

TITLE OF REPORT: **Enforcement and Penalty Policy in relation to the relevant letting agency legislation**

REPORT OF: **Anneliese Hutchinson, Interim Strategic Director Economy, Innovation and Growth**

Purpose of the Report

1. To ask Cabinet to consider and recommend the approval by Council of a new proposed policy for the purpose of enabling services to issue financial penalties for breaches of legislation relating to letting agents and landlords.

Background

2. The private rented sector has undergone rapid growth in recent years, and as part of this growth regulatory action must increase to ensure a fair and transparent market.
3. Where breaches of the relevant legislation occur within the Borough, the Council may issue financial penalties. This legislation includes-
 - The Tenant Fees Act 2019 (With regard to the charging of permitted fees only)
 - Chapter 3, Part 3 of the Consumer Rights Act 2015 (with regard to the display of fees)
 - The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 (with regard to the requirement to be part of a redress scheme)
 - The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 (With regard to the requirement to belong to and display membership of a money protection scheme)
4. These penalties are sanctions made available to local authorities under the above legislation, and the Council is required to have a policy in place to ensure consistency in approach.
5. Enforcement authorities are expected to develop and document their own policy on when to prosecute and when to issue a financial penalty. Decisions must be made in line with that policy. This policy is therefore essential in allowing effective enforcement action under the legislation. It is a significant

addition to the range of tools at the Council's disposal as a means of achieving business compliance.

6. The proposed policy contains a process to determine the level of intervention that is appropriate (informal action, financial penalty or criminal investigation, depending on the severity of the non-compliance); and where a financial penalty is deemed appropriate, the level of penalty to impose.

Proposal

7. It is proposed that the policy set out at Appendix 2 to this report is approved by Gateshead Council, and that it implements this policy to allow effective enforcement action to be taken. It would significantly enhance the enforcement provisions currently used in relation to non-compliance in the private rented sector.

Recommendations

8. Cabinet is asked to recommend that Council approve the proposed policy set out at Appendix 2, and the use of it by the appropriate services, such as Trading Standards and Private Sector Housing

For the following reason :

to enhance the enforcement of non-compliance with relevant lettings legislation.

APPENDIX 1

Policy Context

1. The policy proposed reflects the approach recommended by the National Trading Standards Estate and Letting Agents Team and has been successfully implemented across England by other Local Authorities.

Background

2. This policy was first developed by Bristol City Council and has been amended for implementation within Gateshead Council. Compliance in the letting sector is a priority for Trading Standards at a national level. This policy advocates the use of financial penalties to bring about this compliance as an alternative to historical prosecution activity.

Consultation

3. This policy has been discussed nationally within Trading Standards and has also been referred to the Gateshead Council's Housing portfolio holders and the Council's Legal & Democratic Services. Consultation has also been conducted with Northumbria University, The Citizens Advice Bureau and a housing social enterprise named '2way Tenancy' which supports local tenants.

Alternative Options

4. The alternatives to the recommended action would be either to undertake investigations into non-compliance and refer matters to criminal courts, or alternatively to take a light touch approach to compliance matters and provide guidance and assistance only. The adoption of the policy would however enable the Council to impose effective penalties where appropriate in a timely and cost-efficient manner.

Implications of Recommended Option

5. Resources:

- a) **Financial Implications** – The Strategic Director, Resources and Digital confirms that there are no financial implications arising from this report. The small element of income generation will not be consistent as the intention of the policy is to bring about compliance.
- b) **Human Resources Implications** – If certain matters are dealt with by financial penalty this will be an expedient way of taking enforcement action and will enable officers to spend their time on other matters. It will also enable intelligence led enforcement which concentrates on the non-conforming parties in the sector.

- c) **Property Implications** - It is intended that this policy will increase compliance in the property sector and in turn increase consumer empowerment regarding their rights in property-based contracts and the payments they make.
6. **Risk Management Implication** - There are no additional risk management
 7. implications arising from this report
 8. **Equality and Diversity Implications** - The work outlined in this report helps protect vulnerable members of the community by ensuring rogue traders are brought to task.
 9. **Crime and Disorder Implications** – The adoption of the policy will have a positive effect in relation to the regulation of compliance in the lettings sector
 10. **Health Implications** – Increased compliance should lead to tenants recovering payments which they would have otherwise lost. Financial constraints have a detrimental effect on the health and wellbeing of residents in the area and this policy should help negate this to a degree.
 11. **Climate Emergency and Sustainability Implications** - There are no climate emergency and sustainability implications arising from this report.
 12. **Human Rights Implications** - The adoption of the policy will have a positive effect in relation to the regulation of compliance in the lettings sector
 13. **Ward Implications** – The adoption of the policy will have a positive impact on Wards with high levels of rented accommodation
 14. **Background Information:**

The following documents have been considered in preparation of this report-

The draft enforcement and penalty policy in relation to the relevant letting agency legislation

Making Gateshead Thrive- Corporate Plan 2023-28

National Trading Standards business plan 2024-25