

Customer and Community Scrutiny Panel – Meeting held on Wednesday, 7th September, 2022.

Present:- Councillors Begum (Chair), Muvvala (Vice-Chair), Ali, Brooker, Kaur, M. Malik, S. Malik and Mohammad

Also present under Rule 30:- Councillor Gahir

Apologies for Absence:- Councillor Hussain and Trevor Pollard

PART 1

8. Declarations of Interest

No declarations were made.

9. Minutes of the Meeting held on 6th July 2022

Resolved – That the minutes of the meeting held on 6 July 2022 be approved as a correct record.

10. Member Questions

None received.

11. Housing Regulation Enforcement, Licensing and Civil Financial Penalties Policies

The SBC Housing Regulation Manager provided a brief overview of the report entitled Housing Regulation Enforcement, Licensing and Civil Financial Penalties Policies. She apologized for the fact that there were a number of formatting and other errors contained in the report, which would be corrected prior to its submission to cabinet for approval.

Following comments by the Vice Chair regarding the lack of prior consultation of Members regarding the new policies, the SBC Assistant Director, Place Regulation, explained that Members would have an opportunity to comment and provide feedback on the proposals in the report, during the meeting. The policies would then be amended to reflect any feedback from the Panel and subsequently be submitted to November Cabinet for approval.

Members asked the questions below, which were responded to accordingly:

Did the policies set out in the report apply equally to housing associations?

The SBC Housing Regulation Manager advised that housing associations had their own complaints procedure and were regulated by an ombudsman. Nevertheless, the Council could intervene in cases where there was a public

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interest to do so, or, if there was a statutory obligation on the Council to intervene.

Why had it taken the Council eight years to formulate these policies?

Officers advised that the Council had relied on its existing general regulatory and services enforcement policy (which had been approved by Cabinet in the past) to regulate this sector until recently. However, in light of recent housing legislation, it was deemed that a tailor made policy was required for this sector.

Would the policy would allow enforcement officers to use their professional judgement or discretionary powers when assessing breaches?

The SBC Housing Regulation Manager confirmed that enforcement officers had a degree of discretion and would use their professional judgement. Every case would be judged on its merits rather than a blanket application of the policy. The policy had been designed to be flexible in order to include myriad circumstances. Without a written policy it would be difficult for officers to use their discretionary powers, opening the process up to possible legal challenge. The policy made reference to specific housing legislation which was not covered by the other policies.

Were the fines different for small, medium and large properties?

The SBC Housing Regulation Manager advised that the civil penalties protocol set out this information and the fines for different offender categories and it detailed the level of culpability and harm. However, officers would base their judgement on observations made at a property and seek the approval of senior officers.

Did officers have authority to enter land or properties without giving notice to the owner?

The SBC Housing Regulation Manager advised that housing act allowed officers with delegated authority, the power to enter a property where they believed certain licensing offences were being committed. The entry would not be forced entry and would require a warrant application to the court.

The report stated that the Council had 12 years to enforce the local land charge?

The SBC Housing Regulation Manager advised that when a local authority served certain types of notices under the housing act, these automatically became local land charges. If there was a financial element to the charge then the Council would have 12 years in which to recover the monies.

With regard to risk management and future controls, would potential hazards such as wiring at properties be assessed?

The SBC Housing Regulation Manager responded that as part of the assessment process, all potential hazards would be noted and assessed, this included electrical and gas safety.

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How were long term empty properties identified and how many of them were there currently? Would additional recruitment to the licensing team mean there would be more resources for enforcement work?

The SBC Housing Regulation Manager advised that officers would look at council tax data to identify empty properties. The team did not have sufficient resources to deal with all empty properties, and tended to tackle these on a reactive level, ie in cases of risk to public health and wellbeing or nuisance issues. Her team worked closely with the enforcement team to identify the best response. Some of these properties had been brought back into use recently. Recruitment was ongoing, however, there had been a poor response to the advertisement and the team continued to experience capacity issues. HMOs were dealt with in a more proactive way.

Was the policy equally applicable to landlords who owned multiple properties?

SBC Housing Regulation Manager replied that enforcement action would take the full range of circumstances into consideration. The civil penalties policy in the report set out a list of civil sanctions. There was a range of culpability. It was reasonable to expect a higher level of culpability, for example, for an estate agent or a private landlord. The general principles of policy had been designed to be as flexible as possible and its application would depend on the merits of each case.

If a landlord was convicted for a breach, how long would it be before the property could be brought back into use?

The SBC Housing Regulation Manager stated that if an individual was prosecuted of a housing act offence, then the law did not prevent them from continuing to rent out properties. However, the Council could apply for a banning order for certain types of offences. Breach of a banning order could lead to a custodial sentence. The Council had to date never issued such an order, which was reserved for the most serious breaches.

Was there a chart setting out levels of culpability? Would the Council intervene if a landlord denied knowledge of a notice of repairs submitted by a tenant? In cases of non-compliance by landlords, and the tenant considered something to be a risk, what action would the Council take? Under what circumstances could charges be waived, as stated in the report? The report mentioned the evidential test and public interest test in deciding to prosecute an offender, how were these applied?

SBC Housing Regulation Manager advised that this information was contained in appendix 1 of the report. She would look at including more detailed information in the table. Emails or texts from tenants to landlords would be accepted as proof of communication.

She added that the Council would only intervene where a landlord was failing in their duties. The housing health and safety rating system set out a standard operating procedure. The assessment results were scored numerically and did not take into account things such as the vulnerability of potential

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occupants. This would allow a more objective assessment of risk, however, any enforcement decision could take into account the vulnerability of the occupant. She added that charges could be waived in exceptional circumstances and any decision would be taken in consultation with senior directors. The application of the evidential and public interest tests were set out by the crown prosecutor which the Council was obliged to adhere to.

What enforcement powers did the officers have in relation to poorly maintained gardens and outside spaces of a property?

SBC Housing Regulation Manager that all land in the demise of a property would be assessed. However, housing regulation and the housing health and safety rating system dealt with hazards in a property, and purely cosmetic issues such as poorly maintained gardens did not fall within its remit. There were wider enforcement tools for licensed properties, which related to public health, antisocial behaviour etc, which could be used in such cases. She confirmed that the updated suite of enforcement policies would be submitted to November 2022 Cabinet.

What support was there for good landlords?

The SBC Housing Regulation Manager responded that her team would help landlords as far as possible, for example, providing help in identify non-compliance issues and work with them to resolve these before resorting to formal action. Unfortunately, the landlords and tenants' forum, which had in the past provided training and support, was not currently in operation due to capacity issues in the team.

The report stated that lettings agents were subject to the civil penalties protocol?

The SBC Housing Regulation Manager advised that trading standards also had the power to issue civil penalties to letting agents, which were linked to breaches of housing regulations but were essentially related to consumer protection rules, eg, estate agents were prohibited from charging certain fees to tenants when they moved. She added that if this information was not clear in the report, then this would be addressed in final version of the report.

Following a question regarding the confidential nature of enforcement actions, the Group Manager, Community Safety advised that once a landlord had been served an improvement notice and legal action was being taken, it would not be possible for officers to discuss such cases with Members. He added that legislation allowed landlords to appeal against improvement notices.

Following a question, the SBC Housing Regulation Manager advised that the report contained a link to the previous suite of policies but that the specific changes in the updated policy would be set out more clearly in the final version of the report.

Following a comment regarding the close link between poor housing conditions and poor health, the SBC Housing Regulation Manager advised

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that the updated policy would be submitted to the Wellbeing Board for comment.

Following a question, the Group Manager, Community Safety confirmed that the latest census data showed that the average age for a Slough resident was 33 years.

A Member speaking under Rule 30 stated made the following points:

- One third of Slough's residents lived in either housing association or council properties. Numerous council properties were awaiting the completion of repairs.
- These policies should be equally applicable to housing association properties.

The Group Manager, Community Safety reiterated that housing associations and the council's housing stock was subject to separate regulation and had its own complaints procedure. So for example, the Council could not serve an enforcement notice against itself. However, the Council could intervene in cases where it had a statutory obligation to do so or in cases of public interest.

The Member speaking under Rule 30 stated that in his view the private rented sector was better managed and maintained than HMOs or council properties. The Council had a responsibility to support and uphold the rights of all tenants, irrespective of which sector they rented from.

Following further discussion of the matter, a Member proposed the following motion, which was seconded and agreed unanimously:

Motion: Officers to explore the possibility that the housing regulations policies considered by the Panel be extended to include all housing sectors within Slough.

Resolved – That the report be noted.

12. **Members' Attendance Record**

Resolved – That the Attendance Report be noted.

13. **Date of Next Meeting -**

Thursday 20 October, 2022 at 6.30 pm.

Chair

(Note: The Meeting opened at Time Not Specified and closed at Time Not Specified)