



Borough of Telford and Wrekin

Cabinet

16 February 2023

Enforcement Policy relating to Letting Agencies

Cabinet Member:	Cllr Richard Overton - Deputy Leader and Cabinet Member: Housing, Enforcement and Transport
Lead Director:	Dean Sargeant - Director: Neighbourhood & Enforcement Services
Service Area:	Neighbourhood & Enforcement Services
Report Author:	Anita Hunt - Public Protection: Group Manager
Officer Contact Details:	Tel: 01952 380733 Email: anita.hunt@telford.gov.uk
Wards Affected:	All Wards
Key Decision:	Not Key Decision
Forward Plan:	Not Applicable
Report considered by:	SMT – 17 January 2023 Business Briefing – 26 January 2023 Cabinet – 16 February 2023

1.0 Recommendations for decision:

It is recommended that Cabinet:

- 1.1 Approve the Enforcement Policy relating to Letting Agencies (appendix A) which outlines the Council's approach to enforcement and determination of financial penalties where non-compliance occurs.
- 1.2 Delegate authority to the Director for Neighbourhood & Enforcement Services in consultation with the Cabinet Member for Housing, Enforcement and Transport to undertake and publish future amendments to the Enforcement Policy relating to Letting Agencies and associated financial penalties.

2.0 Purpose of Report

- 2.1 The purpose of this report is to approve the Enforcement Policy relating to Letting Agencies which outlines the Council's approach to enforcement of letting agencies and the determination of financial penalties where non-compliance occurs.
- 2.2 The report also seeks to delegate powers to the Director for Neighbourhood & Enforcement Services in consultation with the Cabinet Member for Housing, Enforcement and Transport, to undertake and publish amendments to the policy and financial penalties as maybe required.

3.0 Background

- 3.1 Telford & Wrekin Council is on the side of residents. The Council is committed to regulating the letting agency and property management market to ensure that:
- tenants are only charged permitted fees;
 - that letting agents, where necessary, are members of a compensation and client money protection scheme;
 - that letting agents' fees and charges are transparent, displayed and publicised appropriately;
- 3.2 The lettings agency legislation enables the Council, via the Trading Standards team, to issue financial penalties for breaches of consumer protection legislation as outlined above. The Policy sets out how the Council will enforce the legislation and determination of the financial penalty where non-compliance occurs.
- 3.3 The Department for Levelling Up, Housing and Communities (DLHUC) has published guidance for local authorities when considering to impose a financial penalty. This guidance recommends certain factors that an enforcement authority should take into account when deciding on the level of financial penalty to impose and further recommends that enforcement authorities develop and document their own policy on determining the appropriate level of financial penalty in a particular case.
- 3.4 Where there is evidence of non-compliance the Council can, in certain circumstances, consider issuing a financial penalty as an alternative to prosecution. The level of the financial penalty varies however, it can be up to £30,000. As a council that is on the side of residents, and in addition to existing housing enforcement powers, approval of this new policy will provide additional enforcement powers to the council in ensuring tenants are supported as much as possible.
- 3.5 In delivering the Council's commitment to providing Better Homes For All, both the Trading Standards and Private Sector Housing teams continue to work in partnership and utilise the recently appointed Landlord and Tenant Co-ordinator. This collaboration support both tenants and landlords while ensuring a consistent approach to housing enforcement.

3.6 This policy further supports the Council's £2.5m investment as part of the Building Safer and Stronger Communities programme by ensuring rented housing is of a good standard and tenants/landlords feel supported.

4.0 Summary of main proposals

4.1 Cabinet to approve adoption of the Council's Enforcement Policy and financial penalties in relation to relevant letting agency legislation, to enable the Council to regulate the letting agency and property management businesses and protect tenants in the borough.

5.0 Alternative Options

5.1 The Council could chose to not adopt this policy. However, failure to adopt a policy may limit the ability of the Council to protect tenants which could increase the likelihood of legal challenge. A policy will assist the Council to mitigate risks.

6.0 Key Risks

6.1 Failure to adopt a policy may limit the Council's ability to protect tenants from unscrupulous letting agents and property management businesses.

6.2 Having no policy in place may increase the likelihood of a legal challenge which could include an appeal at a First-Tier Tribunal.

7.0 Council Priorities

7.1 This policy supports the following priorities:

- Every child, young person and adult lives well in their community;
- Everyone benefits from a thriving economy;
- All neighbourhoods are a great place to live:

8.0 Financial Implications

8.1 Proceeds of any financial penalty imposed can be retained by the Council to recover the costs incurred in, or associated with, carrying out any of its enforcement functions associated with this legislation.

8.2 The cost of appeals against any civil penalties that are issued would need to be met from within existing budgets with the proceeds from any financial penalty recovering associated costs.

9.0 Legal and HR Implications

9.1 The preparation and publishing of the Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements ('the Policy') is not in itself a legal requirement; however, the statutory guidance published by The Department for Levelling Up, Housing and Communities (DLHUC) makes it clear that the Council must have due regard to

this guidance when considering enforcement action and whether to impose a financial penalty.

- 9.2 The statutory guidance recommends certain factors that the Council should take into account when deciding on the level of financial penalty to impose and further requires that the Council develops, documents and publishes a policy on how it will determine the appropriate level of any financial penalty. The Council should also decide each matter on a case-by-case basis, in line with that policy.
- 9.3 Adopting and publishing the policy as outlined in Appendix A provides a framework which will help the Council to make reasonable decisions and mitigate the reputational and financial risks that may result from any legal challenge.
- 9.4 The proposals contained in this report can be delivered using existing resources.

10.0 Ward Implications

- 10.1 This report covers the whole Borough with all wards being affected.

11.0 Health, Social and Economic Implications

- 11.1 Alongside existing housing enforcement powers, enforcement and compliance monitoring as set out in this policy will have a positive impact on tenants providing them with financial certainty when renting property within the borough. This approach will disrupt challenging letting agents and landlords from engaging in detrimental practices that impact on resident's health and wellbeing.
- 11.2 Legitimate businesses engaging in letting agency will be supported providing opportunity for natural growth and enhanced reputation.

12.0 Equality and Diversity Implications

- 12.1 The widened enforcement tools will continue to have a positive impact relevant to all protected characteristic groups. Awareness and enforcement of the legislation will reduce opportunities for letting agents to discriminate against residents/tenants, through:
- ensuring tenants are only charged permitted fees;
 - that letting agents, where necessary, are members of a compensation and client money protection scheme;
 - that letting agents' fees and charges are transparent, displayed and publicised appropriately;
- 12.2 Therefore, the adoption of the policy will be in support of residents currently disproportionately affected by poor trading practice in the lettings market.

13.0 Climate Change and Environmental Implications

- 13.1 The policy supports the wider housing enforcement and the Better Homes for All agenda.

14.0 Background Papers

None

15.0 Appendices

A Enforcement Policy relating to Letting Agencies

16.0 Report Sign Off

Signed off by	Date sent	Date signed off	Initials
Legal	23/12/2022	12/01/2023	SH
Director	03/01/2023	12/01/2023	DRS
Finance	03/01/2023	12/01/2023	PT