

8. CHARGING FOR ENFORCEMENT ACTION UNDER THE HOUSING ACT 2004

REPORT OF: Lynne Standing, Head of Housing, Environmental Health and Building Control
Contact Officer Yvonne Leddy, Business Unit Leader
Email: Yvonne.leddy@midsussex.gov.uk Tel: 01444 477300
Wards Affected: All
Key Decision: No
Report to: Scrutiny Committee for Leisure and Community
Date: 26 November 2014

Purpose of Report

1. To inform Members that the Council has the power to charge for enforcement action under Section 49 of the Housing Act 2004 and sets out a format for implementation.

Recommendations

2. **Committee is recommended to**
 - I. **Endorse for approval by the Council on the 17 December 2014 charging for enforcement action taken under the Housing Act 2004.**
 - II. **Endorse the principle that the Head of Housing, Environmental Health and Building Control, in consultation with the Cabinet Member for Health and Community, should be authorised to make minor amendments to the charging structure, once adopted, to reflect changes in legislation or guidance and codes of practice where a full review of the policy is not warranted.**

Background

3. The Council has a duty to address sub-standard housing conditions. This is normally done through discussion and co-operation with the landlord; however it is sometimes necessary to enforce improvements through the service of statutory notices. In such cases it may be necessary to complete the works required at the owners default, the cost arising being recoverable from the owner.
4. The Housing Act 2004 gives the Council the power to charge for enforcement action under Section 49 and to recover those costs.
5. Action is taken to reduce or eliminate identified hazards as defined by the Housing Health and Safety Rating System (HHSRS). The HHSRS is the enforcement tool used to identify matters which adversely affect the health and safety of occupiers in their home.
6. Enforcement action may arise as a result of a complaint, usually by the occupier of residential premises. Landlords are currently notified in advance of all pending visits and the outcomes of those inspections so they may take the opportunity to attend to any identified hazards.
7. There are occasions where some landlords do not respond positively or quickly to the Health & Safety requirements identified. Whilst this may apply to only four or five

landlords in a year it results in Officers spending considerable time trying to resolve disrepair within residential properties and tenants waiting for necessary work to be carried out to their accommodation.

8. The introduction of a charging structure for certain Housing Act notices would in most cases encourage a more rapid response being taken by landlords to eliminate or minimise the identified hazards without the need for further Council intervention.

Proposed Charging Structure

9. It is proposed that we seek to recover our enforcement costs. Landlords will be charged an hourly rate for the enforcement costs. It is estimated that the average cost of enforcement will range between £150 and £350. Landlords will be advised in writing what works are necessary to the property and given the opportunity to act. They will be charged once the officer starts formulating the notices etc. This charging structure seeks to recover the cost of administration and compliance only.
10. It is proposed to introduce the charging structure for taking enforcement action in the following circumstances:
 - serving an improvement notice under section 11 or 12
 - making a prohibition order under section 20 or 21
 - serving a hazard awareness notice under section 28 or 29
 - taking emergency remedial action under section 40
 - making an emergency prohibition order under section 43 or
 - making a demolition order under section 265 of the Housing Act 1985
 - carrying out a review under section 17 (review of suspended improvement notices) or
 - section 26 (review of suspended prohibition orders) or
 - serving copies of the Council's decision on such a review
11. It is proposed to introduce the charging structure from 1st April 2015.
12. Expenses will be recovered in accordance with Section 50 of the Housing Act 2004, via a demand for payment of the charge. As from the time that the demand becomes operative until recovered the sum recoverable, will be registered as a local land charge on the premises concerned.
13. The current resources in Environmental Health will cover the implementation of the charging scheme.

Options Considered

14. Other options considered but discounted were:
 - Option 1 – Charge nothing as we currently do but some Landlords will persist in taking little or no action when hazards have been identified and will continue to prolong necessary repairs to their properties where vulnerable tenants have no choice but to remain. This results in the continued costly resource to the council of many hours wasted in unnecessary letters, emails and visits by officers and results in very unhappy tenants renting with poor living conditions
 - Option 2 – Introduce a standard charging fee for all notices. A number of local Authorities use this system and although there is no appeal under section 49, if a

notice is challenged for technical reasons there is a chance that the ‘Residential Property Tribunal Service’ (RPTS) (The Umbrella Organisation & independent decision making body who decides on disputes for Housing Act 2004 cases) may decide to make an order as it considers appropriate to reduce, quash, or requiring the repayment of the charge if it appears to them to exceed the Council’s costs.

Financial Implications

15. None. The Charging structure should cover the cost of administration, inspection and service of a statutory notice.

Risk Management Implications

16. None from the recommendations identified in this report.

Equality and Customer Service Implications

17. This should have a positive impact on residents. The aim of the new charging structure is to encourage landlords to respond to identified hazards within their properties quicker without further council intervention and protect vulnerable occupants from sub-standard & poor quality housing.

Background Papers

[Housing Act 2004 Part 1: Housing Conditions: Guidance to local housing authorities about the use of their powers, published August 2006.](#)