



Report for:	Cabinet
Title of report:	Private Sector Housing – Civil Penalty & Enforcement Policies
Date:	12 September 2023
Report on behalf of:	Councillor Simy Dhyani, Portfolio Holder for Housing and Property Services
Part:	I
If Part II, reason:	N/A
Appendices:	Appendix 1 – Draft Civil Penalty Policy Appendix 2 – Draft Enforcement Policy
Background papers:	Appendix 3 – Current Enforcement policy Appendix 4 – Secretary of State letter to Council Leaders and Chief Executives Appendix 5 – CIA Enforcement Policy Appendix 6 – CIA Civil Penalty Appendix 7 – CIA Rogue Landlord initiative
Glossary of acronyms and any other abbreviations used in this report:	Private Rented Sector (PRS) Housing Health and Safety Rating System (HHSRS)

Report Author / Responsible Officer

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Corporate Priorities	<ul style="list-style-type: none">• A clean, safe and enjoyable environment• Providing good quality affordable homes, in particular for those most in need
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Wards affected	ALL
Purpose of the report:	To inform Cabinet Members on the Rogue Landlord Initiative, updated Enforcement Policy and a new Civil Penalty Policy, which support the Council's Rogue Landlord activity and initiatives.
Recommendation (s) to the decision maker (s):	1) That Cabinet agrees the annexed Civil Penalty Policy and Enforcement Policy and delegates future policy revisions and amendments to the Portfolio Holder for Housing and Property Services.
Period for post policy/project review:	Annually or upon legislative change

1 Introduction/Background:

- 1.1 Private sector housing plays a significant part in the housing provision within the Dacorum Borough and we recognise that the majority of this housing is in good condition and well managed. However, nationally, the conditions in the private rented sector (PRS) tend to be less satisfactory than any other occupancy type.
- 1.2 The Private Sector Housing Team has a responsibility to deal with unsatisfactory housing that presents health & safety hazards to the occupiers of a property. As a result, the Council had previously developed an Enforcement Policy and Civil Penalty matrix to support its approach to tackling such standards. The policy that was approved by Cabinet and is currently in operation and can be viewed at Appendix 3.
- 1.3 The Rogue Landlord Initiative will focus on the worst housing conditions across the borough with a view to proactively identify substandard properties within the PRS including unlicensed HMOs and 'beds in sheds' and instigate a multi-agency response, where needed, including the development of a 'task and finish' group.
- 1.4 As the service has been reviewing approaches and identifying new initiatives to tackle rogue landlords, a revised policy and associated Civil Penalty Policy has been developed. The enforcement policy outlines our approach to ensuring that standards are met. It seeks to ensure that good practice is maintained and that all properties let as residential dwellings, those in private ownership, and properties under Registered Provider control, throughout Dacorum Borough Council are of good quality and are well managed.
- 1.5 The Housing and Planning Act 2016 introduced new provisions which are intended to penalise unscrupulous and irresponsible landlords who fail to provide safe and healthy accommodation. The Government has made it clear that it endorses the majority of landlords who it believes provide good standard accommodation.
- 1.6 Section 126 of the Housing and Planning Act 2016 came into force on 10 March 2017, and amends the Housing Act 2004 to allow Local Housing Authorities to impose financial penalties, of up to £30,000, on landlords, as an alternative to prosecution, for certain offences. Such a financial penalty is referred to as a Civil Penalty. In 2017, the government published a guidance document - [Civil penalties under the Housing and Planning Act 2016](#) – as guidance for local authorities.

2 Key Issues and proposals:

- 2.1 In light of the Rogue Landlord Initiative proposals, it is key that the Private Sector Housing Team has robust policies in place to support all enforcement work and which provide comprehensive information and transparency to landlords and tenants. The policies also need to stand up to scrutiny and challenge within the court and tribunal systems.
- 2.2 The proposed Enforcement Policy, (*Appendix 2*), summarises the types of enforcement and legislation most commonly applied by the Private Sector Housing Team, ranging from informal to statutory notices, and legal action including prosecution. It is not an exhaustive list and is not intended to be a definitive interpretation of the legislation, nor provide a full statement of the law. Instead, the policy clearly sets out the Council's approach to enforcement and is designed to be both fair to responsible landlords and capable of dealing with uninformed or rogue landlords in order to maintain and improve conditions within this sector. This directly supports the Council's corporate objectives 'Providing good quality affordable homes' within the private sector.
- 2.3 The current Enforcement Policy does not consider Housing Act 2004 Housing Health and Safety Rating System (HHSRS) Category 2 hazards (lower risk) enforceable. The Awaab Ishak case and communications from the Rt Hon Michael Gove, Secretary of State for Levelling Up, Housing and Communities dated 19 November 2022 outlined that housing

regulators must consider Category 2 Damp and Mould hazards as serious risk requiring enforcement action and therefore the proposed policy has adopted this stance, not just in relation to the and Damp and Mould hazard, but across all hazards under the Housing Act 2004 HHSRS, as this is considered to be a crucial best practice approach.

- 2.4 The proposed Civil Penalty Policy (*Appendix 1*) is a detailed policy to assist in decision making. The policy sets out how civil penalties are calculated in a fair and transparent way to ensure that the highest civil penalties go to the worst and most prolific offenders in line with statutory guidance.

3 Options and alternatives considered

Alternative options have not been considered. It is necessary for the Council to ensure it has clear policies outlining the approach to tackling housing standards. Such policies must be updated and refreshed regularly, upon material or legislative change, so as to ensure that they remain compliant with the statutory framework and adequately inform all stakeholders of the Council's approach.

4 Consultation

During the process of developing the above mentioned policies, the Council's Legal Department, Housing Senior Leadership team and Portfolio Holder for Housing and Property Services have been consulted. Housing and Community Overview Scrutiny Committee were consulted on the policies on 19 July 2023, with positive feedback and comments received by Officers.

5 Financial and value for money implications:

- 5.1 Providing robust and effective management of standards in the private sector minimises impact upon other key statutory services such as homelessness and responsible authorities such as fire and health. Delivering an efficient service allows the Council the opportunity to have a further positive impact by maximising its resources, demonstrating that the Council is operating a modern housing service that delivers excellent value for money.
- 5.2 The Civil Penalty Policy could also lead to additional income being generated, with any financial penalty applied being ring-fenced for reinvestment back into the service to further support tackling poor housing standards.

6 Legal Implications

The legal implications arising from the development of this policy are set out in the report in section 2.

7 Risk implications:

A robust policy approach provides reassurance that the Council has appropriate governance and processes in place to provide private sector enforcement services.

8 Equalities, Community Impact and Human Rights:

A Community Impact assessment has been completed with regard to the Civil Penalty and Enforcement policies – this can be viewed at Appendix 6.

9 Sustainability implications (including climate change, health and wellbeing, community safety)

There are no sustainability issues arising from the development of this policy.

10 Council infrastructure (including Health and Safety, HR/OD, assets and other resources)

There are no council infrastructure issues arising from the development of this policy.

11 Statutory Comments

Monitoring Officer:

The proposed policies provide an effective framework to ensure consistent decision making when considering enforcement action and applying civil penalties.

Deputy S151 Officer:

Any income received from civil penalties can be retained by the Council, provided that it is used to further the Council's statutory functions in relation to enforcement activities covering the private rented sector.

12 Conclusions:

This report outlines the intention to introduce the newly developed Civil Penalty and revised Enforcement policies, providing clear direction regarding the approach that will be undertaken by the Council when tackling housing standards in the private sector.