



BRECKLAND COUNCIL

DELEGATED DECISION RECORD

This records a key or other decision taken by an Executive Member or the Cabinet in accordance with the Council's scheme of Delegations (as set out in Section D of Part 3 of the Council's Constitution).

Unless the Leader and the Chairman of the Overview and Scrutiny Commission certify that the matter is so urgent that the normal five-day scrutiny delay on action should not apply, then this decision will come into force and may then be implemented on the expiry of five working days after the publication of the decision, unless called in under the call-in procedures as set out in Section D of Part 3 of the Council's Constitution.

Portfolio/Cabinet	Cabinet
Report Title (& Reference No.)	New Legislative Responsibilities for Enforcement (Agenda Item 12)
Summary Background	To outline the new legislative responsibilities of the Council and agree policy and delegation for their enforcement.
Author/Contact Officer	Helen McAleer, Senior Democratic Services Officer (helen.mcaleer@breckland.gov.uk)
Ward(s) Affected	All Wards
Urgent?	No
Key Decision?	Yes It is significant in terms of its effect on communities living or working in an area comprising two or more wards
In Key Decision Plan?	Yes
Date Decision Taken	Tuesday, 22 September 2015
Date Published	Wednesday, 23 September 2015 Republished Monday 5 October 2015 (amended)
Call-In Expiry	Monday, 12 October 2015
Exempt Information?	No
Decision (Action Agreed)	That: <ul style="list-style-type: none"> 1. the Council delegate to the Housing Manager, Principal Housing Officer and Private Sector Team Leader authority to enforce the following legislation: <ul style="list-style-type: none"> a) The Redress Schemes for Lettings Agency Work and Property

	<p>Management Work (Requirement to belong to a Scheme etc.) (England) Order 2014</p> <p>b) Control of Horses Act</p> <p>c) Smoke and Carbon Monoxide Alarm (England) Regulations 2015;</p> <p>2. the fine to be levied for failure to comply with the Redress Scheme requirements be set at £5000;</p> <p>3. the Council only exercise its powers under the Control of Horses legislation where it owns the land or there is no identifiable owner of the land; and</p> <p>1. authority to set and recover a penalty charge under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 is delegated to the Housing Manager and Principal Housing Officer in consultation with the Council's Legal Officer(s) and in accordance with the Council's Enforcement Policy</p>
<p>Reasons(s)</p>	<p>1. Delegation needs to be given to Officers to undertake the enforcement activity. For operational reasons it is suggested this be to the Housing Service Manager, Principal Housing Officer and Private Sector Housing Team Leader or their equivalent in future.</p> <p>2. The Redress Scheme legislation is aimed at agents and property managers who it is reasonable to expect will have the capability to comply with the legislation. It is therefore unlikely that circumstances would arise where the Council would wish to exercise discretion to reduce the fine. However it is considered prudent to provide the ability to the enforcing officers in exceptional circumstances.</p> <p>3. The Control of Horses legislation provides a power not a duty on the Council. The retention and disposal of one or more horses could be a significant resource burden both in terms of personnel and finance for Breckland DC. As owners and occupiers of public land have a similar power to the District Council it is considered that it is reasonable to expect those responsible for the land to deal with issues arising upon it. This is in line with other environmental legislation. It is proposed that Breckland District Council would only consider using this power where there is land in a public place where no ownership can be established and to land in the Councils ownership and/or occupation.</p> <p>4. Unlike the Redress Scheme under the Smoke and Carbon Monoxide regulations there appears to be an expectation that the appropriate penalty charge may differ depending on the circumstances of the case. It is therefore not possible to define specifically the fine which should be applied. It is</p>

	<p>therefore proposed that the authority to set and recover a penalty charge should be delegated to the Housing Services Manager, Principal Housing Officer and Private Sector Housing Team Leader or their equivalent in future in consultation with the Council's Legal Officer(s) and in accordance with the Council's Enforcement Policy.</p>
<p>Options</p>	<p>The Council has responsibility within the three pieces of legislation. It has discretion to:</p> <ol style="list-style-type: none"> 1. Vary the fine under the Redress Scheme; 2. Determine whether and when to use its powers under the Control of Horses Act; and 3. To set and recover a penalty charge where there is a breach of Carbon Monoxide regulations.
<p>Further Information</p>	<p>New Legislative Responsibilities for Enforcement</p>