



REPORT TO: COUNCIL

DATE: 8 MARCH 2012

REPORT OF THE: HEAD OF ECONOMY AND HOUSING
JULIAN RUDD

TITLE OF REPORT: PROPOSED CHARGING FOR HOUSING ENFORCEMENT
NOTICES

WARDS AFFECTED: ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 To seek Member approval for charges to be levied for the serving housing enforcement notices.

2.0 RECOMMENDATION

2.1 That Council approves the levying of charges for the serving of housing enforcement notices from 1 April 2012, based upon an hourly charge of £45 to a maximum of £300 per notice.

3.0 REASON FOR RECOMMENDATION

3.1 Landlords operating within the private rented sector have a legal responsibility to maintain their properties in a good state of repair. They must ensure that any property they rent to tenants is free from all serious health and safety hazards. Where the landlord fails in this duty then the Council is able to step in and require the landlord complete the repairs or improvements to the properties.

3.2 The private rented stock represents 13.6% of the stock within Ryedale and the Council has limited resources to ensure all privately rented accommodation meets the minimum standard. It is important that this resource can be targeted at the worst properties and dealing with those landlords that have demonstrated that they are unwilling to comply with the legislation.

3.3 The use of a charge for the serving of notices has been used at other authorities in North Yorkshire as a tool to encourage the landlord to either work with the department or to complete the work prior to the service of the notice. This also makes a contribution to the cost of this Council service.

4.0 SIGNIFICANT RISKS

- 4.1 There are no significant risks associated with the recommendation. Indeed the charging regime proposed will reduce the risk of rented property not being maintained, which can result in poor living conditions, poor homes, poor health and ultimately increased applications under homeless legislation.

REPORT

5.0 BACKGROUND AND INTRODUCTION

- 5.1 This report seeks Members agreement for charging for the serving of Housing Act enforcement notices. This approach will be reflected within the Private Sector Renewal Strategy.
- 5.2 The Housing Act 2004 (the Act) came into force in April 2006. The Act (section 49) gives local authorities the discretion to charge for the serving of enforcement notices.
- 5.3 The Council is responsible for improving the conditions of housing in the private sector, in particular the rented sector. As a result the team uses a wide range of tools to achieve this including informal and formal action. Where the contravention of the Act is serious enough an officer can serve a legal notice against the owner of the property, and the Housing Act gives the Council the discretion to make reasonable charges for the preparation and service of such notices.
- 5.4 Historically, the Council has worked informally with landlords and letting agents to improve the living conditions with the private rented accommodation within the District, which has been mostly successful. However, there are an increasing number of instances where landlords are unwilling to improve the conditions and the Council must actively enforce to improve the housing conditions with the available resources.

6.0 POLICY CONTEXT

- 6.1 The objectives support the Council aims of meeting housing need in the District and creating the conditions to create economic success.
- 6.2 Any changes agreed by members to this report will be taken account of in the review of the Private Sector Housing Strategy review.

7.0 CONSULTATION

- 7.1 A brief consultation was carried out with the other local authorities in the sub region in terms of their approach to charges. York, Selby, Scarborough and Hambleton / Richmondshire all now charge for serving of notices. The level of hourly charges and the overall cap proposed in this report are in-line with charges levied by other authorities in North Yorkshire.

8.0 REPORT DETAILS

- 8.1 The Housing Act legislation is complicated and time consuming and the officers involved with enforcing the Act are specifically trained to follow the time-consuming procedures within this area, at a cost to this Authority. Where a landlord has failed in their duty to maintain their property the application of a charge for the serving of a legal notice will help to off-set the costs incurred by the Council.

8.2 It is proposed that Ryedale District Council start to charge for the following forms of enforcement under the Housing Act 2004:

- Improvement Notices (sections 11 and 12)
- Prohibition Orders (sections 20 and 21)
- Emergency Remedial action (section 40)
- Emergency Prohibition orders (section 43)
- Demolition Order (section 265 Housing Act 1985).

8.3 It is not proposed to charge for Hazard Awareness Notices as they are advisory notices and no formal action can be taken should the recipient fail to comply with this.

8.4 It is proposed that the charge will be dependent on the officer time involved in the case, from inspecting the property and preparing the case through to drafting the notice and then serving it. Using this method means that there will be an hourly charge of £45 (to take account of associated costs incurred by the Council, such as commissioning specialist reports, and reflective of charges levied by adjacent authorities) and that the charge will vary from case to case, depending on the hours of officer time involved. However, in line with the other authorities in North Yorkshire the fee will be capped at £300.

Service of a notice/order	Hourly rate of £45 per hour, to a maximum charge of £300
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9.0 IMPLICATIONS

9.1 The following implications have been identified:

Financial

- a) The aim of the enforcement activity carried out by the Council is to improve the quality of the housing with the rented sector. The proposed charging for legal notices is a means of recouping an element of the costs incurred by the Council in this service area, such as commissioning specialist technical reports that are generally required to back up enforcement actions. However, given that only around 5 – 10 enforcement notices are anticipated per year the amount generated through these charges will be limited and should not be considered to be a net generator of income.

b) Legal

Section 49 of the Housing Act gives the local authority the discretion to charge for the serving of notices. There is no maximum limit to the level of charge however the charge must be justifiable and reasonable. The Notice recipient has the right to appeal against the notice and the charge. A tribunal may make an order to reduce, quash or require repayment of any charge made. Charging for notices must not be a source of generating income for profit and enforcement action must only be taken where it is appropriate to do so. The Council can be challenged where a disproportionate number of notices have been served inappropriately, with a suggestion of generating income.

10.0 NEXT STEPS

10.1 Provided that Council endorse this proposal the charging of legal notices served due to disrepair will begin on 1 April 2012.

Julian Rudd
Head of Economy and Housing

Author: **Serena Williams**, Environmental Health Officer (Housing)
Telephone No: 01653 600666 ext: 320
E-Mail Address: serena.williams@ryedale.gov.uk

Background Papers:
None