



EMPLOYMENT REGENERATION & HOUSING COMMITTEE

WEDNESDAY 12TH MARCH 2025

REPORT TITLE:	HOUSING STANDARDS ENFORCEMENT POLICY
REPORT OF:	DIRECTOR OF REGENERATION AND PLACE

REPORT SUMMARY

The purpose of this report is to seek approval of a revised Wirral Borough Council Housing Standards Enforcement Policy, as set out in Appendix 1 to this report. The Council's current overarching enforcement policy was approved by Policy and Resources Committee on 17th July 2024.

The policy provides guidance to Members, officers, property businesses, and the public, on:

- the Council's objectives;
- options available to achieve compliance; and
- criteria to be considered by the Council when deciding the appropriate response to a breach of housing standards.

The revised policy also provides the Council's Housing Standards service with a strategic delivery framework, which includes working with third parties, internal and external agencies, with the expectation of establishing enhanced procedures and resourcing to deliver the requirements of the Policy.

The Housing Standards Enforcement Policy has been drafted to be read alongside the Council's Corporate Enforcement Policy providing more technical detail. Additionally, it supports the Council Plan commitment in 'Working together to deliver people focused regeneration'.

The report affects all wards. This is a key decision.

RECOMMENDATION/S

Economy, Regeneration and Housing Committee is recommended to approve the Housing Standards Enforcement Policy and associated additional Civil Penalty, Rent Repayment and Banning Order policies as contained within appendix 1 of this report.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To ensure that the Council's Housing Standards service is fit for purpose, operates within a Policy framework which is effective and reflects legal and national policy and local requirements and/or local changes, alongside the commitments set out in the Council Plan.
- 1.2 To support operational delivery procedures and methods and enable effective, targeted, and proportionate enforcement action. This will include enhanced procedures in protecting tenants who may be experiencing unlawful activities by landlords and property managers and advising how the Council could assist in financial reparations by means of rent repayment orders from non-compliant landlords.
- 1.3 Having regard to the evolving legal and regulatory framework a refreshed policy will enable sound decision making in Housing Standards enforcement. This will strengthen the range of compliance and associated enforcement measures, ensuring that enforcement action is conducted in a transparent, proportionate and targeted manner.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Committee could choose not to approve the revised Housing Standards Enforcement Policy, however in that case there would not be a strengthened framework for operational service needs. The Council may be subject to greater challenge from landlords and agents and could fail in appeals hearings. This option has been discounted.

3.0 BACKGROUND

- 3.1 The latest version of the Council's Corporate Enforcement Policy was approved by the Policy and Resources Committee on 17 July 2024. The Policy provides a strategic framework and guidance on the range of options that are available to achieve compliance with legal requirements enforced by the following services including the following:
 - Building Control;
 - Community Patrols;
 - Waste and Environment;
 - Environmental Health & Trading Services;
 - Housing Standards;
 - Licensing;
 - Planning Enforcement;
 - Highways; and
 - Children's Services
- 3.2 A large proportion of landlords are responsible and law abiding in their responsibilities and obligations in providing good quality accommodation to their tenants. However, there are landlords who choose not to comply with the law and

whose tenants suffer unacceptable, and at times, life threatening conditions as a result. Their properties may not be licensed under mandatory or discretionary designations. This policy is not aimed at stifling business growth for responsible landlords and indeed, supports their growth when non-compliant landlords are removed from the industry through effective enforcement.

- 3.3 The death of Awaab Ishak in 2020, as a result of living in damp and mould conditions in social housing changed national guidance on health risks of damp and mould in rented properties. The guidance stated that tenants and their lifestyles, should not be to blame for the presence of damp and, mould in their property. The guidance led to national changes in how Councils investigated poor conditions in private sector housing and the non-compliance of landlords in improving housing conditions in their properties. New guidance has recommended that while these conditions would rarely be classed as serious (Category 1) hazard, and therefore the Council would not have a duty to take action, they should be enforced robustly.
- 3.4 The Government has taken measures in respect of rogue landlords including provisions of the Housing and Planning Act 2016 which help Councils deal more robustly with criminal, rogue and irresponsible landlords including :
- Introduction of civil penalties as an alternative to prosecution for certain offences;
 - Extension of rent repayment orders to cover illegal eviction, breach of a banning order, failure to comply with an improvement notice and certain other offences;
 - Introduction of a database of rogue landlords and property agents who have been convicted of certain offences or received multiple civil penalties; and
 - Introduction of banning orders for the most serious and prolific offenders
- 3.5 The Government has also provided Councils with the power to impose financial penalties on landlords and/or managing agents who:
- Undertake lettings agency / property management work, but fail to become a member of a Redress Scheme (an independent service for dealing with landlord/tenant disputes);
 - Fail to comply with a remedial notice requiring them to install appropriate smoke and/or carbon monoxide detection;
 - Fail to comply with the ban on tenants' fees and/or the rules affecting the holding of deposits;
 - Fail to belong to a client money protection scheme; and/or
 - Fail to undertake the necessary inspections and/or repairs in relation to the electrical system.
- 3.6 The Housing Standards Team has an excellent track record of working with landlords informally to resolve issues. The Team also has a solid foundation of formal enforcement activity. Since 2019 the Housing Standards Team has served upwards of 470 formal Notices and over 700 informal notices. Additionally, it was the first in the Liverpool City Region to obtain a banning order against a landlord. Further direction from central government through the proposed Renters Rights Bill is focused on Councils enforcing in a more robust manner.

3.7 The revised guidance on robust, targeted and effective enforcement would see a requirement for the Housing Standards team to deliver its services having regard to its the recommended policy. A Housing Standards Enforcement Policy that supports and strengthens the Corporate Enforcement Policy principles is now key. The Housing Standards Team is e constantly learning from case law and learn from other authorities and MHCLG pathfinders to strengthen its position. Practices are regularly reviewed to make the Councils position more robust including consideration of court action to ensure compliance. It is becoming more standard practice for Councils to have stand-alone Housing Standards policies to support their central Corporate Policies.

4.0 FINANCIAL IMPLICATIONS

4.1 The enforcement of serious hazards in the home is a statutory duty for the Housing Standards Team. The Council brings in a small income for notice charges and paid advice for landlords of approximately £10,000 a year. Fees and charges associated with enforcement action are reviewed and published annually as part of the council's corporate process which is reported annually and approved by Policy and Resources Committee.

4.2 The new civil penalty policy as contained within Appendix 1 of the Housing Standards Enforcement Policy will provide a clearer framework for the Council to effectively financially sanction non-compliant landlords. This provides for additional sanctions in electrical safety standards and in relation to Smoke and Carbon Monoxide alarm regulations. The revised policy will considerably strengthen the position of the Council at First Tier Tribunals, to whom landlords can appeal certain decisions, thus reducing the risk of financial determinations made against the Council.

5.0 LEGAL IMPLICATIONS

5.1 The Council is required by the Regulator's Code to publish an Enforcement Policy explaining how it responds to non-compliance in line with the principles set out in Section 21 of The Legislative and Regulatory Reform Act 2006 and Section 5 Housing Act 2004.

5.2 The Council is required by the Regulators' Code to publish an Enforcement Policy which details how the Council aims to respond to non-compliance to legislation. Section 21 of the Regulatory Reform Act 2006 identifies a code that requires the Council's compliance guidance and associated enforcement activities to be accountable and transparent, to ensure consistency, transparency and proportionality.

5.3 Section 5 of the Housing Act 2004 requires the Council to take enforcement action with regard to any category 1 hazard. The enforcement policy methodology ensures a fair, effective and justifiable approach to non-compliance.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The new Housing Standards Enforcement Policy provides services with a strategic framework to develop and establish operational working practices and resourcing to deliver the requirements of the Policy as part of service planning. This will also align provisions for staffing, required IT and assets. The introduction of this enforcement policy does not require any additional resources at this time.

7.0 RELEVANT RISKS

- 7.1 Failure to publish a fit for purpose, clear, evidence based and proportionate enforcement policy, could result in legal challenge if the reasons for such action could not be justified.
- 7.2 The clarification and emphasis that the Council will take robust, but proportionate enforcement action may generate criticism from landlords and agents. However, the Council is committed to improving housing conditions, and therefore effectively targeting and tackling non-compliant landlords and managing agents is an important factor of this commitment. The danger of not having a stand-alone policy and not revising would put the Council at greater risk of legal challenge and would not clearly articulate to landlords the Council's specific approach to enforcement of housing standards.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The Housing Standards Enforcement Policy has been informed by input with various stakeholders and internal and external partnership agencies,
- 8.2 The Council's Landlord steering group has been consulted. The responses received were generally based on support for landlords with regard to remaining compliant, for example with tackling anti-social behaviour and the scope of the new Civil Penalty Policy. Assurances have been given that the council is committed to working with responsible Landlords who are law abiding and conduct their business in a fit and proper manner. There were no adverse comments made from landlords during the consultation period

9.0 EQUALITY IMPLICATIONS

- 9.1 An Equality Impact Assessment has been completed to enable the service to identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 The EIA can be found below:

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

10.0 ENVIRONMENT, BIODIVERSITY AND CLIMATE CHANGE IMPLICATIONS

- 10.1 The operation of this proposed policy would contribute to tackling climate change, as enforcement action ensures upgrades in terms of heating/ insulation are instigated

and the reduction of emissions, damp and mould and other issues damaging to both the environment and health are realised.

10.2 The Government has committed to look at a long-term trajectory to improve the energy performance standards of privately rented homes in England and Wales, with the aim for as many of them as possible to be upgraded to EPC Band C by 2030, where practical, cost-effective and affordable. Upgrading lower EPC rated homes is a crucial step to help Wirral and the UK meet its energy use and CO2 reduction targets.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 How property assets are owned and managed are key features of any local economy. Effective, robust and proportionate enforcement generates community confidence and supports place creation and improves housing conditions within the private rented sector and home ownership

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APPENDICES

Appendix 1 Housing Standards Enforcement Policy 2025

BACKGROUND PAPERS

Wirral Council Enforcement Policy 2024

Housing Standards enforcement policy statement of 2019

TERMS OF REFERENCE

This report is being considered by the Economy, Regeneration and Housing Committee in accordance with Section 4.2(h) of its Terms of Reference, the Authority's role and functions to strategic and private sector housing policies and as the housing authority, including but not limited to:

- I. The Council's Housing Strategy
- II. Homelessness and the allocation of housing
- III. Private sector housing, including taking action to remedy overcrowding, disrepair, unfitness and statutory nuisances; to promote fire safety in private sector housing and the Council's function in relation to houses in multiple occupation;
- IV. Licensing schemes

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Policy and Resources Committee	17 July 2024