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Declarations of Interest

Any Member attending the meeting is reminded of the requirement to declare if he/she has a personal interest in any item of business, as defined in the Code of Conduct. If that interest is a prejudicial interest as defined in the Code the Member should also withdraw from the meeting.

A G E N D A

(Pages)

1. **Apologies for Absence**

To receive any apologies for absence.

2. **Minutes**

To receive the minutes of the meeting held on 13 June 2017.

(3 - 10)

3. **Reports from Members**

To receive any reports from Members.

Cllr. Matthews - Bucks Health Adult and Social Care Select Committee, July 2017

(11 - 12)

4. **Healthy Communities Update Report**

To receive an update from the Head of Healthy Communities.

(13 - 20)

REPORTS LIKELY TO LEAD TO PORTFOLIO HOLDER RECOMMENDATION TO CABINET

5. **New Civil Penalties in relation to Housing Enforcement**

(21 - 24)

Appendix 1: Joint Housing Enforcement Policy August 2017

6. **Affordable Housing Action Plan**

**(25 - 50)
(To Follow)**

7. **Any Other Business**

8. **Exempt Information**

"That under Section 100(A)(4) of the Local Government Act 1972 following item of business is not for publication to the press or public on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act."

(para 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information))

	<i>A. REPORTS LIKELY TO LEAD TO PORTFOLIO HOLDER DECISION</i>	
9.	Community Grants Update	(51 - 52)
	<i>Appendix 1: Grant Applications</i>	(53 - 56)
	<i>B. REPORTS LIKELY TO LEAD TO PORTFOLIO HOLDER RECOMMENDATION TO CABINET</i>	
10.	Emergency Housing Units for Temporary Accommodation - Bath Road Depot	(57 - 66)
	<i>Appendix</i>	(67 - 68)
11.	Gypsy and Traveller Sites and CAB support	(69 - 72)

The next meeting is due to take place on Thursday, 30 November 2017

HEALTHY COMMUNITIES POLICY ADVISORY GROUP (SBDC)

Meeting - 13 June 2017

Present: Mr Kelly (Chairman)
Mr Anthony, Mr Bastiman, Dr Matthews and Mr Walters MBE

Apologies for
absence: Mr Pepler

1. MINUTES

The minutes of the meeting held on 23 February 2017 were confirmed.

2. DECLARATION OF INTERESTS

Councillor Walters expressed a personal interest in his capacity as a trustee of Padstones mindful that they were referred to in items 9, 11, 12 and 13 of the agenda.

3. REPORTS FROM MEMBERS

No reports were presented by members.

4. HEALTHY COMMUNITIES UPDATE REPORT

The PAG received and noted a report providing an update on a number of subjects including:

- Bucks Home Choice -number of applicants registered, availability and number advertised
- Homelessness and the number of applications determined
- Private Sector Housing and DFGs
- Affordable Housing and details of two new affordable housing schemes in Taplow
- Housing Related Support
- Licensing
- EH – Public Protection
- EH Environment and Sustainability
- Community Safety
- Community and Leisure.

In response to requests the Head of Healthy Communities undertook to:

- Approach Thames Valley Police to see if they could provide backdated crime figures so that some comparisons could be made with current trends.
- see if arrangements could be made for the Dementia Bus to be located at the Beacon Centre in Beaconsfield for a period of time.

5. **HOME ENERGY CONSERVATION ACT PROGRESS REPORT**

The PAG received a report inviting it to comment on the draft Home Energy Conservation Act Progress Report which the Council is legally required to publish.

The report summarised the progress made since 2013 to improve energy efficiency, updated the Council's policy and approach to energy efficiency and set out actions and priorities for the next two years.

The report pledges that the Councils will work with partners to promote locally and nationally available financial incentives and advice services to improve energy efficiency and tackle fuel poverty.

After noting the key delivery outcomes it was

RESOLVED

That the draft Home Energy Conservation Act Progress Report 2017 be approved for publication.

6. **SUMMER YOUTH DIVERSIONARY PROGRAMME**

The PAG's advice was sought on whether the Portfolio Holder should agree to provide financial support to voluntary organisations to deliver summer holiday activities.

Although the voluntary youth sector delivered a range of summer activities a number of organisations often suspended sessions due to a lack of funding. Providing funding would reduce the risk of sessions being suspended and so maintain consistent level of support to younger residents; thus reducing the opportunity for them to engage in Anti Social Behaviour.

The PAG, whilst supporting the proposal, sought further information on costs and the hot spot areas that would be targeted.

Having considered the advice of the PAG, the Portfolio Holder **RESOLVED** that financial support be provided to voluntary youth sector organisations to deliver summer holiday activities.

7. **AIR QUALITY UPDATE AND POTENTIAL FOR CREATING A CLEAN AIR ZONE IN IVER**

The PAG received a report on air quality in Iver including provisional results to date of the local diffusion tube network and noted the intention to continue to monitor the nitrogen dioxide levels.

The report also explained how the use of a Clean Air Zone (CAZ) could assist the Council in tackling air pollution in the future.

The PAG was particularly concerned to note that the detailed assessment of air quality in Iver demonstrated that there is a likelihood that the nitrogen dioxide objective was being exceeded.

After also noting the minimum requirements that needed to be met to implement a CAZ the PAG advised the Portfolio Holder to proceed with the proposal following which it was

RESOLVED that

1. In the event of the annual mean being exceeded after a full year of data being captured (January 2018) approval be given to proceed to the declaration of Air Quality Management Area (AQMA).
2. Should an AQMA be declared approval also be given to proceed to create a voluntary "Clean Air Zone" in Iver, with an aim of reducing nitrogen dioxide (NO₂) levels and working with partner agencies to manage both local freight traffic and that associated with National Infrastructure Project with funding being met from the HS2 contingency fund

8. **FOOD AND HEALTH AND SAFETY BUSINESS PLANS**

The PAG received a report inviting it to comment on the following draft plans prior to them being submitted to Council via the Cabinet for adoption:

- Joint Food and Health and Safety Business Plan
- Food Policy
- Health and Safety Enforcement Policy

Following a discussion during which the PAG indicated its support for the draft plans, the Portfolio Holder **RECOMMENDED** to Cabinet that the Council be recommended to approve the following;

- Joint Food and Health and Safety Business Plan;
- Food Policy; and
- Health and Safety Enforcement Policy.

9. **JOINT HOUSING STRATEGY**

The PAG received a report inviting it to comment on a proposal to review the current Housing and Homelessness Strategies for Chiltern District Council and South Bucks District Council and update them in the light of the current housing situation across the two districts and the new statutory requirements that were coming into force.

Since the joint Member Housing Workshop on 3rd February 2016 which had focussed on three key areas a draft Housing (Affordable Housing and Homelessness) Strategy had been developed and was attached as an appendix to the report which explained the intention to subject the draft to consultation over a 6 week period.

In welcoming the joint strategy the PAG emphasised the importance of increasing affordable housing as this would help both Councils to deal with their statutory duties for homelessness more effectively.

Following the discussion, the Portfolio **RECOMMENDED** to Cabinet that the Head of Healthy Communities be requested to prepare a Joint Housing Strategy (Affordable Housing and Homelessness) for consultation

10. **CORPORATE ENFORCEMENT POLICY**

The Regulators' Code, which came into statutory effect on 6 April 2014, requires the Council to have an enforcement policy explaining how it responds to regulatory non-compliance. With the majority of services now being shared across both Chiltern and South Bucks District Councils the PAG received a report explaining that the opportunity had been taken to review the enforcement policies and draft a joint Corporate Enforcement Policy setting out the guiding principles of how regulatory services will engage with those they regulate.

The Regulator's Code is based on 6 broad principles and the PAG noted what was expected of the regulator in each of the 6 cases. The PAG also noted how the local authority would respond to non-compliance, one of the key actions required to ensure compliance with the Code.

Following a discussion the Portfolio Holder **RECOMMENDED** to Cabinet that Council is recommended to approve the draft Corporate Enforcement Policy for regulatory compliance and enforcement services.

11. **BUCKINGHAMSHIRE AFFORDABLE WARMTH STRATEGY 2017-2022**

South Bucks District Council is a member of the Bucks-wide Affordable Warmth Network, a partnership of the four district councils, the county council and the National Energy Foundation, which aims to ensure that all residents of Buckinghamshire can heat their homes adequately and affordably.

In 2009, the partnership produced a county-wide Affordable Warmth Strategy, which identified the geographical areas and communities most at risk of fuel poverty, the range of help assistance available and set out an action plan to target the key causes of fuel poverty.

In view of the many changes that have been made since 2009 an exercise had been carried out to update the Strategy to provide a clear direction and focus to the Council and its partners in targeting actions towards those residents most at risk of fuel poverty.

The PAG received a report attaching a draft of the updated Strategy on which the National Energy Foundation is currently undertaking a 6 week consultation with key stakeholders.

During the discussion the PAG welcomed the Update which they agreed would contribute to the Council's objectives of working towards safe and healthier communities and striving to conserve the environment and sustainability.

Having considered the positive comments of the PAG, the Portfolio Holder **RECOMMENDED** to Cabinet that authority be delegated to the Head of Healthy Communities to adopt the final updated Buckinghamshire Affordable Warmth Strategy

12. REVIEW OF AFFORDABLE HOUSING PAYMENTS

In 2011 the Cabinet approved the following 4 schemes to deliver affordable housing units through the use of commuted sums:

- a) The **Acquisition** programme delivered by L&Q, to buy back ex-social housing
- b) The provision of **Your Choice Equity Loans** delivered by Catalyst Housing.
- c) **Downsizing** – The ‘incentive to move’ scheme of approved funding.
- d) **Incentive to Purchase** – ceased in July 2016 due to limited take-up.

The PAG received a report providing an update on the delivery of each scheme and expenditure as at 30 April 2017 from the commuted sums allocation. The PAG noted from a table in the report that of the £8, 877,438 received £3,650,778 remained uncommitted. The report went on to propose that the uncommitted sum be allocated to exploit the opportunities that arise in working in partnership with Registered Providers, other public bodies and or developer to deliver affordable rented properties on site or to purchase temporary accommodation to support homelessness service.

Having considered the advice of the PAG which supported the proposal the Portfolio Holder **RECOMMENDED** to Cabinet that

1. Approval be given to continue to operate the Acquisition, Equity Loan and Downsizing schemes within the current allocated funding levels.
2. The £3.6M available from the Affordable Housing Contributions (commuted sums) be allocated for opportunities that arise by working in partnership with Registered Providers, other public bodies and or developers to provide grant funding to deliver affordable rented properties on-site or to purchase temporary accommodation to support homelessness services.

13. FUNDING REQUEST FROM POP GOES THE CHOIR

The PAG received a report seeking its comments on an application from Pop Goes the Choir (PGTC) for funding of £2500 as a contribution towards the total cost of £5908 for staying at the St Denis De L’ Hotel whilst visiting France to perform at a Christmas market event as part of Burnham Parish Council’s a twinning celebrations.

The report explained that the Council of St Denis were contributing the equivalent of £1735 towards the hotel cost with PGCT contributing £2000.

During the discussion members of the PAG indicated that they could not support the application and suggested that the organisation applied to other bodies for funding e.g. the Parish Council and the European Commission which has a specific funding programme for Town Twinning.

Responding to comments made, the Portfolio Holder clarified that the organisation was not part of the Town Twinning Association which in turn was not part of Burnham Parish Council. The organisation was a separate body which had been invited by another separate body, the TTA, to take part in the celebratory event.

Following the meeting, having considered the advice of the PAG, the Portfolio Holder decided that it would be appropriate to recommend to Cabinet that an amount of £1000 rather than £2500 be provided to PGCT and that PGCT be advised to apply for other funding routes like Heart of Bucks and The Heathrow Community schemes/Lottery.

Following the meeting, having considered the advice of the PAG, the Portfolio Holder **RECOMMENDED** to Cabinet that Pop Goes the Choir be provided with an amount of £1000 and that Pop Goes the Choir be advised to apply for other funding routes like Heart of Bucks and The Heathrow Community schemes/Lottery.

14. PUBLIC SPACES PROTECTION ORDER

Public Spaces Protection Orders (PSPOs) are one of a number of new powers introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. The PAG received a report containing a proposal to introduce PSPO for South Bucks.

Using the new PSPO powers to replace current powers for dog fouling would enable standardised fines of £100 to be introduced and make it easier to understand as they would apply across the whole district. At present the offence of dog fouling is restricted to certain areas and controls are not in place to address other antisocial issues relating to responsible dog ownership. A PSPO would allow new dog control measures e.g. failing to put a dog on a lead when directed to do so by an authorised officer and allowing a dog into enclosed children's playgrounds or sports fields.

Responding to comments made, the Head of Healthy Communities explained that the issue of how the offences would be enforced would be the subject of a separate report and agreed that community involvement and use of powers under the Community Accreditation Schemes enabling other bodies to issue FPN would feature very prominently in the enforcement measures.

Having noted the costs of setting up a PSPO of an estimated £3K and considered the benefits the PAG indicated its support for the proposal

Having considered the advice of the PAG the Portfolio Holder **RECOMMENDED** to Cabinet that

1. The current designated dog fouling areas be retained and further consultation be undertaken in relation to the introduction of Public Spaces Protection Order (PSPO).
2. Consultation be undertaken on the introduction of a district wide PSPO to include the following dog control measures across the whole district under which the following actions would mean an offence is committed:
 - a- If a person in charge of a dog fails to clean up its faeces.
 - b- To fail to put a dog on a lead when directed to do so by an authorised officer.
 - c- To allow a dog into enclosed children's playgrounds.
3. The proposed Fixed Penalty Notice (FPN) fine be agreed at £100.
4. Authority be delegated to the Head of Healthy Communities, in conjunction with the Head of Legal and Democratic Services, to publish appropriate PSPOs as a result of evidence being obtained and to make amendments to PSPOs as necessary.

15. **REPLACEMENT OF THEATRE FLOOR AT BEACON CENTRE**

The PAG received a report explaining why the existing floor at the Beacon Centre is in need of replacement as a result of the bleacher style seating causing point loading damage. Following advice given by the PAG at its meeting on 15 September 2016 the seating was removed in February at a cost of £4,670.

The quotes received to replace the floor ranged from £21,980 to £32,772 whilst the quotes for replacing the bleacher seating ranged from £30,556 to £53,793.

The Portfolio Holder, in putting the report into context, referred to the Open Spaces Joint Study which recommended the setting up of a Working Group to look at issues relating to the Beacon Centre including the floor. However, having visited the Centre and seen for himself the state of the floor and the risk it posed to users he had requested the report to this meeting of the PAG so that options could be identified, agreed and progressed as a matter of urgency.

During the discussion that ensued members, whilst supporting the proposal to replace the floor, felt that the opportunity should also be taken to install bleacher seating as this would increase the potential for the Centre to be used for theatre style events following a market exercise to raise the profile of the Centre and its facilities.

Members also felt that the hiring charges could be increased with the additional income being used by GLL to invest in the Centre by improving lighting, other equipment and the stage.

Having been advised that installing bleacher seating would impact on the type of flooring to be installed and on total costs the Head of Healthy Communities undertook to review the floor options and identify the costs which would need to be contained within the capital budget of £120k.

Having considered the advice of the PAG, the Portfolio Holder **RECOMMENDED** to Cabinet that

1. Bleacher seating on a Semi-Sprung Floor be installed enabling the Beacon Centre to be used for theatre style events and meetings.
2. Authority to agree the total costs of the installation be delegated to the Head of Healthy Communities in consultation with the Portfolio Holder for Healthy Communities.
3. The hire charges for Theatre events be increased to enable reinvestment in to lighting and other equipment needs by GLL.
4. A marketing exercise be carried out to raise the profile of the Centre and encourage wider community use of the theatre/events space.

The meeting terminated at 8.00 pm

BUCKS HEALTH AND ADULT SOCIAL CARE SELECT COMMITTEE,

Update July 2017

A consideration of the Bucks CC plan for growth with regard to adult social care and public health.

All select Cttees are undertaking such enquiries in to their areas of responsibility.

Health and Wellbeing

The team are reviewing each individual care package and day care provision with a view to delivering a more streamlined approach and efficiencies within the service.

Public Health

Growth will increase the demand on the current services, but there is a projected flat budget and therefore significant efficiencies will need to be made.

Current actions:

- Joining Public Health with Communities to work together to build resilient communities who can help each other
- Working with the Districts' planners and the NHS to ensure that local plans include the necessary provisions
- The use of digital technology to deliver services such as weight loss or smoking cessation
- Putting together multi-agency programme teams to develop detailed action plans

However, a challenge from the Cttee revealed that there are so far no concrete examples of delivery.

Adult Social Care

The demand for these services will be influenced by the general existing growth in the aging population rather than by development per se.

Prevention remains at the core of this provision. There was a stated intention to integrate adult social care with health provision.

Current actions:

- Market management - supply of care facilities both now and in the future and workforce recruitment, development and retention.
- Re-design of services: new operating services utilising support from family and community. Incorporation of assistive technology.
- Working with the Districts to provide an input into planning policy discussions
- Working with local communities and utilising that capacity to reduce the costs

to Adult Social Care

- Bucks County Council to work more closely with Health Watch to provide guidance on accessing services to support prevention
- The development of a joint Health and Social Care plan to enable an holistic approach to dementia.

The HASC will produce a paper setting out its recommendations to Adult Social Care and Public Health.

Wendy Matthews
July 2017

SOUTH BUCKS DISTRICT COUNCIL – HEALTHY COMMUNITIES UPDATE

SUBJECT	UPDATE
<p>Workforce Development</p>	<p>UGR World café event undertaken with all Healthy Communities staff. Outcomes include;</p> <ul style="list-style-type: none"> • Creating opportunities to network and build collaborative working practices across the Division and Council • Share Best Practice, celebrate success and be open to new ideas • Provide constructive feedback <p>Safeguarding Training continues to be delivered Supporting staff to attain professional qualifications</p>
<p>Shared Housing Service</p>	<p>Draft Joint Housing Strategy (Affordable Housing and Homelessness) has been reported to Members and is now being taken forward for wider consultation .</p> <p>Bath Road Temporary housing project</p> <p>Gerrards Cross Police Station site opportunities for affordable rented accommodation</p> <p>Grand union House – 51 units issues around contamination of site.</p> <p>Option to acquire properties – report to PAG</p>
<p>Bucks Home Choice</p>	<p>As at 31 July 2017, 410 applicants were registered with South Bucks District Council for Bucks Home Choice and were entitled to express interest in vacant social housing tenancies.</p> <p>The availability of properties to let via BHC (Bucks Home Choice) remains limited in comparison with the number of households registered with Bucks Home Choice. To date in 2017/18 (1.4.17 to 31.7.17) a total of 46 properties have been let via BHC and broken down as follows:</p> <p style="text-align: center;">Sheltered = 7 (Average wait = 6 months) 1 bedroom = 18 (Average wait = 15 months) 2 bedroom = 15 (Average Wait = 23 months) 3 bedroom = 6 (Average Wait = 17 months) 4 bedroom = None</p> <p>It can be seen that family households are facing a significant wait for accommodation. The longest average waiting times are for 2 bedroom properties and there continues to be a lack of 4 bedroom properties with no lettings to date in 2017/18</p> <p>The overall number of lettings to date in 2017/18 equates to approximately 3 lettings per week. Although the rate of lettings may increase during the remainder of 2017/18, this indicates that overall the households registered on the BHC scheme will continue to have limited</p>

	<p>housing options available to them (especially larger families). This will impact on the households themselves and on SBDC as it deals with the impacts on its homelessness services etc. (e.g. families spending longer in temporary accommodation because they cannot be moved onto a social housing tenancy).</p>
<p>Homelessness</p>	<p>To date in 2017/18 (1.4.17 to 31.7.17) SBDC has determined a total of 30 homelessness applications of which 20 were accepted as being subject to the main homelessness duty (i.e. the duty to secure accommodation).</p> <p>The main reasons for homeless amongst the accepted applications were:</p> <ul style="list-style-type: none"> - Exclusion by family/friends = 7 - End of private sector tenancy = 4 <p>The demand for temporary accommodation for homeless households remains significant. As at 31 July 2017 SBDC had a total of 61 homeless households in temporary accommodation including 20 in non-self-contained B & B accommodation. This is in line with the trends of the last 18 months which have shown no significant upturn in the total number of households in temporary accommodation (from 1/1/16 to date the total number at any one time has remained between 60 to 70 households). Although the overall number in temporary accommodation has remained broadly consistent, there has been a significant reduction in the number of families with (or expecting) children who have been in B&B accommodation for more than 6 weeks. From a total of 22 families as at 30/11/16 this number has dropped to 4 families as at 31/7/17 (including one family that is being accommodated pending a county court appeal). This has been achieved by officers securing an increasing amount of self contained temporary accommodation as an alternative to B&B.</p> <p>A major review is underway of the SBDC process for placing clients in temporary accommodation and charging them. This is being led by a Task and Finish Group. An internal audit of the Homelessness Temporary Accommodation and charging process is also currently ongoing.</p> <p>Potential risk has been identified on 5 Gypsy and Traveller sites in CDC/SBDC that were formerly owned by BCC. The sale and transfer to private ownership of these sites has given rise to a cut in housing benefit to residents. A cross-departmental working group has been established to tackle the issue and CAB has been commissioned to deliver one-to-one advice and support to residents.</p> <p>In April 2017, the Homelessness Reduction Act was given Royal Assent and it is anticipated that the Act will be implemented in 2018. The Act will make significant changes to SBDC's statutory homelessness duties. SBDC will have to secure more advice, support and accommodation for clients (provided both directly by the Council and by partner agencies) and this is likely to see increased demand on the SBDC's financial and staffing resources. Officers are undertaking formal in-house training on the new Act during August 2017.</p>

	<p>Preparations are already underway for the Act’s implementation.</p> <ul style="list-style-type: none"> - SBDC is part of a successful county-wide bid (led by AVDC) for DCLG Homelessness Trailblazer Programme funding which will deliver additional early intervention services across Bucks to help prevent homelessness. Connection Support is delivering this project which is being formally launched in September 2017 with events at several locations, including Chesham and Wycombe in the south of the county. - Officers are working with the NPSS (National Practitioner Support Service) to undertake training and develop suitable procedures and documentation to support implementation of the Act. - SBDC will also be consulting and working with partner agencies (CAB, Housing Interaction Trust, Connection Support etc.) to ensure effective cross agency working to deliver wider homelessness prevention and relief services. This will be part of the consultation on the proposed joint Affordable Housing and Homelessness Strategy. <p>DCLG has allocated Flexible Homelessness Support Grant of £113,007.38 to SBDC in 2017/18 to be used to support a full range of homelessness prevention and support services. DCLG has also advised that £61 million will be made available nationally to support Councils in implementing the Act but no Council-specific allocations have yet been made.</p>
<p>Private Sector Housing and DFGs</p>	<p>During the first 3 months of 2017/18 (1/4/17 to 30/6/17) in SBDC’s DFG (Disabled Facilities Grant) Capital Programme:</p> <ul style="list-style-type: none"> - 20 grants for adaptation works were approved and - 17 grants were been completed (some of these grants were originally approved prior to 1/4/17) <p>This is an increase on the number of approvals and completions recorded for the same 3 month period in 2016/17.</p> <p>The Internal Audit Assurance Review of DFGs in CDC and SBDC was completed in July 2017 and reported “Substantial Assurance” with no recommendations or Operational Effectiveness matters on the process for delivering DFGs across both Councils.</p> <p>Officers are currently working with colleagues at AVDC and WDC to review how each Council delivers DFGs (and other grant and loan products) and identify ways to standardise delivery that can deliver more efficiencies and better service to the customer.</p> <p>Currently, SBDC has 13 statutory licensed HMOs (Houses in Multiple Occupation).</p> <p>The CDC and SBDC Joint Private Sector Housing Strategy have been formally adopted by both authorities. The Housing and Planning Act has now introduced the option of civil penalties as an alternative to prosecution for certain housing standards offences. Officers are taking</p>

	<p>forward proposed revisions to the Enforcement Policy to reflect these new powers. .</p> <p>The statutory licensing regime for HMOs (Houses in Multiple Occupation) is due to be extended to cover a wider range of properties. An initial estimate is that this may result in 30 additional licensable HMOs across CDC and SBDC.</p>
<p>Affordable Housing</p>	<p>Two new affordable housing schemes in Taplow are being completed and allocations are currently being made:</p> <p><u>TAPLOW – Institute Road (on corner with Station Road – ex SGT car dealership site)</u> <u>Hightown Housing Association</u> 12 flats all for affordable rent – (NB – may be above Local Housing Allowance) 10 x 2 bed flats – 3 person (double and a single) 2 x 3 bed flats – 4 person (1 double and 2 singles) – 3rd floor, no lift</p> <p>This is a general affordable housing scheme that will be allocated via the Bucks Home Choice scheme and will be open to all households who are registered with SBDC on the Bucks Home Choice scheme (and who have a need to have a 2 or 3 bedroom property)</p> <p><u>TAPLOW – Institute Road (next door to the above site)</u> <u>Housing Solutions housing association</u> 12 properties in total 5 for rent – 2 x 1 bed maisonettes, 2 x 2 bed house, 1 x 3 bed house 7 for shared ownership – 4 x 1 bed maisonettes, 3 x 2 bed houses</p> <p>This has been developed as a Rural Exception housing scheme on the basis that SBDC Planning has made an exception to normal planning policy because the scheme will provide affordable housing to meet local needs in Taplow. Persons with a local connection to Taplow will be prioritised to rent or buy these properties. Properties will only be made available more widely to other households if any vacancies remain after Taplow households have been prioritised.</p>
<p>Housing Related Support (formerly Supporting People) contracts</p>	<p>Bucks County Council is reviewing its prevention strategy. Contracts have been maintained with prevention service providers (e.g. Padstones, Connection Support etc.) in 2017/18 while this review is ongoing.</p> <p>Generally, CDC/SBDC officers are participating in several Task and Finish groups being led by Bucks CC and looking at housing and support issues for specific groups (e.g. Substance mis-users).</p>
<p>Licensing</p>	<p>Revised Taxi policy now in effect. Key changes are stronger convictions policy, the option of mandatory training, and inclusion of safeguarding guidance.</p>

	<p>Enterprise work flow system is now helping to ensure that records are kept up to date and highlighting work that needs to be completed. Further work will be done with the system to increase its usefulness to the team and allow licensing to move away from so of it less efficient processes.</p> <p>End of year performance measurements showed that 97% of the team licence applications were processed within the required timescales.</p> <p>Licensing has been working with the Thames Valley Police and Crime Panel to progress improved information sharing and shared standards in taxi licensing across the region. An event has been held to gauge support for this and the next step is to set up a working group.</p>
<p>Environmental Health shared Service</p>	<p>Enterprise work flow system in place, monitoring workflows and the data accuracy of records ensuring work processed in accordance with procedure</p> <p>UGR workshop in EH on team working, collaboration and case management</p>
<p>EH - Public Protection:</p>	<ul style="list-style-type: none"> • Noise App currently being trialled and project plan to be used to deliver roll out • Closed food premises at High Street Burnham • Orchehill Court rat infestation being investigated and meetings set up with L&Q. • Noise App currently being trialled and project plan to be used to deliver roll out • A number of high hedge complaints at appeal/notice stage • Completed 100% of food inspections with a focus on ensuring the poorest premises achieve regulatory compliance • All HS Improvement Notices have been complied with at the site adjacent to Dorney Animal Sanctuary
<p>EH -Strategic Environment and Sustainability</p> <p>EH- Resilience</p>	<ul style="list-style-type: none"> • Contaminated Land Officer post recruited and commencing in September. • Continued work on mitigation of major infrastructure projects • Response to UK Air space policy consultation and UK Air space design guidance. • Air Quality Review & Assessments submitted to DEFRA • Responded to M4 widening consultation. • Contract work for Watford BC, Wycombe DC providing senior scientific advice on a range of Environmental Protection functions <ul style="list-style-type: none"> • Further updates to emergency plan and our internal procedures • Attendance of Thames Valley Local Resilience Forum Executive with Chief Officers of Police, Fire, NHS. • Attendance of Category 2 training for voluntary sectors • Improved community leader’s information in the event of major incident.

<p>Community Safety</p>	<p>National crime recording standards changed in April 2017 for burglaries. Burglary dwelling figures now include all domestic sheds and garages. In the past these would have been classified as non-dwelling burglaries. The challenge is to ensure that the media and residents understand that we will see an increase in the figures but it is due to the way they are recorded.</p> <p>The Community Safety team continues to work closely with the Police and other agencies to address the priorities in the Partnership Plan. These include actively engaging with residents after a burglary to get a neighbourhood watch scheme set up, organising events at local supermarkets to raise awareness of crime reduction opportunities, working with the police to improve community engagement (including the first virtual community forum held in July 2017), re-launching Safe Place Scheme, working with Prevent leads and liaising with the Police to provide emergency rest centres for exploitation/ modern slavery warrants.</p> <p>Hotel Watch has also been launched with training and story boards provided for reception staff, bar staff and cleaning staff to raise awareness of Child sexual exploitation. Test purchasing is being planned for September.</p> <p>Community Cards – 29 schools signed up – the scheme started in April and ended mid-June with the winning schools going to Legoland. This was well received by schools and an evaluation of the scheme will be completed shortly.</p>
<p>Community and Leisure</p>	<ul style="list-style-type: none"> • Lottery launch September 2017 • SBDC match funded grants in partnership with Heart of Bucks gone live and awarded • Awarded the Farnham Park Playing Fields tender to KKP to undertake a design and feasibility study of the Farnham Park Playing Fields. Consultation underway and on schedule for a 31st August completion • Community Wellbeing plan being promoted across the district • HS2 funding fair delivered at Capswood attracting over 30 participants. Six monthly and yearly follow ups scheduled to assess how many applications are made. Dementia Events supported in South Bucks with the Dementia Bus delivered at the Evreham Centre • Older peoples guides for Iver and Wexham are live and on the website. • Supported the Community development forum establish its inaugural meeting in Burnham which key themes relating to information sharing, volunteer support and funding information • Active Bucks programme continues to roll out across the district • Open Space and Play Pitch strategy being finalised, awaiting sign off from Sport England • Level 1 Safeguarding courses rolled out across the Council with other 30 officers attending 2 courses • Riding for the Disabled programme nearly fully booked and

	<p>scheduled to commence in late July</p> <ul style="list-style-type: none">• Beacon Centre replacement seating and flooring agreed by Cabinet, options/quotations being sought via Estates team
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SUBJECT:	<i>Housing and Planning Act 2016: Impact on Housing Enforcement Policy</i>
REPORT OF:	<i>Portfolio for Community, Health and Housing – Cllr Paul Kelly</i>
RESPONSIBLE OFFICER	<i>Martin Holt, Head of Healthy Communities</i>
REPORT AUTHOR	<i>Louise Quinn 01494 732209 lquinn@chiltern.gov.uk</i>
WARD/S AFFECTED	<i>All</i>

1. Purpose of Report

The purpose of the report is to:-

- Advise Members of the implications of the Housing and Planning Act 2016 in respect of enforcement options against private sector landlords
- Seek delegated authority for the Head of Healthy Communities to enforce the provisions of the Act and ask that the Scheme of Delegation be amended accordingly
- Seek Members comments on the draft amended housing enforcement policy.
- Seek delegated authority for the Head of Healthy Communities to agree the final policy in consultation with the Portfolio Holder.

RECOMMENDATIONS

1. **That the new provisions of the Housing and Planning Act 2016 be noted.**
2. **That Cabinet agree to give delegated authority to the Head of Healthy Communities to enforce the provisions of the Act and the Scheme of Delegations be amended accordingly.**
3. **That Cabinet authorise the Head of Healthy Communities to agree the final Housing Enforcement Policy in consultation with the Portfolio Holder, having regard to members' comments and the regulations in respect of Banning Orders, once published.**

2. Reasons for Recommendations

The Housing and Planning Act 2016 introduced a range of new powers and tools to assist local authorities in dealing with poor landlords.

Statutory guidance on the new powers requires that councils develop their own policies for applying the new powers and duties. Further regulations are awaited in respect of Banning Orders.

The draft amended joint housing enforcement policy in Appendix 1 will provide a robust framework for the authority to implement the new powers as required. Delegated authority to

the Head of Healthy Communities to agree the final version will enable amendments to be made in respect of the use of Banning Orders, once the regulations have been published.

3. Content of Report

The Housing and Planning Act 2016 introduced a range of new powers and tools to assist local housing authorities in dealing with landlords who fail to comply with statutory requirements.

The new provisions include:

- Power to apply to the First Tier Tribunal for a banning order where a landlord has been convicted of specified offences. A banning order will ban a landlord from letting or managing property for a period of at least 12 months.
- Power to issue a financial penalty of up to £30,000 as an alternative to prosecution in respect of certain specified offences.
- Extension of powers to apply to the First Tier Tribunal for a Rent Repayment Order where a landlord has committed specified offences and housing benefit has been paid in respect of the property
- Establishment of a 'database of rogue landlords' by the government, to which local authorities may add details of local landlords who have been convicted of specified offences or been issued with at least two civil penalties
- Requirement to consider additional factors when determining whether a landlord is a 'fit and proper person' to hold a licence.

The above powers and requirements are now in force, with the exception of banning orders, which are expected to come into force in October 2017.

The new enforcement tools are designed not only to act as a punishment to the offender and deter others, but also to remove any financial benefit the offender may have obtained as a result of committing the offence.

Statutory guidance has been issued in respect of the use of financial penalties and rent repayment orders. The guidance states that local authorities are expected to develop and document their own policies on:

- the circumstances in which it will issue a financial penalty as an alternative to prosecution,
- the circumstances in which it will apply for a rent repayment order and
- its approach in determining the appropriate level of penalty and/or the amount of rent to reclaim

and should decide which options to pursue on a case by case basis.

A financial penalty can only be considered where the authority has evidence to demonstrate "beyond reasonable doubt" that certain offences have been committed.

In setting the level of a financial penalty, the Council must have regard to a number of factors including the severity of the offence, the culpability of the offender and the level of harm caused. The maximum penalty is expected to be reserved for only the very worst offences.

The landlord has a right of appeal against a financial penalty and recovery of any charge would be via a court order. Consequently, the issue of a financial penalty as an alternative to prosecution will have cost implications to the Council, will not necessarily result in a guaranteed income or off set the full costs of the housing standards service.

The Council currently has a joint housing enforcement policy with Chiltern District Council which sets out the councils' policies in using formal enforcement action to address hazards in housing. A draft amended policy is contained in Appendix X. Sections 1.2, 3.5, 3.8, 3.9 and Appendix 3 (highlighted) have been inserted/amended to take into account the new powers.

It is anticipated that the majority of residential landlords will comply with the requirements of the Housing Act 2004 and that enforcement action and penalties will only be required in a minority of cases.

4. Consultation

Statutory consultation is not required. The Government prepared two Regulatory Impact Assessments in relation to these Regulations. Informal consultation with other Bucks Authorities has taken place to ensure consistency of enforcement approach.

5. Options

The authority must have regard to the Statutory Guidance when using the new powers but has a discretion in determining the circumstances in which the various penalties can be applied, including the level of any financial penalty.

The options are:

1. To amend the housing enforcement policy to give robust guidance to be applied on a case by case basis, in accordance with the guidance
2. To amend the housing enforcement policy to include detailed and explicit circumstances when the powers will be used and a scale of financial penalty to be applied
3. To not make any amendments the existing enforcement policy and not make use of the new powers.

Option 1 is recommended as the other options are likely to restrict the Council's options in dealing with a non-compliant landlord and/or leave the authority open to challenge.

7. Corporate Implications

Financial	Revenue received from any civil penalty may be used for any purpose by the Council. However, there are likely to be staff resource/cost implications in preparing for and attending First Tier Tribunal hearings and debt recovery proceedings.
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Legal

The Council has a duty to implement the regulations, and must have regard to the Statutory Guidance in doing so.

8. Links to Council Policy Objectives

The strategy contributes to the ‘Working towards safe and healthier local communities’ aim of the Joint Business Plan 2014-19.

9. Next Steps

If agreed, officers will prepare and implement the final Housing Enforcement Policy and will publicise via letting agents, the Council’s website and directly to landlords.

Background Papers:	None
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CHILTERN
District Council



SOUTH BUCKS
District Council

Stronger in partnership

**Chiltern District Council
South Bucks District Council**

Joint Housing Enforcement Policy

DRAFT

**Adopted March 2017
Revised: August 2017**

DRAFT

Contents

1.0	Introduction	1
2.0	Enforcement Principles	3
3.0	Enforcement Decisions	4
4.0	Enforcement Procedures	8
5.0	Monitoring and Review	10

Appendix

1. Summary of Enforcement Powers

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1.0 Introduction

1.1 Objectives

Chiltern District Council and South Bucks District Council are two sovereign authorities with separate budgets and separate decision making processes. The two authorities have operated a shared housing service since April 2014 and have implemented a joint Private Sector Housing Strategy.

This document sets out Chiltern District Council and South Bucks District Council policy in using enforcement action to address health and safety hazards in housing.

This policy is written in the context of Chiltern and South Bucks Private Sector Housing Strategy which aims to ensure that

- private sector housing meets basic standards of fitness and is maintained in good repair
- the private rented sector within the district provides good quality, well-managed, safe accommodation.

One of the tools identified to achieve these objectives is through the use of enforcement action.

Enforcement officers, by necessity, have considerable discretion in decision making and initiating enforcement action. This policy applies to all dealings, formal and informal, between officers and landlords and owners of residential property – all of which contribute to securing compliance with the law. It provides policy standards to aid professional judgements and decision making and ensure both consistent and effective enforcement.

References to 'the Council' shall mean Chiltern District Council or South Bucks District Council, depending upon the administrative area in which the property subject to enforcement action is located.

1.2 Background

The Council is granted extensive enforcement powers in several Acts of Parliament to secure improvements in houses in disrepair. The main powers are summarised in Appendix 1.

Where a breach of the legislation is identified, the following options may be available to the council to ensure that the law is complied with:

- **Informal action** – this includes verbal advice given by Officers and advisory letters.
- **Formal Action** – this includes a range of responses including the service of statutory notices, orders and carrying out of emergency works. Most notices served under Housing legislation require the recipient of the notice to carry out specified works within given time limits.

Some breaches of the legislation are criminal offences. Failure to comply with a formal notice or order is also a criminal offence. Where an offence has been committed, the following options may be available to the local authority:

- **Formal caution** - A formal caution is where an offender is given written details of the offence and s/he signs to say that s/he admits the offence. It is not a form of sentence. A record of the caution is kept at the Council for a period of three years and it may subsequently influence a decision to instigate proceedings if the offender breaks the law

in the future. It may also be cited if the Council takes legal action for a subsequent offence.

- **Prosecution** – In some cases, breaching the legislation is a criminal offence. The Council is the prosecuting authority for such offences and as they are criminal in nature, proceedings are taken in the Magistrates Court.
- **Financial Penalty** - *A financial penalty is available as an alternative to prosecution for certain offences under the Housing Act 2004. Financial penalties may also be given for breaches of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.*
- **Banning Order:** *The Council may apply for a Banning Order under the Housing and Planning Act 2016 for the most serious and prolific offenders. Banning Orders are scheduled to come into force in October 2017.*
- **Rent Repayment Order:** *The Council can apply to the First-tier Tribunal for an order requiring the landlord to repay to the Council any rent paid in housing benefits.*
- **Database of Rogue Landlords:** *In some circumstances, the Council may record details of landlords who have committed offences on a national database of 'Rogue Landlords'*

Paragraphs 3.2 to 3.10 below set down the factors to be considered by officers in deciding the most appropriate enforcement options.

1.3 Comments and Complaints

If you have any comments or questions in relation to this policy, please contact:

Senior Housing Standards Officer
Chiltern and South Bucks Housing
King George V Road
Amersham
Bucks
HP6 5AW
Telephone: 01494 732013
Email: housing@chiltern.gov.uk

The Council has a corporate complaints procedure in cases where disputes arising from this policy cannot be resolved.

2.0 Enforcement Principles

This service has adopted the central and local government Enforcement Concordat. We will also follow the Hampton principles as the basis for good enforcement.

Openness

We will provide information and advice in plain language and as far as possible, avoid jargon.

We will be open about how we do our work and in particular how we set our charges for enforcement. We will always discuss general issues, specific failures or problems with anyone who has been enforced against.

We will seek to make sure that people understand what is expected from them as well as knowing what they can expect from us.

Where notices have been served and are on a Public Register, this will be available for viewing free of charge.

Helpfulness

Our staff will provide a courteous and efficient service. All staff who visit properties will identify themselves by name and carry identification cards.

We will always provide a contact point and telephone number for further dealings with Officers.

Interpretation services will be made available for both office and on-site visits where people do not have English as their first language.

Landlords and owners of residential property will be encouraged to seek advice/information; information will be freely available in the form of leaflets and pages on the council's website. When appropriate, training courses/seminars will be provided for landlords on specific issues.

Proportionality

All enforcement actions and advice must be proportional to the risks posed to the public and the seriousness of any breach of legislation.

When considering enforcement action, consideration will be given to the cost of measures required to reduce the risk weighed against the benefit to be gained by reducing the risk.

In addition, there will be a staged approach to enforcement action with increasing degrees of enforcement if landlords and owners of residential property fail to respond to previous requirements.

Consistency and Fairness

Officers will carry out their duties in a fair and consistent way. To this end, we have developed and put in place procedures for the range of enforcement activities we carry out and make sure that Officers follow such procedures.

Although Officers have to use judgement in individual cases, we will make sure that procedures wherever possible are the same and people are treated equitably.

3.0 Enforcement Decisions

In deciding whether to take action and if so, the most appropriate course of action, each case will be considered individually having regard to the circumstances of the case and a range of relevant factors. In making enforcement decisions, officers must have regard to the following guidelines.

- Housing Health and Safety Rating System Enforcement Guidance published by the ODPM in February 2006
- The Neighbourhood Renewal Assessment process and associated guidance published by the ODPM in 2004
- Civil Penalties under the Housing and Planning Act 2016: Guidance for Local Housing Authorities
- Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for Local Housing Authorities
- Guidance outlined in section 3.2 to 3.8 below.
- Any other subsequent national legislation and guidance

All enforcement decisions will be fully documented.

Before taking any action in respect of a tenanted property the tenant will normally be expected to contact their landlord about the problems first, though this will not be required in the following circumstances:

- Where the matter appears to present an imminent risk to the health and safety of the occupants.
- Where there is a history of harassment, threatened eviction or poor management practice.
- Where it is not considered reasonable, or the tenant is otherwise unable to contact his/her landlord

Where there is a shared or complimentary enforcement role, consultation will be carried out with the appropriate agency. Specifically, before serving a notice to address a Fire Hazard, consultation will be carried out with the Bucks Fire and Rescue Service. Where there is a problem with the gas installation in a property, the Health and Safety Executive (HSE) will be notified. Where dangerous conditions exist, the Building Control section will be notified. Contraventions of the furniture regulations will be notified to Trading Standards at Bucks County Council.

3.1 Authorisation and Delegation

Housing enforcement decisions are delegated to Head of Healthy Communities and in turn to authorised Officers of the Healthy Communities division, under the Council's Scheme of Delegation to Officers.

The decision to prosecute or administer a formal caution is determined, in consultation with the Legal Services Manager.

Demolition Orders, Clearance Areas and Compulsory Purchase Orders will normally only be served/declared following a decision by the Council's Cabinet.

The Council has developed procedures for the authorisation of officers undertaking housing work. Only officers who are competent by training, qualification and/or experience will be authorised to undertake enforcement action. Authorised officers will also have sufficient training and understanding of this enforcement policy in order to ensure a consistent approach to service delivery.

Officers who undertake criminal investigations will be conversant with and adhere to the provisions of the Police and Criminal Evidence Act, 1984 (PACE) and the Criminal Procedure and Investigations Act, 1996 (CPIA), Regulation of Investigatory Powers Act 2000 (RIPA).

3.2 Informal Action

Informal action, that is verbal advice, requests or warnings, or letters and inspection reports can be used when

- the breach is not of a serious nature
- past experience has shown that such action will be effective
- there is not a significant risk to the safety or health of the occupant (or the public)
- informal action will be more effective and/or quicker than formal action
- there is confidence in the Manager/owner

Informal action will in most cases be commenced first before serving statutory notices or orders

It is not always possible to adopt an informal approach especially where the legislation requires formal action to be taken straight away.

The service of a Hazard Awareness Notice, while strictly a form of formal action, may be considered appropriate in the above circumstances.

3.3 Formal Action

The range of formal action is that set out in section 5 of the Housing Act 2004, plus other formal notice options such as Overcrowding Notices, Remedial Notices under the Smoke Regulations or Abatement Notices under the Environmental Protection Act 1990. Paragraph 3.7 sets out additional requirements in respect of Demolition Orders and Clearance.

The most appropriate course of action will be determined having regard to the relevant legislation, enforcement guidance and a 'neighbourhood renewal assessment', if appropriate. The service of a Hazard Awareness Notice may only be considered appropriate, however, in the circumstances described under 'Informal Action'.

Notices and other formal action will normally only be taken when

- there is a duty to take formal action (eg there are Category 1 hazards), or
- there is a significant contravention of legislation, or

- there is a lack of confidence in the manager/owner to respond to an informal approach, or
- non compliance could be potentially serious to public health, safety or well being of individuals, or
- there is a history of non-compliance, or
- standards are poor (for example there are multiple Category 2 hazards) and the manager/owner has little awareness of statutory requirements,

3.4 Works In Default

Works in Default may be undertaken where an Improvement Notice, a Demolition Order or an Abatement Notice has not been complied with.

The decision whether to undertake Works in Default will include consideration of:

- The risk to public health, safety or wellbeing of individuals.
- Whether reasonable progress has been made by the owner with regard to the works.
- The ability of the owner to arrange for the works to be done.
- The time which has elapsed for compliance with the notice.
- The history of the owner with regard to compliance with notices.
- Whether default work may afford greater benefit than prosecution, ie the defects will be remedied.

In exceptional circumstances, the Council will consider carrying out works in default in addition to prosecution.

3.5 Formal Caution, Prosecution and Financial Penalties

The decision to offer a formal caution, take a prosecution or issue a financial penalty is one that is not taken lightly. Officers recognise that their decision is significant and could have far reaching consequences upon the alleged offender and others.

Prosecution

The decision to prosecute will be taken only in respect of one or more of the following:

- Where the alleged offence involves a flagrant breach of the law such that public health, safety or the wellbeing of individuals is or has been put at risk.
- Where the alleged offence involves a failure to correct an identified serious potential risk and the person responsible has been given a reasonable opportunity to comply

- Where the offence involves a failure to comply in full or in part with the requirements of a statutory notice.
- Where alternative remedies such as civil penalties or carrying out works in default are deemed insufficient or inappropriate having regard to the circumstances of the case
- Where there is a history of similar offences relating to risk of public health, safety or the wellbeing of individuals.

Where such circumstances have been identified, all relevant evidence and information must be considered to enable a consistent, fair and objective decision to be made.

It is necessary to establish that there is relevant, admissible, credible and reliable evidence that an offence has been committed by an identifiable person or company. There must be a realistic prospect of a conviction: a bare prima facie case is not enough.

There must also be a positive decision that it is in the public's interest to prosecute. The Code for Crown Prosecutors, issued by the Crown Prosecution Service, provides guidance which should be considered, including relevant public interest criteria. The factors to consider include:

- The seriousness of the alleged offence;
- The previous history of the party concerned;
- The ability of any important witnesses and their willingness to co-operate;
- The willingness of the party to prevent a recurrence of the problem;
- The probable public benefit of a prosecution and the importance of the case, ie whether it might establish legal precedent;
- Whether other action might be appropriate eg financial penalty
- Any explanation offered by the individual or company.

Formal Caution

In addition to the above considerations, there are certain conditions that must exist before a formal caution can be administered, namely

- there must be evidence of the offender's guilt sufficient to give a realistic prospect of conviction;
- the offender must admit the offence;
- the offender must understand the significance of the caution and give his informed consent to accepting the caution.

If any of the above criteria are not met, the Council will not consider the issuing of a formal caution. Above all, a caution will not be used as a substitute for a prosecution that would otherwise be unsustainable.

Financial Penalties

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 give a power for the authority to impose a financial penalty where a landlord has failed to comply with a Remedial Notice. The Council's agreed Statement of Principles in respect of imposing financial penalties under these regulations is contained in Appendix 2.

The Housing and Planning Act 2016 enabled local authorities to impose a civil penalty as an alternative to prosecution for the following offences:

- Failure to comply with an Improvement Notice
- Offences in relation to licensing of Houses in Multiple Occupation or licensing under Part 3 of the Act
- Contravention of an overcrowding notice
- Failure to comply with management regulations in respect of Houses in Multiple Occupation

A financial penalty will only be considered in the circumstances set out above in respect of decisions to prosecute and where there is sufficient evidence to demonstrate beyond reasonable doubt that the offence has been committed.

Factors to be considered in deciding whether to issue a civil penalty **instead of** a prosecution are:

- the nature and seriousness of the offence ie the scale and scope of the offence and the potential for harm

- the culpability of the offender eg the attitude and history of the landlord

- the circumstances of the tenant and the actual harm caused

- Impact on the wider community

- whether a civil penalty is likely to act as a greater punishment or deterrent to the individual

- whether the offender has admitted the offence

- whether a Rent Repayment Order is to be sought

- whether a Banning Order is to be sought

The presumption will be in favour of prosecution for the most serious offences.

Decisions to prosecute, offer a formal caution or issue a financial penalty will be taken in consultation with the Head of Legal Services.

Level of Financial Penalty

The level of financial penalty will be determined having regard to the principles of sentencing set out in section 142 of Criminal Justice Act 2003.

The fine will be determined in relation to the seriousness of the offence, having regard to both the culpability of the offender and the potential for harm. Account will also be taken of any aggravating or mitigating factors, the offender's financial circumstances and whether any reduction is appropriate in the event of an admission of guilt.

Appendix 3 sets out the Statement of Principles in determining the level of a financial penalty.

3.6 Banning Orders

A power for a local authority to apply to the First Tier Tribunal for a Banning Order for any person who has been convicted of a Banning Order Offence is not currently in force but is expected to be introduced during 2017. Once in force, this policy will set out the circumstances in which the local authority will consider applying for a Banning Order.

3.7 Demolition, Compulsory Purchase and Clearance

A Neighbourhood Renewal Assessment is required in accordance with guidance contained in Government Circulars. Detailed consideration of a range of factors should to be undertaken in partnership with other departments and agencies to ensure that it was the most satisfactory method of dealing with a property or an area, with ultimately the decision being made by the Council's Cabinet. Any of these courses of action would be regarded as a last resort.

3.8 Rent Repayment Orders

The local authority has a duty to consider whether to apply to the First-tier Tribunal for a Rent Repayment Order where it becomes aware that a landlord has committed one of the following offences in relation to a property within its area:

- *Failure to comply with an Improvement Notice*
- *Failure to comply with a Prohibition Order*
- *Failure to licence a licensable HMO or other house*
- *Failure to comply with a banning order*
- *Violence in securing entry under the Criminal Law Act 1977*
- *Illegal eviction or harassment*

The Council will have regard to the following factors in considering whether to apply for a Rent Repayment Order:

- *The level of Housing Benefit which has been paid since the offence was committed, or the amount of housing costs included in any Universal Credit claim*
- *Whether the landlord has been convicted of the offence (or is there likely to be a prosecution taken)*
- *is there sufficient evidence to demonstrate beyond reasonable doubt that an offence has been committed*
- *whether a financial penalty has been issued for the offence*

The amount to be reclaimed may be adjusted to reflect the circumstances of the case having regard to the following factors:

- *the seriousness of the offence*
- *the conduct of the landlord*

- *other financial resources available to the landlord*

The decision to seek a Rent Repayment Order will be undertaken in consultation with the Head of Legal Services.

3.9 Rogue Landlord Database

The Council has discretion to include details of any landlord who has been convicted of a banning order offence or has received at least two financial penalties on the database of rogue landlords.

The Council will seek to include landlords on the database in all cases except where the following matters apply:

- *there were mitigating circumstances when the offence was committed eg personal circumstances, financial hardship*
- *The landlord has undertaken training or shown considerable improvement in management of the property since the offence(s)*

3.10 Enforcement against owner-occupiers

Enforcement decisions will be made in full consultation with the owner and having regard to owner's eligibility for a grant or loan.

Formal action will not be limited to the service of Hazard Awareness Notices. The service of statutory notices and orders and the carrying out of emergency works will be considered where the condition of an owner-occupied property is such that:-

- It is a danger or a serious health risk to the occupier or members of the public, **or**
- It is having a deleterious effect on adjoining properties

4.0 Enforcement Procedures

4.1 Inspections

Inspections and enforcement action will be targeted primarily on those activities giving rise to the most serious risks or where hazards are least controlled.

The prioritisation of inspections will be based on the risk assessment for Houses in Multiple Occupation, or following a complaint.

We will, wherever possible, seek to arrange routine visits and inspections at times to suit those concerned.

We will arrange routine inspections through landlords and their agents, but in the case of complaints will typically visit the complainant in the first instance to assess the facts of the case.

4.2 Actions

We will confirm our advice, findings and conclusions (as the case may be) at the earliest opportunity, will do so in a clear and simple manner and will accommodate at least one meeting to discuss these matters if requested, other than in urgent cases.

If we require remedial action this will be put in writing and we will explain why it is necessary and when it must be done.

We will make sure that legal requirements are clearly distinguished from best practice advice.

We will confirm any decision to undertake formal action, work-in-default or prosecution in writing.

Officers serving statutory notices will be prepared to discuss the specified works with individuals/company representatives and will consider the availability and suitability of any alternative solutions.

Where a formal notice is served, the method of appealing against the notice (ie if the recipient felt that the notice is excessive in its requirements) will be provided in writing at the same time.

4.3 Timescales for Completion of Works

We will take account of relevant factors when determining what deadlines to set for the commencement and completion of work. Relevant factors may include: the nature of the works; any ill effects that are likely to result if the work is delayed; the duration of the problem and the point at which it has been reported to us; any prior knowledge on the landlord or agent's part; and the nature of any attempts to remedy the problem. We will also seek to be sympathetic to financial and other practical constraints that may affect landlords' and agents' ability to act, whilst recognising that these do not limit obligations or legal duties to achieve appropriate standards.

We will consider properly made requests for the extension of deadlines where unforeseen problems have delayed works, but not simply to accommodate lack of sufficiently early action.

4.4 Charges for Enforcement Action

A charge will be made for the cost of administrative and other expenses involved in serving Improvement Notices and Prohibition Orders.

The charge is £100 for the first notice/order and £50 for additional notices where served concurrently, with a maximum charge of £300 per property. Where more than one person is served with a notice/order the charge will be recovered from the main recipient, usually the person who is primarily responsible for the management of the property.

The charge will be waived where the notice is complied with within the timescales set out on the notice or where the notice is served and works arranged by the Council with the agreement of the property owner (eg as an alternative to a grant or loan).

Where there is an appeal against the Notice, or the notice is suspended, the charge is also suspended, until the appeal is resolved or the suspension is ended. There is no separate right of appeal against the demand. In cases of hardship the Head of Healthy Communities has discretion to reduce charges for enforcement action.

Where works are Emergency Remedial Works or works arranged by the local authority in default of a statutory notice served under the Housing Acts or other public health legislation, the expenses to be recovered are as follows:

- The actual cost to the local authority of undertaking the works in default
- The costs of serving the relevant notices at the rate set out above
- All other administrative costs reasonably incurred in relation to arranging the works. These costs will be calculated having regard to actual time spent and the hourly rate (including overheads) of the Healthy Communities department.
- Interest at base rate plus 2%.

5.0 Monitoring and Review

Actions taken under this policy will be monitored annually as part of the overall monitoring of the Private Sector Housing Strategy outcomes.

This policy, including the charges, will be reviewed on an annual basis.

Appendix 1: Summary of Housing Legislation

Legislation	Summary of Powers
Protection from Eviction Act 1977	
Section 1	<p>This section creates the offences of unlawful eviction and harassment of a residential occupier. Chiltern District Council is a prosecuting authority for the purposes of this section and it is Housing Officers who investigate claims of unlawful eviction and harassment. The Council can prosecute landlords, agents or others who contravene this section.</p>
Environmental Protection Act 1990	
Section 80	<p>Section 79 of this Act lists what are statutory nuisances. As far as the legislation enforced by the Housing Section is concerned, a statutory nuisance is any house in such a state as to be prejudicial to health or a nuisance.</p> <p>Prejudicial to health is defined as injurious or likely to cause injury to health. This typically includes properties that are damp or have mould growth, as dampness and mould growth can have an affect on people's health.</p> <p>A nuisance is taken to be anything that interferes with the use and enjoyment of a neighbouring property or which materially affects the comfort and quality of life of the public at large. Examples of nuisances include a hole in the roof of one property allowing rain to penetrate through and affect the neighbouring property or slates falling off a roof onto the footpath and thus endangering passers by.</p> <p>Once the Council is satisfied that a statutory nuisance exists or is likely to occur, it is under a duty to take action to deal with it. This means that Officers have to serve a notice requiring the abatement of the statutory nuisance within certain time limits or preventing the occurrence of a statutory nuisance. In the case where a house is let, this is generally served on the landlord of the property.</p> <p>If such a notice is served and not complied with, the Council is able to carry out the necessary work in default and recharge the person upon whom the notice was served. Not keeping to a notice is a criminal offence and the Council is able to prosecute the person who received the notice if he does not have a reasonable excuse for not keeping to it.</p>
Housing Act 1985	
Section 17	<p>Power to make a Compulsory Purchase Order</p> <p>The legal powers are contained in s17 Housing Act 1985 and s93 Local Government and Housing Act 1989.</p> <p>A compulsory purchase order may be served upon the owner of land or property by the Council to acquire the land for the public good, usually at a valuation set by the district valuer.</p>
Section 265	<p>Power to make a Demolition Order</p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. The service of a Demolition Order is one of the actions that can be taken.</p> <p>A demolition order requires the property to be vacated within a specific time and</p>

Housing Enforcement Policy: Appendices

		subsequently demolished. It is a criminal offence to allow the property to be occupied after the demolition order has come into effect. If the person upon whom the order has been served does not demolish the building, the Council can demolish it instead and recharge the person accordingly.
Section 289		<p>Declaration of clearance area</p> <p>A clearance area is an area that is to be cleared of all buildings. The Council shall declare an area to be a clearance area if each of the residential building contains a Category 1 hazard and the other buildings in the area are dangerous or harmful to health and safety. The Council is required to consult on the declaration of a clearance area and publish its intentions. Owners and in certain cases occupiers of properties are compensated accordingly.</p>
Housing Act 2004		
Sections 11 and 12		<p>Power to serve an Improvement Notice</p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. The service of an Improvement Notice is one of the actions that can be taken. This course of action is also available where Category 2 hazards exist.</p> <p>An Improvement Notice under this section requires the recipient of the notice (usually the owner but not in all cases) to carry out certain works within a specified time scale. If the notice is not complied with, the Council can carry out the work in default and recharge the person upon whom the notice was served. Not keeping to a notice is a criminal offence and the Council is able to prosecute the person who received the notice, or issue a financial penalty.</p> <p>An Improvement Notice can be suspended, varied or revoked.</p>
Sections 20 and 21		<p>Power to Serve a Prohibition Order</p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. The service of a Prohibition Order is one of the actions that can be taken. This course of action is also available where Category 2 hazards exist.</p> <p>A Prohibition Order under this section requires the recipient of the notice (usually the owner but not in all cases) to cease or limit the use of a property or part of the property for residential purposes. Prohibition Orders may also relate to the use of the premises by a specified number of people. Not keeping to an Order is a criminal offence and the Council is able to prosecute the person who received the notice, if he has intentionally failed to keep to it.</p> <p>An Prohibition Order can be suspended, varied or revoked</p>
Sections 28 and 29		<p>Power to Serve a Hazard Awareness Notice</p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. The service of a Hazard Awareness Notice is one of the</p>

Housing Enforcement Policy: Appendices

	<p>actions that can be taken. This course of action is also available where Category 2 hazards exist.</p> <p>A Hazard Awareness Notice advises the person on whom it is served (usually the owner, but not in all cases) of the existence and the nature of the hazards identified, and the works considered to be required to address the hazard. The notice is advisory only - it does not require the recipient to take any action.</p>
Section 40	<p>Power to take Emergency Remedial Action</p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. Where they are satisfied that the hazard presents an imminent risk of serious harm to the occupiers of the property or other residential premises, it can take Emergency Remedial Action.</p> <p>This means that the Council can arrange for works to be undertaken to remove the risk of harm. Within 7 days of starting the work, they must serve a notice under section 41 of the Act on the person having control of the house explaining the action taken. The Council have powers to recover expenses incurred in taking emergency remedial action.</p>
Section 43	<p>Powers to make an Emergency Prohibition Order</p> <p>Where a Council finds a property that has Category 1 hazards (under the Housing Health and Safety Rating System), it is under a duty to take the most suitable course of action. Where they are satisfied that the hazard presents an imminent risk of serious harm to the occupiers of the property or other residential premises, it can take Emergency Prohibition Order.</p> <p>This prohibits the use of the premises of part of the premises for residential use, with immediate effect. The Council must serve a notice on the person having control of the property on the day (or as soon as possible) that the Emergency Prohibition Order is made.</p>
Section 64	<p>Licensing of HMOs and other houses</p> <p>The local authority must licence Houses in Multiple Occupation which meet a specified description (currently those of three or more storeys with five or more occupiers forming two or more households). They also have a discretion to introduce licensing schemes for other HMOs or other houses to address specific local issues.</p> <p>It is an offence to fail to licence a licensable HMO or house, for which the local authority may prosecute or issue a financial penalty.</p>
Section 73	<p>Power to apply to the FtT for a Rent Repayment Order</p> <p>Where a licensable HMO is not licensed, the Council can apply to the First-tier Tribunal for an order requiring the landlord of the HMO to repay any housing benefit paid in respect of the HMO.</p> <p>The Housing and Planning Act 2016 extended the power to apply for a Rent Repayment Order where a landlord has committed one of the following offences (it is not necessary that they have been convicted):</p>

Housing Enforcement Policy: Appendices

	<ul style="list-style-type: none"> - Illegal eviction or harassment - failure to comply with an Improvement Notice - Failure to comply with a Prohibition Order - Control or management of an unlicensed HMO or house - Failure to comply with a Banning Order - Violence for securing entry under the Criminal Law Act 1977 <p>The local authority has a duty to consider applying where it becomes aware that a landlord has been convicted of a relevant offence.</p>
Section 102	<p>Interim Management Orders</p> <p>Where an HMO which is required to be licensed is not licensed and there is no reasonable prospect of it becoming licensed or action is considered necessary to protect the health, safety or welfare of occupants of a HMO or persons living or owning property in the vicinity, the local authority may make an Interim Management Order (IMO).</p> <p>An IMO can last for up to 12 months and enables the local authority to take steps to secure the proper management of an HMO, or to protect the health, safety or welfare of occupants of a HMO or persons living or owning property in the vicinity.</p> <p>An IMO gives the council rights to collect rents and carry out works to the property.</p> <p>An IMO may also be made in respect of any other dwelling, but only with the authority of the Residential Property Tribunal.</p>
Section 113	<p>Final Management Orders</p> <p>A local authority can serve a Final Management Order following an Interim Management Order, where, on expiry of the IMO, the HMO is required to be licensed and there is still no reasonable prospect of it becoming licensed or the Order is considered necessary to protect the health, safety or welfare of occupants of a HMO or persons living or owning property in the vicinity, on a long term basis.</p> <p>A Final Management order can last for up to five years.</p>
Section 139	<p>Overcrowding Notices</p> <p>Where the Council considers that excessive numbers of people are (or are likely to be) accommodated in a non-licensable HMO, they may serve an Overcrowding Notice on the owner or a person having control of the house.</p> <p>It is a criminal offence to breach an overcrowding notice, for which the Council may prosecute or issue a financial penalty.</p>
Section 234	<p>HMO Management Regulations</p> <p>Managers of HMOs are required to comply with the HMO Management Regulations which specify duties to keep the property and facilities within it safe, clean and in good repair.</p> <p>It is a criminal offence to breach the management regulations for which the local authority may prosecute or issue a financial penalty.</p>

Housing Enforcement Policy: Appendices

The Smoke and Carbon Monoxide Alarm Regulations 2015	
Regulation 5	<p>Remedial Notice</p> <p>Where the Council has reasonable grounds to believe that a landlord is in breach of his/her duties under these regulations, they must serve a Remedial Notice on the landlord giving him/her 28 days in which to carry out the actions specified in the notice.</p>
Regulation. 7	<p>Duty to arrange remedial action</p> <p>Where a local authority is satisfied, on the balance of probabilities, that a landlord has failed to comply with a Remedial Notice, it must arrange to undertake the actions in the Notice.</p>
Regulation 8	<p>Power to issue Penalty Charge Notice</p> <p>Where a local authority is satisfied, on the balance of probabilities, that a landlord has failed to comply with a Remedial Notice, they may require the landlord to pay a penalty charge.</p>
Housing and Planning Act 2016	
Sections 14-27	<p>Power to apply for a Banning Order (Not yet in force)</p> <p>The local authority may apply to the First tier Tribunal for a banning order in respect of any person or corporate body who has been convicted of a banning order offence.</p> <p>The effect of a Banning Order is to ban that person/company from being involved in letting and/or management of property or being involved in any company which carries out those activities.</p>
Sections 28-29	<p>Database of Rogue Landlords and Agents</p> <p>The government must establish a database of rogue landlords and give access to local authorities.</p> <p>A local authority will be given powers to maintain the database and must include details of any landlord who has received a banning order.</p> <p>They may include landlords who have been convicted of banning order offences, or who has received at least two financial penalties in 12 months for banning order offences, but authorities must first give notice to the landlord which may be appealed.</p>

Appendix 2: Statement of Principles: Smoke and Carbon Monoxide Regs 2015

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Regulation 13: Statement of Principles in relation to Requirement to Pay a Penalty Charge

Background

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 confer a statutory duty on landlords of residential premises to ensure that:

(i) A smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation:

(ii) A carbon monoxide detector is equipped in any room of the premises on which there is a room used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance:

(iii) Checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

Where a local authority has reasonable grounds to believe that a landlord is in breach of one or more of these duties, they must serve a remedial notice on the landlord giving him/her 28 days in which to carry out remedial actions specified in the notice.

Where a local housing authority is satisfied, on the balance of probabilities, that landlord has failed to comply with a Remedial Notice, the local authority must arrange to undertake the remedial actions in the Notice, and they may also require a landlord to pay a Penalty Charge.

The local authority may determine the amount of the penalty charge, but it must not exceed £5000.

The purpose of this Statement of Principles is to set out the principles the authority will follow in determining a penalty charge.

Principles in Relation to Decision to Impose a Penalty Charge

A penalty charge will be imposed in the following cases

- The landlord is unable to demonstrate that he/she has attempted to make contact with the tenant by text, email or letter to arrange to carry out the remedial actions
- The landlord is unable to demonstrate that the tenant has refused access to allow alarms to be installed or to be checked
- The landlord has not made any representations in relation to service of the Remedial Notice, or representations were made but dismissed

Principles in Relation to Amount of Penalty Charge

Where a penalty charge is considered appropriate, the amount of charge will be the maximum £5000.

The principles followed in determining this amount are:

- The actions required to comply with the regulations are not expensive or onerous for a landlord
- The landlord was made aware of the need to comply by the service of the Remedial Notice and had an opportunity to make representations if he/she did not agree with it, therefore any breach is considered to be deliberate or reckless.
- Failure to comply potentially could lead to death or serious injury of an occupant
- The penalty charge should act as a sufficient deterrent to non-compliance

Dated: 3 September 2016

Appendix 3: Statement of Principles: Determining the amount of a Financial Penalty

The level of financial penalty will be determined having regard to the principles of sentencing set out in section 142 of Criminal Justice Act 2003.

The fine will be determined in relation to the seriousness of the offence, having regard to both the culpability of the offender and the potential for harm. Account will also be taken of any aggravating or mitigating factors, the offender's financial circumstances and whether any reduction is appropriate in the event of an admission of guilt.

Determining the Offence Category

Culpability

Low or No Culpability: Offence has been committed with limited or no fault on behalf of the landlord or agent eg. Obstruction by tenant to allow contractor access for repairs, damage caused by tenant negligence.

Negligent: Failure of the landlord or agent to take reasonable care to put in place or enforce proper systems to avoid committing an offence Eg. Failure to instruct or follow up contractors, failure to liaise adequately with tenant, failure to make adequate financial arrangements to cover the costs of repairs

Reckless: Actual foresight of or wilful blindness to risk of offending, but risks taken nevertheless by the landlord or agent Eg Failure to comply with strict liability offence HMO Management Regulations,

Deliberate: Intentional breach by landlord or flagrant disregard for the law Eg Failure to comply with an Improvement Notice without 'reasonable excuse'

Level of Harm

Extreme and Severe Harm Outcomes: The housing defect giving rise to the offence poses an imminent danger with a potential risk of death or severe injury or illness eg electrocution, carbon monoxide poisoning, serious fire safety risk.

Serious Harm Outcomes: The housing defect giving rise to the offence poses a significant risk of harm to the occupants where the potential outcomes are serious illness or injury eg mild heart attack, fractures, diarrhoea, vomiting, chronic stress.

Moderate Harm: The housing defect giving rise to the offence poses a risk of harm to the occupiers which are significant enough to warrant medical attention eg moderate cuts, severe bruising, persistent coughs and colds.

A higher degree of harm may be assessed where there are multiple victims (for example in a house in multiple occupation) or the victim is particularly vulnerable.

Adjustments for Aggravating or Mitigating Factors**Aggravating Factors**

- History of similar offences
- High level of financial gain
- Attempt to conceal or dispose of evidence
- Hostility or contempt for the victim

Mitigating Factors

- First offence
- Genuine remorse
- Relevant personal circumstances at time of the offence eg illness, bereavement
- Ready co-operation with authority

Financial Circumstances of the Offender

In view of the high property and rental values in the Chiltern and South Bucks Districts, claims of hardship will only be considered where the landlord provides compelling evidence. Landlords who are unable to afford to operate a safe rental property and comply with the law will usually have the option to sell.

Admission of Guilt

A reduction of up to a third may be applied to the fine where the offender admits guilt during an interview.

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