

CAMBRIDGE CITY MINIMUM ENERGY EFFICIENCY STANDARDS ENFORCEMENT & FEE POLICY



To:

Councillor Gerri Bird Executive Councillor for Housing

Housing Scrutiny Committee

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Report by:

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Wards affected:

All

Not a Key Decision

1. Executive Summary

- 1.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (“the Regulations”) are designed to tackle the least energy-efficient properties in England and Wales, those rated F or G on their Energy Performance Certificate (EPC).
- 1.2 The Regulations establish a minimum acceptable energy efficiency standard for domestic privately rented properties. This is applicable to all relevant tenancies (assured, regulated or domestic agricultural) as of 1st April 2020.
- 1.3 F and G rated properties are the most energy inefficient housing. They impose unnecessary energy costs on tenants and the wider community and can lead to poor health outcomes with resulting resource pressure on health services. These properties also contribute to unavoidable greenhouse gas emissions.

- 1.4 The above has created a need for an encompassing policy setting out how the Council will carry out its statutory responsibilities for ensuring minimum energy efficiency standards in the private rented sector including enforcement of the regulations and fee setting in relation to financial penalties.

2. Recommendations

The Executive Councillor is recommended to:

- 2.1 Approve the adoption of the proposed Cambridge City Minimum Energy Efficiency Standards Enforcement & Fee Policy as attached in Appendix B of this report.

3. Background

- 3.1 The Council has a statutory duty to ensure that applicable private rented properties meet with the requirements of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (“the Regulations”).
- 3.2 The regulations prohibit the letting of sub-standard properties. Since April 2018 landlords have not been able to grant tenancies to new or existing tenants if their property has an EPC rating of F or G.
- 3.3 From 1st April 2020, landlords must not continue to let a relevant property which has an EPC rating of F or G unless that property has a valid exemption registered on the government’s PRS Exemptions Register.
- 3.4 Where a property is sub-standard, landlords must make energy efficiency improvements which raise the EPC rating to a minimum E.
- 3.5 Where a landlord / property manager responsible for a relevant private rental property that is not meeting with the minimum energy efficiency standard regulations continues to let it, the council can take action to enforce compliance via issue of compliance notices and ultimately financial and / or publication penalties.
- 3.6 The unprecedented events of the COVID19 pandemic as well as recruitment of additional permanent resource into the Residential Team, Environmental Services led to an unavoidable delay to the Council

progressing it's work in relation to these regulations and the extension to their scope from 2020.

- 3.7 In-line with the gradual re-opening of the Country following the pandemic and successful recruitment of 1 additional FTE enforcement officer into the team at the beginning of April 2022 the Council has been able to commence proactive work to address minimum energy efficiency standards associated with private rented sector accommodation in the city. A summary of the work completed, and outcomes secured within quarter one of 2022/23 are detailed within Appendix A of this report. This ongoing work includes the Council working to ensure that entries made to the national Exemptions Register relating to domestic dwellings within the city are thoroughly reviewed and challenged where appropriate / necessary.
- 3.8 In respect of furthering this work the council is therefore proposing the introduction of a Minimum Energy Efficiency Standards Enforcement & Fee Policy.
- 3.9 The policy document forms Appendix B to this report and covers the following within its scope:
- 3.10 **Scope of the Policy & Enforcement** – Local Authorities are responsible for enforcing against non-compliance with minimum energy efficiency standards in accordance with regulations 34 and 35 of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.
- 3.11 The purpose of this policy is to set out how the authority will enforce these regulations.
- 3.12 In the first instance, in line with the Corporate Enforcement Policy, the Council will engage informally with landlords who rent properties with F and G EPC ratings to advise them of the regulations and that their rented properties do not meet the Minimum Energy Efficiency Standards. The Council will offer advice on how the standards can be met and how to register an exemption, if appropriate.
- 3.13 Landlords / property managers will be given an appropriate amount of time to make the necessary changes following which formal enforcement action may be taken if they fail to do so.

- 3.14 The Council may issue a Compliance Notice where it believes that a landlord / property manager may be in breach of the prohibition on letting a sub-standard property or a landlord has been in breach of the prohibition at any time in the past twelve months. A Compliance Notice requires information from that landlord to help the council inform their decision whether that landlord has in fact breached the prohibition.
- 3.15 Where the Council is satisfied that a property has been let in breach of the regulations it may serve a penalty notice on the landlord imposing a financial penalty.
- 3.16 The Council may also publish details of the breach on the PRS Exemptions Register, known as a Publication Penalty.
- 3.17 The responsible person may ask for the penalty notice to be reviewed by the Council in the first instance and if the penalty is upheld on review the landlord may appeal to the First-tier Tribunal (Property Chamber).
- 3.18 **Calculating financial penalties** – Where the Council decides to impose a financial penalty, they have discretion to decide the amount of penalty up to maximum limits set by the regulations, detailed as follows:
- a) Where a landlord has let a sub-standard property in breach of the regulations for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £2,000 and may impose a publication penalty.
 - b) Where a landlord has let a sub-standard property in breach of the regulations for a period of more than 3 months, the Local Authority may impose a financial penalty of up to £4,000 and may impose a publication penalty.
 - c) Where a landlord has registered false or misleading information on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and may impose a publication penalty.
 - d) Where the landlord has failed to comply with a Compliance Notice, the Local Authority may impose a financial penalty of up to £2,000 and may impose a publication penalty.
- 3.19 Publication penalty means publication on the private rented sector, (PRS), Exemptions Register for a period of at least 12 months in line with the information that can be included as detailed in the regulations further details of which can be found on page 5 of the policy document attached as Appendix B to this report.

- 3.20 When determining a financial penalty, the authority will use a fee matrix as a guide to determine appropriate and proportionate penalty (amounts as a percentage of the maximum fine limits). A copy of this fee matrix is contained within Appendix 3 of the policy document, which is attached as Appendix B to this report.
- 3.21 **Recovery of financial penalties** – If a landlord does not pay a financial penalty imposed on them, the Council may ultimately take the landlord to court to recover the money. In proceedings for the recovery of a financial penalty, a certificate signed by or on behalf of the person with responsibility for the financial affairs of the Council, stating that payment of the financial penalty was not received by a given date will be used as evidence of the landlord's non-compliance with the penalty notice.

4. Implications

a) Financial Implications

Administration of this legislation and the associated requirements will be delivered through existing resources within the Residential Team, part of the Council's Environmental Services Environmental Health Department. The ability to recover the Council's cost in administration of providing this element of the service will contribute to the overall cost of providing this service.

b) Staffing Implications

There are currently 9.6 FTE enforcement officers within the Residential Team, whose job role includes enforcement of private sector housing. 1 FTE Technical Officer from the team is currently concentrating on a proactive, targeted project, coordinating picking up on suspected F&G rated rental properties within the city ensuring that these meet with the minimum energy efficiency standards moving forward and that proportionate enforcement action is taken where necessary against non-compliant landlords and property managers.

c) Equality and Poverty Implications

An Equality Impact Assessment has been completed and accompanies this report.

d) Net Zero Carbon, Climate Change and Environmental Implications

The Councils Climate Change Rating Tool has been used in respect of the implementation of the recommendations in this report and has indicated a Net Medium Positive Rating, particularly in respect of proactive enforcement of MEES regulations owing to the following explanation:

While MEES does not lead to in depth energy efficiency improvements, it does enforce minimum standards across the private rented sector which is the lowest performing tenure in terms of energy efficiency. The scale of properties included in this means we estimate a medium positive outcome due to the energy conservation outcomes, and general positive impact on tenants and their living conditions. A high positive outcome is not considered due to unlikely uptake of renewable energy as a result.

e) Procurement Implications

None.

f) Community Safety Implications

None.

5. Consultation and communication considerations

There is no requirement for any consultation in relation to this policy. Relevant parties are made aware of this including the associated fee charging structure and the Policy will be made publicly available on the Council's website.

6. Background papers

Background papers used in the preparation of this report:

- [The Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk-legislation/regulations/2015/1161/contents/made)
- <https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>
- https://www.google.com/url?client=internal-element-cse&cx=008681352069635214702:0koo6ayghrc&q=https://www.cambridge.gov.uk/media/3837/corporate-enforcement-policy.pdf&sa=U&ved=2ahUKEwipzrrTjdD5AhVNS0EAHQ7xDZEFnoEAcQAQ&usg=AOvVaw0bGPdWKXT_xYVoaExkY2mS

7. Appendices

Appendix A - Quarter one 2022/23 Summary Report
Cambridge City Proactive work activities relating to energy efficiency standards of private rented sector property

Appendix B - Cambridge City Minimum Energy Efficiency Standards Enforcement & Fee Policy

Appendix C – Equalities Impact Assessment

8. Inspection of papers

To inspect the background papers or if you have a query on the report please contact Claire Adelizzi, Team Manager – Residential, tel: 01223 457724, email: Claire.adelizzi@cambridge.gov.uk.