



## CABINET

**Report Title**

**Use of civil penalties to fund the expansion of the Housing Enforcement Team**

## REPORT

**AGENDA STATUS:**

**PUBLIC**

<b>Cabinet Meeting Date:</b>	17 January 2018
<b>Key Decision:</b>	Yes
<b>Within Policy:</b>	Yes
<b>Policy Document:</b>	No
<b>Directorate:</b>	Chief Executive's
<b>Accountable Cabinet Member:</b>	Councillor Stephen Hibbert
<b>Ward(s)</b>	All

### 1. Purpose

- 1.1 On 19 July 2017, Cabinet approved a Private Sector Housing Civil Penalties Policy that sets out how the Council will use the new powers it has been given (under the Housing and Planning Act 2016) to impose civil penalties of up to £30,000 per offence on individuals and organisations as an alternative to prosecution.
- 1.2 The purpose of this report is to ask Cabinet to consider and approve the Business Case for using the income that the Council expects to receive from civil penalties to fund the expansion of the Housing Enforcement Team.

### 2. Recommendations

- 2.1 It is **recommended** that Cabinet:
  - (a) Approves the Business Case for using the income received from civil penalties to fund the expansion of the Housing Enforcement

Team (attached to this report as Appendix A);

- (b) Approves the expansion of the Housing Enforcement Team to include an additional 8 Officers (a Housing Enforcement Manager, a Tenancy Relations Officer, 4 Environmental Health Officers and 2 Intelligence Officers) as described in Option 2; and
- (c) Delegates to the Chief Executive, in consultation with the Chief Finance Officer and the Cabinet Members for Finance and Housing & Wellbeing, the authority to expand the Housing Enforcement Team by an additional 5 Officers (4 Environmental Health Officers and an Intelligence Officer), described in Option 4, subject to due diligence and the production of an updated Business Case.

### 3. Issues and Choices

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#### 3.1 Report Background

- 3.1.1 Northampton's private rented sector is thriving and, more than ever before, the demand for private rented accommodation is outstripping supply.
- 3.1.2 This high demand, together with the considerable profits that can be made from houses in multiple occupation (HMOs), has encouraged criminal, rogue and irresponsible landlords to flout the law and knowingly rent out accommodation that is overcrowded, in a poor state of repair, unsafe and/or unlicensed.
- 3.1.3 In common with other parts of the country, Northampton's private rented sector is being used to support criminal activity – such as money laundering, people trafficking, sexual exploitation and modern slavery – and this demands a robust, co-ordinated, intelligence-led response from the Council, the Police and other agencies.

#### Housing and Planning Act 2016

- 3.1.4 The Government has pledged to crack down on rogue landlords and has introduced a number of measures, under the Housing and Planning Act 2016, to help local authorities deal more robustly with offenders. These measures include:
  - **Civil penalties of up to £30,000** as an alternative to prosecution for certain offences, including failure to comply with an Improvement Notice or Overcrowding Notice, failure to licence a licensable HMO and failure to comply with the HMO Management Regulations;
  - **Extension of rent repayment orders** to cover illegal eviction, breach of a banning order, failure to comply with an Improvement Notice and certain other specified offences;
  - **Database of rogue landlords and property agents** who have been convicted of certain offences or received multiple civil penalties; and
  - **Banning orders** for the most serious and prolific offenders.

- 3.1.5 Although the maximum civil penalty that can be imposed per offence is £30,000, it is for the Council to determine the level of civil penalty.
- 3.1.6 The Government has made it clear that local housing authorities must always consider a rent repayment order after a civil penalty has been successfully imposed.
- 3.1.7 Rent repayment orders – made by the First Tier Tribunal and requiring a landlord to repay up to 12 months’ rent – can be granted to the tenant or the local housing authority. If the tenant paid the rent themselves, the rent must be repaid to the tenant. If the rent was paid through Housing Benefit or the housing element of Universal Credit, it must be repaid to the local housing authority.
- 3.1.8 Although local housing authorities are permitted to retain all of the income that they receive from civil penalties and rent repayment orders, they must pay to the Government any of the income that they fail to invest in private sector housing enforcement or services that support the private rented sector, such as a social lettings agency, rental deposit scheme or dedicated tenancy relations service.

#### Northampton’s intelligence-led approach

- 3.1.9 The same criminal standard of proof is required for a civil penalty as is required for a prosecution. This means that, before taking formal action, the Council must satisfy itself that, if the case was prosecuted in the magistrates’ court, there would be a realistic prospect of conviction.
- 3.1.10 To achieve a conviction in the magistrates’ court, the Council must be able to demonstrate beyond reasonable doubt that the offence has been committed. The same principle applies to civil penalties.
- 3.1.11 Northampton’s intelligence-led, targeted approach to housing enforcement – together with its expectation that all members of its Housing Enforcement Team will study for the Advanced Professional Certificate in Investigative Practice – means that the Council is well placed to competently detect and investigate possible offences and, where appropriate, to impose a civil penalty as an alternative to prosecution.
- 3.1.12 The Housing Enforcement Team’s collection and analysis of intelligence about the ownership, management, control and use of privately owned sites and buildings has enabled it to build up an accurate and comprehensive intelligence picture that identifies licensable HMOs operating without a licence, supports enforcement activity and provides evidence in support of criminal prosecutions and civil penalties.

#### Creating a level playing field for businesses

- 3.1.13 The Council’s ‘offender pays’ approach to housing enforcement – reflected in its Private Sector Housing Enforcement Policy and Fees & Charges Policy which encourage and reward good and responsible behaviour and impose penalties and sanctions for bad and irresponsible behaviour – is based on the principle that it should be the offender who pays for enforcement and that no-one who breaks the law should gain a financial advantage over someone who complies with it.
- 3.1.14 This approach addresses the needs of good and responsible landlords and managing agents who have asked the Council to create a level playing field by making it a lot more difficult for bad landlords to undercut them by breaking the law.

- 3.1.15 HMO licensing places an obligation on the owner or manager to notify the Council of the existence of a licensable HMO and affords the Council the opportunity to ensure that the HMO is managed by a 'fit and proper person', it is not overcrowded, its amenities are adequate for the number of occupants and it is safe and being managed in a manner that complies with the HMO Management Regulations.
- 3.1.16 As explained in the Business Case (see **Appendix A**), the Housing Enforcement Team's collection and analysis of intelligence has identified at least 492 properties that it knows or suspects are licensable HMOs and operating without a licence.

#### The purpose of the Business Case

- 3.1.17 The purpose of the Business Case is to explain how the Housing Enforcement Team is operating at the moment, why it needs to concentrate on the properties that pose the greatest risk and/or are owned or managed by the worst offenders, and why it is only able to make a limited impact on the behaviour and number of landlords and managing agents who are letting out substandard, unsafe and/or unlicensed homes.
- 3.1.18 As well as describing the benefits of increasing the size and capacity of the Housing Enforcement Team – in terms of improving standards in the private rented sector, dramatically reducing the number of licensable HMOs that are operating without a licence, and minimising the net cost of providing the housing enforcement service and social lettings agency – the Business Case also considers the uncertainties and risks associated with this approach.

### **3.2 Issues**

- 3.2.1 The measures that the Government has introduced to tackle rogue landlords are well suited to the intelligence-led, 'offender pays' approach that the Council has introduced and championed during the last couple of years.
- 3.2.2 However, as the new powers given to local authorities are largely untested, it is essential that a realistic estimate is made of the amount of income that the Council might generate from civil penalties and rent repayment orders.

#### Assumptions made within the Business Case

- 3.2.3 It is difficult to estimate the amount of money that the Council is likely to generate in civil penalties, rent repayment orders and extra HMO licensing fees if the size of the Housing Enforcement Team is increased.
- 3.2.4 This is because there are so many variables, including the behaviour of landlords and managing agents, the judgments made by the First Tier Tribunals and, in the case of rent repayment orders, how the rent was paid.
- 3.2.5 The Business Case makes a series of assumptions about, for example, the number of civil penalties that each Officer may have the capacity to impose in a year, how many of those penalties are likely to be successful and what proportion of the civil penalty income is likely to be collected. All of these assumptions are designed to ensure that a prudent estimate is made of the income that may be generated.
- 3.2.6 Although the financial modelling in the Business Case assumes that the number of civil penalties that are imposed – and the amount of civil penalty income that is collected – will remain constant during the first 3 years, it is anticipated that the need

for housing enforcement action will reduce in the longer term, as landlords and managing agents become more compliant, especially with their licensing obligations.

- 3.2.7 The Business Case includes assumptions about the extra income that could be generated from rent repayment orders and HMO licensing fees as a consequence of the increased enforcement activity and landlords' behaviour change. These figures, however, have been deliberately omitted from the calculation of the annual income that the Housing Enforcement Team is expected to generate.
- 3.2.8 Similarly, the average size of the civil penalties quoted in the Business Case (categorised as 'complex', 'standard' and 'low-cost') are probably much lower than the average size of the civil penalties that will actually be imposed by the Housing Enforcement Team in accordance with the Council's Civil Penalties Policy.
- 3.2.9 Generally, the maximum civil penalties will be reserved for the worst offenders. The actual amount levied in any particular case will reflect the severity of the offence, take into account the landlord's previous record of offending and ensure that the penalty imposed removes any financial benefit gained from committing the offence.
- 3.2.10 This is because a civil penalty of up to £30,000 per offence can be imposed and, in some instances (especially those involving HMOs), there may be multiple offences and/or a civil penalty will be imposed on both the owner and the managing agent.

#### The size of the existing Housing Enforcement Team

- 3.2.11 The existing team comprises a part-time Senior Housing Standards Officer, three Housing Standards Officers and a Business Support Officer.
- 3.2.12 In order to increase management capacity and provide the team with the necessary expertise to prosecute offenders and improve the licensing arrangements for HMOs, a full-time Senior Housing Standards Officer was recruited on an agency basis to stabilise the situation and develop the team.
- 3.2.13 Additional support has also been provided, on a temporary agency basis, to support the processing of HMO licences. Some of this additional capacity has been used to collect and analyse intelligence and data for the team.

#### Increasing the capacity of the Housing Enforcement Team

- 3.2.14 It is a criminal offence if a person controlling or managing an HMO does not have the required licence or fails to comply with any condition attached to a licence.
- 3.2.15 Although there are currently 883 licensed HMOs in Northampton, the Housing Enforcement Team has identified another 492 properties that it knows or suspects are licensable HMOs and operating without an HMO licence.
- 3.2.16 The scale and nature of landlords' non-compliance with the law – especially in relation to HMO licensing and the HMO Management Regulations – is stark but not surprising. It reflects their confidence in avoiding prosecution.
- 3.2.17 For things to change, the Housing Enforcement Team needs to have the capacity to deliver a large-scale programme of investigations, interventions and enforcement. It is hoped that, as well as maximising the number of landlords and managing agents who are prosecuted or receive a civil penalty and/or rent repayment order, this will

encourage positive and sustained change in the behaviour of landlords and agents.

### The structure of the Housing Enforcement Team

3.2.18 Although the Business Case demonstrates that the income received from civil penalties will be sufficient to fund an increase in the size of the Housing Enforcement Team, the structure of the team and the roles within it must be carefully considered:

- Unless the team contains enough Environmental Health Officers to make a significant impact on the higher risk, most problematic private rented accommodation, it is difficult to justify dedicating one or more of those Officers to tackling the large number of offenders who are operating a licensable HMO without a licence.
- Northampton's intelligence-led approach to tackling criminal, rogue and irresponsible landlords is reliant on the Council employing the required number of Intelligence Officers. Each Intelligence Officer has the capacity to support up to 4 full-time Housing Enforcement Officers (including the Tenancy Relations Officer) by providing them with comprehensive intelligence reports on premises, land, individuals and businesses.
- Although the Tenancy Relations Officer will spend a substantial amount of their time encouraging and supporting applications for rent repayment orders, s/he will also investigate allegations of retaliatory eviction, harassment and illegal eviction, provide evidence in support of criminal prosecutions and intervene to prevent homelessness.
- Any significant increase in the size of the team will require close and effective working between the Housing Enforcement Manager and the Private Sector Housing Manager who will need to share responsibility for managing, supporting and appraising the Officers.

### **3.3 Choices (Options)**

3.3.1 The Business Case considers a series of Options, ranging from doing nothing to increasing the size of the Housing Enforcement Team by 15 Officers.

3.3.2 As the Housing Enforcement Team will require a Manager and a Tenancy Relations Officer, the main difference between the options is the number of Environmental Health Officers and Intelligence Officers that will be employed.

#### Doing nothing

3.3.3 Doing nothing is not recommended because it would result in either the functions of the full-time Senior Housing Standards Officer and the Intelligence Officer continuing to be undertaken by temporary, agency staff or the departure of the full-time Senior Housing Standards Officer and the Intelligence Officer. If the Council chooses to cover the roles with temporary, agency staff, this will have cost implications. If the Council chooses to reduce the size of the team, the smaller team (comprising a part-time Senior Housing Standards Officer, 3 Housing Standards Officers and a Business Support Officer) will only have sufficient capacity to manage HMO licensing, respond to housing complaints and prosecute or impose a civil penalty in a relatively small number of cases.

- 3.3.4 Expansion of the Housing Enforcement Team will enable the Council to increase its housing enforcement activity and use of civil penalties and rent repayment orders. It will also speed up the improvement of housing standards in Northampton's private rented sector and act as a bigger deterrent for those landlords and managing agents who knowingly rent out substandard, unlicensed unsafe and overcrowded housing.

#### Expansion of the Housing Enforcement Team

- 3.3.5 As explained in the Business Case, it is recommended that the Housing Enforcement Team is expanded to include an extra 13 staff (a Housing Enforcement Manager, 8 Environmental Health Officers, 3 Intelligence Officers and a Tenancy Relations Officer) but careful consideration is given to how quickly this should happen.
- 3.3.6 If the Council decides that fewer Officers should be appointed than the number proposed in the Business Case – at least initially – this will reduce the risk involved in the Council taking on additional staffing costs before it knows exactly how much extra income the additional Officers will be able to generate.
- 3.3.7 If the Council decides that more Environmental Health Officers should be appointed than the number proposed in the Business Case, it may prove very difficult to recruit the number of Officers approved.

#### Option 1

- 3.3.8 The Council could decide to simply replicate what is in place at the moment, but recruit a Housing Enforcement Manager and Intelligence Officer to avoid the need to employ those Officers on a temporary, agency basis.
- 3.3.9 If the Council chooses Option 1, the Housing Enforcement Team will continue to take as much enforcement action as possible but will struggle to make an impact on the standards in the private rented sector and the high number of licensable HMOs operating in Northampton without a licence. As a Tenancy Relations Officer would not be recruited, it will be unable to maximise the use of rent repayment orders.
- 3.3.10 A team of this size would only have the capacity to impose **around 60 civil penalties a year**. This is 165 less than the number of civil penalties that could be imposed by the size of team (Option 4) recommended in the Business Case.
- 3.3.11 Option 1 would benefit the Council financially because, even without any real increase in the size of the team, a Housing Enforcement Team of this size would generate a significant income from civil penalties and rent repayment orders that can be used to offset some of the operating costs of the team.
- 3.3.12 If Option 1 is chosen, this will result in an increase of approximately £113,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £240,000 per annum) could cover approximately 84% of the total annual operating costs during that period. The average annual deficit would be approximately £43,000, and this deficit will be covered from the existing Housing Enforcement budget.

#### Option 2

- 3.3.13 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 4 additional Environmental Health Officers

and 2 Intelligence Officers.

- 3.3.14 If this happens, the Housing Enforcement Team would have the capacity to impose **around 120 civil penalties a year**. This is 60 more than the number of civil penalties that could be imposed by the existing Enforcement Team (Option 1), but 105 less than the number that could be imposed by the size of team (Option 4) recommended in the Business Case.
- 3.3.15 If Option 2 is chosen, this will result in an increase of approximately £384,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £480,000 per annum) could cover approximately 82% of the total annual operating costs during that period. The average annual deficit would be approximately £99,000 and this deficit will be covered from the existing Housing Enforcement budget.

#### Option 3

- 3.3.16 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 6 additional Environmental Health Officers and 2 Intelligence Officers.
- 3.3.17 If this happens, the Housing Enforcement Team would have the capacity to impose **around 160 civil penalties a year**. This is 100 more than the number of civil penalties that could be imposed by the existing team (Option 1), but 85 less than the number that could be imposed by the size of team (Option 4) recommended in the Business Case.
- 3.3.18 If Option 3 is chosen, this will result in an increase of approximately £478,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £645,000 per annum) could cover approximately 99% of the total annual operating costs during that period. The average annual deficit would be approximately £5,000 and this deficit will be covered from the existing Housing Enforcement budget.

#### Option 4

- 3.3.19 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 8 additional Environmental Health Officers and 3 additional Intelligence Officers.
- 3.3.20 If this happens, the Housing Enforcement Team would have the capacity to impose **around 225 civil penalties a year**. This is 165 more than the number of civil penalties that could be imposed by the existing Enforcement Team (Option 1).
- 3.3.21 If Option 4 is chosen, this will result in an increase of approximately £628,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £795,000 per annum) could cover almost 100% of the total annual operating costs during that period. The average annual deficit would be approximately £1,000 and this deficit will be covered from the existing Housing Enforcement budget.



## Option 5

- 3.3.22 The Council could decide to expand the Housing Enforcement Team by appointing a Manager, a Tenancy Relations Officer, 10 additional Environmental Health Officers and 4 Intelligence Officers.
- 3.3.23 If this happens, the Housing Enforcement Team would have the capacity to impose **around 290 civil penalties a year**. This is 230 more than the number of civil penalties that can be imposed by the existing Housing Enforcement Team (Option 1), and 65 more than the number that could be imposed by the team (Option 4) recommended in this Business Case.
- 3.3.24 If Option 5 is chosen, this will result in an increase of approximately £750,000 in the Housing Enforcement Team's average annual operating costs over the next 3 years, compared to the current arrangements and staffing establishment. However, the income generated from civil penalties (estimated at £952,000 per annum) could cover 100% of the total annual operating costs during that period. The annual surplus would be approximately £34,000.

## Preferred Options

- 3.3.25 Although careful consideration needs to be given to the pace at which the Housing Enforcement Team is expanded, Option 4 is the preferred option because it will:
- Provide the Housing Enforcement Team with the extra capacity it requires to undertake the amount of enforcement action needed in the borough, reduce the number of licensable HMOs that are operating without a licence, and speed up the improvement of housing standards in the private rented sector
  - Assist the re-organisation of the Private Sector Housing Team and the creation of a dedicated Housing Enforcement Team that is made up of specialist investigators and is financed, in the main, from the income received from civil penalties
  - Fund a Tenancy Relations Officer who will investigate complaints of retaliatory eviction, harassment and illegal eviction, prevent homelessness and help tenants to apply for rent repayment orders
  - Demonstrate the Council's commitment to identifying and punishing offenders (especially those who are operating a licensable HMO without a licence) and charging offenders for enforcement
  - Challenge the complacency of landlords and managing agents who are letting out substandard, unlicensed, unsafe and overcrowded housing and are confident they will always avoid prosecution
  - Effect behaviour change, and nurture a culture of compliance, among landlords and managing agents operating in Northampton
- 3.3.26 In order to mitigate some of the financial risks involved in committing to the expansion of the Housing Enforcement Team described in Option 4 before it is known exactly how much extra income the bigger team will be able to generate in

civil penalties, rent repayment orders and HMO licensing fees, it is recommended that the Council expands the Housing Enforcement Team in two phases:

- During the first phase, the Housing Enforcement Team will appoint a Manager, a Tenancy Relations Officer, 4 additional Environmental Health Officers and 2 Intelligence Officers (see Option 2, above); and
- When the expanded Housing Enforcement Team has been in operation for long enough for the Council to have a better understanding of how much extra income could be generated by a bigger team (see Option 4, above), consideration will be given to the merits of expanding the team further to include another 4 Environmental Health Officers and an Intelligence Officer.

#### **4. Implications (including financial implications)**

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##### **4.1 Policy**

- 4.1.1 The proposed expansion of the Housing Enforcement Team will enable the Council to successfully implement the Private Sector Housing Civil Penalties Policy that Cabinet approved on 19 July 2017.

##### **4.2 Resources and Risk**

- 4.2.1 The Housing and Planning Act 2016 specifies that all of the income that a local authority receives from the imposition of civil penalties and the recovery of Housing Benefit through rent repayment orders can be retained by the local authority and spent on private sector housing enforcement, providing support for the private rented sector and funding the activities of a social lettings agency.
- 4.2.2 However, any income that a local authority receives from civil penalties and rent repayment orders but fails to spend in support of one of the activities listed above must be paid into a Central Government Universal Fund.
- 4.2.3 A comprehensive Business Case has been developed to demonstrate how the income that is received from civil penalties can be used to expand the size of the Housing Enforcement Team, increase enforcement activity and speed up the improvement of standards in the borough's private rented sector.
- 4.2.4 The principal risk is the fact that these new powers are largely untested and it is not yet known how much extra income the larger Housing Enforcement Team will generate in civil penalties, rent repayment orders and licensing fees. This risk, which could result in the Council incurring extra salary and redundancy costs, will be mitigated by the adoption of a 2-phased approach, described in Paragraph 3.3.27.
- 4.2.5 Another risk will be the Council's ability to successfully recruit to the additional posts that are funded from the extra income generated by civil penalties. Although the 2-phased approach (described in Paragraph 3.3.27) will make it easier for the Council to recruit the full complement of staff at the time they are needed, it is understood that the Private Sector Housing Manager is also seeking to mitigate this risk by promoting Northampton as a place for new Environmental Health Officers to learn how to tackle criminal, rogue and irresponsible landlords through robust enforcement action and effective use of civil penalties, repayment orders and innovative practice.

- 4.2.6 All new Officers will be expected to become skilled investigators and achieve the Advanced Professional Certificate in Investigative Practice within 3 months of joining the Council. This will equip them with the skills they will need to reduce the risk of the civil penalties being successfully appealed through the First-Tier Tribunal.
- 4.2.7 Another potential risk concerns the lack of certainty around the decisions that will be made by the First-Tier Tribunal when it considers an appeal against the imposition of a civil penalty or a request (from tenants or the local authority) for a rent repayment order. In both situations, an unfavourable outcome may affect the Council's income.
- 4.2.8 Although the First-Tier Tribunal has the power to quash, confirm, increase or reduce the civil penalty – and the civil penalties regime is currently untried and untested – the Government has made it clear that offenders must not derive any financial benefit from their offences and it has briefed the Tribunals on what is expected of them.
- 4.2.9 Another risk is that, if there is a substantial increase in the number of investigations, this is likely to result in a corresponding increase in the number of cases requiring legal advice and assistance. This may, in turn, put extra pressure on the existing staffing resources within the Council's Legal Services team.

### 4.3 Legal

- 4.3.1 Section 126 of The Housing and Planning Act 2016 allows financial penalties to be imposed as an alternative to prosecution for certain offences as set out in Schedule 9 of the Act. Schedule 9 in turn amends the Housing Act 2004 including providing a new Section 249A which has the financial penalties as an alternative to prosecution.
- 4.3.2 The details of the offences to which a civil penalty may be imposed are:
- **Section 30** – Failure to comply with an Improvement Notice
  - **Section 72** – Offences in relation to licensing of Houses in Multiple Occupation
  - **Section 95** – Offences in relation to licensing of houses under Part 3 of the Act
  - **Section 139** – Offences of contravention of an overcrowding notice
  - **Section 234** – Failure to comply with management regulations in respect of Houses in Multiple Occupation
- 4.3.3 Regulation 4 of the Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017 permits any local housing authority to apply any financial penalty recovered under section 249A of the Housing 2004 Act to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector. However, any surplus amounts recovered by way of financial penalty must be paid into the Consolidated Fund.
- 4.3.4 As per para 4.2.8 above, a substantial increase in the number of investigation is likely to result in a corresponding increase in the number of cases requiring legal advice and assistance. This may, in turn, put extra pressure on the existing staffing

resources within the Council's Legal Services team. At present there are two permanent solicitors and a paralegal dealing with all litigation and licensing matters for Northampton Borough Council. A significant increase in work may require additional resources for the legal team, either by hiring new lawyers or outsourcing some of that additional work.

#### **4.4 Equality**

4.4.1 A full Community Impact Assessment was completed during the development of the Private Sector Housing Civil Penalties Policy.

4.4.2 The Private Sector Housing Civil Penalties Policy will help improve housing conditions and the life chances of people with protected characteristics, including homeless people, people with disabilities and families with children. They will therefore have a positive impact on Equality and Diversity.

4.4.3 The proposed expansion of the Housing Enforcement Team is part of the Borough Council's commitment to improving communities and our town as a place to live. In implementing these improvements, the Council will have due regard to its Public Sector Duty and will continue to work to tackle discrimination and inequality and contribute to the development of a fairer society.

#### **4.5 Consultees (Internal and External)**

4.5.1 In April 2017, the Council hosted 3 focus groups to obtain the views of a wide range of stakeholders on the Council's proposals in relation to civil penalties. The groups were attended by Council Officers, the Northampton Student Landlords Network, the East Midlands landlord accreditation scheme, and local landlords and agents.

4.5.2 In June 2017, the Private Sector Housing Manager briefed a well-attended meeting of the town's Landlord Forum on the Council's proposals in relation to civil penalties.

4.5.3 Everyone who attended the focus groups, and the vast majority of the landlords and letting agents that attended the Landlord Forum, were extremely positive about the Council's plans for using its new powers under the Housing and Planning Act 2016.

#### **4.6 How the Proposals deliver Priority Outcomes**

4.6.1 The proposed expansion of the Housing Enforcement Team will help to meet 3 of the priorities in the Corporate Plan:

- **Safer Communities:** A larger Housing Enforcement Team will be able to take more enforcement action to tackle unsafe, substandard, badly managed housing and improve the standard of private rented housing.
- **Housing for Everyone:** A larger Housing Enforcement Team will be able to tackle a much larger number of criminal, rogue and irresponsible landlords and managing agents. As well as improving the condition and management of private rented housing in Northampton, it will enforce tenants' rights and reduce the incidence of retaliatory eviction, harassment and illegal eviction.
- **Working Hard and Spending your Money Wisely:** A larger Housing Enforcement Team will have the capacity to undertake more housing enforcement action and, as a consequence, accelerate the rate at

which Northampton's private rented sector is improved. As the team will generate income from civil penalties, rent repayment orders and HMO licensing fees, the expansion of the Housing Enforcement Team will have a cost neutral impact on the Council's finances and may also be able to contribute to the operating costs of other private sector housing functions, such as the social lettings agency.

4.6.2 The proposed expansion of the Housing Enforcement Team will also make a positive contribution to 2 of the 3 Business Development Priorities that support the Corporate Plan and help manage the Council's future financial challenges:

- **Empowering Communities:** A larger Housing Enforcement Team will have a higher profile and the capacity to take more enforcement action against those landlords and managing agents who are letting out accommodation that is unsafe, substandard, badly managed and/or operating without an HMO licence. This will provide tenants with the confidence to seek help at an early stage and, where appropriate, to work with the Council to apply for a rent repayment order.
- **Partnership Working:** A larger Housing Enforcement Team will have the capacity to work even more closely with the Police, Northamptonshire Fire & Rescue Service, Trading Standards and the UK Border Agency to disrupt criminal activity through joint working. As well as making best use of the resources available, this will deliver better outcomes and improve residents' housing, health and wellbeing.

## Appendices

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Appendix A – Business Case: 'Use of civil penalties to fund the expansion of the Housing Enforcement Team' (January 2018)

## Background Papers

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Community Impact Assessment

Civil Penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities (Department for Communities and Local Government) April 2017

Private Sector Housing Civil Penalties Policy  
Private Sector Housing Enforcement Policy  
Private Sector Housing Fees & Charges Policy

**Phil Harris**  
**Head of Housing and Wellbeing**