

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF LICENSING COMMITTEE ON 22 MARCH 2019

PART A : REPORT

SUBJECT: AMENDMENTS TO THE ENFORCEMENT POLICY FOR ENVIRONMENTAL HEALTH, PRIVATE SECTOR HOUSING, LICENSING AND CLEANSING

REPORT AUTHOR: Nat Slade, Group Head of Technical Services
DATE: 5 March 2019
EXTN: 37683
PORTFOLIO AREA: Technical Services

EXECUTIVE SUMMARY:

The report seeks approval for the Council to adopt amendments to the existing Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing which includes an additional enforcement option that can be considered:

- Civil penalty for Housing Act 2004 offences

Also, minor amendments have been made to reflect changes in job descriptions or structures within teams. All amendments are highlighted in the attached report by way of tracked changes for ease of reference.

In addition, the report seeks approval for setting a Fixed Penalty Notice fine level of £100 as an alternative to prosecution for the offence of breaching a Community Protection Notice.

In order to facilitate necessary changes to the attached policy as a result of new legislation or alternative practices the report seeks delegated authority for the Group Head of Technical Services or their nominated representative to make these changes.

RECOMMENDATIONS:

Members are requested to recommend Full Council to:

1. Adopt the amended Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing.
2. Approve the setting of a Fixed Penalty Notice fine level at £100 for breaches of a Community Protection Notice, as an alternative to prosecution.
3. Approve that the Group Head of Technical Services or their nominated representative be delegated authority to make any necessary consequential changes to the attached Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing as a result of new legislation or alternative practices.

1.0 BACKGROUND:

- 1.1 The existing Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing was last reviewed in 2016. The policy outlines the principles of enforcement, the enforcement options available and the processes and procedures in place to ensure effective enforcement is undertaken in a fair, consistent and transparent way.
- 1.2 The policy attached to this report has been amended:
- To include for Housing Act 2004 offences the enforcement option to serve Civil Penalty Notices in lieu of prosecution. This provision was introduced by the Housing and Planning Act 2016, and it enables local authorities to issue a financial penalty for certain Housing Act 2004 offences which can be up to £30,000 as an alternative to prosecution. Section 13 of the policy includes the Government issued methodology for setting a civil penalty level.
 - Minor amendments to wording and also job descriptions and changes made to team structures.
- All amendments are highlighted in the attached report by way of tracked changes for ease of reference (additional text is underlined, whilst deleted text is ~~struck through~~).
- 1.3 In addition to revisions to the Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing, it is also proposed to introduce Fixed Penalty Notices for breaches of Community Protection Notices. Community Protection Notices are already served by the Council where unreasonable behaviour of a continuing or persistent nature has a detrimental effect on the quality of life of those in the locality. These Community Protection Notices require the recipient to do something, or not to do something e.g. not cause noise that is audible at the boundary of residential premises. A breach of a Community Protection Notice is a criminal offence which can be prosecuted in a Magistrates Court.
- 1.4 As an alternative to prosecution, the Council could issue a Fixed Penalty Notice. In order for the Council to be able to use Fixed Penalty Notices for these offences it must first set the level of the Fixed Penalty Notice. The level cannot exceed £100, therefore this report seeks approval to set the Fixed Penalty Notice level at the maximum amount for these offences.

2.0 PROPOSAL(S):

Members are requested to recommend Full Council to:

- 2.1 Adopt the amended Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing.
- 2.2 Approve the setting of a Fixed Penalty Notice fine level at £100 for breaches of a Community Protection Notice, as an alternative to prosecution.
- 2.3. Approve that the Group Head of Technical Services or their nominated representative be delegated authority to make any necessary consequential changes to the attached Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing as a result of new legislation or alternative practices.

- 3.0 OPTIONS:**
- 3.1 Not to adopt the amended Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing.
 - 3.2 Not to approve the setting of a Fixed Penalty Notice fine level at £100 for breaches of a Community Protection Notice, as an alternative to prosecution.
 - 3.3 Not to approve the Group Head of Technical Services or their nominated representative be delegated authority to make any necessary consequential changes to the attached Enforcement policy for Environmental Health, Private Sector Housing, Licensing and Cleansing as a result of new legislation or alternative practices.
 - 3.4 To propose alternative amendments to the Enforcement Policy.

4.0 CONSULTATION:
 Internal Consultation with Finance, Legal, Environmental Health, Licensing, Private Sector Housing, Greenspace, Cleansing, Community Wellbeing, Housing

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		X
Relevant District Ward Councillors		X
Other groups/persons (please specify) Internal Consultation has been undertaken with Finance, Legal, Environmental Health, Licensing, Private Sector Housing, Greenspace, Cleansing, Community Wellbeing, Housing, Legal Services and the Monitoring Officer and their comments incorporated within the policy. Residential Services and Community Safety have also had the opportunity to make comments on the revisions to the policy.	X	

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial		X
Legal	X	
Human Rights/Equality Impact Assessment		X
Community Safety including Section 17 of Crime & Disorder Act		X
Sustainability		X
Asset Management/Property/Land		X
Technology		X
Other (please explain)		X

6.0 IMPLICATIONS:

6.1 Legal:

The enforcement policy provides the structure within which the Council can deliver enforcement action for the regulatory functions delivered by the Environmental Health, Private Sector Housing & Cleansing teams.

6.2 Human Rights/Equality Impact Assessment:

An equalities impact assessment has been completed and does not identify any adverse impacts.

7.0 REASON FOR THE DECISION:

7.1 To ensure a consistent approach to enforcement across Environmental Health, Private Sector Housing, Licensing and Cleansing, that is transparent and proportional and meets the appropriate codes of practise and guidance.

8.0 BACKGROUND PAPERS:

Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing.