



Report to: Communities Committee, 16th March 2022

Report of: Corporate Director, Operations, Homes & Communities

Subject: REVIEW OF THE HOUSING ENFORCEMENT POLICY

1. Recommendation

That the Committee:

1.1 Notes the contents of the report; and

1.2 Approves the draft Housing Enforcement Policy 2022 at Appendix 1.

2. Background

- 2.1 The Council's substantive Housing Enforcement Policy was introduced in 2014 and was last revised in May 2017. In line with Government guidance an interim Housing Enforcement Policy – COVID-19 Interim Measures, was introduced in March 2020.
- 2.2 This report refers to the review of the substantive Housing Enforcement Policy because of recent legislative changes.
- 2.3 It is important the Council has in place an up to date, clear enforcement policy to ensure proportionate and fair enforcement of housing offences and to support transparency in decision making. This is essential to support overall the improvement of standards in the private rented sector.
- 2.4 Whilst most landlords do comply with legal requirements for property standards there are a minority that are failing to meet minimum standards. For example, there are approximately 190 rented properties failing to meet minimum energy efficiency standards out of a private rented market likely to be around 9000 properties.
- 2.5 A revised Housing Enforcement Policy has been drafted that brings together currently separate policies on civil penalties, energy efficiency and new electrical safety requirements to make clear the scope of housing enforcement and focus on policy more than strategic context. This is simpler and more direct for landlords to understand what legal requirements they must meet; possible actions open to the council and how the council will determine appropriate action.
- 2.6 It is essential to have clear policies to back up legal requirements and to ensure any enforcement cases taken are seen to be fair and transparent and in accordance with national guidance on enforcement such as the code for crown prosecutors.
- 2.7 From 1st July 2020 the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 apply to all new tenancies. From 1st April 2021 these Regulations will apply to all existing tenancies.

- 2.8 These Regulations have been introduced to make it mandatory for all private rented properties to ensure that every electrical installation in the residential premises is inspected and tested at regular intervals, not more than 5 years, by a qualified person.
- 2.9 The landlord must obtain a report of the inspection and supply a copy of the report within 7 days of a request by the Local Authority. The Local Authority can impose a financial penalty, to maximum of £30,000, where it is satisfied that beyond reasonable doubt that the landlord has failed in their legal duty. It can also impose more than one penalty if the landlord continues to breach the regulations.
- 2.10 It is proposed to set the financial penalty to be £1,000 for the first offence. This is in line with the charge for not having a smoke detector in a rented property and the same level of fine set for HMO Management Regulation Breaches such as Gas Safety certification. The proposed penalty for a second or continued offence by the same landlord is £3,000.
- 2.11 The Private Sector Housing Team will enforce the legislation and will be promoting these changes through local letting agents and known landlords. These proposed baseline fine levels are in line with those of neighbouring authorities.
- 2.12 The Government's ambition is to improve the energy performance of privately rented properties as improving a home's energy efficiency helps the occupants keep warm, reduce their energy bills and provides better protection for their health and wellbeing. Those benefits are particularly important to households on lower incomes and in homes which are expensive to heat.
- 2.13 From 1st April 2020 it became an offence to let out a property with an energy efficiency rating lower than an E rating without a valid exemption. Energy Performance Certificates that state the energy efficiency rating are required to be supplied to tenants at the start of the tenancy and are registered on a national register.
- 2.14 These Minimum Energy Efficiency Standard (MEES) requirements are set out in regulations that provide the council with the ability to issue financial penalties for non-compliance with the standard and for failing to respond to a request for information. The proposed fine levels and mechanism for individual determination are set out in the proposed policy.
- 2.15 Empty properties are often a blight on the local community and a wasted resource when there are families in need of affordable accommodation. The proposed policy expands the scope for the delegated officers in the Private Sector Housing Team to take a more holistic approach than currently in place. This is by providing powers to secure empty properties that are open to access, clear up rubbish etc. that could harbour pests and by making it clear that housing act powers to bring properties up to a habitable standard will be applied to empty properties to help encourage them back into use.

3. Preferred Option

- 3.1 The proposed housing enforcement policy sets out that the Council costs associated with enforcement should be recovered where opportunity provides.

There is a preference to use civil penalty action (issuing fines) rather than prosecution where that mechanism is available unless it is deemed in the public interest to do otherwise. This reduces court activity that is expensive and time consuming to both the council and landlords.

4. Alternative Options Considered

- 4.1 If the Council does not have an up to date policy, the enforcement activity of the council will be limited, landlords will not be able to be held to account and residents will be subject to impacts on their health, safety and wellbeing.
- 4.2 If the Council does not incorporate a more holistic approach to empty property enforcement, then problem properties will take co-ordination between different departments and Worcestershire Regulatory Services that is inevitably less effective.

5. Implications

5.1 Financial and Budgetary Implications

This work will be undertaken within the existing resources. Any financial penalty proceeds are required to go towards meeting the costs and expenses occurred in, or associated with, carrying out its enforcement function within the private rented sector.

Any recovered financial penalty which is not applied in accordance to this must be paid into the Consolidated Fund. Therefore, the income can be used to ensure staff are adequately trained and equipped to undertake the functions.

5.2 Legal and Governance Implications

There is a legal duty from both the regulations for the local housing authority to undertake enforcement.

5.3 Risk Implications

There is a risk of legal challenge if this process is not followed correctly which could result in First Tier Property Tribunals overturning notices and penalty fines. These legal, reputational and financial risks will be mitigated through officers receiving training and updates and working closely with the legal services team.

5.4 Corporate/Policy Implications

Within the new Worcester City Plan 2022 – 2027, the '*Stronger and Connected Communities*' Priority includes an aim for the City to have '*a wide mixture of good quality housing provision to suit the full range of needs*' and to '*reduce the number of underused property and reduced number of substandard rental properties*'.

5.5 Equality Implications

The policy will have a positive impact on the health, safety and welfare of vulnerable tenants.

5.6 Human Resources Implications

None.

5.7 Health and Safety Implications

None.

5.8 Social, Environmental and Economic Implications

Improvements to energy efficiency standards will help make rental properties more affordable and sustainable for persons on low income. They will also have a significant impact on carbon production from energy use.

Ward(s): **ALL**
Contact Officer: **Richard Osborne – Interim Private Sector Housing Manager**
Tel: **01905 722525**
E-mail: Richard.osborne@worcester.gov.uk

Background Papers:

Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
<https://www.legislation.gov.uk/ukxi/2015/962/contents/made>

The Domestic Private Rented Property Minimum Standard guidance
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882957/Domestic_Private_Rented_Property_Minimum_Standard_-_Landlord_Guidance_2020.pdf

Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
<https://www.legislation.gov.uk/ukdsi/2020/9780111191934>

Guide for Local Authorities: Electrical Safety Standards in the Private Rented Sector.
<https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector-guidance-for-landlords-tenants-and-local-authorities/>