



## Hinckley & Bosworth Borough Council

Forward timetable of consultation and decision making

Executive 18 June 2025

Wards affected: All Wards

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### Civil Penalty Policy for private sector housing offences

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Report of Director (Community Services)

#### 1. Purpose of report

- 1.1 To seek approval to replace the existing Civil Penalty Policy for certain Housing Offences within the private rented sector due to case law and impending legislative changes.
- 1.2 To allow a new policy to be adopted and kept updated as and when new case law applies, and Statutory Guidance and legislation is amended through the proposed Renters' Rights Act 2025 and other provisions.

#### 2. Recommendation

- 2.1 That the Executive agree to the replacement of the Council's existing Civil Penalty Policy with 'Justice for Tenants' Civil Penalty Policy in the wake of sweeping legislative changes affecting the Private Rented Sector.
- 2.2 The Executive agree for delegated authority to be given to the Director of Community Services in consultation with the Executive Lead for Housing should changes to the policy be required.

#### 3. Background to the report

- 3.1 In 2017 the government made it possible for Local Housing Authorities to issue Civil Financial Penalties of up to £30,000 to landlords as an alternative to prosecution for certain housing offences. This is for offences such a failure to comply with an Improvement Notice. In determining an appropriate penalty, Councils must adhere to the requirements set out in section 249(A) of the Housing Act 2004 and follow their own policy meeting the requirements set out in statutory guidance. At the time, consideration was given to devising our

own policy but in the end the council adopted the use of Nottingham City Council's free-to-use 'Civil Financial Penalties Policy' which has enabled the council to determine the level of civil penalties to be issued in respect of 5 separate housing offences – each being for breaches of Improvement Notices.

- 3.2 Recent case law however, particularly the case of *Leicester City Council v Morjaria* [2023] UKUT 129 (LC) in the Upper Tribunal (Lands Chamber), has raised concern that the adopted policy is no longer compliant and needs to be overhauled. Nottingham City Council do not appear to have yet modified their policy so there is a need to change this so we can remain compliant. At present, Officers are holding back from issuing other penalties until the policy is amended.
- 3.3 At the same time, the government are proposing wholesale legislative changes affecting the Private Rented Sector (PRS), principally through the Renters' Rights Bill which is expected to receive Royal Assent within the next couple of months with changes anticipated to take effect from as soon as May 2025. Some of the changes that are proposed include:
- a) abolishing section 21, so-called 'no-fault' evictions, and move all new and existing assured tenancies to periodic rather than fixed term agreements with no end date
  - b) reforming possession grounds to allow landlords to regain possession of their properties in various circumstances whilst ensuring tenants' rights
  - c) introducing a new private rented sector landlord ombudsman
  - d) creating a private rented sector database to help landlords demonstrate compliance, inform tenants, and support local authority enforcement
  - e) Applying the decent homes standard to the PRS and 'Awaab's Law' setting requirements over how landlords must tackle hazards in their properties
  - f) Outlawing discrimination against prospective tenants in receipt of benefits or with children, and strengthening tenants' rights to have a pet
  - g) Strengthen Rent Repayment Orders, and crucially
  - h) Expanding civil penalties issued by local housing authorities and introducing a new package of investigatory powers
- 3.4 The expansion of Civil Penalties is broad. Maximum fines imposed by councils will increase from £30,000 to £40,000 for serious, persistent or repeat non-compliance. Initial or minor non-compliance offences will incur a civil penalty of up to £7,000. The extent of civil penalties will also be far more encompassing than they currently are, extending to almost all of the reforms set out in the Bill, whereas at present they are limited to just a few housing-related offences.
- 3.5 Not only will they be much more encompassing, Part 4 of the Bill proposes it shall be a duty of every local housing authority to enforce the new requirements and very clearly sets out in Chapter 2(6) that it shall require authorities to impose a financial penalty or institute proceedings for offences.

This will limit the ability of authorities to take an alternative approach to enforcement, such as warning letters and negotiation.

- 3.6 Once passed, the government have made clear that there will be limited transitional arrangements as they seek to bring the whole of the PRS in line with the new requirements as quickly as possible. In the past they have applied new legislation to new tenancies only and then extended requirements to existing tenancies two or more years later. This will not be the case with the Renters' Rights Bill – the changes will affect all tenancies and landlords all at the same time. Statutory and non-statutory guidance will however need to be drafted, and some aspects such as new reporting requirements to government will be introduced following further consultation, as will the implementation of the PRS Database.
- 3.7 With the current Civil Penalty policy already requiring alteration and these upcoming changes soon to come into effect, there is a need, in collaboration with others, to adopt or develop a dynamic new Civil Penalty policy that is capable of being quickly updated or amended where necessary to accommodate all of the changes laid out in the Bill, and those that will surely emerge in the months and years ahead as case law develops.
- 3.8 All Authorities are in the same position as ourselves while we wait to hear how the law develops. However, in dealing with current financial penalties, two neighbouring authorities (Leicester City and Charnwood) have both recently adopted the grant-funded 'Civil Penalty Policy' created by the non-profit organisation, 'Justice For Tenants' (JFT). At least 100 English Authorities are now using this Civil Penalty Policy and it's likely that by the end of the year, over half of all councils will be using it, primarily because:
- a) It's funded by a £2,000 grant to each authority by the charity 'Impact on Urban Health', unless additional services by JFT are sought.
  - b) It's quick and easy to use.
  - c) Officers are trained in its use by JFT, and crucially,
  - d) JFT keeps the policy updated with all changes in law and case law, and, it is expected, shall expand their policy to cover each of the new offences that shall be punishable by a financial penalty proposed under the Renters' Rights Act 2025.
- 3.9 Through the Leicestershire Housing Best Practice Group, the remaining Leicestershire Authorities are known to be considering adopting JFTs policy also. Officers are keen to promote a single unified approach to Civil Penalties across the county – which our own adoption of this policy would assist with.
- 3.10 Though not required by law, the council are also keen to put in place a policy on the use of civil penalties under two further sets of Regulations affecting the Private Rented Sector. These being, The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 and The Minimum Energy Efficiency Standards (MEES) with respect to domestic privately rented property under The Energy Efficiency (Private Rented Property) (England and

Wales) Regulations 2015. It would be an ideal opportunity to set out how offences under those Regulations are to be calculated at the same time.

- 3.11 Approval to replace the existing policy with JFTs Civil Penalty Policy with the inclusion of a policy on the use of civil penalties under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 and The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 is requested.

#### **4. Exemptions in accordance with the Access to Information procedure rules**

- 4.1 None.

#### **5. Financial implications [IB]**

- 5.1 In accordance with financial procedure rules a £2,000 supplementary income and expenditure will be required.

#### **6. Legal implications [ST]**

- 6.1 None

#### **7. Corporate Plan implications**

- 7.1 The policy shall contribute to all aspects of the Corporate plan. More specifically.

People: Helping people to stay safe in their homes by dissuading repeat offending of Housing offences

Places: Encouraging private and social landlords to keep their homes safe by robustly enforcing against those who fail to meet their legal obligations.

Prosperity: Encouraging sustainable housing growth by challenging those landlords who fail to comply with the law who otherwise have an economic advantage over others.

#### **8. Consultation**

- 8.1 None

#### **9. Risk implications**

- 9.1 It is the council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with

this decision / project have been identified, assessed and that controls are in place to manage them effectively.

- 9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Risk description	Mitigating actions	Owner
Demand on JFTs services exceeds the £2,000 grant	Civil penalties are designed to be self-funding. Proceeds are ringfenced by law for funding Private Sector Housing enforcement activities. Such income could be used to fund additional JFT services if ever required, but at Council's decision and following procurement	Environmental Services Manager/ Legal Services Manager
Adopted model Civil Penalty Policy is found to be defective at Tribunal	Policy is subject to continual review by JFT, taking into account new case law.	Environmental Services Manager/ Legal Services Manager
Civil Penalties issued are unpaid	Legal Services instructed to enforce collection of debt as a simple contract debt	Environmental Services Manager/ Legal Services Manager

## 10. Knowing your community – equality and rural implications

- 10.1 The new policy will impact all landlords operating in the borough who fail to meet their legal obligations and face a financial civil penalty as an alternative to prosecution. There are no other equality or rural implications for consideration.

## 11. Climate implications

- 11.1 Service delivery is informed by Carbon Reduction targets.

## 12. Corporate implications

- 12.1 By submitting this report, the report author has taken the following into account:
- Community safety implications
  - Environmental implications

- ICT implications
  - Asset management implications
  - Procurement implications
  - Human resources implications
  - Planning implications
  - Data protection implications
  - Voluntary sector
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Background papers: None

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**Appendix:** [HBBC Civil Penalty Policy 2025](#)