

CABINET MEETING – 1 DECEMBER 2010

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Housing and Neighbourhood Renewal Enforcement Policy

Author(s):

Executive Director of Health, Housing and Adult Services

Purpose of Report:

The purpose of the report is to inform Cabinet of the ongoing statutory requirement to produce, review and publish a service specific enforcement policy and to seek Cabinet approval for the proposed Housing and Neighbourhood Renewal Enforcement Policy which will act to serve statutory, strategic and operational aims.

Description of Decision:

Cabinet is recommended to approve that the Housing and Neighbourhood Renewal Enforcement Policy be referred to Council for approval and adoption by the Council with immediate effect.

Is the decision consistent with the Budget/Policy Framework? Yes

If not, Council approval is required to change the Budget/Policy Framework

Suggested reason(s) for Decision:

The introduction of the Housing Act 2004 provided a series of substantial new enforcement powers many of which came into force from 2006 and there is also a requirement in the Regulator's Compliance Code ("the Code") issued under section 22 of the Legislative and Regulatory Reform Act 2006 ("the Act") to publish a separate and specific policy for Housing Renewal Enforcement.

The Code, which came into effect on 6 April 2008, stipulates that specified regulators must have regard to its provisions when enforcing, setting standards and giving advice on legislative provisions. Housing enforcement activity is included in the regulatory functions specified in the listing order made under 'the Act' and an explicit policy complying with the requirements of the Code must be reported to the Council with a view to adoption as formal policy.

The existing Housing Enforcement Policy was approved in February 2009 however since that time new powers in relation Anti Social Behaviour have been adopted by the Council and are now embedded within the revised Enforcement Policy. In addition, the proposed policy has been updated in relation to enforcement options and an improved layout now includes a summary of the Council's enforcement response for a range of circumstances.

Alternative options to be considered and recommended to be rejected: The alternative option considered and rejected was that the existing policy (which does not have regard to the new powers adopted by the Council) be retained, despite the introduction of new powers and legislative requirements and contrary to statutory guidance.	
Is this a “Key Decision” as defined in the Constitution? Yes	Relevant Scrutiny Committee: Sustainable Communities Scrutiny Committee
Is it included in the Forward Plan? Yes	

**REPORT OF THE EXECUTIVE DIRECTOR OF HEALTH, HOUSING AND
ADULT SERVICES**

HOUSING AND NEIGHBOURHOOD RENEWAL ENFORCEMENT POLICY

1. PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to inform Cabinet of the statutory requirement to produce and publish a service specific enforcement policy and to seek Cabinet approval for the proposed Housing and Neighbourhood Renewal Enforcement Policy which will act to serve statutory, strategic and operational aims.

2. DESCRIPTION OF THE DECISION

- 2.1 Cabinet is requested to approve that the proposed Housing and Neighbourhood Renewal Enforcement Policy be referred to Council for approval and adoption by the Council with immediate effect.

3. BACKGROUND

- 3.1 The existing policy was developed having regard to the 1998 Enforcement Concordat and the Regulator's Compliance Code. The Code is designed to complement the concordat but unlike the concordat that was voluntary, the Code **must** be taken into account by regulators such as local authorities when determining any general policy or principles about the exercising of specified regulatory functions or when exercising or giving guidance about those functions.
- 3.2 The Council implemented the Housing Renewal and Financial Assistance Policy with effect from 1 April 2003 following adoption by Cabinet on 15 January 2003 and from that time the enforcement policy has been an integral part of the overall policy subject to annual review until Cabinet approved a new Financial Assistance Policy in July 2008.
- 3.3 The introduction of the Housing Act 2004 provided a series of substantial new enforcement powers, many of which came into force in 2006, and the Regulators' Compliance Code ("the code") issued under section 22 of the Legislative and Regulatory Reform Act 2006 recommended that regulators publish an enforcement policy that takes account of the requirements of the Code.

- 3.4 The existing Housing Enforcement Policy was approved in February 2009 however since that time new powers in relation Anti Social Behaviour have been adopted by the Council and needed to be embedded within the Enforcement Policy. In addition, the proposed policy has been updated in relation to enforcement options and an improved layout now includes a summary of the Council's enforcement response for a range of circumstances.

4. CURRENT POSITION

- 4.1 In order to comply with the Regulator's Compliance Code, the Council is required to adopt and publish an enforcement policy designed to promote efficient and effective approaches to regulatory inspection and enforcement in order to improve regulatory outcomes without imposing unnecessary burdens on landlords and other businesses.
- 4.2 The policy applies to the Council's enforcement activities in exercising the statutory powers at its disposal in dealing with anti social behaviour, sub-standard or disused private sector housing and outlines the approach to be taken in the use of such powers including investigation, inspection, and dialogue with persons who may be affected by the enforcement activity largely vested in the Council's Housing and Neighbourhood Renewal Team.
- 4.3 The policy was developed with a view to protecting the health, safety and welfare of the residents of Sunderland and to encourage good standards in terms of maintenance and management of homes predominately in the private sector. Further aims are to support the sustainability of the housing stock and the residential environment.
- 4.4 The policy also applies to the ancillary enforcement activities undertaken by the service in the residential sector to deal with matters such as accumulations of waste, statutory nuisances and blocked or defective drainage.
- 4.5 The existing policy has generally been found to apply well for the purpose for which it was developed. However, the introduction and Council adoption of new powers in relation to Anti Social Behaviour under the provisions of the Violent Crime Reduction Act 2006 and the Criminal Justice and Immigration Act 2008 mean that the existing policy will no longer be fit for purpose.
- 4.6 Section 118 of the Criminal Justice and Immigration Act 2008 introduced closure notices and orders to allow the courts to close on a temporary basis, premises associated with significant and persistent disorder or persistent serious nuisance. The tool is similar to the existing crack house closure.

- 4.7 Drink Banning Orders have been introduced through the Violent Crime Reduction Act 2006. They are designed to address an individual's alcohol misuse behaviour and protect others and their properties from such behaviour. They are civil orders that can be made against an individual aged 16 or over if they have engaged in criminal or disorderly conduct whilst under the influence of alcohol. The order remains in place for a minimum of two months and a maximum of two years. There is no custodial penalty for breach of an order although breach of a subsequent court sanction could result in a custodial sentence.
- 4.8 The Home Secretary in a recent speech announced that the current Government intended to look to remove Anti Social Behaviour Order powers from statute. The Executive Director will continue to monitor this position.
- 4.9 Additionally, the statutory duties which the Council must provide in respect to tenancy harassment as set out by the Protection of Eviction Act 1977 will transfer from the Council's Legal Services to the Strategic Housing Service within this year as part of the Councils Business Transformation Programme. When protocols are finalised these duties will be included within the Enforcement Policy.

5. REASONS FOR DECISION

- 5.1 The proposed new enforcement policy is designed to promote efficient, effective and consistent approaches to inspection, investigation and enforcement in order to improve regulatory outcomes without imposing unnecessary burdens.

6. ALTERNATIVE OPTIONS

- 6.1 The alternative option considered and rejected was that the existing policy (which does not have regard to the new powers adopted by the Council) be retained, despite the introduction of new powers and legislative requirements and contrary to statutory guidance.

7. RELEVANT CONSIDERATIONS/CONSULTATION

7.1 Financial Implications

The Director of Financial Resources has confirmed that there are no additional cost implications associated with this report. The costs associated with the implementation of the Housing and Neighbourhood Renewal Enforcement Policy will be met from existing resources.

7.2 **Risk Analysis**

This proposal mitigates risk in terms of legal concerns and indemnity of officers' actions.

The risks of not adopting this policy are that:

Enforcement action is not targeted to benefit those who are most disadvantaged or who would benefit most.

The opportunity to improve clarity, consistency and transparency on why and how we take enforcement action may not be achieved.

The profile of taking enforcement action to protect residents is not raised nor receives further political endorsement.

There may be a greater risk of legal challenge against enforcement decisions.

7.3 **Employee Implications**

7.3.1 **Legal Implications**

Legal Services have also been consulted with regard to the legal aspects of the Policy.

7.3.2 **Policy Implications**

The proposed Housing and Neighbourhood Renewal Enforcement Policy will support and strengthen the Council's key strategies and policies. Such relevant strategies including the Housing Strategy, the Empty Property Strategy, the Anti-Social Behaviour Strategy, the Homelessness Strategy, and the BOTM Succession Strategy.

7.3.3 **Health and Safety Considerations**

All project activities will be undertaken with due regard to health and safety legislation and Council policies and will seek to assist often the most vulnerable people in the city.

7.3.4 **Equality Considerations**

All project activities will be undertaken with due regard to equality legislation and Council policies.

7.3.5 **Stakeholder Consultation**

The members of the Council's Private Landlord Forum have been consulted in respect to the proposed Enforcement Policy.

The appropriate entry has been in place in respect to the Forward Plan.

8. APPENDICES

Appendix 1 - Proposed document "Housing and Neighbourhood Renewal General Enforcement Policy"

9. BACKGROUND PAPERS

Housing Act 2004

Legislative and Regulatory reform Order 2006

Legislative and Regulatory Reform (Regulatory Functions) Order 2007

Cabinet Office Enforcement Concordat

Regulators' Compliance Code issued under section 22 of the Legislative and Regulatory Reform Act 2006

Copies of the above documents are held by the Housing and Neighbourhood Renewal Team and can be viewed by arrangement. Contact the Housing and Neighbourhood Renewal Team on 0191 5611488.