

Teignbridge District Council
Executive
Meeting date: 4TH March 2025
Part i

Housing enforcement policy and Civil penalties and other penalty charges policy

Purpose of Report

To obtain approval for the adoption of the new housing enforcement policy and Civil penalties and other penalty charges policy.

Recommendation(s)

The Committee RESOLVES to:

- (1) Adopt the attached housing enforcement policy (Appendix 1);
- (2) Delegate any additional amendments from the Renters Rights Bill and any associated regulations and orders to Head of Service in consultation with the Executive Member.

Financial Implications

Financial implications are detailed in 2a below.

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Legal Implications

Legal implications as detailed below in 2b below.

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Risk Assessment

Risk implications are detailed in 2c below.

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Environmental/ Climate Change Implications

Environmental/Climate Change implications are detailed in 2d below

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Executive Member

Cllr Richard Buscombe, Executive Member for Housing and Homelessness

Appendices/Background Papers

1. Introduction/Background

1.1 The existing Housing enforcement policy which includes details on civil penalties which can be imposed under the Housing and Planning Act 2016 was adopted by Teignbridge Council in 2017. In addition, civil penalty charges in relation to minimum energy efficiency standards (MEES) and a Statement of Principle for the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 was further approved in 2018 and 2021 respectively.

1.2 We recognise that most landlords provide good quality and well-managed accommodation. There are, however, a small number of landlords and property agents who fail to fulfil their legal obligations and rent out sub-standard accommodation, sometimes to vulnerable tenants. We will aim to ensure compliance with the law and acceptable housing standards through advice, education, and informal action. When, however, an informal approach fails to achieve the desired result, or a failure to comply is of a serious nature, we will consider the full range of enforcement options available to achieve compliance and protect residents at risk.

1.3 The purpose of this policy is to have a clear and transparent policy in place ensuring consistency in approach and enabling a robust mechanism within which

to defend any challenges that are open to the local authority from landlords, agents etc, through the means of the court or a tribunal.

1.4 The Housing Enforcement policy is divided into four parts:

- 1.4.1 Part One describes how Teignbridge District Council intend to ensure compliance with the Housing Act 2004 and other relevant housing standards legislation. It covers housing enforcement in all residential dwellings including privately rented, socially rented, owner occupied properties, empty properties, and Houses in Multiple Occupation (HMOs) and explains the circumstances where enforcement action will be pursued. It also links to Appendix 1 which sets out the Council's approach to Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
- 1.4.2 Part Two sets out the minimum standards for Houses in Multiple Occupation (HMOs) and the Council's approach to mandatory licensing of HMOs in accordance with Part 2 of the Housing Act 2004.
- 1.4.3 Part Three sets out the Council's Statement of principles to determine the amount of a penalty charge under Part 4 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022.
- 1.4.4 Part Four sets out the Council's Statement of principles to determine the amount of a penalty charge for a breach of minimum energy efficiency standards (MEES) with respect to domestic privately rented property.

1.5 In 2023/24, the private sector housing team received 120 service requests from tenants in Teignbridge, mainly concerning the condition of their property. In the same time period 104 Category 1 and 112 Category 2 hazards were identified, and 13 formal notices were served on landlords. Works were secured without the need to take any further enforcement action.

1.6 As of January 2025, there are 35 licensable HMOs in Teignbridge. The standards for all HMOs are included as Appendix 1 to the Housing enforcement policy.

1.7 The development of the Civil penalty policy has been supported by Justice for Tenants, who have government support to help local authorities provide civil penalties policies that are consistent and have regard to precedent set through the Upper Tier tribunal. They will also support Teignbridge Council with amendments to Civil Financial Penalty policies and templates as new precedents and legislation (such as the Renters Reform Bill) come into force

1.8 Part 4 of the Renters Rights Bill, which is currently being discussed in Parliament, will:

- strengthen local housing authorities' enforcement powers.
- expand financial penalties.
- introduce a new requirement for authorities to report on enforcement activity.

It is recommended that any additional amendments from the Renters Rights Bill and any associated Regulations and Orders is delegated to the Head of Service in consultation with the Executive Member.

1.9 We currently support landlords and agents through regular newsletters, an annual landlord open evening, (currently being planned for May 2025) with Exeter City Council, East Devon District Council, and Torbay Council. Working with Torbay Council we have arranged for training to support landlords on the forthcoming changes from the Renters Rights Bill.

1.10 Once approved, a summary of this policy will be made available for both landlords and tenants on our website and on request.

2. Implications, Risk Management and Climate Change Impact

a. Financial

- i. Unlike fines issued through criminal proceedings, income received from civil penalties and from rent repayment orders is

retained by the Council and can only be used towards the statutory functions in relation to its enforcement of standards in the private rented sector. The Council may also apply for costs and expenses incurred in relation to the enforcement action.

- ii. Any income generated from the issuing of civil penalties and rent repayment orders, at present, is unpredictable due to the nature of enforcement activity.
- iii. The benefit of civil penalties will help to improve standards within the private rented sector, providing a more efficient and effective mechanism to tackle rogue landlords, as well as reduce the burden on courts and provide a ring-fenced income for Teignbridge Council to further improve the private rented sector.

b. Legal

- i. The enforcement policy sets out the council's approach to ensuring that acceptable housing standards are achieved and by further enabling, where necessary, robust action against rogue landlords.
- ii. The Housing Act 2004 is the principal legislation regulating housing standards with the Housing and Planning Act 2016 giving a wider range of enforcement options including Rent Repayment Orders, Banning Orders for rogue landlords, and issuing civil penalties is included. The Renters Rights Bill will also place a duty on Local Authorities to take enforcement action in relation to certain offences.
- iii. Any recommendation to prosecute a landlord would need approval from the Head of Legal.

c. Risks

- i. The risk of not approving the policy is that the council will not have a published policy that transparently explains its approach to enforcement and that provides a fair and consistent basis for any actions taken. The absence of the policy may increase the likelihood the councils may lose enforcement cases or appeals,

either as a direct result of not having an enforcement policy, or the absence of a policy leading to incorrect or inconsistent decisions.

d. Environmental/Climate Change Impact

- i. The Housing enforcement policy offers an opportunity for the council to use its enforcement powers to increase the energy efficiency of homes in the district. This will mean that less greenhouse gas emissions are released, and the homes will be more comfortable with lower energy bills.

3. Alternative Options

4.1 The Council could decide to retain the existing policy; however, it would not be able to consider the full range of enforcement options available which requires a published policy. The absence of a policy may increase the risk that the council may lose enforcement cases or appeals.

4. Conclusion

5.1 The implementation of a clear and transparent enforcement policy, along with a Civil Penalties and Other Penalties Policy, will offer guidance to officers, landlords, and letting agents, ensuring a fair and consistent approach to maintaining housing standards in Teignbridge. Delegating any necessary amendments from the Renters Rights Bill, along with related Regulations and Orders, to the Head of Service in consultation with the Executive Member will ensure a seamless implementation of new legislation.