

# STROUD DISTRICT COUNCIL

## HOUSING COMMITTEE

TUESDAY, 5 APRIL 2022

<b>Report Title</b>	<b>Revised Civil and Financial Penalties Policies</b>			
<b>Purpose of Report</b>	To update the Council's policies in relation to the issuing of civil and financial penalties with regard to certain offences in the private housing sector.			
<b>Decision(s)</b>	<p><b>The Committee RESOLVES to:</b></p> <p>a) <b>Adopt the revised Policy on the Implementation of Financial Penalties for Certain Housing Offences Attached in Appendix 1; and</b></p> <p>b) <b>Adopt the Electrical Safety Standards Policy attached in Appendix 2;</b></p> <p>c) <b>Adopt the Redress Schemes for Lettings Agency Work and Property Management Work Policy Attached in Appendix 3; and</b></p> <p>d) <b>Adopt the revised Smoke and Carbon Monoxide Alarm (England) Regulations 2015 Policy attached at Appendix 4</b></p>			
<b>Consultation and Feedback</b>	None			
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<b>Options</b>	If SDC does not have an up to date policy in place then civil and financial penalties cannot be applied.			
<b>Background Papers</b>	None			
<b>Appendices</b>	<p>Appendix 1 – Policy on the Implementation of Financial Penalties for Certain Housing Offences</p> <p>Appendix 2 – Electrical Safety Standards Policy</p> <p>Appendix 3 – Redress Schemes for Lettings Agency Work and Property Management Work Policy</p> <p>Appendix 4 – Policy and Statement of Principles for Determining Financial Penalties the Smoke and Carbon Monoxide Alarm (England) Regulations 2015</p>			
<b>Implications (further details at the end of the report)</b>	Financial	Legal	Equality	Environmental
	No	Yes	No	No

### 1. BACKGROUND

- 1.1 In 2018 the Council adopted a Gloucestershire wide policy to implement new powers introduced under the Housing & Planning Act 2016 to allow financial penalties to be issued to landlords and letting and managing agents where there is a breach of duty under the relevant legislation. Known as Penalty Charges, a single breach could attract a financial penalty of up to £30,000 depending on the particular circumstances.

- 1.2 In 2014 the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order was introduced. The Order made it a legal requirement for all lettings and property managers in England to belong to a government redress Scheme. Failure to comply with the requirement to belong to a Government approved redress scheme can attract a financial penalty of up to £5,000 which is issued by the relevant Local Authority.
- 1.3 In 2018 the Council adopted a policy and statement of principles for determining financial penalties against landlords and letting agents under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015. The regulations required private sector landlords to ensure that their properties contain a smoke alarm on each floor of the building and a carbon monoxide alarm where there is solid fuel heating. Where a landlord is in breach of these regulations the Council can issue a financial penalty of up to £5,000.

## **2. MAIN POINTS**

- 2.1 It has been some time since these financial penalty policies have been updated and several changes have occurred which now need to be incorporated.
- 2.2 Additional powers were introduced within the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. The Regulations set out a number of duties for private landlords in relation to electrical installations in rented properties and imposes duties on both the Local Authority and landlord with regards to remedial notices. When a Local Authority is satisfied that a private landlord has breached one of the duties set out in the regulation, a financial penalty can be applied.
- 2.3 The maximum financial penalty that can be applied is £30,000.
- 2.4 Therefore, in order for the Council to be able to apply electrical safety standard financial penalties the current Financial Penalties policy must be amended to include these regulations. Appendix 1 attached to this report is a recommended revised version of the civil penalties policy with the changes highlighted in yellow.
- 2.5 Since the introduction of the civil penalties policy best practice now recommends the offer of a discount to encourage prompt payment of penalties. Paragraph 39 of the policy in Appendix 1 highlighted in yellow introduces such a discount scheme.
- 2.6 Appendix 2 is a policy recommended for adoption outlining the procedure the Council will follow when enforcing the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
- 2.7 The Council has not adopted a policy with regard to the Redress Schemes for Lettings Agency Work and Property Management Work (..) (England) Order 2014 as this is a duty for Trading Standards Officers to enforce but only a power for Environmental Health Officers. In reviewing the current financial penalties policy consideration has been given to incorporating this into the financial penalties policy. It is particularly timely as Nationally Trading Standards are offering to share intelligence with Local Authorities to improve detection of unregistered agencies.
- 2.8 Appendix 3 is a policy recommended for adoption with regard to the implementation of the Redress Schemes Order and the application of financial penalties.
- 2.9 As part of this review of financial penalties, the policy and statement of principles with regard to implementation of financial penalties under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 has also been reviewed.

- 2.10 When the regulations and policy were first introduced generous discounts of 50% were offered for prompt payment of fines. Given the length of time that this requirement has now been in place, all landlords should now be aware of the requirement for this essential safety equipment. Given that failure to comply could lead to the death of the occupying tenants, it is recommended that such generous discounts are reduced.
- 2.11 A 20% discount is still recommended for a first offence to encourage prompt payment. Appendix 4 contains the Smoke and Carbon Monoxide Regulations policy with these recommended changes highlighted in yellow.
- 2.12 The Council will continue to support and encourage the private rented sector in the district, with advice, assistance and signposting to ensure improvements. We will consider each case on its merits in line with our enforcement policy, the regulators compliance code and the evidence available, so as to take the appropriate enforcement action be it informal, financial penalty, simple caution or prosecution.
- 2.13 This informal approach does mean that to date no financial penalties have been issued under the current policies. However, having these updated policies in place will enable the Council to take the more punitive action of financial penalties where other options have failed.

### **3. CONCLUSION**

- 3.1 The Council will continue to work to support the private rented sector but where appropriate the adoption of these policies will enable financial penalties to be applied in accordance with our enforcement policy and the evidence available.

### **4. IMPLICATIONS**

#### **4.1 Financial Implications**

There are no significant financial implication arising directly from this report.

Any penalty income imposed would only come to fruition if alternative avenues of assistance and compliance have failed.

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#### **4.2 Legal Implications**

The report above sets out details of significant implications in *Section 2*. Through the use of financial penalties, Local Authorities have been tasked with regulating the private rented sector and these penalties should be used as a means to do so.

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#### **4.3 Equality Implications**

There are not any specific changes to service delivery proposed within this decision.

#### **4.4 Environmental Implications**

There are no significant implications within this category.