

## **CABINET**

<b>DATE</b>	19/01/2022
<b>REPORT OF</b>	Councillor Ron Shepherd - Portfolio Holder for Safer and Stronger Communities
<b>RESPONSIBLE OFFICER</b>	Sharon Wroot Executive Director Environment, Economy and Resources
<b>SUBJECT</b>	NELC Lettings Legislation Penalty Notice Policy
<b>STATUS</b>	Open
<b>FORWARD PLAN REF NO.</b>	CB 01/22/04

### **CONTRIBUTION TO OUR AIMS**

The adoption of a policy for financial penalties for breaches and/or offences under the Tenants Fees Act 2019 and other relevant letting agency legislation will make a significant contribution to the Council's strategic objective of a 'Stronger Economy'. It will do so by supporting the Council's approach to improving the management of the Borough's private rented housing stock and enhancing the operation of the private rented sector.

The programme will also make a significant contribution to the Council's 'Stronger Community' objective ensuring tenants are dealt with fairly and that the money they pay in deposits is protected across the private rented sector, thereby improving their health and wellbeing.

Providing healthy and safer homes will enable residents to enjoy improved health and wellbeing and feel more safe and secure in their homes.

### **EXECUTIVE SUMMARY**

This report seeks adoption of the proposed policy so that the Trading Standards team within North East Lincolnshire Council can begin to enforce these pieces of legislation.

This policy would enable the service to use financial penalties, as an alternative to prosecution, under the relevant letting agency legislation. The policy covers prohibited payments, failure to publish fees, failure to be a member of a redress scheme and failure to be a member of a client money protection scheme.

### **RECOMMENDATIONS**

It is recommended that Cabinet:

1. Approves the adoption of the Lettings Legislation Penalty Notice policy as set out in appendix A.
2. Delegates authority to the Executive Director Environment Economy and Resources, in consultation with the Portfolio Holder for Safer and Stronger Communities, to take all actions reasonably necessary to implement, administer

and ensure enforcement of such policy, where necessary.

## **REASONS FOR DECISION**

This policy mirrors the policy developed by the National Trading Standards Estate and Letting Agency Team (NTSELAT) who are the national lead authority for this work and have given permission for other local authorities to adopt their policy to provide national consistency.

If we did not adopt this policy then we would not have anything in place to enable us to enforce the penalty notices contained within the pieces of legislation.

The other alternative would be to create our own policy but as this is a national piece of legislation it seems only appropriate that we adopt a policy that has been provided for all local authorities to use.

### **1. BACKGROUND AND ISSUES**

1.1. Within North East Lincolnshire (NEL) it is estimated that there are currently 17,000 dwellings, which equates to 23% of all housing stock in NEL, in the private rented sector. The last official 2011 census statistics stated 12,627 dwellings, 18% of all housing stock in NEL. This demonstrates a rise in the number of local residents renting properties.

1.2. Any tenants renting property should be protected by the legislation which this policy is hoping to enact within NEL. Any landlords / letting agents should be complying with the legislation to ensure that all tenants are being treated fairly and their money is being protected (where relevant).

### **2. RISKS AND OPPORTUNITIES**

2.1. The hope in implementing this policy is to ensure the required information is provided by letting agents and that they are members of the relevant schemes to ensure that tenants are treated fairly.

2.2. The penalties if we adopt this policy are all financial, it could therefore be seen by some as a money making scheme. To ensure this is not the case the Enforcement Concordat will be followed (working through the scale from advice up to penalties if compliance is not achieved). If a penalty notice is issued this will be justified using the matrix contained within the policy.

### **3. OTHER OPTIONS CONSIDERED**

3.1. For certain elements covered by the policy the Trading Standards Service could instead prosecute under the Consumer Protection from Unfair Trading Regulations 2014, however this would relate to claims that agents are members of a redress scheme, not that they are not members of the scheme.

3.2. Not adopting the scheme and therefore not having the provisions in place to enforce these pieces of legislation.

#### **4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS**

There are potential negative / positive considerations for accepting this policy. An action plan will be agreed with the Communications team to ensure that businesses are advised of their obligations, (in accordance with the Enforcement Concordat), before any enforcement is carried out. A financial penalty will be the ultimate sanction if compliance cannot be achieved by advising businesses of their obligations.

#### **5. FINANCIAL CONSIDERATIONS**

The enforcement of this policy will be included in the Trading Standards teams daily work so there are no additional costs involved.

#### **6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

Not applicable.

#### **7. CONSULTATION WITH SCRUTINY**

There has been no consultation with Scrutiny to date.

#### **8. FINANCIAL IMPLICATIONS**

8.1 As outlined in section 5, the administration of this policy will be managed from within existing resources.

8.2 There may be some income generated but this is not anticipated to be significant and this will be monitored on an ongoing basis.

#### **9. LEGAL IMPLICATIONS**

9.1 Adoption of the above policy will position the Council to better enable it to meet its obligations as Enforcement Authority under the Tenants Fees Act 2019.

9.2 The delegations sought are appropriate. Ultimately the Portfolio Holder has constitutional authority to approve any future modifications to a policy touching upon the services within the Portfolio Holders defined remit, even those having a borough wide application.

#### **10. HUMAN RESOURCES IMPLICATIONS**

There are no direct HR implications contained within this report

#### **11. WARD IMPLICATIONS**

All wards in the borough will be affected.

#### **12. BACKGROUND PAPERS**

None.

#### **13. CONTACT OFFICER(S)**

Charlotte McMullen, Trading Standards Officer, 324808.  
Brian Rides, Principal Trading Standards Officer, 324812.

**COUNCILLOR RON SHEPHERD**  
**PORTFOLIO HOLDER FOR SAFER AND STRONGER COMMUNITIES**