

CABINET – 7 JUNE 2006

## CHANGES TO EXISTING DELEGATIONS AND NEW DELEGATIONS UNDER THE HOUSING ACT 2004

### 1. INTRODUCTION

- 1.1 The Housing Act 2004 (the Act) which came into force on the 6 April 2006 makes provision for dealing with conditions within housing.
- 1.2 The Act replaces many of the powers contained within the Housing Act 1985. As a result existing delegations need to be reviewed and some new delegations to officers agreed.

### 2. CHANGES IN LEGISLATION

- 2.1 The Housing Act 2004 repeals many of the powers contained within the Housing Act 1985 and gives local authorities new statutory powers for enforcement of housing standards. Four parts to the Act relevant to dealing with poor housing conditions are covered in this report.
- 2.2 **Part 1** introduces the new Housing Health and Safety Rating System. This is a new risk assessment system for assessing the suitability of dwellings for occupation and it replaces the old standard of fitness for human habitation.
- 2.3 Part 1 also introduces a new range of enforcement powers that are available to the authority to deal with poor housing conditions. These powers range from simple hazard awareness notices to emergency powers to resolve matters that pose a serious and imminent risk to the occupiers. If a dwelling is found to have hazards that pose sufficient risk to the health and safety of the occupants then the Authority is obliged to take the most appropriate enforcement action. An updated policy outlining how the Authority will deal with poor housing and, in particular where we intervene in owner occupied and privately rented dwellings, will be placed before Cabinet shortly.
- 2.4 **Part 2** introduces new licensing powers relating to Houses in Multiple Occupation (HMO). This only covers certain HMOs that are three storey or more and with more than five occupants. Each local authority has the power to extend licensing to other categories of HMO but the good condition of local HMOs in this District means that this is unlikely to be considered.
- 2.5 **Part 3** gives the authority powers to designate areas for selective licensing. One of the conditions for designation is that the area is one of low housing demand with poor social and economic conditions. It is not anticipated at this stage that designation will be considered within the New Forest.

- 2.6 **Part 4** gives the Authority the power to take control of certain dwellings. This includes the empty dwelling management order which will enable the Council to take over the running of an empty property, carry out works, set up a tenancy and take the rent. It is anticipated that these powers could be considered as part of our empty home strategy.

### 3 REQUEST FOR DELEGATION OF POWERS

- 3.1 A local authority, referred to in the act as an enforcement authority, may authorise persons to act in matters arising under the act. The following powers are recommended to be delegated to the posts shown.

#### HOUSING ACT 2004

<b>Power Delegated</b>	<b>Delegation To</b>
<b>Part 1 - Housing Conditions</b>	
Section 4 - To carry out inspections to see whether any category 1 or 2 hazards exist.	Housing Improvements Manager, Senior Building Surveyors, Building Surveyors
Section 4 –To be the Proper Officer to whom any official complaint about the condition of residential premises must be made. <i>{please note: this appointment must be approved by Council}</i>	Assistant Director (Housing Services)
Section 11- To serve an Improvement Notice for Category 1 hazard	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors.
Section 12 - To serve an Improvement Notice for a Category 2 hazard	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors
Section 14 - To suspend an Improvement Notice	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors
Section 16 - To revoke or vary an Improvement Notice	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors
Section 17 - To review a suspended Improvement Notice and give notice of the decision on a review.	Assistant Director (Housing Services), Housing Improvements Manager, Senior

	Building Surveyors
Section 20 - To make and serve a Prohibition Order in respect of Category 1 Hazards	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors
Section 21 – To make and serve a prohibition order in respect of Category 2 hazards	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors
Section 23 - To suspend a Prohibition Order	Assistant Director (Housing Services) Housing Improvements Manager Senior Building Surveyors
Section 25 - To revoke or vary a Prohibition Order	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors
Section 26 - To review a suspended Prohibition Order and to serve notice of the decision of any review	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors
Section 28 - To serve a Hazard Awareness Notice relating to a category 1 hazard	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors
Section 29 - to serve a Hazard Awareness Notice for a category 2 hazard	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors
Section 31 and Schedule 3 - To take action in respect of an Improvement Notice.	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors
Section 31 and Schedule 3 – To recover related expenses following action.	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors, or Head of Legal and Democratic Service, or Solicitors, or Employed Barrister.

Sections 40 and 41 - To take emergency remedial action where there is a category 1 hazard and to serve the requisite notices	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors, Building Surveyors, subject to consultation with the fire and rescue authority in respect of a fire hazard, in accordance with Section 10.
Section 42 - To recover expenses after taking emergency remedial action	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors or Head of Legal and Democratic Service, or Solicitors, or Employed Barrister
Section 43 - To serve an emergency prohibition order for category 1 hazard	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors, Building Surveyors
Section 46 (Housing Act 1985 S 265) - To serve a demolition order for category 1 or 2 hazards	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors
Section 47 (Housing Act 1985, S 289) - To declare a clearance area	Assistant Director (Housing Services) Housing Improvements Manager
Sections 49 and 50 - To make a charge for enforcement action and to recover costs	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors, or Head of Legal and Democratic Service, or Solicitors, or Employed Barrister

## **Part 2 - Licensing of Houses in Multiple Occupation**

Section 62 - To serve a temporary exemption from the licensing requirement for HMOs	Assistant Director (Housing Services), Housing Improvements Manager
Sections 64, 69 and 70 - To grant or refuse a licence for an HMO, to vary or revoke the licence.	Assistant Director (Housing Services), Housing Improvements Manager

Section 73 - To apply for a rent repayment order, and to serve the requisite notices Assistant Director (Housing Services), Housing Improvements Manager

**Part 3**

Section 96 - To apply for a rent repayment order and to serve the requisite notices Assistant Director (Housing Services), Housing Improvements Manager

**Part 4 – Additional control provisions in relation to residential accommodation**

Sections 102, 111 and 112 - To make, vary and revoke interim management orders Assistant Director (Housing Services), Housing Improvements Manager

Sections 113, 121 and 122 – To make, vary and revoke final management orders Assistant Director (Housing Services) Housing Improvements Manager

Section 131 – Power of entry to carry out works where management order is in force, and to appoint, in writing, persons to enter the premises to carry out the work. Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors, Building Surveyors

Section 133 – To make an interim empty dwelling management order Assistant Director (Housing Services), Housing Improvements Manager

Section 136 – To make a final empty dwelling management order Assistant Director (Housing Services), Housing Improvements Manager

Section 139 – To serve an overcrowding notice Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors

Section 144 – To revoke and vary overcrowding notices Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors

Section 235 – To serve notice requiring documents to be produced	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors, or Head of Legal and Democratic Service, or Solicitors, or Employed Barrister
Section 239 – To enter premises for purposes of carrying out a survey or examination	Assistant Director (Housing Services) Housing Improvements Manager, Senior Building Surveyors, Building Surveyors
Section 239 - To be the Proper Officer for determining if a survey or examination is necessary <i>{please note: this appointment must be approved by Council}</i>	Housing Improvements Manager
Section 255 and 256 – To serve, and to revoke, an HMO declaration notice	Assistant Director (Housing Services), Housing Improvements Manager, Senior Building Surveyors

#### **4 DELEGATIONS TO BE WITHDRAWN**

- 4.1 The Delegations relating to the Housing Act 1985 Part VI (Repair of unfit or substandard dwellings) - and Part XI (Houses in Multiple Occupation) are no longer necessary as these provisions have been repealed.

#### **5 DELEGATIONS TO BE AMENDED**

- 5.1 It is requested that the Senior Building Surveyors are added to the current list of persons authorised to carryout the functions of the Council under part XI of the Local Government (Miscellaneous Provisions) Act 1982 - Prevention of unauthorised entry or danger to public health. This will enable the officers who visit to investigate complaints about dangerous premises to issue the notice where required.

#### **6 FINANCIAL IMPLICATIONS**

- 6.1 There are no financial implications to updating delegations.

#### **7 ENVIRONMENTAL IMPLICATIONS**

- 7.1 There are no environmental implications to this report.

## **8 CRIME AND DISORDER IMPLICATIONS**

8.1 There are no specific Crime and Disorder Implications to this report.

## **9 PORTFOLIO HOLDER COMMENTS**

The Portfolio Holder for Housing has been consulted and says:

*I support the delegation of authority to the specified officers as this will enable us to take prompt action where necessary to deal with poor and unsafe housing..*

## **10 RECOMMENDED:**

- (a) That the scheme of delegation of powers to officers be amended as specified in this report : and
- (b) The Council be requested to appoint the Proper Officers required by Sections 4 and 239 of the Act.

### **For Further Information Contact:**

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### **Background Papers:**

Housing Act 2004 and related guidance from the ODPM see [WWW.ODPM.gov.uk](http://WWW.ODPM.gov.uk)