



Item

DELEGATION FROM CAMBRIDGESHIRE COUNTY COUNCIL TO CAMBRIDGE CITY COUNCIL FOR ENFORCEMENT OF ENERGY PERFORMANCE CERTIFICATES

To:

Councillor Richard Johnson, Executive Councillor for Housing
Housing Scrutiny Committee 26th September 2019

Report by:

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Wards affected:

All

Not a Key Decision

1. Executive Summary

- 1.1 The Energy Performance of Buildings (England and Wales) Regulations 2012 sets out the legal obligation for landlords to provide energy performance certificates to new and prospective tenants in the majority of rented homes. Currently this legislation is only enforceable by the local weights and measures service, this service sits within the Cambridgeshire County Council remit.
- 1.2 The Energy Performance Certificate hereinafter referred to as EPC provides a rating for the energy performance of a home. The rating ranges from A to G with A being the most efficient. The rating is based on factors such as age, layout, heating, lighting and insulation. The ratings are all carried out to a set standard meaning all property EPCs are directly comparable. The EPC is presented in such a way to allows occupiers / prospective occupiers of the property to make an informed decision relating to energy costs and the thermal efficiency of the building.

Appendix A sets out where the regulations require that an EPC should be provided.

- 1.3 A breach of the aforementioned regulations will take place if the person who is responsible for letting the property has not provided an EPC to new tenants where the regulations require them to do so. A penalty notice may be served by the enforcing authority for a breach of the regulations. The penalty notice is fixed at £200 where the building is a dwelling. There is a right of appeal to the county court if the responsible person feels the notice should not have been served, however in most cases the offence will be clear.
- 1.4 The delegation of these powers from the County Council to Cambridge City Council will lead to an improved customer journey by creating the ability for complaints relating to private sector housing to be addressed accordingly by a single authority. A copy of the proposed delegation is attached Appendix B.

2. Recommendations

The Executive Councillor is recommended to:

- a) Approve for Cambridge City Council to seek delegation from Cambridgeshire County Council for Part 7 Enforcement of The Energy Performance of Buildings (England and Wales) Regulations 2012.
- b) To approve investigation and enforcement by the Council for non-compliance of providing an energy performance certificate in cases where it is deemed appropriate.
- c) To approve the Environmental Health Manager to make a decision on the continuation of the delegation on a biannual basis or to give notice to terminate the delegation as appropriate.

3. Background

- 3.1 The Residential Team, Environmental Services, Cambridge City Council investigate complaints made by tenants within the private rented sector regarding their living conditions. Although varied, these complaints in some cases relate to problems such as damp, cold or inadequate heating. The 2015 stock modelling report indicates that around 7% of privately rented properties within Cambridge City have an excess cold hazard associated with them as defined under Part 1 of the Housing Act 2004.
- 3.2 If a tenant is living in a property that is difficult to heat due to the structure of the building or is expensive to heat due to the heating type it is more likely they will be in fuel poverty. Fuel poverty in England is measured using the Low Income High Costs (LIHC) indicator, which considers a household to be fuel poor if:
- they have required fuel costs that are above average (the national median level); and
 - were they to spend that amount, they would be left with a residual income below the poverty line.

In 2017, 10.9 per cent of households in England (2.532 million households) were classed as fuel poor. (Figures from Department for Business, Energy & Industrial Strategy). The latest figures for Cambridge estimated that 12.3% of households are classed as fuel poor (6,075 households).

- 3.3 The Council is currently unable to take any action for non-provision of an EPC although this may have been identified as an issue during a property inspection following a complaint.
- 3.4 The provision of an EPC may have supported the tenant in making an informed decision about the efficiency of the property before they had moved in. This in some cases may have created a more suitable and sustainable housing choice to have been made.
- 3.5 The agreement by the Cambridgeshire County Council to provide delegated authority to investigate and enforce this on their behalf would help to encourage owners of properties who may not be currently complying with the regulation. Subject to approval we

would provide information via the Council's website / our Landlord Newsletter, Steering Group and Forum to educate landlords and agents as well as making them aware of the possible enforcement action associated with this.

- 3.6 It is anticipated in most cases investigation and enforcement will be picked up as part of our current private sector housing inspection process, it will add an element of additional time but it is unlikely to place a large burden on the authority or individual enforcement officers due to the clear nature of the offence. It is also anticipated that revenue brought in by the penalty notice can be used to further enforcement.
- 3.7 If the authority decides it is in its best interest to serve a penalty notice the recipient may request a review within the period specified in the notice (which must not be less than 28 days) If, after a review, the penalty charge notice is confirmed by the authority, the recipient may, within the period of 28 days, appeal to the county court against the penalty charge notice on one of the following specified grounds:
- that the recipient of the notice did not commit the breach of duty specified in the penalty charge notice;
 - that the notice was not given within 6 months of when the duty was allegedly breached or does not comply with a requirement imposed by the regulations; or
 - that in the circumstances of the case it was inappropriate for the notice to be given to the recipient.
- 3.8 If the recipient of the penalty charge notices fails to pay the amount of the penalty charge it is recoverable from the recipient as a debt owed to the Council .Investigation and enforcement of The Energy Performance of Buildings (England and Wales) Regulations 2012 will be covered under current conditions within Cambridge City Councils insurance policy.
- 3.9 In addition from April 2019 the Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019 has required that in most circumstances properties in the private rented sector require an EPC with the minimum of E. Although this does not fall under the same piece of legislation it is envisaged that Cambridge City Council will enforce this, it is likely during the course

of investigations into this the Council may also wish to use the powers delegated to them through The Energy Performance of Buildings (England and Wales) Regulations 2012 in terms of enforcement options

a) Financial Implications

1. The legal costs involved in the process of seeking delegation from Cambridge County Council will be contributed towards utilising funding available for the pilot project through Peterborough Environment City Trust (**PECT**).
2. The Council will be able to recover monies from fines and utilise this to further enforcement which will assist in terms of resource / capacity implications.

b) Staffing Implications

1. Cambridgeshire County Council have advised that they carry out no enforcement for domestic EPC's and that delegation of powers to Cambridge City Council will not affect their staffing arrangements.
2. This work will be picked up on as part of the current private sector housing investigation, inspection and enforcement process. It will add an element of additional time to inspections which can be monitored.

c) Equality and Poverty Implications

No Eqia has been carried out as this piece of legislation is already enforceable by Cambridgeshire County Council including within Cambridge City. The delegation is to allow for authorised officers at the Cambridge City Council to be able to utilise these enforcement powers.

d) Environmental Implications

The direct environmental implications of receiving delegated authority to enforce the legislation will be Nil as there will be minimal operational changes.

However through enforcing EPCs this will raise awareness of energy efficiency and help drive improvements in properties, especially in poor performing properties where further enforcement action may take place.

e) Procurement Implications

No Procurement implications

f) Community Safety Implications

No Community Safety implications

4 Consultation and communication considerations

The delegation will be carried out in close liaison with Cambridgeshire County Council, communication will continue after the delegation with reporting of figures as necessary and a review after two years.

Wider communication will take place with the community through the website, social media, newsletters, steering group and forums to raise awareness amongst private sector tenants, landlords and agents within the city.

5 Background papers

Background papers used in the preparation of this report:

The Energy Performance of Buildings (England and Wales) Regulations

2012 <http://www.legislation.gov.uk/ukxi/2012/3118/contents/made>

Department for Business, Energy & Industrial Strategy (Fuel Poverty Factsheet England 2017).

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/808300/Fuel_poverty_factsheet_2019_2017_data.pdf

Department for Business, Energy & Industrial Strategy Fuel Poverty Statistics

<https://www.gov.uk/government/collections/fuel-poverty-statistics>

Annual Fuel Poverty Statistics in England, 2019 (2017 data)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/808534/Annual_Fuel_Poverty_Statistics_Report_2019_2017_data_.pdf

The minimum energy efficiency standards (MEES)

http://www.legislation.gov.uk/ukxi/2019/595/pdfs/ukxi_20190595_en.pdf

Stock Modelling Report

2015 https://www.cambridge.gov.uk/media/3854/cambridge_stock_modelling_report_2015_0.pdf

Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019

<http://www.legislation.gov.uk/ukxi/2019/595/made>

Housing Act 2004 Part1

http://www.legislation.gov.uk/ukpga/2004/34/pdfs/ukpga_20040034_en.pdf

Regional figures

<https://www.gov.uk/government/collections/fuel-poverty-sub-regional-statistics>

National Report

<https://www.gov.uk/government/statistics/annual-fuel-poverty-statistics-report-2019>

6 Appendices

Appendix A - Where an EPC should be provided

Appendix B – Draft delegation agreement

To inspect the background papers or if you have a query on the report please contact Philip Winter, Project Officer, tel: 01223 - 457626, email: philip.winter@cambridge.gov.uk.