



Derby City Council

**Housing and Urban Renewal Cabinet  
Member Meeting  
11 October 2017**

# ITEM 5

Report of the Strategic Director for  
Communities and Place

## **The Housing and Planning Act 2016 – new provisions to deal with rogue landlords**

### **SUMMARY**

- 1.1 The Housing and Planning Act 2016 (the Act) contains further provisions to deal with rogue landlords. Some provisions of the Act are already in force. Others are yet to be implemented.
- 1.2 These provisions include the power to ban landlords, letting agents and property managers from operating if they have been convicted of banning order offences. This power is likely to be available to local authorities in October 2017.
- 1.3 The Secretary of State will be given a duty to establish a database of rogue landlords, to which Local Housing Authorities will have access. This duty will be effective in October 2017.
- 1.4 The scope of Rent Repayment Orders has been extended to cover situations such as a landlord's failure to comply with an Improvement Notice or Prohibition Order. This became effective on 6 April 2017.
- 1.5 The Secretary of State has been given power to make Regulations covering electrical safety in all privately rented property. There is no information as to when these Regulations might be made.
- 1.6 The test of fitness to run a licensable HMO is being strengthened.
- 1.7 Financial penalties became available on 6 April 2017 as an alternative to prosecution for certain offences under the Housing Act 2004.

### **RECOMMENDATION**

- 2.1 To endorse the use by the Housing Standards Team of the new housing enforcement provisions contained in the Housing and Planning Act 2016 as set out in the report.

### **REASONS FOR RECOMMENDATION**

- 3.1 The Housing Standards Team continues to strive to deal with bad landlords. These new provisions will significantly assist officers in their efforts to raise the housing standards of rented properties in the city.

3.2 Financial penalty notices will be a valuable alternative to prosecution.

## SUPPORTING INFORMATION

4.1 The Housing and Planning Act 2016 (the Act) introduces further provisions to deal with rogue landlords and property agents.

### **Banning Orders**

4.2 Banning Orders, which will be granted by a First-tier Tribunal upon application by a local authority – ban someone from:

- (a) letting housing
- (b) engaging in letting agency work
- (c) engaging in property management work

if they have been convicted of banning order offences

### **Database of rogue landlords**

4.3 The Act requires the Secretary of State to establish a database of rogue landlords and letting agents. Only Councils will be able to access the register. The register will have to include those who have received a banning order and those who have been convicted of a banning order offence. Regulations due in October 2017 will provide detail as to what offences will be banning order offences.

### **Rent Repayment Orders**

4.4 A rent repayment order (RRO) is an order requiring the landlord under a tenancy of housing in England to:

- (a) repay an amount of rent paid by a tenant, or
- (b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy. A First-tier Tribunal (FTT) will have the power to make a 'rent repayment order' in certain situations – this will include convictions for failure to comply with Improvement Notices and Prohibition Orders. In the latter situation the Council have a duty to consider whether to apply for a RRO.

### **Electrical safety standards for properties let by private landlords**

4.5 The Secretary of State may by regulations impose duties on a private landlord of residential premises for the purposes of ensuring that electrical safety standards are met during any period when the premises are occupied under a tenancy.

### **Licences for HMOs and other rented accommodation: additional tests when determining the fitness of persons**

- 4.6 The Housing Act 2004 has been amended to include in the ‘tests for fitness’ matters pertaining to ‘leave to enter or remain in the United Kingdom’ insolvency and bankruptcy.

### **Financial Penalties**

- 4.7 Schedule 9 of the Act amends the Housing Act 2004, to allow financial penalties to be imposed as an alternative to prosecution for certain offences. These offences are:
- failure to comply with an Improvement Notice,
  - failure to comply with HMO and licensing requirements
  - failure to comply with HMO Management Regulations

The Department of Communities and Local Government have issued guidance to Local Authorities on the use of financial penalties. With the assistance of the Legal Section, this guidance has been utilised to develop a methodology for determining an appropriate level of civil penalty for each relevant offence in the Housing Act 2004.

### **Commencement of the Act**

- 4.8 The provisions of this Act come into force on such day as the Secretary of State may by regulations appoint. Different days may be appointed for different purposes. Certain provisions are already in force as indicated in the Summary above.

### **Enforcement of provisions in the Act**

- 4.9 Officers in the Housing Standards Team have been authorised by the Director of Communities Environment and Regulatory Services to enforce the relevant provisions contained in the Act.

<b>OTHER OPTIONS CONSIDERED</b>
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- 5.1 Not applicable

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> Human Resources officer Estates/Property officer <b>Service Director(s)</b> Other(s)	Lucie Keeler Amanda Fletcher   Michael Kay
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<b>For more information contact:</b>  <b>Background papers:</b>  <b>List of appendices:</b>	Rob Rylott 01332 642366 rob.rylott@derby.gov.uk  <b>The Housing and Planning Act 2016: Part 2</b> <b>Civil penalties under the Housing and Planning Act 2016: Guidance for Local Authorities</b>  Appendix 1 - Implications
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<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 Penalty charge receipts will be returned to the Housing Standards budget.

**Legal**

- 2.1 The support of Legal Services will be required in confirming that sufficient evidence is available before officers' in the Housing Standards Team impose penalty charges. Their support will also be required in the event of an appeal to a First Tier Tribunal and where applications are made to tribunals for rent repayment orders.

**Personnel**

- 3.1 None arising out of this report

**IT**

- 4.1 None arising out of this report

**Equalities Impact**

- 5.1 None arising out of this report

**Health and Safety**

- 6.1 None arising out of this report

**Environmental Sustainability**

- 7.1 None arising out of this report

**Property and Asset Management**

- 8.1 None arising out of this report

**Risk Management and Safeguarding**

- 9.1 None arising out of this report

**Corporate objectives and priorities for change**

- 10.1 Enforcement of housing standards in the private rented sector contributes to the Councils objective of protecting the health, safety and wellbeing of the public by ensuring safe and decent housing standards.