



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

Electrical Safety Offences Policy

3 DECISION TAKEN

To adopt the Electrical Safety Standards Policy as part of the council's current Civil Financial Penalty 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 without the need for enforcement, the recommendations will enable the Council to utilise additional legislative powers in driving up standards within the private rented sector.
- 6.2 The Housing and Planning Act 2016 introduced a range of measures to crack down on rogue landlords. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 further enhance these measures.
- 6.3 Landlords are required to provide their tenants with electrical safety reports: in the case of new tenants, before they move in; to existing tenants within 28 days of receiving it; and to any prospective tenant within 28 days of their request to view the report
- 6.4 The Council has the power to demand sight of the report and the landlord must provide this within 7 days of the request. Failure to do so could result in a penalty charge.

- 6.5 If the Council has reasonable grounds to believe that the landlord is in breach of the Regulations, it also has the power to serve a remedial notice on the landlord to compel them to comply with the Regulations.
- 6.6 Landlords have 28 days to remedy the breach, and if the work is not carried out in time, then the Council has the power to carry out the required works themselves (on providing prior written notice to the landlord) and recover their costs from the landlord;
- 6.7 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.
- 6.8 It is intended that the Council will embed and utilise this extra legislative power by way of updating its current Enforcement Policy and its Civil Financial Penalty Policy.
- 6.9 The full report presented to Cabinet Housing Panel, 7 March 2022 is available at <https://democracy.welhat.gov.uk/documents/s18743/Item%203%20-%20Adoption%20of%20the%20new%20Electrical%20Safety%20Policy.pdf>
- 6.10 Legal Implications:
- 6.11 By amending our enforcement policy, the Council will be able to use this legislation to assist in work to improve safety in private rented sector properties. The regulations allow the service of notices to require landlords to carry out remedial works. If notices are not complied with these works can be carried out in default and the costs recovered. Fines for non-compliance can be issued and follow a notice procedure and are subject to legal challenge.
- 6.12 Section 126 of the Housing and Planning Act 2016 allows civil penalties to be imposed as an alternative to prosecution for certain offences as set out in Schedule 9 of the Act. Schedule 9 in turn amends the Housing Act 2004 including providing a new Section 249A which deals with civil penalties as an alternative to prosecution.
- 6.13 The Council has a statutory duty as a Local Housing Authority to enforce relevant Housing Legislation
- 6.14 Financial Implications:
- 6.15 The regulations allow for the recovery of any associated costs of taking urgent and non-urgent remedial action, based upon an assessment of officer time, actual costs of work undertaken and any other overheads incurred in taking the action. The Council intends to do this but this is not about income generation for the Council, it is about the adoption and implementation of regulations and the recovery of costs where remedial action is required.
- 6.16 The recovery of costs will be pursued through the Councils existing sundry debts policies and procedures
- 6.17 Income received from a civil penalty can be retained by the local housing authority provided that it is used to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.
- 6.18 Risk Implications:
- 6.19 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.

- 6.20 An appeal is made by a private Landlord to the First Tier Tribunal against the value of costs of taking action demanded by the Council. The Tribunal may confirm, quash or vary the amount.

Likelihood Very Low; Impact Low. Risk Score Low

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

- 6.22 Tackling poor and unsafe housing conditions in the Private Rented Sector will contribute towards the Council's vision of success health of the resident of WHBC. Housing is a determinant of health, and in order to ensure that each resident of WHBC has an equal life chance, and a life expectancy to reflect that of the national average the Council needs to utilise all legal and enforcement options available to drive standards up within the Private Rented Sector.

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

- 6.24 No alternatives were considered as this is a statutory policy.

7 BACKGROUND PAPERS USED TO INFORM THE DECISION

- 7.1 [Electrical Safety Offences Policy](#)

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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