

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO HEALTH & HOUSING COMMITTEE

Agenda Item No. 15

meeting date: THURSDAY, 18 JANUARY 2018
 title: TACKLING ROGUE LANDLORDS
 submitted by: MARSHAL SCOTT, CHIEF EXECUTIVE
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1 PURPOSE

- 1.1 To make Members aware of new civil penalties that have been introduced under the Housing and Planning Act 2016 and suggest how we deal with these.
- 1.2 To ensure that the new powers are used to tackle the problem of rogue landlords.
- 1.3 Relevance to the Council's ambitions and priorities:
- Community Objectives - }
 - Corporate Priorities - }
 - Other Considerations - }
- Consideration of these issues will promote the Council's aim to be a well-managed Council.

2 BACKGROUND

Civil penalties under the Housing and Planning Act 2016

- 2.1 The Housing and Planning Act 2016 introduced a number of measures to crack down on rogue landlords:
- Civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences (came into force 6th April 2017)
 - Extension of rent repayment orders to cover illegal eviction, breach of a banning order and certain other specified offences (came into force 6th April 2017)
 - Database of rogue landlords and property agents convicted of certain offences (scheduled to come into force on 1st October 2017)
 - Banning orders for the most serious and prolific offenders (scheduled to come into force on 1st October 2017)
- 2.2 Local housing authorities will be able to impose a civil penalty (i.e. a fine) as an alternative to prosecution for the following offences under the Housing Act 2004:
- Failure to comply with an Improvement Notice.
 - Offences in relation to licensing of Houses in Multiple Occupation (HMOs).
 - Offences in relation to licensing of houses under Part 3 of the Act (ie selective licensing).
 - Failure to comply with management regulations in respect of HMOs.
- 2.3 The maximum penalty is £30,000 but the amount of penalty is to be determined by the local housing authority. They should develop and document their own policy

setting out the appropriate level of civil penalty in a particular case. The local authority will need to take a number of factors into account when deciding on the penalty:

- Severity of the offence.
- Culpability and track record of the offender.
- The harm caused to the tenant.
- Punishment of the offender.
- Deter the offender from repeating the offence.
- Deter others from committing similar offences.
- Remove any financial benefit the offender may have obtained as a result of committing the offence.

3 ISSUES

3.1 Local housing authorities are expected to develop and document their own policy on when to prosecute and when to issue a civil penalty. There is then a set procedure that they must follow, as set out in Schedule 13A of the Housing Act 2004, to impose a civil penalty. A landlord /agent has the right of appeal to a First-tier Tribunal. The First-tier Tribunal has the power to confirm, vary (increase or reduce) the size of the civil penalty or to cancel it.

3.2 The Government has also consulted on changes to the licensing requirements for HMO properties. One of the most significant changes is that currently only HMOs of at least three storeys in height are covered by mandatory licensing. Under the proposed changes mandatory licensing will apply to all HMOs with five occupants or more from two different households irrespective of how many storeys are in the property. The HMO Regulations will also extend mandatory licensing to flats above and below business premises. This will result in many of our unlicensed HMO's falling within the licensing regime. It is expected that the new regulations will be enacted in 2017. This may increase the workload of staff in the Environmental Health Team. At this stage the numbers of properties that will fall under the new legislation are unknown. We currently charge £750 for an HMO licence for up to 10 lets and any lets over 10 are charged at £50 per let. This may need to be reviewed when it is clear what additional requirements there may be as the licence fee is set on the basis of cost recovery.

Existing Staffing Resources

3.3 The Environmental Health Team deal with housing conditions, management and licensing within the private rented sector. A number of the landlords and managing agents operating in the Borough do not meet the standards that are required of them by legislation. With current staffing resources we can only provide a reactive service that deals with complaints.

Suggested Way Forward

3.4 The new legislation under the Housing and Planning Act 2016 provides Local Housing Authorities with a range of new powers to tackle the problems of rogue landlords, but further work is needed to develop a local policy. As a number of landlords and managing agents operate across Pennine Lancashire it makes sense to try and work with the other local authorities to see if a consistent policy approach can be developed.

3.5 In order to properly implement the new legislation that has been enacted, or is expected to be enacted later in the year, additional staffing resources may be needed in the Environmental Health Team. As local authorities will be able to retain any civil penalties then this would offset some, or all, of the additional costs. However, it is not clear at this stage if the threat of a large civil penalty will act as a sufficient deterrent to ensure that Improvement Notices are complied with.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – None.
- Technical, Environmental and Legal - The Housing and Planning Act 2016 sets the legal framework for the imposition of civil penalties for offences under the Housing Act 2004.
- Political – None.
- Reputation – None.
- Equality & Diversity – No implications identified.

5 **CONCLUSION**

5.1 That Committee note the new civil penalties that have been introduced under the Housing and Planning Act 2016.

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CHIEF EXECUTIVE

BACKGROUND PAPERS

Civil penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities

<https://www.gov.uk/government/publications/civil-penalties-under-the-housing-and-planning-act-2016>

For further information please ask for Heather Barton, extension 4466.

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