
Subject:	PRIVATE SECTOR HOUSING ENFORCEMENT POLICY 2020
Meeting and Date:	Cabinet – 9 November 2020
Report of:	Diane Croucher, Head of Regulatory Services
Portfolio Holder:	Councillor Nick Kenton, Portfolio Holder for Planning and Regulatory Services
Decision Type:	Key Decision
Classification:	Unrestricted

Purpose of the report: To obtain approval for the adoption of the revised Private Sector Housing Enforcement Policy.

Recommendation: That Cabinet approves:

1. Adoption of the revised Private Sector Housing Enforcement Policy 2020.
2. Any future minor amendments to the policy be approved by the Head of Regulatory Services, in consultation with the Portfolio Holder for Planning and Regulatory Services and the Head of Governance.

1. Summary

To approve the adoption of a revised Private Sector Housing Enforcement Policy. In September 2017 Cabinet approved the current Policy. Recent legislation requires the policy to be updated. The revised policy also introduces reduced payments for early payment of Penalty Charges.

2. Introduction and Background

2.1 In September 2017 Cabinet approved the current Policy. Following the introduction of new legislation and guidance the policy requires updating to reflect these changes.

2.2 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. (amended 2019) came fully into force on 1st April 2020. The Regulations establish a minimum standard of energy efficiency for privately rented property. Local Authorities are responsible for enforcing the minimum level of energy provisions within their area. It is now an offence to let a property with an EPC score of F and G unless the landlord has registered an exemption on the national exemption register. It is also an offence to provide false or misleading information on the register. The revised policy provides details of how the penalty charge will be calculated for any offences. The maximum penalty charge if there are multiple offences is £5,000.

2.3 Appendix 6 of the revised policy provides a framework for determining the appropriate penalty for non-compliance. This policy is in accordance with legislation, government guidance and in i with all Kent District Councils.

2.4 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 came into force on the 1st June 2020. These new regulations which have been made under the Housing Act 2004 have also been included in the revised policy.

2.5 The current policy does not provide for a reduced charge for early repayment of a penalty charge. It is common practice to offer a reduced charge for early repayment of penalty charges not least as this reduces the resources the Council has to expend on debt recovery. The revised policy proposes that if an offender can demonstrate an early acceptance of guilt by paying the financial penalty within 28 days of the date the Final Notice was served, the offender can benefit from a 25% reduction in the amount of financial penalty payable. This reduction is representative of other Kent Councils that issue these charges.

2.6 Since the Private Sector Housing Enforcement policy was made in 2013, there has been amendments in 2015 and 2017 to take account of new legislation. In each case Cabinet approval for the change was required. It is recommended that in future any amendments that are minor or reflecting new legislation is delegated for approval to the Head of Regulatory Services in consultation with the Portfolio Holder and Head of Governance.

3. **Identification of Options**

3.1 Approve adoption of the revised Private Sector Housing Enforcement Policy and grant approval to delegate minor changes in future to the named officers.

3.2 Approve adoption of the revised Private Sector Housing Enforcement Policy but not approve delegation of minor changes to the named officers.

3.3 Not to agree to the amendments to the policy.

4. **Evaluation of Options**

4.1 The recommended changes to the enforcement policy and charges are believed to provide the best option for a fair and workable enforcement regime in accordance with legislative requirements.

4.2 Local authorities are the enforcing body for these powers and a policy which includes penalty charges is required to enable fair and consistent enforcement. The proposed penalty charges are in compliance with the regulations and have been produced in consultation with all Kent District Councils.

4.3 The current method of making minor changes to the policy can cause delays to implementing new legislation. In most cases the Council has a statutory duty to implement legislation from the operative date. It is not unusual that the lead in time for the operative date of new legislation is very short.

5. **Resource Implications**

5.1 There will be an increase in staff workload as a result of the need to identify non-compliant properties and serve penalty charge notices. We are not seeking any increase in the number of staff currently. Income received from a civil penalty can be retained by the local authority. From EPC data there is potentially over 400 rented properties that are not in compliance with these regulations.

6. **Climate Change and Environmental Implications**

6.1 There are no particular implications in agreeing to the Head of Regulatory Services in consultation with the Portfolio Holder and Head of Governance approving future minor amendments to the policy.

However, the adoption of the revised Private Sector Housing Enforcement Policy 2020 will support the Council's Statutory Duty to take action under the Home Energy Conservation Act 2015 and the new Fuel Poverty Strategy for England (publication expected this Autumn) to enable residents to achieve affordable warmth. The adoption

of the Policy will also give a clear signal that the Council will take action where landlords fail to meet their responsibilities under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations. Raising the thermal efficiency of properties will benefit residents' health and wellbeing.

7. **Corporate Implications**

- 7.1 Comment from the Director of Finance (linked to the MTFP): Comment from the Director of Finance (linked to the MTFP): Accountancy has been consulted and has no further comment. (DL)
- 7.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.
- 7.3 Comment from the Equalities Officer: This report does not specifically highlight any equality implications, however in discharging their duties members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>
- 7.4 Other Officers (as appropriate):

8. **Appendices**

- 8.1 Appendix 1 – Proposed Private Sector Housing Policy 2020

9. **Background Papers**

- 9.1 Current Private Sector Housing Policy 2017
- 9.2 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.
- 9.3 Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. (Issued by Department of Business, Energy and Industrial Strategy)
- 9.4 Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

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