

REPORT TO: Cabinet Member - Regeneration
Cabinet

DATE: 16th February 2011
17th February 2011

SUBJECT: Private Sector Housing Enforcement Fees and Charges

**WARDS
AFFECTED:** All

REPORT OF: Alan Lunt – Neighbourhoods & Investment Programmes
Director

**CONTACT
OFFICER:** Clare Taylor
Private Sector Housing Team Manager
0151 934 2273

**EXEMPT/
CONFIDENTIAL:** No

PURPOSE/SUMMARY:

To establish the charges to be made for taking certain enforcement action under the provisions of the Housing Act 2004.

REASON WHY DECISION REQUIRED:

The Neighbourhoods & Investment Programmes Director does not have delegated authority to make decisions relating to such matters.

RECOMMENDATION(S):

Cabinet Member Regeneration :

is requested to agree the proposed charges for Private Sector Housing Enforcement Fees and to

Cabinet:

is requested to approve the scale of enforcement charges under the Housing Act 2004 as set out in Appendix A to this report.

KEY DECISION: No

FORWARD PLAN: No

IMPLEMENTATION DATE: April 2011

ALTERNATIVE OPTIONS: That the scale of enforcement charges is not adopted or is varied from the levels proposed.

IMPLICATIONS:

Budget/Policy Framework: The setting of Fees and Charges does not form part of the Council's budget setting process.

Financial: It is anticipated that introduction of charges will generate approximately £1,700 per year income.

<u>CAPITAL EXPENDITURE</u>	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £	2013/ 2014 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal:

Risk Assessment:

There is a risk that the proposed charges may be challenged on appeal as not being reasonable. This can be determined by a Residential Property Tribunal when considering such an appeal. However the Government has not set any limit to the charges and it is felt that the proposed

charges can be justified.

Asset Management: NA

CONSULTATION UNDERTAKEN/VIEWS

Benchmarking comparisons have been undertaken with other Local Authorities

The Interim Head of Corporate Finance & Information Services has been consulted and his comments have been incorporated into this report.

FD 616 /2011

The Head of Corporate Legal Services has been consulted and has no comments on this report. **LD 00028/11**

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		x	
2	Creating Safe Communities		x	
3	Jobs and Prosperity		x	
4	Improving Health and Well-Being		x	
5	Environmental Sustainability		x	
6	Creating Inclusive Communities		x	
7	Improving the Quality of Council Services and Strengthening local Democracy	x		
8	Children and Young People		x	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Housing Act 2004

1. BACKGROUND

The Housing Act 2004 (the Act) introduced the Housing Health and Safety Rating System to replace the previous Housing Fitness Standard together with new provisions for the enforcement of housing standards with effect from 6 April 2006. In addition the Act introduced provisions for the licensing of Houses in Multiple Occupation (HMO), selective licensing of other private rented accommodation and management orders for empty dwellings or other dwellings that should be licensed.

Authority to administer the provisions of the Housing Act 2004 was delegated to the Neighbourhoods & Investment Programmes Director. Section 49 of the Act allows for reasonable charges to be made for enforcement action.

The Council may make reasonable charges for certain activities involving the service of notices or making of orders etc and consideration has been given to the most appropriate form and level of such charges. Some authorities charge on the basis of the actual time spent by individual officers on each case whilst others charge on the basis of a fixed fee.

A comparison of practices elsewhere is presented below at Appendix B.

Within Merseyside, Liverpool, Wirral and St Helens all charge on the basis of officer time, but have a maximum fee of £300 per notice, whereas Knowsley charge a fixed rate which varies with Notice type, (unless there are exceptional circumstances which would warrant the charge to be increased), though this is currently under review by them.

It should be noted that if charges are applied to the service of Statutory Notices, the number of appeals to notices served may well increase, which in turn would incur a cost to defend those appeals. However, it is not felt that this should prevent the Housing Authority from using its power to recover reasonable expenses incurred in taking enforcement action.

2. METHODOLOGY

It is proposed that a scale of fixed fees be adopted in Sefton as set out in the **APPENDIX A**. These fees are based upon an hourly rate for a Technical Officer of £36.14 and an average estimated time for the completion of the different procedures. The hourly rate should adequately reflect the normal salary range of officers involved in the enforcement procedure including employer costs and on costs. The time taken for each procedure has been estimated from experience in housing enforcement procedures. Provision is included for dealing with exceptional cases.

An example of the time taken to take enforcement action (Improvement Notice) is set out in the chart below:

	Action	Time (Hrs)
	Initial inspection including travel time	2
	Land Registry Enquiry	£4.00
	Drafting and sending schedule of works, Requisition for Information form & cover letter to landlord	3
	Monitoring informal compliance inc. revisit, telephone calls, reminder letter	2
	Drafting and serving Notice with cover letter	2
	Monitoring formal compliance inc. revisit, telephone calls, reminder letter	2
	TOTAL	11

The alternative would be to monitor the actual time taken by all staff involved in the process and charge according to their different salaries, with on costs etc. This however is likely to result in different charges between officers for the same enforcement action. This has the potential to confuse landlords and raise concerns of unfair or inconsistent procedures.

It is not proposed to charge for the service of a Hazard Awareness Notice as this is considered to be a form of informal action within the Private Sector Housing Enforcement Policy and is also a form of action which may commonly be used to advise owner occupiers of the condition of their homes.

In line with the other Merseyside Local Authorities, it is proposed to set a maximum charge of £300 per notice, which is considered reasonable and justifiable.

The proposed charges will be reviewed annually and in light of experience to ensure that they effectively recover the Council costs in taking enforcement action.

3. FINANCIAL

Enforcement action has traditionally been at a low level within Sefton and most cases dealt with on an informal basis. The likely revenue to the Council in introducing these charges, based on the number of notices served during the last 12 months is approximately £1,700 per annum. An additional benefit is likely to be made in terms of officer time as it is envisaged that Landlords are more likely to co-operate with officers informally, thus preventing the need to serve Statutory Notices.

4. CONCLUSION

The Housing Act 2004 provides for the Council to make reasonable charges for certain enforcement procedures. A scale of such fees is proposed for adoption by the Private Sector Housing Team of the Neighbourhoods & Investment Programmes Department. The scale of fees would be made readily available on the Councils website and shared with interested parties e.g. Landlords forum.

APPENDIX A

SCALE OF ENFORCEMENT CHARGES – HOUSING ACT 2004

1. The following charges shall normally be applied under section 49 Housing Act 2004

Section of the Act	Type of Enforcement Action	Charge
11 or 12	Improvement Notice	£ 300
20 or 21	Prohibition Order	£ 300
40	Emergency Remedial Action	£ 150
43	Emergency Prohibition Order	£ 300
28 or 29	Hazard Awareness Notice	Nil
17	Review of Suspended Improvement Notice	£ 100
26	Review of Suspended Prohibition Order	£ 100
265 of Housing Act 1985	Demolition Order	£ 300

2. Where the enforcement procedure includes obtaining specialist reports or surveys such as electrical safety report, gas safety report or structural engineers report etc the cost of that report **will be** added to the above fees.
3. Where the enforcement procedure results in two forms of action such as an Improvement Notice and a Prohibition Order or Emergency Remedial Action then the charge for the second action will be reduced to £ 100
4. In exceptional cases the Neighbourhoods & Investment Programmes Director may increase the amount of the standard fee where in their opinion the work involved is significantly greater than average due to the size of the property or extent of deficiencies. In such cases the charge will be calculated at the rate of £37.14 per hour as at April 2011, to be increased by inflation in subsequent years.
5. The Neighbourhoods & Investment Programmes Director may reduce or waive the above fees where in their opinion the circumstances are exceptional and would result in hardship for the individual(s) responsible for the payment of the charge.

Appendix B

Council	Rationale	Average/typical charge
Liverpool	Done on case by case basis average £300	£300
Halton	Nil	0
Knowsley	Under review proposed fee £462. Overall price is discounted by 50% if paid within 30 days of invoice date.	£231/£462
Wirral	Case by case on hourly rate £31 per hour previously capped at £300	£300
Blackburn with Darwen	Reviewed each April.	£250
Blackpool Council	Increases each year- agreed costs on sub regional basis with Wyre and Fylde	£375
Bolton	£432.00 - Plus £28.90 per additional hour over 8 hours. Overall price is discounted by 50% if paid within 28 days of invoice date.	£216/£432
Bury	09/10 which is reviewed annually	£310
Manchester City Council	£42.00 per hour, max charge £300.00	£300
Oldham	All applicable Housing Act notices served. Subject to review 09/10	£300
Rochdale	under review	£0
Salford	Nil	£0
Stockport Council	Nil	£0
Tameside	Approval given at beginning of June 09. No inflationary increase built in but subject to review in 12 months.	£350
Trafford	Charge is increased each April in line with inflation. This charge is for improvement notices only (not including suspended notices).	£233.67
Warrington	Concessions to satisfy the Residential Property Tribunal [Fees] [England] Order 2006	£150
Wigan	2010-11 (The charge is increased by the rate of inflation each April)	£337

Approximate average: £282

Note 1. Average based on: -

Those that charge including proposed fees in blue

Those that charge on a case by case basis using their average

Those that apply a discount using the lower rate

Note 2. The figures provided by GM Private Sector Housing Group were collated in 09/10