

Lancaster City Council | Report Cover Sheet

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| Meeting | Cabinet | Date | 9 th February 2021 |
| Title | Raising Standards in the Private Rented Sector | | |
| Report of | Mark Davies, Director for Communities and the Environment | | |
| Purpose of the Report | | | |
| To consider and adopt the financial penalty charging policies for Electrical Safety and Minimum Energy Efficiency Standards in the private rented sector | | | |
| Key Decision Y | Y | Date of Notice | 11/1/2021 |
| | | Exempt N | |

Report Summary

The report outlines and asks approval for the financial penalty charging policies for Electrical Safety and Minimum Energy Efficiency Standards in the private rented sector.

Recommendations

- (1) To consider and adopt the financial penalty charging policy for The Energy Efficiency (Private Rented Sector) (England and Wales) Regulations 2015 (as amended by The Energy Efficiency (Private Rented Sector) (England and Wales (Amendment) Regulations 2019, attached at **Appendix 1**
- (2) To include the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 within the Council's amended Civil Charging Policy attached at **Appendix 2**
- (3) To authorise the Head of Public Protection to make minor amendments to the financial charging policies in accordance with any future changes to legislation.

Relationship to Policy Framework

It is a statutory function and the proposals support the Council's objectives to promote sustainable communities, reduce carbon emissions of domestic dwellings, and support the positive health and wellbeing of residents in the district and reduce health inequalities.

Conclusion of Impact Assessment(s), where applicable

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| Climate | Wellbeing & Social Value |
| Digital | Health & Safety |
| Equality | Community Safety |

Climate; Direct positive effect in raising the energy efficiency of private rented sector housing
 Equality: There is a risk that enforcement may have a short-term impact on low income households with limited housing choices, but measures will be put in place to provide support and the regulations will make a positive long-term contribution to reducing health inequalities.
 Wellbeing & Social Value: Will contribute to improvement of some of the poorest housing conditions.

Health and Safety: Direct positive effect on the health and safety of private tenants.
Community Safety: Improved housing conditions and addressing fuel poverty will have a positive impact on community safety.

Details of Consultation

The principles of the Private Sector Housing Enforcement Policy were consulted on before it's approval in 2018. Comments received were that landlords are broadly supportive of robust enforcement against landlords who they feel give the sector a bad name, but wanted the Council to be fair and transparent in their actions and to acknowledge that some private landlords provide a good and necessary service.

Legal Implications

Legal Services have been consulted on the drafting of the policies. If the policies are adopted, officers will have to ensure that they carry out their investigative and enforcement duties in accordance with the policies and national guidance.

Financial Implications

Additional regulations have been introduced to further improve standards in the private rented sector as outlined in the report.

It is proposed to consider and adopt the financial penalty charging policies for Electrical Safety (max £30,000) and Minimum Energy Efficiency Standards (max £5,000) standards in the private rented sector.

It is not possible to accurately project the likely level of income arising from the proposals, though it will be kept under review and fed into future corporate monitoring reports with budgets updated during the annual budget process.

Other Resource or Risk Implications

None

Section 151 Officer's Comments

The s151 Officer has been consulted and has no additional comments to make

Monitoring Officer's Comments

The Monitoring Officer has been consulted and has no further comments to make

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Links to Background Papers

Housing and Planning Act 2016
<https://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

The Energy Efficiency (Private Rented Housing)(England and Wales) Regulations 2015
<https://www.legislation.gov.uk/ukdsi/2015/978011128350/contents>

Private Sector Housing Enforcement Policy
<https://www.lancaster.gov.uk/housing/private-rented-accommodation>

1.0 Report

Cabinet approved a Private Sector Enforcement Policy, which included a Civil Penalties Enforcement Policy, in December 2018. This was designed to help deliver the Council's priorities identified in the Corporate Plan to improve the quality and availability of private housing.

Additional regulations have been introduced to further improve standards in the private rented sector with associated financial penalties that require approval. The Civil Penalties policy has been amended accordingly.

2.0 The Proposal.

2.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended) set a minimum standard for energy efficiency for both domestic and non-domestic private rented property. This minimum energy efficiency standard for domestic private rented property referred to as MEES is a minimum standard of Energy Performance Certificate (EPC) band E.

An EPC gives a property an energy efficiency rating from A (most efficient) to G (least efficient) and is valid for 10 years. The report attached to the EPC contains information about a property's energy use, its typical energy costs, and recommends energy efficiency improvements to reduce energy use in order to cut costs.

Since the 1st April 2020 under the Regulations a privately rented property with an EPC band of F or G is defined as 'sub-standard and non-compliant' and the landlord must no longer let the property unless it has a valid exemption registered on the Private Rented Sector (PRS) Exemptions Register. This applies to any privately rented property which is legally required to have an EPC and which is let on a relevant tenancy.

Landlords in breach of the MEES regulations can be issued a financial penalty up to a maximum of £5,000 per property as per the MEES Financial Charging Policy attached as **Appendix 1**. The Council can also issue a publication penalty on the publicly available section of the PRS Exemptions Register

2.2 Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

These Regulations apply to new specified tenancies in the private rented sector from the 1st July 2020 and all existing from the 1st April 2021.

The Regulations require landlords to ensure that every electrical installation in the residential premises is inspected and tested at regular intervals of no more than five years by a qualified and competent person to ensure it meets electrical safety standards.

The Housing Standards Team will be responsible for enforcing the new Regulations and can impose a financial penalty of up to £30,000 if they find a landlord is in breach of their duty. The proposal is to use the Civil Penalty Charging Policy already approved by Cabinet in December 2018 and attached as Appendix 2.

3.0 Governance and Appeals.

Internal governance procedures delegate authority to officers to issue penalty fines, but there are checks and balances in place to ensure consistency. All decisions will be made in accordance with Lancaster City Council's Civil Penalty Enforcement Policy (Appendix 2) that is based on statutory guidance issued under section 23 (10) and Schedules 1 and 9 of the Housing and Planning Act 2016. Before imposing a penalty, the Local Authority must serve a Notice of Intent, and the recipient has the right to make written representations. The policy states that these representations will be considered by a senior officer who is not the officer who originally issued the penalty. Where a penalty is imposed on a landlord, there is an additional right to appeal to the First-Tier Tribunal (Property Chamber) against the decision.

4.0 Options and Options Analysis (including risk assessment)

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| Option 1: Adopt the charging policies |
| Advantages: Assists the Local Authority in meeting its statutory obligations and deliver corporate priorities. |
| Disadvantages: None |
| Risks: None |
| Option 2: Do not adopt the charging policies |
| Advantages: None |
| Disadvantages: The Local Authority could be subject to challenge. The authority is obliged to determine the level of penalties to be levied in relation to the legislation referred to in this report, and to publish a charging policy in relation to the MEES regulations. |
| Risks: The Local Authority could be subject to challenge and may not be in a good position to meet its statutory obligations. |

5.0 Officer Preferred Option (and comments)

5.1 The officer preferred option is Option 1, to adopt the financial penalty charging policies for both sets of regulations and to allow the Head of Public Protection to make minor amendments to the policy to reflect changes in legislation.