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**SINGLE LICENSING ENFORCEMENT POLICY – RENT SMART WALES**

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**Purpose of Report**

1. This report provides the Committee with background information to enable Members to carry out pre-decision scrutiny of the proposed Single Licensing Enforcement Policy prior to its consideration by the Cabinet at its meeting on 27 July 2017. A copy of the draft Cabinet Report is attached at **Appendix A**; this contains the following appendices:
  - i) Appendix 1- Draft Rent Smart Wales Enforcement Policy 2017
  - ii) Appendix 2 – Summary of Stakeholder Consultation Responses
  - iii) Appendix 4 – Equality Impact Assessment<sup>1</sup>.

**Scope of scrutiny**

2. During this scrutiny, Members have the opportunity to explore:
  - i) Proposed single enforcement policy;
  - ii) Whether there are any risks to the Council;
  - iii) The recommendations to Cabinet.
3. Members will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

**Background**

4. The Housing (Wales) Act 2014 aims to secure better protection for private tenants. The Act introduced new obligations on private landlords and/ or agents

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<sup>1</sup> Appendix 3 will be the letter from this Committee following this scrutiny

to register themselves and the addresses of their rental properties and to obtain a licence. A single licensing authority was established for the whole of Wales, known as Rent Smart Wales. Cardiff Council successfully bid to run this, with funding from the Welsh Government; there are no financial implications for Cardiff Council in being the host authority.

5. Rent Smart Wales commenced on 23<sup>rd</sup> November 2015 and enforcement provisions commenced a year later. Whilst there has been a high level of compliance, the draft Cabinet report highlights that *'it is estimated that 20% of landlords/ agents remain non-compliant'*<sup>2</sup>.
6. Rent Smart Wales is responsible for the licensing of landlords and agents and enforcing compliance with this, as set out in the Housing Act 2014. Each local authority in Wales is responsible for other housing enforcement duties, for example Health and Safety conditions, as set out under separate legislation. In Cardiff, the housing enforcement role sits with Shared Regulatory Services.

## Issues

7. Rent Smart Wales is required<sup>3</sup> to have an Enforcement Policy in place to promote efficient and effective approaches to its' regulatory activities. The proposed Rent Smart Wales Enforcement Policy is attached at **Appendix 1 of Appendix A**. It aims to promote clarity and consistency across Wales on the standards to be applied. The Policy states that it wishes to do this *'without placing too heavy a burden on landlords, managing agents and tenants'*<sup>4</sup>.
8. The Policy has undergone consultation and has been amended as a result of feedback received; a schedule of consultation responses and resultant action is attached at **Appendix 2 of Appendix A**. An Equality Impact Assessment has been completed for the proposed Policy; this is attached at **Appendix 4 of Appendix A**.

## Pre-decision scrutiny

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<sup>2</sup> Point 5, draft Cabinet Report - attached at Appendix A

<sup>3</sup> Regulators Code 2014 and Legislative and Regulatory Reform Act 2006

<sup>4</sup> Introduction, page 3, Appendix1 of Appendix A

9. Pre-decision scrutiny aims to inform the Cabinet's decisions by making evidence based recommendations. Scrutiny Members are advised to:
- i) look at the information provided in the report to Cabinet to see if this is sufficient to enable the Cabinet to make an informed decision;
  - ii) check the financial implications section of the Cabinet report to be aware of the advice given;
  - iii) check the legal implications section of the Cabinet report to be aware of the advice given;
  - iv) check the recommendations to Cabinet to see if these are appropriate.

### **Previous Scrutiny**

10. The previous Committee undertook several scrutinies covering the implementation of Rent Smart Wales. At the committee meeting on 2 March 2016, Members noted that case law meant that the Rent Smart Wales fees could be used to cover enforcement costs, including administration costs, borne by individual local authorities. Members heard that the business model for Rent Smart Wales assigned £5,459,552 to local authority enforcement over the five years from 2016/17 – 2021/22, which represented 21.15% of the total fees planned to be received.

### **Way Forward**

11. At this meeting, the following witnesses will be in attendance to answer Members' questions:
- i) Councillor Lynda Thorne (Cabinet Member for Housing and Communities)
  - ii) Sarah McGill (Director, Communities, Housing and Customer Services)
  - iii) Isabelle Bignall (Assistant Director, Customer Services) and
  - iv) Angharad Thomas, (Group Leader, Rent Smart Wales).

### **Legal Implications**

12. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are

implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

### **Financial Implications**

13. There are no direct financial implications arising from this report. However, financial implications may arise if and when the matters under review are implemented with or without any modifications.

### **RECOMMENDATIONS**

It is recommended that Members:

- i) note the scope and content of the draft Single Licensing Authority Enforcement Policy and appendices provided to this cover report;
- ii) agree observations and comments for consideration by the Cabinet at their forthcoming Meeting; and
- iii) decide the way forward with regard to any further scrutiny of this issue.

**DAVINA FIORE**

**Director of Governance and Legal Services and Monitoring Officer**

**13 July 2017**