



WELWYN HATFIELD

EXECUTIVE MEMBER DELEGATED POWERS DECISION NOTICE

LOCAL GOVERNMENT ACT 2000 SECTION 9E

1 DETAILS OF EXECUTIVE MEMBER TAKING THE DECISION

Councillor Fiona Thomson

2 TITLE OF REPORT

Banning Order Policy

3 DECISION TAKEN

Adoption of the 2022 Banning Order Policy.

4 IF URGENT, REASONS FOR URGENCY

N/A

5 DETAILS OF EXECUTIVE MEMBER(S) CONSULTED

Name Councillor Fiona Thomson

Signature _____

Date this decision was taken _____ 15 March 2022 _____

Date of circulation/publication of this decision _____ 15 March 2022 _____

6 EXPLANATION/BACKGROUND

- 6.1 The Council is committed to improving standards in the private rented sector. Working with landlords to improve their properties through both informal and formal action the recommendations will enable the Council to utilise additional legislative powers in driving up standards within the private rented sector.
- 6.2 These powers were introduced by Government to tackle rogue landlords and managing agents and are designed to benefit the increasing number of households that are living in private rented accommodation.
- 6.3 The Housing and Planning Act 2016 enables local authorities to apply to the First-tier Tribunal (FTT) to impose a banning order on a landlord or managing agent, following conviction for a 'banning order offence' (set out in Appendix A).
- 6.4 A landlord subject to a banning order is prevented from:
- Letting housing in England
 - Engaging in English letting agency work
 - Engaging in English property management work; or
 - Doing two or more of those things (to ensure that any order is effective and to prohibit engagement in other related activities)

- A landlord subject to a banning order is also unable to hold a licence for a House in Multiple Occupation (HMO) and their property may also be subject to a management order
 - A landlord is prevented from transferring the property to certain persons whilst the banning order is in force.
- 6.5 A banning order must be for a minimum of 12 months but there is no maximum.
- 6.6 The First Tier Tribunal will set the banning period, but the Council is required to recommend a period as part of an application.
- 6.7 This policy gives due regard to the non-statutory guidance issued by the Ministry of Housing, Communities and Local Government, which sets an expectation that banning orders should be aimed at the most serious offenders.
- 6.8 The full report presented at Cabinet Housing Panel, 7 March 2022, is available at <https://democracy.welhat.gov.uk/documents/s18736/Item%20-%20Adoption%20of%20the%20new%20Banning%20Order%20Policy%20for%20Private%20Sector%20Housing%20Landlords.pdf>
- 6.9 Legal Implications:
- 6.10 Work will be required to develop administrative and legal procedures for applying to the First Tier Tribunal for banning orders.
- 6.11 Upon imposing a banning order, the landlord has the right to apply to the Tribunal to revoke or vary the banning order, to which the Council would need to respond.
- 6.12 The only potential legal implication regarding the inclusion of persons on the database would be if they appealed to the First-tier Tribunal and Legal representation was required, however given the likely frequency of including a person on the database the impact is anticipated to be low
- 6.13 Financial Implications:
- 6.14 Application to the First-tier Tribunal has financial impact in terms of the Legal Team's staffing resources, possible fees, and cost orders against the Council, however given the likely frequency of making such an application the impact is anticipated to be low.
- 6.15 Any costs incurred in the application of a successful banning order are recouped from the banned party.
- 6.16 Risk Implications:
- 6.17 The council must comply with its public sector equality duty imposed by s149 Equality Act 2010; namely to have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 6.18 Banning orders can be applied for if certain specified offences have been committed. The Act advises on the factors to be considered when deciding whether to pursue action under this legislation. The inclusion of persons on the database is dependent on the offence committed and whether the local authority has the power or duty to include them.

6.19 The protected characteristics of the offender or victim is not a factor in deciding whether to act, nor will it affect/impact the outcome.

Likelihood Very Low; Impact Low. Risk Score Low

6.20 Other Implications (including communications, security and terrorism, human resources, procurement, climate change, human rights, health and wellbeing, equality and diversity)

6.21 The government has provided guidance and guidance provided by the Ministry of Justice that states details of all banning order offences will be published and held on a national register. Also, subject to legal advice, the Council will consider publishing details of successful banning orders including the names of individual landlords/any business (managing or lettings agency). The Council will also consider making information on banned landlords available to a tenant where it is in the public interest to do so.

6.22 Alternative options considered and reasons for their rejection (if any):

6.23 No alternative options were considered.

7 BACKGROUND PAPERS USED TO INFORM THE DECISION

7.1 [Draft Banning Order Policy](#)

7.2 [Specified Banning Order Offences](#)

8 DETAILS OF ANY MEMBERS OR OFFICERS WHO HAVE DECLARED AN INTEREST IN THIS MATTER AND NATURE OF ANY SUCH INTEREST AND ANY DISPENSATIONS GRANTED

8.1 Councillor R Trigg declared a financial interest and did not vote or debate on this policy.

9 ADDITIONAL CONFIDENTIAL OR EXEMPT INFORMATION CONSIDERED

9.1 None.

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