

Chichester District Council

CABINET

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The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – Civil Penalty Policy

1. Contacts

Report Author:

Liz Reed – Housing Standards and Delivery Manager
Telephone: 01243 534816 E-mail: lreed@chichester.gov.uk

Cabinet Member:

Alan Sutton - Cabinet Member for Housing, Communications, Licensing and Events
Telephone: 07951 312020 E-mail: asutton@chichester.gov.uk

2. Recommendation

- 2.1 That Cabinet approves The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – Civil Penalty Policy**
- 2.2 That Cabinet delegates the enforcement powers and ability to issue civil penalties in relation to the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 to the Director of Housing and Communities.**
- 2.3 That the monies received through the issuing of fines are used to meet the cost and expenses incurred in, or associated with, carrying out any such enforcement work.**

3. Background

- 3.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 established minimum standards for domestic privately rented property. In order to ensure compliance councils are provided with the power to issue financial penalties to landlords who fail to ensure their property meets the required standard.**
- 3.2 From the 1st April 2018, additional legislation was introduced preventing landlords of relevant domestic private rented properties from being able to issue a tenancy to a new or existing tenant if their property had an Energy Performance Certificate (EPC) rating below 'E' ('A' rating is the most efficient, and 'G' is the least efficient). Furthermore, from 1st April 2020, landlords were prohibited from continuing to let such a property.**

- 3.3 Landlords wishing to continue let a property with a sub-standard EPC rating must carry out energy efficiency improvements to achieve the minimum EPC rating required unless the landlord registers a valid exemption.
- 3.4 In September 2021, Chichester and Arun District Councils, were successful in applying for government funding to undertake a joint project focussed on identifying non-compliant properties and enforcement of the regulations.
- 3.5 As part of this dedicated work the project team have been legally advised to develop a specific policy for the issuing of civil penalty in accordance with the regulations to ensure effective enforcement is undertaken in a fair, consistent, and transparent way.
- 3.6 The policy will be added to the Housing Standards Financial Assistance and Enforcement Policy 2021-26 as a further appendix.

4. Outcomes to be Achieved

- 4.1 Landlords with property that fails to meet the minimum required standard will be contacted by council officers in the first instance and reminded of the requirements of the regulations. Landlords will be given the opportunity to engage with officers and put forward proposals for ensuring their property reaches compliance within a reasonable timescale.
- 4.2 On adoption of this policy, officers will have the tools available to robustly enforce the regulations when landlords fail to engage or take the necessary steps to sufficiently improve their property. The policy will allow the issuing of civil penalties with all monies received being used to cover enforcement costs.

5. Proposal

- 5.1 Introduce the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – Civil Penalty Policy to transparently show how the level of fine will be determined, taking account of aggravating and mitigating factors.

6. Alternatives Considered

- 6.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 place a statutory duty on the District Council, therefore there are no alternatives in this instance.

7. Resource and Legal Implications

- 7.1 Following a successful grant funding application, £76,000 was received by Arun District Council to fund a dedicated team, covering both Arun and Chichester Districts, to undertake a 6-month project to identify non-compliant properties, undertake investigatory work and take enforcement action where necessary.
- 7.2 Fixed penalty notices will be issued if landlords fail to comply with compliance notices. The level of fine will be determined in accordance with the policy and fine matrix, taking account of aggravating factors and mitigating. There may be the need to consult Legal Services on occasion.

- 7.3 On conclusion of the dedicated project, the level of work and staffing resources required will be analysed to determine future resourcing requirements. This will be regularly monitored going forward.

8. Consultation

- 8.1 Consultation is not relevant in this instance as this is a statutory function, which the Council has a duty to undertake.

9. Community Impact and Corporate Risks

- 9.1 The Council may be open to challenge if it fails to regulate landlords as required by the Regulations.

10. Other Implications

	Yes	No
Crime and Disorder		√
Climate Change and Biodiversity Enforcement of the regulations will contribute to the overall improvement of the energy efficiency of the private rented stock, thereby reducing energy demands in line with the climate change agenda.	√	
Human Rights and Equality Impact		√
Safeguarding and Early Help		√
General Data Protection Regulations (GDPR)		√
Health and Wellbeing The work undertaken will improve the energy efficiency of residential accommodation thereby decreasing energy costs and improving the thermal comfort. A warm, efficient home will have a positive impact on health and wellbeing.	√	
Other (please specify)		

11. Appendices

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – Civil Penalty Policy