

**CABINET**

Wednesday, 16 January 2019

**DELEGATION OF POWERS UNDER THE ENERGY EFFICIENCY (PRIVATE RENTED PROPERTY) (ENGLAND AND WALES) REGULATIONS 2015 (REP1952)****EXECUTIVE SUMMARY**

1. The Government has introduced Regulations to penalise landlords who rent out properties that are the worst performing in terms of energy efficiency.
2. This report outlines the content of the Regulations and seeks delegation to enforce these Regulations using compliance and penalty notices as described in the Regulations as part of a balanced enforcement vs educational approach.

Is the report Open or Exempt?	Open
<b>Wards Affected:</b>	All Wards in the District
<b>Cabinet Member:</b>	Councillor Chris Punt, Cabinet Member for Housing Councillor Norman Brooks, Assistant Cabinet Member for Housing
<b>Supporting Officer:</b>	Teresa Howarth Principal Environmental Health Officer 01394 444206 <a href="mailto:teresa.howarth@eastsoffolk.gov.uk">teresa.howarth@eastsoffolk.gov.uk</a>

## **1 INTRODUCTION**

- 1.1 The Government introduced the Energy Efficiency (Private Rented Property) (England and Wales) Regulations in 2015 (the Regulations). They established a minimum standard of energy efficiency for domestic properties to be suitable for letting and are designed to address the least energy-efficient properties– those rated F or G on their Energy Performance Certificate (EPC). The regulations apply to new tenancies from 1 April 2018 and all existing tenancies from 1 April 2020.
- 1.2 The Private Rented Sector (PRS) has a disproportionate share of the UK's F & G rated homes and up to 45% of those living in properties with these ratings, are likely to be suffering from fuel-poverty. The installation of energy efficiency measures can help address this, by reducing heat losses and providing more affordable means of heating.
- 1.3 The Private Sector Housing Team work with many local landlords and achieve improvements in housing standards by balancing education and enforcement. These Regulations present an opportunity to tackle an issue that can have a significant effect on resident's health and the health system in a relatively simple and effective way. It is envisaged that the team would add these regulatory powers to the options considered when poor housing conditions are encountered.

## **2 TACKLING THE ISSUE LOCALLY**

- 2.1 In recent years there have been numerous opportunities for landlords to apply for funding to have energy efficiency measures installed in their properties. Suffolk has currently secured funding from National Grid's Affordable Warmth Scheme to deliver first time central heating systems to fuel poor households at no cost to the resident. Private tenants are able to apply, so landlords can have these improvements carried out at no or little cost to them. The scheme will run until 2021 and aims to deliver a total of 540 systems. Prior to this, Suffolk had funding from Central Government for a similar scheme delivering 214 across the County.
- 2.2 The Council has also, for many years, helped to promote free and discounted insulation schemes again available to landlords and private tenants. Take up has been patchy for this sector, as tenants who would benefit from reduced bills don't see it as their responsibility and there has been little incentive for landlords to invest in something that gives them no financial return.
- 2.3 It is estimated that in Waveney District Council (WDC) area there are in the region of 500 F&G rated properties that are privately rented.

## **3 EXEMPTIONS**

- 3.1 Landlords who cannot practically achieve an EPC rating of F or G can register an exemption on a web-based register. Examples of reasons for non-compliance include; that the property is a Listed Building and the necessary measures would not get consent, that the landlord has been unable to access no cost funding for the measure or been unable to get the necessary consent (from a freeholder for example).. In relation to the no-cost exemption the Government are proposing reform which will mean that the no-cost exemption will no longer be a no-cost exemption and instead will only apply if the required improvements will cost more than £2500.
- 3.2 There are currently 11 exemptions registered in WDC.

## **4 ENFORCING THE REGULATIONS**

- 4.1 There are two main areas of enforcement; (i) where properties are rented out with an inadequate energy rating and (ii) where false information has been used to register an exemption.
- 4.2 A Local Authority can serve a compliance notice requiring the recipient to provide information to enable the facts of the situation to be checked. Where the compliance notice is not adhered to or the information shows a breach of the regulations then a penalty notice can be issued.
- 4.3 The maximum financial penalties that can be levied are:
- £2000 where a substandard property has been unlawfully let for less than 3 months
  - £4000 if the let was more than 3 months
  - £2000 for failing to comply with a Compliance Notice
  - £1000 for registering a false exemption.

## **5 HOW DOES THIS RELATE TO EAST SUFFOLK BUSINESS PLAN?**

- 5.1 The proposal aligns with the Vision in the East Suffolk Business Plan of improving the quality of life for those living in the District. By improving housing to meet the needs of residents, the three pronged approach of working with communities to make their housing safer and more suitable for an ageing population is met. This proposal also helps deliver the aims of the Housing and Health Charter which include addressing fuel poverty.

## **6 FINANCIAL AND GOVERNANCE IMPLICATIONS**

- 6.1 The delegation for the issuing of Penalty Notices should rest with the Principal Environmental Health Officer (Housing) (PEHO). The issuing of Compliance Notices should be delegated to Private Sector Environmental Health Officers and Technical Officers as they inspect the properties and it would be impractical for the PEHO to issue the Compliance Notices
- 6.2 The penalties recovered from the service of Notices can be utilised towards the costs of these new procedures.

## **7 OTHER OPTIONS CONSIDERED**

- 7.1 Not enforcing the Regulations, is an option but this would preclude the authority from a relatively simple penalty procedure to provide redress for landlords who have failed to consider the consequences of tenants having to occupy cold and energy inefficient properties.

## 8 REASON FOR RECOMMENDATION

- 8.1 To enable the Authority to properly enforce the legislation to penalise landlords who unlawfully let properties that are substandard or apply for false exemptions as part of the holistic approach to improving housing conditions.

### RECOMMENDATIONS

1. That the authority to issue penalty notices in accordance with the Regulations be delegated to the Principal Environmental Health Officer (Housing).
2. That the authority to issue Compliance Notices in accordance with the Regulations be delegated to Private Sector Environmental Health Officers and Technical Officers.

**BACKGROUND PAPERS** (Please note that copies of background papers have not been published on the Council's website but copies of the background papers listed below are available for public inspection free of charge by contacting the relevant Council Department.

Date	Type	Available From
5/12/18	Guidance	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/749021/Domestic_Private_Rented_Landlord_Guidance_-_June_18.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/749021/Domestic_Private_Rented_Landlord_Guidance_-_June_18.pdf</a>