

Cabinet



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Tackling Rogue Landlords: Civil Sanctions Policy	
Report No:	CAB/SE/18/021	
Report to and date:	Cabinet	27 March 2018
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Purpose of report:	To seek endorsement of the Civil Sanctions Policy to enable the West Suffolk councils (Forest Heath District and St Edmundsbury Borough) to make use of the new powers to tackle the small number of rogue landlords in West Suffolk and improve the wellbeing of tenants. The report: <ul style="list-style-type: none">• Summarises the results of the consultation• Provides the draft policy which is requested to be adopted, together with requesting the necessary delegations be recommended for approval by full Council.	
Recommendation:	It is <u>RECOMMENDED</u> that: (1) The Housing Standards – Civil Sanctions Policy contained in Appendix A to Report No: CAB/SE/18/021, which describes the new measures and sanctions which will support existing enforcement work and pro-active inspection programmes, be adopted; (2) Subject to the approval of full Council, new delegations regarding the enforcement powers be incorporated into the Scheme of Delegation, contained in Part 3 of the Constitution, to enable these sanctions to be enforced.	

<p>Key Decision:</p> <p><i>(Check the appropriate box and delete all those that do not apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input type="checkbox"/></p> <p>No, it is not a Key Decision - <input checked="" type="checkbox"/></p>
<p><i>The decisions made as a result of this report will usually be published within 48 hours and cannot be actioned until five clear working days of the publication of the decision have elapsed. This item is included on the Decisions Plan.</i></p>	
<p>Consultation:</p>	<ul style="list-style-type: none"> • See section 5 below
<p>Alternative option(s):</p>	<ul style="list-style-type: none"> • The West Suffolk councils could choose not to recommend for approval but would not then be able to make use of the new legislation and sanctions. The approval of a policy is favourable in that it enables the small number of rogue landlords to be tackled and the interests of tenants and compliant landlords to be protected.
<p>Implications:</p>	
<p><i>Are there any financial implications? If yes, please give details</i></p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Income received from a civil penalty is retained by the Council and can only be used toward the statutory functions in relation to the enforcement of standards in the private rented sector. Any income generated is unpredictable based on the nature of enforcement action. The number of fines issued per annum is likely to be low but will target the worst offenders.</p>
<p><i>Are there any staffing implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>It is envisaged that the policy implementation can be funded through existing budgets. When the policy is approved and implemented, the investigation and enforcement will be carried out by staff in the existing establishment.</p>
<p><i>Are there any ICT implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p><i>Are there any legal and/or policy implications? If yes, please give details</i></p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Section 126 of The Housing and Planning Act 2016 allows financial Penalties to be imposed as an alternative to prosecution for certain offences as set in Schedule 9 of the Act. A policy is required to enable the Council to implement the provisions in the legislation, along with the necessary delegation under the constitution.</p>

<p>Are there any equality implications? If yes, please give details</p>		<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>There are no issues arising from the Government's EQIA. A screening EQIA has been completed (Appendix B) which has identified potential positive impacts on those with protected equality characteristics arising from this proposal.</p>	
<p>Risk/opportunity assessment:</p>		<p><i>(potential hazards or opportunities affecting corporate, service or project objectives)</i></p>	
<p>Risk area</p>	<p>Inherent level of risk (before controls)</p>	<p>Controls</p>	<p>Residual risk (after controls)</p>
<p>There are no major risks. Failure to agree the civil penalties and have an appropriate policy in place means the Council will be unable to issue civil penalties.</p>			
<p>Ward(s) affected:</p>		<p>All Ward/s</p>	
<p>Background papers: <i>(all background papers are to be published on the website and a link included)</i></p>		<p>Cabinet Report No: CAB/SE/18/001 9 January 2018 Report considered prior to engagement.</p>	
<p>Documents attached:</p>		<p>Appendix A-The draft Civil Sanctions Policy Appendix B – EQIA screening</p>	

1. Introduction and purpose

- 1.1 This report requests that Cabinet approves the policy to allow the use of new enforcement options, available under the Housing and Planning Act 2016, to help us tackle rogue Landlords in the private rented sector.

2. Background

- 2.1 The Public Health and Housing team work under a wide range of legislation to prevent harm to health, improve quality of life and increase the number of suitable homes in West Suffolk. The existing legal provisions allow the team to take a graduated approach to enforcement from informal action to formal action, including enforcement notices and licencing for Houses of Multiple Occupation (HMOs).
- 2.2 Alongside the HMO licencing regime for the higher risk HMOs, we currently have risk based inspection programmes for the smaller HMOs, and flats above shops to ensure this accommodation is safe. A variety of private sector housing areas are covered including:
- Housing Standards
 - Houses in Multiple Occupation-Risk based inspections
 - Houses in Multiple Occupation-Licensing
 - Breaches of landlord obligations
 - Empty Homes
 - Public Health
 - Caravan Sites
 - Nuisance
 - Anti-social Behaviour (ASB)
- 2.3 We are currently protecting tenants from being exposed to risk through unsafe housing conditions with inspections, advice and enforcement, where landlords do not cooperate, to ensure that housing meets the required standards. We use a performance measure for bringing properties up to standard. If necessary and in accordance with our existing enforcement policy, we will prosecute landlords that fail to comply with formal enforcement actions such as improvement notices and licencing breaches.
- 2.4 Identifying private rented landlords will be enhanced with the new extended licensing of smaller HMOs, an extension of the existing mandatory requirement. These HMOs will be entered into our existing programme of inspections. Single occupied properties will be identified with access to tenant deposit scheme records. Proactive actions also include flats above businesses which the service is currently undertaking.
- 2.5 Much of the work we do is to support vulnerable people, where we work closely with partner services and organisations around the needs of the individual and their home, and to protect the wider community.
- 2.6 A staged approach is taken to enforcement wherever possible to ensure solutions are initially sought through advice, co-operation and agreement. Tenants have an important role to play at the outset in terms of knowing their rights and engaging positively with their landlords. However, where this is not

successful there will be cases where formal action is necessary and this may ultimately lead to prosecution or other summary action. Public Health and Housing are committed to a tiered and proportionate approach to enforcement, consistent with our enforcement policies (these policies are due to be reviewed to create a single overarching enforcement policy).

- 2.7 West Suffolk have mainly excellent landlords who provide decent, well maintained homes and we are keen to work with and support them. There are, however, a small number of rogue and irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard and/or unsafe and for whom the current sanctions are not a sufficient deterrent.

3. Reason for new legislation

- 3.1 One of the provisions of new legislation, the Housing and Planning Act 2016, is to help regulate the worst unsafe properties and landlords in the private rented sector.
- 3.2 The new legislation provides a streamlined alternative to prosecution, albeit with same level of evidence and an appeals process in place, which is designed to deal with cash for rent landlords working outside of the law. There are only a small minority of these landlords operating in West Suffolk.
- 3.3 The Act provides Local Housing Authorities with the option of civil penalty fines, rent repayment orders and banning orders for non-compliance with certain Housing Act 2004 offences. This is an alternative to taking a prosecution for the very worst landlords.

4. Policy implications

- 4.1 A new policy is required by the legislation for us to make use of the new enforcement sanctions.
- 4.2 It will detail how we wish to continue our existing work and preventative approach to improve housing standards in the sector, working with compliant landlords and enforcing against the very worst landlords.
- 4.3 A fine structure is included, with a level of fines expected to be set on a graduated basis depending on the severity of non-compliance with the offences.
- 4.4 Any income from fines will be used to continue meeting our wider strategic housing priorities.

5. Consultation

- 5.1 There was no specific requirement to consult on the proposals. The overarching policy guidance from Government has been based on an extensive consultation exercise with National Landlords Associations.
- 5.2 However, it was beneficial to engage on the proposals to be covered by the new policy locally with landlords, tenants and interest groups including neighbouring councils and the Landlords Association. This is consistent with our desire to work closely with landlords and other stakeholders to achieve an effective and

proportionate approach. The consultation was designed to inform the wider public of the work of the team and the proposed implementation of new powers.

- 5.3 Consultation and engagement has taken place which included a workshop session for key stakeholders, contributing to other housing events taking place during the consultation period, and an online survey on the councils' website. Key stakeholders were contacted directly and signposted to the survey which will also be open to the public. The responses have been considered in terms of the draft policy and may inform the future service.
- 5.4 Responses received from the consultation found:
- 90% of respondents agreed with the proposed matrix of penalties for deciding the level of fine with no other considerations. There were some suggestions for increasing the level of fines which included landlords that have failed to pay taxes, and landlords of unregistered properties.
 - Respondents would like to be better informed of enforcement action taken by the Council.
 - Respondents would like a mechanism for reporting rogue landlords in the district/borough.
 - Some suggestions were made but implementation of these ideas are beyond the scope of the Council so these have not been included.

6. Status and development of the policy

- 6.1 The Council is asked to adopt the policy, with enforcement procedures/sanctions from April 2018 following approval sought for the new delegations by full Council. This has enabled us to develop our approach with partners and ensure effective working practices. In the interim, existing powers and practices will continue to be used to regulate serious conditions and non-compliance in the sector.
- 6.2 The development of the policy was regarded as an opportunity to engage positively with landlords and other stakeholders to build on the good work being undertaken by the vast majority of landlords to comply with housing standards and rent properties out that are safe and hazard free.
- 6.3 The focus of policy development is on tackling and dealing with the very worst landlords, and deterring any bad landlords from starting to operate in the area, whilst working with those that wish to grow the sector in terms of much needed better quality housing.

7. Summary

- 7.1 The new powers contained within the policy will provide a useful set of enforcement tools to supplement the current regulatory work of the service to protect tenants from living in unsafe conditions, and potentially vulnerable people being exploited.
- 7.2 It will support other legislation being brought in to protect residents and regulate the private rented sector.

- 7.3 The development, with stakeholders, and consultation of the policy has provided an opportunity to promote the service we offer and the most effective way to enforce this new legislation. We were able to promote our preventative and reactive regulatory agendas, and better landlords saw that we want to work with them, not only to achieve compliance, but to deliver a sector that provides adequate supply of decent homes.