

Equality Impact Assessment Form

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1. Document Control

1. Control Details

Title:	Revised Civil Penalties Policy - Housing Act 2004
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2. Document Amendment Record

Version	Author	Date	Approved
1	D Newbutt/R Brooker	28.08.20	28.08.20

3. Contributors/Reviewers

Name	Position	Date
Nasreen Miah	Equality & Employability Consultant	01.09.2020

4. Glossary of Terms

Term	Description

[screentip-sectionB](#)

2. Assessment

1. Brief description of proposal / policy / service being assessed

In April 2017 the Government introduced a new discretionary enforcement measure under the Housing and Planning Act 2016. This enforcement measure enables local housing authorities to impose financial penalties for specified housing offences contained within the Housing Act 2004. It allows local housing authorities to have a discretionary power to tackle landlords and property agents in Nottingham who are able to exploit tenants by letting out unsuitable and/or dangerous properties that can impact upon quality of life for tenants and the wider community. The current decision relates to an update to an already adopted Council Policy relating to the use and imposition of financial penalties and their calculation. The changes relate to the structure of the Policy document and refinement of the process used to determine the penalty amount.

As would be anticipated after the introduction of new powers and a period of operating with such new powers, there is now a body of national Tribunal Appeal Judgements that can be viewed publicly and a handful of Upper Tribunal decisions which together have influenced the development of the Council's amended Policy.

The Council remains of the view that civil 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.

[screentip-sectionC](#)

2. Information used to analyse the effects on equality:

- (1) There are currently no datasets that provide full coverage of the characteristics of landlords and tenants within the city's Private Rented Sector.
- (2) Ethnicity breakdowns for landlords have been obtained from the Council's current Additional Licensing Scheme for Houses in Multiple Occupancy (HiMO). It is acknowledged that landlords of Asian ethnicity are over-represented within this dataset. In 2016 47% of landlords who disclosed their ethnicity as part of the Nottingham HiMO Additional Licensing Scheme declared they were of Asian heritage. 62% of this group identified as Asian/Asian British Pakistani. Note: This dataset is not fully representative of Nottingham's current PRS landlord population.
- (3) Census (2011) has been used to identify ethnic group numbers across Nottingham. The 2011 Census identified that 13.1% of Nottingham's population were of Asian/Asian British ethnicity.
- (4) Data obtained from the Further Integrated Housing Stock Modelling Database for Nottingham City Council and Census (2011) have been used to highlight the correlation between the number of black and minority ethnic residents and migrants in areas with higher numbers of private rented housing stock across Nottingham.

3. Impacts and Actions:

<u>screentip-sectionD</u>	Could particularly benefit X	May adversely impact X
People from different ethnic groups.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Men	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Women	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trans	<input type="checkbox"/>	<input type="checkbox"/>
Disabled people or carers.	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/ Maternity	<input type="checkbox"/>	<input type="checkbox"/>
People of different faiths/ beliefs and those with none.	<input type="checkbox"/>	<input type="checkbox"/>

Lesbian, gay or bisexual people.	<input type="checkbox"/>	<input type="checkbox"/>
Older	<input type="checkbox"/>	<input type="checkbox"/>
Younger	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. marriage/ civil partnership, looked after children, cohesion/ good relations, vulnerable children/ adults).	<input type="checkbox"/>	<input type="checkbox"/>
<i>Please underline the group(s) /issue more adversely affected or which benefits.</i>		

<p style="text-align: right;"><u>screentip-sectionE</u></p> <p>How different groups could be affected (Summary of impacts)</p>	<p style="text-align: right;"><u>screentip-sectionF</u></p> <p>Details of actions to reduce negative or increase positive impact (or why action isn't possible)</p>
<p>Provide details for impacts / benefits on people in different protected groups.</p> <p>Note: the level of detail should be proportionate to the potential impact of the proposal / policy / service. Continue on separate sheet if needed (click and type to delete this note)</p> <p>1. POSITIVE IMPACT</p> <p>The adoption of a revised civil penalties policy will have a positive impact upon all groups.</p> <p>ENFORCEMENT – The available use of civil penalties for serious housing offences provides the Council with an alternate enforcement</p>	<p>1 Actions will need to be uploaded on Pentana.</p> <p>Continue on separate sheet if needed (click and type to delete this note)</p> <p>Nottingham City Council will actively promote the successful use of civil penalties through local media outlets to increase their deterrence effect and reinforce the social norm against poor landlord practices.</p>

option to prosecution for those landlords or agents who are the worst offenders for housing related offences under the Housing Act 2004. There are multiple aims behind the introduction of the discretionary powers which include:

- (i) Punishment of the offender. A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
- (ii) Deter the offender from repeating the offence. The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence. The civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.
- (iii) Deter others from committing similar offences. While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties.

2. ADVERSE IMPACT - LANDLORDS

- (i) The revised Policy sets out the framework that will be

The publication of the revised policy will raise renewed awareness of the proposed use of civil penalties, build public trust in the proposed enforcement procedures and enable a sufficient deterrence effect amongst landlords with poor standards of accommodation. The revised policy will be published on the council's housing website.

The Safer Housing and Licensing Officers continue to

<p>followed by the Safer Housing Team when deciding whether a civil penalty is appropriate and how the calculation of the penalty will be reached. The Policy has developed in line with statutory government guidance on civil financial penalties.</p> <p>(ii) The Policy will apply to all landlords in the Nottingham City Local Authority area. Any landlord who has committed a relevant housing offence, in accordance with the Housing Enforcement Guidance may be considered for a civil penalty but any such decision would need to be in accordance with the Council's overarching enforcement Policy, the Regulator's Code and Code of Crown Prosecutors.</p> <p>(iii) As part of the statutory process Landlords and/or Agents that may become the recipient of these penalties, have a statutory right to make representation to the Authority prior to any final decision being made and also have a right of Appeal against a Local Authority decision to the First Tier Property Tribunal.</p> <p>(iv) ENGAGEMENT – There is no statutory requirement to consult on the proposed changes. Nottingham City Council will continue to provide general information, advice and guidance to all landlords to ensure relevant enforcement changes are understood.</p> <p>3. ADVERSE IMPACT TENANTS</p> <p>People from different ethnic groups.</p> <p>(i) SUPPORT - Where a civil penalty is used there is an increased likelihood that landlords may increase rent fees for tenants to help pay for the civil penalty charge.</p> <p>Similarly there is an increased likelihood for landlords to</p>	<p>undertake equality and diversity training to ensure enforcement duties are carried out with full regard to the Council's Equality and Diversity Policy.</p> <p>The Safer Housing Team and Licensing Officers will all receive new training on the imposition of civil penalties to ensure consistency of enforcement in accordance with the new Policy.</p> <p>Nottingham City Council will continue to work with Nottinghamshire Police and broader partners to identify vulnerable tenants and provide relevant multi- agency support where necessary to prevent and identify illegal eviction, overcrowding and all other forms of exploitation in the PRS.</p>
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<p>leave the PRS market as a result of having to pay for a civil penalty charge. This could lead to a potential increase in tenant evictions.</p> <p>(ii) ENGAGEMENT – Potential for some tenants to not be aware of their housing rights within the PRS.</p>	<p>The Council continues to deliver the Nottingham Private Rented Assistance Scheme (NPRAS) in order to prevent homelessness.</p> <p>The Council continues to support the Nottingham UNIPOL and Decent and Safe Homes (DASH) organisations to deliver the Nottingham Standard Accreditation Scheme. This voluntary scheme helps tenants avoid poorly managed housing by setting a minimum standard for PRS management for student and non-student homes.</p> <p>Nottingham City Council and wider partners, e.g., local universities, continue to hold regular engagement events across Nottingham to ensure tenants are aware of their legal housing rights.</p>
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4. Outcome(s) of equality impact assessment:


<input checked="" type="checkbox"/>	No major change needed	<input type="checkbox"/>	Adjust the policy/proposal
<input type="checkbox"/>	Adverse impact but continue	<input type="checkbox"/>	Stop and remove the policy/proposal

5. Arrangements for future monitoring of equality impact of this proposal / policy / service:

The Council’s Policy will remain under regular review by the Principal Management Team at their regular meetings, as will the EIA that underpins the Policy.

6. Approved by (manager signature) and Date sent to equality team for publishing:

Approving Manager:	Date sent for scrutiny: Send document or Link to:
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<p>The assessment must be approved by the manager responsible for the service/proposal. Include a contact tel & email to allow citizen/stakeholder feedback on proposals.</p>	<p><u>equalityanddiversityteam@nottinghamcity.gov.uk</u></p>
<p>SRO Approval: Duncan Newbutt, Head of Environmental Health and Safer Housing <u>Duncan Newbutt@nottinghamcity.gov.uk</u></p> 	<p>Date of final approval:</p>

Before you send your EIA to the Equality and Community Relations Team for scrutiny, have you:

1. Read the guidance and good practice EIA's
<http://intranet.nottinghamcity.gov.uk/media/1924/simple-guide-to-eia.doc>
2. Clearly summarised your proposal/ policy/ service to be assessed.
3. Hyperlinked to the appropriate documents.
4. Written in clear user-friendly language, free from all jargon (spelling out acronyms).
5. Included appropriate data.
6. Consulted the relevant groups or citizens or stated clearly, when this is going to happen.
7. Clearly cross-referenced your impacts with SMART actions.