



Corporate Policy and
Resources

Wednesday 4 December
2019

**Subject: Enforcement of the Domestic Minimum Level of Energy
Efficiency**

Report by:

Executive Director of Resources

Contact Officer:

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Purpose / Summary:

To request that elected Members approve the introduction of the penalty charge as outlined within the report.

RECOMMENDATION(S):

Elected Members are asked to:

- a) Approve the introduction of the penalty charge of up to £5,000 relating to Minimum Level of Energy Efficiency Regulations 2015.**

IMPLICATIONS

Legal:

The legal background for the provision of this penalty charge and the regulatory standards are found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/824037/Domestic_Private_Rented_Property_Minimum_Standard_-_Landlord_Guidance.pdf

Financial : FIN/140/20JT

There are no financial implications in regards to this paper, other than the ability to recover the penalty charges issued as additional income.

Staffing :

N/A

Equality and Diversity including Human Rights :

Data Protection Implications :

N/A

Climate Related Risks and Opportunities :

Increasing the energy efficiency of our domestic rental stock can help:

- manage the energy costs of tenants, including those of some of the most vulnerable to the cold;
- improve the condition of properties and help reduce maintenance costs;
- lower demand for energy thereby smoothing seasonal peaks in energy demand, and as a result increase our energy security;
- reduce greenhouse gas emissions.

Section 17 Crime and Disorder Considerations :

Health Implications:

Title and Location of any Background Papers used in the preparation of this report:

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Risk Assessment :

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Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1 Introduction

- 1.1 The Authority is responsible for the Enforcement of the Domestic Minimum Level of Energy Efficiency under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
- 1.2 As a result this means that the Authority can require landlords to meet certain standards within their rental properties relating to energy efficiency.
- 1.3 The Regulations set out the minimum level of energy efficiency for private rented properties in England and Wales. In relation to the domestic private rented sector (PRS) the minimum level is **EPC E**. EPC F and G rated properties are the most energy inefficient of our housing stock. They impose unnecessary energy costs on tenants and the wider economy and can lead to poor health outcomes, with a resulting resource pressure on health services. These properties also contribute to avoidable greenhouse gas emissions.

2 Enforcement

- 2.1 The Authority are responsible for enforcing compliance with the domestic minimum level of energy efficiency. Under the regulations the Authority may check whether a property meets the minimum level of energy efficiency and may issue a compliance notice requesting information where it appears to them that a property has been let in breach of the Regulations (or an invalid exemption has been registered in respect of it).
- 2.2 Where a Local Authority is satisfied that a property has been let in breach of the Regulations it may serve a notice on the landlord imposing financial penalties. The Authority may also publish details of the breach on the PRS Exemptions Register. The landlord may ask the Local Authority to review the penalty notice and can appeal to the First – Tier Property Tribunal.
- 2.3 The Housing Enforcement Policy has made provision for this power since 2018, however the penalty amount has not been added to the fees and charges schedule. There are currently a pipeline of cases in which the penalty notice could be considered and it is requested that approval is sought for this charge to be implemented as soon as possible.
- 2.4 This will ensure that those cases for which the penalty applies are not delayed. The guidance above is very detailed and provides a very clear process for the implementation of penalties, which will be followed accordingly.

3 The Penalty Amount

- 3.1 Where the Local Authority decides to impose a financial penalty, they have the discretion to decide on the amount of the penalty, up to

maximum limits set by the Regulations. The maximum penalties are as follows:

- (a) Where the landlord has let a sub-standard property in breach of the Regulations for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty.
- (b) Where the landlord has let a sub-standard property in breach of the Regulations for 3 months or more, the Local Authority may impose a financial penalty of up to £4,000 and may impose the publication penalty.
- (c) Where the landlord has registered false or misleading information on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and may impose the publication penalty.
- (d) Where the landlord has failed to comply with the compliance notice, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty.

3.2 The total penalty for any offence cannot exceed £5,000. On that basis in regards to the Fees and Charges Schedule it is proposed that a fee of “up to £5,000” is stated.

4 Process and Debt Recovery

- 4.1 The Authority already has an established process when dealing with matters such as this, as demonstrated by the charge for Civil Penalties that is already in place. The process for approving these charges and assessing the level any penalty should be set at will be adopted for this penalty.
- 4.2 As above, the process for debt recovery is also already established and will be used for the recovery of these penalties where they are left unpaid.