

**Body:** Cabinet

**Date:** 25<sup>th</sup> May 2016

**Subject:** Adoption of amended Regulatory Services Enforcement Policy, and three new policies - Redress Schemes Enforcement Policy, Smoke and Carbon Monoxide Alarms Enforcement Policy, and Statement of Principles for Determining the Amount of a Penalty Charge.

**Report of:** Ian Fitzpatrick, Senior Head of Community and EHL MD

**Ward(s)** All

**Purpose** To consider an amendment to the Regulatory Services Enforcement Policy, and to consider three further new private housing policies:

1. Redress Schemes Enforcement Policy
2. Smoke and Carbon Monoxide Alarms Enforcement Policy
3. Statement of Principles for Determining the Amount of a Penalty Charge

**Decision Type:** Key decision

**Recommendation:** That Cabinet:

- Recommends that full Council adopts;
  - the amended Regulatory Services Enforcement Policy;
  - the Redress Schemes Enforcement Policy;
  - the Smoke and Carbon Monoxide Alarms Enforcement Policy;
  - the Statement of Principles for Determining the Amount of a Penalty Charge;
- Recommends that full Council delegates the administration and enforcement of all the above policies and Statement of Principles in exercise of relevant legislation to the Senior Head of Community.

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## **1.0 Background**

1.1 When exercising specified regulatory functions, local authorities are required by the Regulator's Code to publish a clear set of service standards, including their enforcement policy, explaining how they respond to non-compliance.

This is an important document for regulators in meeting their responsibility under the statutory principles of good regulation, and to be accountable and transparent about their activities.

The Regulators' Code can be found on the GOV.UK website at; <https://www.gov.uk/government/publications/regulators-code>

1.2 The amended Regulatory Services Enforcement Policy is attached at Appendix A.

The term "Regulatory Services" covers the Environmental Health and Licensing functions, and specifically the following areas of work:

- Pollution
- Food
- Health and Safety
- Private Housing
- Licensing – premises, taxi and private hire, gambling and ancillary functions.

The primary aim of the Environmental Health and Licensing function is to protect public health. This is done by ensuring compliance with the legislative framework so that consumers, businesses, employees, individuals and the environment are protected. Fair, proportionate, targeted and effective enforcement is essential to protecting the health, safety and economic interests of all concerned. Generally advice and support is provided to those seeking to comply and, at the same time, those who choose not to comply are dealt with, taking a proportionate approach. The detail on how and when action may be taken is outlined in the content of the Regulatory Services Enforcement Policy, adopted by Council in November 2015. This Policy has been amended with a new section 5.5, to reflect the option to issue penalty charge notices.

1.3 The draft Redress Schemes Enforcement Policy is attached at Appendix B.

The purpose of this Policy is to implement the requirements of The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, made under the Enterprise and Regulatory Reform Act 2013. From 1<sup>st</sup> October 2014, all lettings agents and property managers in England must have joined one of three Government established and approved redress schemes, for dealing with complaints in connection with that work.

1.4 The draft Smoke and Carbon Monoxide Alarms Enforcement Policy is attached at Appendix C.

The purpose of this Policy is to implement the requirements of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 which came into force on the 1<sup>st</sup> October 2015. The regulations require landlords of privately rented dwellings to:

- a) Install smoke alarms on each floor of their rented property;
- b) Install a carbon monoxide alarm in each room where there is a solid fuel burning appliance;
- c) Carry out checks to ensure the alarms are in working order at the start of each new tenancy.

1.5 The draft Statement of Principles for determining the amount of a penalty charge is attached at Appendix D. Both The Redress Schemes for Lettings Agency Work and Property Management Work Order 2014, and Smoke and Carbon Monoxide Alarm (England) Regulations 2015, enable the local authority to issue penalty charge notices, and in line with Government guidance this is the maximum of £5000. However, in extenuating circumstances this sum can be varied, and so the draft Statement of Principles sets out what the penalty charge notice will include, and the factors that will be taken into consideration.

1.6 The adoption of policies determining whether, and in what manner, to enforce regulatory requirements are a matter for full Council.

## **2.0 Consultation**

2.1 Consultation has taken place with the National Landlords' Association. No comments have been received.

## **3.0 Resource Implications**

3.1 **Financial** – there are no financial implications, although the application of penalty notices may lead to some additional income.

3.2 **Staffing** – interventions and enforcement will be carried out within existing staff resources.

## **4.0 Other Implications, Environmental, Community Safety, Youth, Anti-poverty, Equality and Fairness analysis**

4.1 **Equality and Fairness analysis:** Enforcement decisions will be fair, independent and objective and will not be influenced by issues such as ethnicity or national origin, gender or gender identity, religion or belief, political views, disability, age or the sexual orientation of the suspect, victim, witness or offender.

The town has businesses managed and run by black and minority ethnic groups, and English may not be their first language. We will endeavour to provide material in their first language, and arrange interpretation services where necessary, to assist the individual to access advice, guidance, information and legislation.

Equality and fairness analyses will be conducted of these policies.

## **5.0 Summary**

5.1 The Regulators' Code requires local authorities to have an enforcement policy, to explain how they will deal with non-compliance. It also prescribes the information for businesses and individuals that these documents must contain. Adoption of the revised Regulatory Services Enforcement Policy enables the Council to comply with the Regulators' Code.

5.2 Adoption of the Redress Schemes Enforcement Policy, the Smoke and

Carbon Monoxide Alarms Enforcement Policy, and the Statement of Principles enables the Council to implement relevant private sector housing legislation.

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The Background Papers used in compiling this report were as follows:

The Regulators' Code;

<https://www.gov.uk/government/publications/regulators-code>

Lettings agent redress schemes

[http://england.shelter.org.uk/get\\_advice/private\\_renting/problems\\_with\\_renting/letting\\_agent\\_redress\\_schemes](http://england.shelter.org.uk/get_advice/private_renting/problems_with_renting/letting_agent_redress_schemes)

DCLG The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 – Q & A booklet for landlords and tenants

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/464717/150929\\_SC\\_Explan\\_book\\_Annex\\_A\\_LandlordsTenants\\_REVISED.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464717/150929_SC_Explan_book_Annex_A_LandlordsTenants_REVISED.pdf)

To inspect or obtain copies of background papers please refer to the contact officer listed above.