

## Report to CABINET

# Approval of Enforcement Policies

### Portfolio Holder:

Cllr Jean Stretton - Cabinet Member for Neighbourhoods

**Officer Contact:** Executive Director for Place & Economic Growth

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Manager

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### Reason for Decision

To review and approve a revised Corporate Enforcement Policy in order to take account of updated guidance, codes of practice and new regulatory sanctions which have been introduced since the Council's Enforcement Policy was last reviewed in 2012.

To also agree a separate enforcement policy relating to the deciding of financial penalties and appropriateness of prosecution under The Tenant Fees Act 2019.

### Recommendations

That Cabinet:

1. Note the report
2. Approve the enforcement policies

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## Approval of Enforcement Policies

### 1 Background

- 1.1 The Council is required to have an overarching statement of Enforcement Policy which governs the way statutory enforcement functions are provided.
- 1.2 The Council adopted the Enforcement Concordat in 2002 and established an enforcement policy to set out what businesses and others being regulated can expect from enforcement officers employed by the Authority. Since then additional guidance, codes of practice and new regulatory sanctions have been introduced and it is therefore appropriate to update the Enforcement Policy from time to time to reflect these changes and avoid challenge.
- 1.3 In addition, the Tenant Fees Act 2019 allows for financial penalties to be issued against lettings agents who contravene requirements imposed on them under the Act. The Council must publish its methodology on how it will deal with such breaches and how penalty amounts will be derived.

### 2 Current Position

- 2.1 The current Enforcement Policy was approved in 2012 and is reviewed from time to time to ensure that the Council lays out its generic principles for good enforcement.
- 2.2 It commits the Council to good enforcement policies and procedures including carrying out our activities in a robust but fair way that supports those who we regulate to comply and grow, avoiding imposing unnecessary regulatory burdens and assessing whether lesser outcomes could be achieved by lesser means. It provides guidance on a range of options that are available to help the public achieve compliance with the legislation we enforce and how powers may be used to regulate and raise standards in various sectors.
- 2.3 The proposed policy can be found at Appendix 1.

### 3. Enforcement Policy relating to Letting Agency legislation

- 3.1 The Tenant Fees Act 2019 introduced new legislation relating to the activities of lettings agents. Breaches of this legislation includes:
  - A lettings agent who fails to publicise their fees
  - A failure by any person engaged in letting agency or property management work to hold membership of a redress scheme
  - A failure by a property agent who holds clients money to belong to an approved or designated client money protection scheme
  - Failure to display a certificate of membership at each agents premises
- 3.2 Enforcing authorities must have regard to statutory guidance and publish how what it will take into account when considering a financial penalty and this policy sets out those considerations.
- 3.3 The proposed policy can be found at Appendix 2.

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### 3 **Options/Alternatives**

3.1 Option 1: Approve the implementation of the enforcement policies.

3.2 Option 2: Do not approve the enforcement policies.

### 4 **Preferred Option**

4.1 Option 1.

### 5 **Consultation**

5.1 All internal departments which have enforcement responsibilities have been consulted as part of the preparation of this report and the proposed policies.

### 6 **Financial Implications**

6.1 The level of income received by the Council from FPN income, and the enforcement costs involved in applying the Enforcement policies will be monitored to ensure that it aligned to the existing revenue budgets for respective services. The total income generated will be dependent on the levels of compliance with the policies. Should there be any variances from budget, the in-year financial position will be managed within the context of the budget for the wider Directorate. (James Postle)

### 7 **Legal Services Comments**

7.1 The Council should have a policy in place which provides guidance on how it carries out its enforcement responsibilities. In relation to prosecutions, the Council is required to follow the provisions of the Code for Crown Prosecutors, which have been incorporated into the Corporate Enforcement Policy. (A. Evans)

### 8. **Co-operative Agenda**

8.1 The policy sets out how the Council will be transparent in considering infringements by publishing options for consideration by Officers. The policy can be accessed by the public and regulated businesses and individuals. It supports the role of the Council in relation to its public protection responsibilities.

### 9 **Human Resources Comments**

9.1 N/A

### 10 **Risk Assessments**

10.1 N/A

### 11 **IT Implications**

11.1 None

### 12 **Property Implications**

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- 12.1 None
  - 13 **Procurement Implications**
  - 13.1 None
  - 14 **Environmental and Health & Safety Implications**
  - 14.1 None
  - 15 **Equality, community cohesion and crime implications**
  - 15.1 None
  - 16 **Equality Impact Assessment Completed?**
  - 16.1 No.
  - 17 **Key Decision**
  - 17.1 Yes
  - 18 **Key Decision Reference**
  - 18.1 NC-09-22
  - 19 **Background Papers**
  - 19.1 None
  - 20 **Appendices**
  - 20.1 Appendix 1 – Corporate Enforcement Policy
  - 20.2 Appendix 2 - Tenant Fees Act Enforcement Policy