

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Housing Services Cabinet Committee

Date: 13th November 2023

Reporting officer: Clare Reynolds, Private Sector Housing Manager

Subject: Creation of Civil Penalty Policy 2023-2026

Purpose and summary of report:

To provide Housing Services Cabinet Committee an introduction to the standalone Civil Penalty Policy 2023 which was formally part of the Enforcement Policy

Recommendations:

1. For Members to discuss and provide feedback on the Civil Penalty Policy 2023 prior to being ratified by the Cabinet Members for Housing Services.

Key Implications:	
Item	Implications
Legal	There are no legal implications of not enforcing however this will have an impact on residents.
Finance and Value for Money	The report is intended to provide an overview of the policy review and highlight key changes that enables Members to understand the councils position when dealing with housing enforcement within the private sector.
Corporate Plan	In line with the objectives of the corporate plan 2019-23 strategic objective #1 People, enforce a high quality of private housing (PI 16) and under commitments will work with landlords to tackle property standards, empty homes (PI 17) and HMO's.
Climate Change	Opting for the latest building materials, latest specifications, whilst applying the latest regulations, legislations and energy efficiencies. Promotion and delivery of government led energy schemes for private landlords and qualifying tenants.

1. Background

- 1.1 A review of the Private Sector Housing Enforcement Policy has been carried out as required. This is the first review since member approval on the 25th September 2019.

2. Current Position

- 2.1 Gravesham do not have a Civil Penalties Policy and at present the details around this sit within the Private Sector Housing Enforcement under an appendix 'Policy

for imposing financial penalties under the Housing Act 2004 and the Housing and Planning Act 2016'

- 2.2 Private Sector Housing will attempt to resolve informally at every opportunity. However, there will be times when formal activity via enforcement is the Councils only option.

3. Proposal

- 3.1 Private Sector Housing has removed the 17 page Appendix 1 'Policy for imposing financial penalties under the Housing Act 2004 and the Housing and Planning Act 2016' from the existing Housing Enforcement Policy and created a dedicated standalone Civil Penalty Policy. Within the new reviewed Private Sector Housing Enforcement Policy the Civil Penalties Policy will be linked and cited within the document.
- 3.2 The rationale for this is that the Housing & Planning Act 2016 is a large legislation and covers multiple elements and due to the volume and content of work and the complexity it warrants its own dedicated policy and is also good practice.
- 3.2 The two policies will cover service areas and functions being delivered by the Private Sector Housing team.

4. The Civil Penalty policy:

- 4.1 The Council is required to have a policy in place to determine when to prosecute and when to issue a civil penalty. To do this, we have had regard to statutory guidance issued by the Department of Levelling Up, Housing and Communities. This sets out the factors that we must consider as part of the financial penalty setting process. This policy must ensure proportionality, transparency, and consistency.
- 4.2 Civil penalty is an alternative to prosecution under the Housing Act 2004, and this document sets out the Council's policy on deciding when to impose a civil penalty notice and how we will determine the penalty amount.

5. Conclusion

- 5.1 The service continues to advance in enforcement action undertaken, requiring robust, modern policies and failsafe procedures as far as reasonably practicable.
- 5.2 The team having successfully issued the authorities first civil penalty notices for housing related offences. This included 2 cases equating to £16,825. With recovery of financial fines underway, the income is ringfenced under regulation 19 of the Housing & Planning Act 2016. Funds recovered allow the Private Sector Team to reinvest into further enforcement and education activity.
- 5.3 As a Council, we should be seen to be both creative and proactive in the delivery of the Private Sector Housing Service. Whilst our initial stance is to resolve informally, we have the correct tools in place to effectively enforce where necessary.

6. Appendices

- 6.1 Draft Civil Penalties Policy 2023

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Secondary Implications	
Risk Assessment	<p>Private Sector Housing Enforcement Policy the amendments within the review will not have a negative impact upon the end user. The review has enhanced the services the Council can offer and deliver to the customer.</p> <p>Civil Penalty Policy, the creation of new policy does not have a negative impact upon the end user. The review has enhanced the services the Council can offer and deliver to the customer</p>
Data Protection Impact Assessment	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner's Office website via the above links. Yes</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? Yes</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. N/A</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. Yes, as this will target the most vulnerable households.</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Crime and Disorder	There is no implication in relation to crime and disorder within the policy review.
Digital and website implications	There are no implications in relation to digital and the website. The revised policy and new policy will be uploaded onto the website.
Safeguarding children and vulnerable adults	The provision of safe and suitable accommodation contributes towards meeting the needs for vulnerable adults and children.