

TITLE OF REPORT - PRIVATE SECTOR HOUSING ENFORCEMENT POLICY**Key Decision No - NH S017****CABINET MEETING DATE
(2021/22)**

13th December 2021

CLASSIFICATION: Open**If exempt, the reason will be listed in the main body of this report.****WARD(S) AFFECTED**

All wards

CABINET MEMBER**Philip Glanville, Mayor of Hackney
Cllr Sem Moema, Mayoral Adviser for Private Renting and Housing Affordability****KEY DECISION**

Yes

REASON

Affects two or more wards

CORPORATE DIRECTOR**Stephen Haynes, Strategic Director, Inclusive Economy, Policy and New Homes**

1. CABINET MEMBER'S INTRODUCTION

- 1.1** The number of private renters in Hackney has grown significantly over the last decade to 34,000, or nearly one in three households – a result of the wider housing crisis which means that, for people on low and even middle incomes, renting privately is often the only option for finding a home.
- 1.2** While most landlords provide good-quality homes and treat their tenants fairly, far too many private renters suffer from poor conditions and management. Our research estimates that 11% of privately rented homes suffer from serious hazards or disrepair - rising to almost 20% in the worst affected areas and in Houses in Multiple Occupation (HMO) properties borough-wide.
- 1.3** Through our #BetterRenting campaign we're tackling these issues by pushing the government to introduce measures to make renting fairer, giving private renters in Hackney the advice and support they need, working with good landlords, and doing everything we can to tackle the minority of rogue landlords in our borough.
- 1.4** Effective enforcement action is a key part of this - it will ensure that private renters in homes where they are most likely to suffer from serious hazards or mistreatment get the protection they deserve, and that we can take tougher action against landlords that don't comply.
- 1.5** Our updated enforcement policy sets out the range of methods we will use to take transparent, proportionate and fair enforcement action – showing how we will work with landlords to ensure they provide good, well-managed homes to their tenants, while cracking down on the minority who fail to do so.
- 1.6** We commend this report and its recommendations to Cabinet.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1.** Hackney has seen more rapid social and economic change than almost anywhere else in the UK over the last 15 years. This has brought many new economic opportunities for local people and local residents. Many have told us that they feel not everyone is benefiting equally from these opportunities and they feel excluded from the prosperity that they see around them. Poor quality housing compounds these challenges and can reinforce inequality and social exclusion.
- 2.2** Around one third of Hackney residents now live in the private rented sector – double that of ten years ago. While a majority of private renters in Hackney are satisfied with their homes, there are too many properties suffering from poor conditions and management. Renters also face insecurity, often with six month tenancies and high or unpredictable rent rises.

- 2.3** We already work with landlords to help raise standards and meet demand by providing training and forums, and will increase our enforcement action to tackle the minority who break the law.
- 2.4** The Hackney Housing Strategy 2017-2022 sets out, as one of its key objectives, to expand enforcement activity in the private rented sector and the way we approach enforcement, to improve management and physical standards. This enforcement policy sets out the new range of methods and tools at our disposal to deliver the Housing Strategy objective.

3. RECOMMENDATION(S)

Cabinet is recommended to:

- 3.1 Approve the “*Enforcement Policy for Private Sector Housing*” as attached in Appendix 1,**
- 3.2 The Mayor and Cabinet to approve delegation to the relevant Strategic Director authority to make minor amendments to the Enforcement Policy for Private Sector Housing in consultation with the Mayor and relevant lead members.**

4. REASONS FOR DECISION

- 4.1** One of the Council’s key priorities is to ensure that housing conditions in the private rented sector (PRS) are safe and healthy for residents. There are around 34,000 homes in the PRS, making up around a third of all homes in Hackney. Within this figure an estimated 4,315 are Houses in Multiple Occupation (HMOs). Most landlords provide good standard accommodation for their tenants and manage their properties satisfactorily but this is not so in all cases. Our data¹ indicates that a significant proportion of PRS homes contain Category 1 hazards or are in disrepair. (11% on average across the Borough; 20% for HMOs).
- 4.2** In order to tackle this significant proportion of unsatisfactory homes, the Council delivers a range of interventions, including responding to complaints from tenants of poor housing conditions and proactive action through its three property licensing schemes.
- 4.3** Most landlords respond positively to engagement with the Council and bring their properties up to standard without the need for enforcement action, but there are a minority that do not. For these landlords, the Council will use the full range of enforcement powers to secure improvements. Enforcement action underpins the work of the Private Sector Housing Team in securing good standards in the PRS, and is key to the success of the Council's three property licensing schemes and other interventions. Without effective

¹ Private sector housing stock modelling report; Building Research Establishment 2017

enforcement there is little disincentive to rogue landlords who operate in the borough.

4.4 The wide range of enforcement powers relating to the PRS are derived from a multitude of Acts of Parliament and secondary regulations. Many of these have been introduced individually over many years and it can be difficult for landlords to be clear on what powers can be applied to them. Tenants may not be aware of their rights and available recourse to remedying poor housing conditions and management.

4.5 Under Article 13 of the Council's Constitution², when taking enforcement action the Council must have due regard to proportionality, openness and respect for human rights. Furthermore, it must ensure any enforcement action is taken in compliance with the Regulators Code³. The Legislative and Regulatory Reform Act 2006 requires regulators to have regard to the code when developing policies and operational procedures that guide their regulatory activities. To that end, this Private Sector Housing Enforcement Policy seeks to ensure that the application of any enforcement is:

- Proportionate: reflecting the level of risk to the public; enforcement action taken will relate to the seriousness of the offence.
- Consistent: we will take a similar approach in similar circumstances to achieve similar results. This does not mean uniformity.
- Targeted: enforcement action will be aimed primarily at situations that give rise to risks and in respect of the worst housing conditions. Action will be focused on those responsible for the risk and those who are best placed to control it.
- Transparent: we will ensure that landlords and agents are able to understand what is expected of them and what they can expect from us in return. The differences between statutory requirements and advice or guidance will be made clear.
- Accountable: activities will be open to public scrutiny with clear and accessible policies and fair and efficient complaint procedures.
- Robust: through enforcement we will provide an effective deterrent against offending and ensure that those who flout the law are not able to profit from their wrongdoing, or undercut good landlords who have to compete in the same market.

4.6 The Regulators Code also sets out six principles of enforcement:

² <https://drive.google.com/drive/folders/16bo3gvy5x4504QDOOEnGEv3kCPqawzEF?usp=sharing>

³ Regulators Code; Department of Business, Innovation and Skills, Better Regulation Delivery Office; 2014

- i) Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
- ii) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
- iii) Regulators should base regulatory activities on risk.
- iv) Regulators should share information about compliance and risk.
- v) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
- vi) Regulators should ensure that their approach to their regulatory activities is transparent.

This enforcement policy sets out these principles. It provides guidance to enforcement officers and provides transparency for landlords and tenants. It aims to ensure that enforcement action is always taken in a proportionate, fair and non-discriminatory manner.

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1** The Private Sector Housing Enforcement Policy codifies the disparate enforcement powers available and sets them out in one concise document. It provides transparency for housing providers and guidance to enforcement officers in their application. An alternative would be not to have an enforcement policy but this would mean these benefits would be lost.

6. BACKGROUND

The range of enforcement powers applicable to the PRS has come into being iteratively over many years and has been adopted by the Council through various Cabinet approvals and schemes of delegation. The Private Sector Housing Enforcement Policy codifies these disparate powers by setting them out in one concise document and provides guidance to enforcement officers in their application.

6.1. Policy Context

Hackney's Housing Strategy 2017-2022⁴ "*Delivering the homes Hackney needs*" commits the Council to taking action to address standards and affordability in the private rented sector. It aims to do this by expanding our enforcement activity, and the way we approach enforcement, to improve property management and physical standards. The Private Sector Housing Policy sets out how we will deliver that.

⁴ <https://hackney.gov.uk/housing-strategy/>

6.2. Equality Impact Assessment

An Equalities Impact Assessment is included in Appendix 2

6.3. Sustainability

The proposals in this report have no direct impact on wider environmental sustainability. The Council will be developing a refreshed Housing Strategy during 2022 which this enforcement policy will feed into.

6.4. Consultations

Not applicable. The Private Sector Housing Enforcement Policy codifies existing disparate enforcement activities into one document. No new enforcement powers are being introduced and none are being removed.

6.5. Risk Assessment

A Risk Assessment is included in Appendix 3

7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

There are no new financial implications resulting from this policy. It doesn't add or remove any powers that were previously available, but simplifies the policy so that it is in one concise document.

8. VAT Implications on Land & Property Transactions

Not applicable

9. COMMENTS OF THE DIRECTOR, LEGAL & GOVERNANCE SERVICES

- 9.1** Currently the Mayor's scheme of delegation reserves to the Mayor and Cabinet, approval of all corporate policies and strategies.
- 9.2** In order for the Group Director to approve the Private Sector Housing Enforcement Policy going forward, and any minor amendments to it, the recommendation in paragraph 3.2 needs to be approved.
- 9.3** There are no further specific legal implications that arise from this report, save that, when considering any action, the Council should always bear in mind any statutory or legislative duties/protocols that may be relevant.

APPENDICES

Appendix 1 : Private Sector Housing Enforcement Policy
Appendix 2 : Equalities Impact Assessment
Appendix 3 : Risk Assessment

EXEMPT

The report and subject policy document (appendix) is intended for public information. It is not exempt or confidential.

BACKGROUND PAPERS

None

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required.

Description of document (or None)

None applicable.

Report Author	<i>Kevin Thompson, Head of Private Sector Housing, kevin.thompson@hackney.gov.uk 020 8356 4753</i>
Comments of the Corporate Director of Finance and Resources	<i>Simon Theobald, Head of Finance, Finance and Resources Directorate simon.theobald@hackney.gov.uk 0208 356 4304</i>
Comments of the Corporate Director of Legal Services	<i>Josephine Sterakides, Senior Lawyer - General Litigation and Public Realm For and on behalf of the Director, Legal josephine.sterakides@hackney.gov.uk 020 8356 2775</i>

APPENDIX 1: PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

APPENDIX 2: EQUALITIES IMPACT ASSESSMENT

**APPENDIX 3: ASSESSMENT OF RISKS RELATED TO THE PROPERTY
LICENSING POLICY**