. The proposed licence holder must be the same person or organisation/body as per the previous licence.</p>	<p>6.6, 6.7, 6.8</p>

<p>6. Housing Enforcement Policy: Deregulation Act 2015</p>	<p>Addition A landlord is not permitted to serve their tenant with a Section 21 notice within 6 months of the service or suspension of a relevant improvement notice. Nor can a landlord serve a Section 21 notice on a tenant that has made a complaint to the landlord regarding the condition of the property and the landlord has: i) failed to provide a response to the complaint within 14 days of receipt; ii) served a Section 21 notice in reply or; iii) failed to provide an adequate response. If the response is inadequate the tenant can ask the council to carry out an inspection of the property. If the council serves an improvement notice or carries out emergency remedial action in response to the tenant's complaint any Section 21 notices already served on the tenant will be deemed ineffective, any proceedings struck out by the Court and a further Section 21 notice cannot be issued by the landlord for 6 months.</p>	<p>5.4.2</p>
<p>7. Housing Enforcement Policy: Smoke and Carbon Monoxide (England) Regulations 2015</p>	<p>Addition Premises occupied under a tenancy must have: i) a smoke alarm fitted on each storey of the premises on which there is a room used wholly or partly as living accommodation;. ii) a carbon monoxide alarm fitted in any room of which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and iii) checks are made by or on behalf of the landlord to ensure that each alarm is in proper working order on the day the tenancy begins if it is a new tenancy.</p> <p>Where the council decides it has reasonable grounds to believe that a landlord is in breach of one or more of the above requirements it must serve a remedial notice on the landlord within 21 days of the decision.</p> <p>If the council is satisfied that a landlord on whom it has served a remedial notice is in breach of their duty the council must, with the tenant's consent, arrange for the remedial action specified to be implemented within 28 days.</p>	<p>5.4.2</p>

<p>8. Housing Enforcement Policy: Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015 – Part 1</p>	<p>Addition Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a scheme etc)(England) Order 2014</p> <p>It is a legal requirement for all lettings agents and property managers in England to join one of three Government-approved redress schemes. The requirement is enforced by the council through a fine of up to £5,000 where an agent or property manager who should have joined a scheme has not done so.</p> <p>The three redress schemes are:</p> <ul style="list-style-type: none"> • Ombudsman Services Property (www.ombudsman-services.org/property.html) • Property Redress Scheme (www.theprs.co.uk) • The Property Ombudsman (www.tpos.co.uk) 	<p>5.4.2</p>
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Smoke and Carbon Monoxide (England) Regulations 2015

Statement of Principles

This statement is required under Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the regulations) and relates to matters that the Borough Council of Wellingborough (the council) must have regard to in determining the amount of any penalty charge issued under Regulation 8 of the same Regulations.

The regulations allow the council to issue penalty charge notices where a relevant landlord has failed to take all reasonable steps to comply with a remedial notice. Such notices allow 28 days to:

- a) Fit one or more smoke alarms in an occupied rented property.
- b) Fit a carbon monoxide detector to a room with a solid fuel burning combustion appliance.
- c) Take steps to check that each smoke or carbon monoxide alarm required by regulations are working correctly at the start of a new tenancy.

In determining the amount of the penalty charge the council takes into account the following principles:

1. Financial penalty

Landlords issued with a penalty charge notice have been given 28 days to comply with statutory provisions that they should already have undertaken. It is not enough to recover the cost of completing the works as this in itself does not deter inaction that puts tenants' lives at risk. The financial penalty should be set at an amount to ensure that those few landlords that flout the law are appropriately penalised.

The legislation allows for a financial penalty of up to £5,000 for this offence and it is appropriate in view of the seriousness of the offence, and the risk it places on the tenant, for this to be the standard penalty charge made.

2. Mitigating factors

The council agrees to reduce the amount of the penalty charge in the following circumstances:

- a) In the case of a first offence (in the borough or any other local authority area) it is appropriate to levy a reduced charge of £2,000.
- b) Where a landlord makes a prompt payment of the penalty charge (within 14 days) the charge will be reduced by £1,000 for both first and subsequent offences. This will encourage prompt payment and save the council the costs of pursuing unpaid charges, whilst maintaining a substantial penalty to the offender.