

Nottingham City Council
Banning Order Policy

1. Introduction

- 1.1 The Housing and Planning Act 2016 amended the Housing Act 2004 and introduced new powers/sanctions which may be used by Local Housing Authorities (“LHAs”) in the form of a Banning Order for the most serious offences committed by landlords and property agents.
- 1.2 The Ministry of Housing, Communities and Local Government (“MHCLG”) has developed non-statutory guidance (“MHCLG Guidance”) to support LHAs to understand how to use their new powers to ban landlords and property agents from renting out property. Within this guidance, it is recommended that all LHAs set out their own policies on when they will pursue a banning order as the appropriate sanction.

Set out below is Nottingham City’s - Local Housing Authority Policy Statement in relation to the use of banning orders as a formal enforcement sanction.

2. Banning Orders

- 2.1 A Banning Order is an order made by the First-tier Tribunal (“the FTT”) which bans a landlord and/or property agent from engaging in one or all of the following activities:-
- (a) Letting housing in England;
 - (b) Engaging in letting agency work in England;
 - (c) Engaging in property management work in England, or
 - (d) Doing two or more of those things.

When can a Banning Order be sought by a local authority?

- 2.2 A LHA may apply to the FTT for a banning order if a person has been convicted of a ‘banning order offence’. A banning order offence is an offence of a description specified in the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018/216.
- 2.3 In deciding whether to impose a ban the FTT must consider the seriousness of the offence, previous convictions for banning order offences and the effect of making such an order on the person whose ban it would result in. Any ban must last for a least 12 months, although it may be varied or revoked.

Who can a Banning Order be made against?

- 2.4 Such an application may be made only if a person has been convicted of a banning order offence; if an offence is committed by a corporate body, a ban

may be sought against an officer of the company instead of the company itself.

3. Enforcement Policy and Banning Orders

3.1 Nottingham City Council has adopted an overarching 'Nottingham City Council – Enforcement Policy'. This separate policy document already sets out what businesses, individuals and the community as a whole can expect from the Council's enforcement officers. It commits us to good enforcement procedures.

Set out below is a direct web link to the Council's Enforcement Policy:
<https://www.nottinghamcity.gov.uk/information-for-business/business-information-and-support/better-business-regulation/>

3.2 Our Enforcement Policy requires all officers to have regard to the principles contained in the document when making enforcement decisions. This Enforcement Policy must be read in conjunction with any relevant approved statutory, governmental or other national guidance on enforcement action. Regard must also be had to any internal quality procedures.

3.3 In relation to banning order powers, we regard these as an additional, formal enforcement powers that we will use for the most serious offenders only. We will exercise these powers in accordance with our Enforcement Policy and we will do so on a case-by-case basis.

4. Guidance

4.1 The MHCLG Guidance is comprehensive and therefore we will follow this guidance when considering the factors which should be taken into account when deciding whether to seek a banning order and the recommended duration for that banning order.

4.2 The MCHLG guidance covers:

- Banning Order Offences
- Determining the appropriate sanction;
- Procedure for making a banning order;
- Role of the First-Tier Tribunal
- Enforcement
- Management Orders
- Appeals
- Publicity following a banning order
- A list of current Banning Order Offences under Schedule 1 of the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017

The full text of the guidance can be viewed via the direct web link below:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697643/Banning_order_guidance.pdf

DRAFT