

North Yorkshire Council

Executive

20 August 2024

Housing Standards Enforcement Policy

Report of the Corporate Director Community Development

1.0 PURPOSE OF REPORT

- 1.1 The purpose of the report is for the Council to adopt new Housing Standards enforcement policies for across the County. The enforcement policies will ensure that all private housing standards are dealt with consistently and that the Housing Standards team can utilise all of the relevant statutory duties and powers.

2.0 BACKGROUND

- 2.1 As part of Local Government Reorganisation, the Council is now the primary enforcement agency for ensuring the protection of the health, safety and welfare rights for occupiers and visitors in private sector housing within the north Yorkshire area. Within the Council this function sits within the Housing Standards team, which is part of the Community Development Directorate.
- 2.2 Local authorities have a duty under Part 1 of the Housing Act 2004 to keep housing conditions under review and identify action needed. Nationwide recent events within the sector and the deaths caused by damp and mould in the rented sector have highlighted the key work delivered in this area and has generated additional scrutiny on services.
- 2.3 The Council has statutory duties and discretionary powers to take enforcement action, using a range of legislation to address issues arising in privately owned accommodation; these being delegated to officers within the Housing Standards team.
- 2.4 The new Council has the opportunity to deliver a renewed focus on housing standards within the private sector, working towards a more preventive service. For the Council to deliver a consistent approach and response to complaints about properties in the private sector, the Council requires one enforcement policy across the entire county; with some subsidiary policies under the umbrella of the Council's main enforcement policy. We aim to use these policies to aid in the alignment of service policies moving forward and making full use of the tools and powers available to proactively tackle substandard housing.

3.0 CONDITION OF THE PRIVATE RENTED SECTOR

- 3.1 Although the Housing Standards enforcement policy covers all housing tenures, it has a particular focus on the private rented sector. The English Housing Survey identified that 21% of private rented dwellings are of non-decent standard, far higher than the proportions in the social sector (10%) and owner occupied (14%).

- 3.2 The private rented sector represents 18.6% of all tenures across North Yorkshire, accounting for 51,149 households in 2021, an increase of 8,098 in comparison to 2011. In addition, 34.5% of North Yorkshire's private rented sector was built pre 1900 compared with 21.2% for all tenures, and 51.6% was built pre 1929 compared with 32.5% for all tenures.
- 3.3 A 'State of the Nation' report, procured by the council as part of a grant funded DLUHC Pathfinder Project earlier this year, identified 38 Lower layer Super Output Areas (LSOAs) in North Yorkshire with higher-than-average levels of private rented accommodation, deprivation and poor health. In the Scarborough area, as adopted by the previous Scarborough District Council, we have already introduced Selective Licensing into some of these areas, which requires all landlords of privately rented properties to obtain a licence and be inspected during the 5-year licence period, to ensure the property continues to meet certain minimum standards and licence conditions. It is intended to carry out further work to establish whether Selective Licensing is required in other areas across North Yorkshire to help raise housing conditions in the private rented sector.

4.0 HOUSING STANDARDS ENFORCEMENT POLICIES

- 4.1 At present the Council operates different enforcement policies within the seven district areas of North Yorkshire, which include the enforcement action of housing in the private sector. Some of the existing policies are stand-alone Housing enforcement, but some are integrated within existing Environmental Health policies.
- 4.2 At present some housing enforcement functions cannot be delivered in all areas of the Council as they were not previously adopted by the previous borough and districts. Therefore, the service cannot deliver their statutory duties or deliver the functions of the service consistently across the authority. The Housing Standards enforcement policy will replace the seven existing policies, allowing for consistency of approach in private sector housing enforcement across the entire county.
- 4.3 A new Housing Standards enforcement policy (Appendix A) has been prepared for the Council and sets out a balanced approach to housing enforcement work. It ensures that the underlining principle of the team can be met in order to improve housing standards across all housing tenures, but in particular ensuring all privately rented accommodation is well managed, properly maintained, safe and habitable.
- 4.4 The policy outlines the council's approach to dealing with complaints and property inspections in line with legislative duties and powers, setting out how the council will meet its legal requirements. The policy allows for an informal (advice and guidance) approach or a formal (enforcement) led approach depending on a number of factors including the severity of hazards, any history or poor management practices and/or non-compliance by the landlord, and where the council lacks confidence in a landlord to resolve the issues identified. It ensures the most appropriate course of action is taken depending on the hazards identified and circumstances of the case.
- 4.5 The policy sets out certain enforcement and administrative charges, as well as setting out how financial penalties will be applied.
- 4.6 Furthermore under the umbrella of the Housing Standards enforcement policy sits the following policies, detailed within the appendices of the Enforcement policy (Appendix A). It is intended that these will be delivered across all seven district areas of north Yorkshire, again allowing for consistency of approach in these areas –

- (i) Electrical Safety Regulations Financial Penalties policy
- (ii) Civil Penalties policy
- (iii) Minimum Energy Efficiency Standards policy
- (iv) Smoke and Carbon Monoxide Alarm Regulations policy
- (v) Rent Repayments Orders policy.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

5.1 Although, a public consultation is not required to implement this policy, key partners and services have been involved. Consultation has taken place with Legal and Democratic Services, and their comments have been incorporated into the policy and this report, along with housing staff involved in the delivery of current services and which reflect nationwide good practise.

6.0 CONTRIBUTION TO COUNCIL PRIORITIES

6.1 The policy contributes principally to the following Council priority:

“Place and Environment: Good quality, affordable and sustainable housing that meets the needs of our communities”.

6.2 In addition, the policy also contributes towards supporting resilient communities, improving the way local services that are delivered and the Councils ambitions around improving our resident’s health and well-being.

6.3 The policy supports ambitions and priorities within the Council Plan, actively contributing to our “Health and Wellbeing” ambition, with close links between housing and health, raising the standards of accommodation for our residents and supporting positive health outcomes.

6.4 There is also an aim to ensure that North Yorkshire is ‘a clean, environmentally sustainable, and attractive place to live, and elements of this policy support the increase energy efficiency of our privately rented housing stock.

7.0 ALTERNATIVE OPTIONS CONSIDERED

7.1 The Council are required to have an enforcement policy to set out how it intends to utilise the range of tools available to enforce the various legislative and regulatory mechanisms in place to protect standards in the private sector. Having an enforcement policy for across North Yorkshire creates consistency across the new Housing Standards service area.

7.2 Not adopting a new single enforcement policy would mean that certain legislative duties/powers placed on the Council could not be performed in all areas of North Yorkshire, as these were not adopted by the previous district councils. In addition, as Regulatory Services adopt new enforcement policy, some of the boroughs and districts policies which contain these functions would become obsolete.

8.0 IMPACT ON OTHER SERVICES/ORGANISATIONS

8.1 There is a requirement for some legal notices to be registered on Local Land Charges, which may have increased work implications on the Land Charge team.

8.2 The policy will allow the housing service to deliver a fair and consistent approach across the County. Many of the measures also support our colleagues in Health and Social Care, Children’s and Young Person’s Services and the Health Service, due to the preventive nature of these works which provide a ‘invest to save’ rationale against the Councils wider budgets.

- 8.3 The introduction of a countywide policy will provide a consistent approach simplifying the process for both residents and partners referring into the service, this will support our system convergence.

9.0 FINANCIAL IMPLICATIONS

- 9.1 The enforcement policy will create a small amount of income for the Council under the 'Power to charge for certain enforcement action' at Section 49 of the Housing Act 2004, as well as other relevant legislation which allows for the recovery of certain expenses where the Council have carried out works in default. The Council may charge for recovering certain administrative and other expenses, as set out in the policy.
- 9.2 The policy also allows for the use of financial penalties of up to £30,000 as a means of penalty and deterrent against non-compliant landlords, lettings agents and property managers. Income received from financial penalties can be retained by the local housing authority provided that it is used to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.
- 9.3 Invoices will need to be raised for the recovery of expenses and financial penalties.

10.0 LEGAL IMPLICATIONS

- 10.1 Legal and Democratic Services have been consulted on the drafting of the enforcement policy and this report. The statutory powers to take enforcement action in the private rented sector is delegated to the Assistant Director Housing, who has in turn delegated such powers to officers within the Housing Standards team.
- 10.2 The policy meets the Council's legal obligations in terms of the delivery of enforcement within the private sector. Having in place an adopted policy and supporting procedures will demonstrate fairness, and provide openness and transparency in decision making, will assist the Council in defending any legal challenges to such decisions.
- 10.3 The new enforcement policy may have increased work implications upon the Legal and Democratic Services team if there is an increase in enforcement action. Legal and Democratic Services will be consulted by the Housing Standards team on any complex cases requiring legal input, prosecutions, financial penalties and will act for the council in defending any appeals to the Property tribunal against enforcement action taken by the council.

11.0 EQUALITIES IMPLICATIONS

- 11.1 An Equality Impact Assessment Screening tool has been completed (Appendix B).

12.0 CLIMATE CHANGE IMPLICATIONS

- 12.1 An initial Climate Change Impact Assessment has been completed (Appendix C) and determined that as the proposal is bringing together existing legacy policies into one NYC policy, there will be no increase in emissions, therefore a full CCIA is not required.
- 12.2 Whilst there are no immediate Climate Change implications, the enforcement tools available require the Council to ensure that privately rented properties meet certain minimum Energy Performance Certificate (EPC) ratings, as well as utilising excess cold tools under the Housing Health and Safety Rating System (HHSRS) and Housing Act 2004.
- 12.3 The Housing Standards team will also provide information and guidance on any grants or loans available to improve the thermal efficiency and heating measures in homes.

13.0 PERFORMANCE IMPLICATIONS

13.1 One policy for the whole county will allow consistency of how service requests (complaints) are dealt with.

14.0 POLICY IMPLICATIONS

14.1 The Housing Standards enforcement policy will replace the seven existing policies. Existing policies are a mixture of Housing and Environmental Health policies from boroughs and districts. The new policies will be adopted across all areas of the county.

15.0 RISK MANAGEMENT IMPLICATIONS

15.1 The Council risks not complying with their legal duties if one policy covering all relevant legislation is not adopted. The current policies from boroughs and districts do not encompass all of the most recent legislation.

17.0 ICT IMPLICATIONS

17.1 None at this stage. The existing seven data management systems will be utilised for the time being. However, there is an urgent need for one data management system to be adopted for the Housing Standards team so officers are not restricted to being able to use only one data management system, which is having a significant impact on service delivery.

18.0 REASONS FOR RECOMMENDATIONS

18.1 Adoption of this enforcement policy will allow the Housing Standards to work consistently across the county and meet our legal obligations and duties.

19.0 RECOMMENDATION

19.1 In order to improve housing standards across all housing tenures, but in particular ensuring all privately rented accommodation is well managed, properly maintained, safe and habitable, and relevant enforcement action can be taken, it is recommended that the following are adopted and approved for use across the county:

- (i) the Housing Standards enforcement policy, included at Appendix A.
- (ii) the Electrical Safety Regulations Financial Penalties policy, as detailed in Appendix B of the Housing Standards enforcement policy.
- (iii) the Civil Penalties policy, as detailed in Appendix C of the Housing Standards enforcement policy.
- (iv) the Minimum Energy Efficiency Standards policy, as detailed in Appendix D of the Housing Standards enforcement policy.
- (v) the Smoke and Carbon Monoxide Alarm Regulations policy, as detailed in Appendix E of the Housing Standards enforcement policy.
- (vi) the Rent Repayments Orders policy, as detailed in Appendix F of the Housing Standards enforcement policy.
- (vii) the approach to fees and charges and penalties where enforcement action is needed, as detailed in Appendix G of the Housing Standards enforcement policy.

19.2 It is also recommended for approval, that minor alterations can be made to the Housing Standards Enforcement Policy by the Assistant Director of Housing in consultation with the portfolio holder.

APPENDICES:

Appendix A – Housing Standards Enforcement Policy
Appendix B – Equality Impact Assessment Screening
Appendix C - Climate Change Impact Assessment

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Presenter of Report

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.