

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:	4075
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Department:	Commercial and Operations
Contact:	Rebecca Brooker (Job Title: Principal Environmental Health Officer, Email: rebecca.brooker@nottinghamcity.gov.uk, Phone: 01158764007)
Subject:	Adoption of Safer Housing revised Financial Penalties Policy
Total Value:	0 (Type: Nil)
Decision Being Taken:	<p>(1) To adopt a revised Enforcement Policy for the imposition of financial penalties under the Housing Act 2004 as shown at Appendix 2.</p> <p>Note: The Director for Community Protection has delegated authority to approve and adopt the proposed Policy amendments in consultation with the Portfolio Holder in accordance with delegated decision number 2919 dated August 2017.</p>
Reasons for the Decision(s)	<p>The powers to impose financial penalties on landlords who commit certain offences were introduced under the Housing and Planning Act 2016. The Council adopted its first policy on 16 August 2017 which can be viewed within delegated decision reference 2919. Having operated within the Policy since its adoption, the Council is now at a point where it is appropriate to revise the Policy to take account of case law and to reflect best practice, knowledge and experience gained since the powers were first introduced.</p> <p>The Council remains committed to tackling rogue landlords, protecting tenants and improving standards throughout the Private Rented Sector. During recent years, Safer Housing has carried out robust action against rogue landlords through intelligence led enforcement. A new Additional HMO Licensing scheme commenced on 1 January 2019, which along with mandatory HMO licensing continues to improve standards across all HMOs. The Selective Licensing scheme was implemented on 1 August 2018 to improve management of single occupied private rentals and covers 90% of all rented properties in this category across the City. As such work increases and more properties are investigated, so does the need for balanced and appropriate enforcement options.</p>
Briefing notes documents:	2. Policy Version 2.docx, 1. DDM Briefing Note - Financial Penalties.docx

**Other Options Considered:** Option 1 - Continue to use earlier version of the Civil Penalty Policy without the changes. Not favoured option. The powers provided to Local Authorities under the Housing and Planning Act 2016 are still relatively new. Over the past couple of years, significant experience and knowledge of imposing financial penalties has been gained. In addition, there has been case law developments and particular case experience that has influenced the direction of the policy developments. Policies which reflects best practice, government guidance, caselaw developments all contribute to ensuring that the Council adopts a Policy that acheives consistency and the proportionate use of enforcement powers. A revised Policy provides transparency for citizens and in particular landlords who may be the receiptient of the financial penalties.

**Background Papers:**

**Unpublished background papers:** Civil\_penalty\_guidance.pdf

**Published Works:** Ministry for Housing, Communities and Local Government (MHCLG) - Civil Penalties under the Housing and Planning Act 2016 - Guidance for Local Authorities published April 2018

**Affected Wards:** Citywide

**Colleague / Councillor Interests:** None.

**Consultations:**  
Date: 11/11/2020  
Other: Cllr Woodings - Portfolio Holder for Planning, Housing and Heritage  
Portfolio Holder supportive of revised policy.

Those not consulted are not directly affected by the decision.

**Crime and Disorder Implications:** The Council remains of the view that civil financial penalties act as a powerful deterrents for those landlords who might otherwise have considered that the financial benefits of non-compliance outweighed the risk of enforcement action against them. The power to impose civil penalties will encourage landlords to reconsider poor practices leading to greater levels of compliance and improved housing standards across Nottingham's Private Rented Sector.

**Equality:** Please login to the system to view the EIA document: EIA - Financial Penalties revised Policy August 2020 (002).docx

**Regard for NHS  
Constitution:**

The NHS Constitution has one of the guiding principles that the NHS will work across organisational boundaries. It says: "The NHS is committed to working jointly with other local authority services, other public sector organisations and a wide range of private and voluntary sector organisations to provide and deliver improvements in health and wellbeing'. The Council's approach to housing follows this principle, seeking to work with a range of other services to improve citizens' lives, not least their health and wellbeing. One of the key benefits the Council believes that housing licensing will bring is improved housing conditions; the positive impact that better housing can make on health and wellbeing has been demonstrated both nationally and locally. This enforcement policy is about deterring landlords from committing housing related offences and in turn furthering the social norm within the private rented sector that housing conditions are a priority.

**Decision Type:**

Officer

**Executive Decision?**

Yes

**Scheme of Delegation  
Reference Number or Other  
Source of Delegation:**

Delegated Authority granted to the Director for Community Protection in Portfolio Holder Decision number 2919

**Subject to Call In:**

No

The call-in procedure does not apply to the decision because the value of the decision is below the call in threshold.

**Advice Sought:**

Legal, Finance, Equality and Diversity, Other: Ceri Davies(ceri.davies@nottinghamcity.gov.uk)

**Legal Advice:**

As indicated in the body of the decision, the power to impose civil penalties for certain prescribed offences gives the Council a further and significant tool with which to address housing standards and meet Council priorities. The Government has set the framework within

which such penalties can be used and legal advice has been given in the formulation of the Council's revised Policy and Guidance in line with legal developments and best practice.

The approval of the recommendations is within the Council's powers.

Civil Penalties can only be imposed where sufficient evidence exists to meet the criminal burden of proof (ie that a prescribed offence has been committed beyond a reasonable doubt). A right of appeal exists against any penalty imposed. Although the civil penalty is retained by the Council parties to an appeal are normally expected to bear their own costs and in most cases it is unlikely that the Council will be able to recover any costs in relation to such appeals. Advice provided by Connie Green (Solicitor) on 26/08/2020 and confirmed on 19/11/2020.

**Finance Advice:**

Following adoption of the original policy in delegated decision number 2919, this decision seeks approval to adopt a revised policy. There are no financial implication as a direct result of this decision. The costs of enforcement will continue to be funded from approved resources. Financial penalties recovered under this legislation may be used to meet the costs incurred by the Council in carrying out enforcement measures. Any financial penalty funds which are not applied within the financial year recovered will be transferred to a ringfenced reserve to be established as outlined in the regulations.

Advice provided by Maria Balchin (Finance Analyst) on 07/09/2020. Confirmed 08/12/20.

Advice documents: Adoption of Safer Housing revised Financial Penalties Policy.docx

**Equality and Diversity Advice:**

Advice has been provided on EIA submitted. Will need to ensure that teams have relevant training on the imposition of new penalties to ensure consistency in approach and to avoid any discrimination. Also need to be clear as to how you will be made aware when a landlord has committed an offence. Advice provided by Nasreen Miah (Equality & employability consultant) on 01/09/2020. Advice provided by Nasreen Miah (Equality & employability consultant) on 19/11/2020.

**Other Advice:**

Advice document provided by Ceri Davies (Housing Strategy Specialist) 23/10/2020

**Signatures:**

Andrew Errington (Director of Community Protection )

SIGNED and Dated: 17/12/2020