

## **ADOPTION OF A REVISED HOUSING CIVIL PENALTY POLICY**

<b>Head of Service:</b>	Rod Brown, Head of Housing & Community
<b>Report Author</b>	Oliver Nelson
<b>Wards affected:</b>	(All Wards);
<b>Urgent Decision?(yes/no)</b>	No
<b>If yes, reason urgent decision required:</b>	
<b>Appendices (attached):</b>	Draft revised Civil Penalties Policy

### **Summary**

To determine a revised policy for the issuing of civil sanctions under the Housing and Planning Act 2016.

### **Recommendation (s)**

#### **The Committee is asked to:**

- (1) Approve and adopt the revised policy as set out in Annex 1 to this report**
- (2) Nominate and Authorise the Head of Housing and Community, Public Protection Manager, Principal Environmental Health Officer and Environmental Health Officer to determine individual financial penalties in accordance with this policy.**

## **1 Reason for Recommendation**

- 1.1 To enable the Council to issue Civil Penalty Notices for certain housing offences both in respect of existing legislation and in respect of anticipated future legislation in the form of the Renters Rights Bill.

## **2 Background**

- 2.1 The Council has statutory responsibility for the enforcement of acceptable conditions in borough housing stock, with the main focus being on the private rented sector. This function is discharged through the Environmental Health Team.

# Community and Wellbeing Committee

## 8 July 2025

- 2.2 Where deficiencies are found, a range of enforcement tools exist to rectify the position. A criminal offence is created for breach or non-compliance with these provisions for which a prosecution may be considered.
- 2.3 However, via section 126 and Schedule 9 of the Housing and Planning Act 2016, a power was given to local housing authorities to impose a civil penalty of up to £30,000 as an alternative to prosecution for certain specified housing offences. The use of a civil penalty is an attractive option since it avoids the time, complexity, cost and lengthy delays of a criminal prosecution, with the Council able to retain 100 percent of the amount, using it to supplement its private sector housing function. It provides the landlord or other responsible person the opportunity to avoid a court trial and a criminal record.
- 2.4 It is expected that the measures contained in the current Renters Reform Bill, expected to receive Royal Assent over summer 2025, will require much more use of this facility.
- 2.5 The existing policy was adopted at the Committee's meeting of 23 January 2018 and it is proposed that the policy set out in appendix 1 replace this original version.
- 2.6 The new proposed policy is based on a standardised model, in use at an increasing number of local housing authorities and which has been drawn up using the very latest case law precedents. It is very robust, tested and resistant to challenge.
- 2.7 Whether a civil sanction is used in preference to any other disposal route is a function of the adopted enforcement policy and legal provisions on a case by case basis.
- 2.8 Appeals to decisions made through the operation of this policy are set out in statute and involve two possible stages.
  - 2.8.1 an initial proposal ("notice of intent"), to impose a sanction to which the recipient is invited to make written representations.
  - 2.8.2 A formal appeal to the First Tier Tribunal (FTT) in the event the recipient appeals the final notice.
- 2.9 In the event of non payment, the debt is recoverable via the normal county court procedure.

### **3 Risk Assessment**

Legal or other duties

- 3.1 Equality Impact Assessment

# Community and Wellbeing Committee

## 8 July 2025

3.1.1 These proposals will help improve the housing conditions and the life chances of people with protected characteristics including those living with various vulnerabilities. It is therefore possible to say there will be a positive impact on protected characteristics.

### 3.2 Crime & Disorder

3.2.1 Most landlords within the Borough are law abiding and keen to do the right thing. However we know there are a small number of criminal landlords operating in the area and vulnerabilities amongst those who are housed, for example, in multiply occupied dwellings.

### 3.3 Safeguarding

3.3.1 No direct impact arising directly from this report. However it is important to note that officers do encounter safeguarding issues within privately rented accommodation and are trained to recognise individuals who require safeguarding.

### 3.4 Dependencies

3.4.1 None.

## 4 Financial Implications

4.1 It is not appropriate to attach an income target to this area of work since income is not predictable. However, the increased use of civil sanctions enabled by this policy will lead to a growth in income in this service.

4.2 **Section 151 Officer's comments:** Income from any civil penalties may be retained, provided it is used to fund activities related to the enforcement of housing standards in the private rented sector.

## 5 Legal Implications

5.1 The enforcement policy sets out the council's approach to ensuring that acceptable housing standards are reached and by further enabling, where necessary, robust action against rogue landlords.

5.2 The Housing Act 2004 is the principal legislation regulating housing standards with the Housing and Planning Act 2016 adding the facility for civil sanctions. The Renters Rights Bill will also place a duty on Local Authorities to take enforcement action in relation to certain offences.

5.3 Any recommendation to prosecute a landlord would need approval from the Head of Legal Services and Monitoring Officer.

5.4 The Environmental Health Team are trained in working within legal frameworks. Enforcement action is guided by the existing enforcement policy which contains the principles of proportionality, accountability, consistency and transparency.

# Community and Wellbeing Committee

## 8 July 2025

5.5 **Legal Officer's comments:** None save as stated above

### 6 Policies, Plans & Partnerships

6.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- Safe and well

6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.

6.3 **Climate & Environmental Impact of recommendations:** None

6.4 **Sustainability Policy & Community Safety Implications:** None

6.5 **Partnerships:** None

6.6 **Local Government Reorganisation Implications:** The policy applies to Epsom & Ewell Borough Council only and it will be the responsibility of any successor authority to adopt a similar or differing policy as it sees fit. It is useful to note that as a model policy, it is already in use at a number of other authorities including some in the likely future geography covering the present Epsom & Ewell area.

### 7 Background papers

7.1 The documents referred to in compiling this report are as follows:

**Previous reports:**

- Community and Wellbeing Committee, 23 January 2018 – Civil Penalties under the Housing and Planning Act 2016 for Private Sector Housing Enforcement

**Other papers:**

- None