

<b>13 March 2024</b>		<b>ITEM: 14</b> <b>Decision: 110709</b>
<b>Cabinet</b>		
<b>Financial penalties for the enforcement of consumer protection legislation relevant to Letting Agents and Landlords</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Non-Key	
<b>Report of:</b> Cllr Jefferies – Portfolio Holder		
<b>Accountable Assistant Director:</b> Mike Dineen – Assistant Director		
<b>Accountable Director:</b> Claire Demmel – Director of Public Realm		
<b>This report is</b> Public		
<b>Version:</b> Cabinet / Final		

## Executive Summary

This report has been prepared to inform Cabinet about a new policy imposing financial penalties for breaches of legislation relating to Letting Agents and Landlords. These include.

- Tenant Fees Act 2019
- Chapter 3, Part 3 of the Consumer Rights Act 2015
- The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014
- The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019

These penalties are new sanctions made available to local authorities by the above legislation and the Council is required to have a policy in place to ensure consistency in approach.

## Commissioner Comment:

Commissioners have been consulted on the content of this report and agree with the recommendations made.

### 1. Recommendation(s)

#### 1.1 Cabinet notes the contents of this report.

#### 1.2 Cabinet approves the financial penalties policy for the enforcement of consumer protection legislation relevant to Letting Agents and Landlords, so it can be implemented within our Enforcement Policy.

Version Control

**Version Cabinet** – Final version ready for Cabinet/Executive decision

## **2. Introduction and Background**

- 2.1 The private rented sector in the housing market is second only to owner occupation in England. The rapid growth of the sector has prompted a need for property management standards. There is currently no overarching statutory regulation of the private rented sector, although letting agents and landlords are subject to consumer protection laws. There are also specific provisions for letting agents and landlords in relation to the charging of fees and membership of redress schemes.
- 2.2 The consumer protection legislation that applies to this sector is as follows;
- The Tenant Fees Act 2019 prohibits landlords and agents from charging any fees to tenants other than those permitted in the Act.
  - The Consumer Rights Act 2015 (Chapter 3 of Part 3) requires agents to display a list of relevant fees that tenants and landlords are required to pay. They must also display details of their client money protection scheme and redress membership.
  - The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019. A “property agent” who holds client money must be a member of an approved or designated client money protection scheme.
  - The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 requires a person who engages in lettings agency or property management work is required to be a member of a redress scheme.
- 2.3 Trading Standards have a statutory duty to enforce the legislation as the “Weights and Measures Authority” and must determine the appropriate enforcement action where breaches are identified. A breach of the legislation will usually be civil in the first instance and may result in a financial penalty. However, if a further breach is committed within five years, this will be a criminal offence.
- 2.4 Enforcement authorities are expected to develop and document their own policy on when to prosecute and when to issue a financial penalty. Decisions must be made in line with that policy.
- 2.5 This policy is therefore essential in allowing us to take effective enforcement action under the legislation. It is a significant addition to the range of tools in the Council’s existing Enforcement Policy as a means of achieving business compliance.

## **3. Issues, Options and Analysis of Options**

- 3.1 The policy proposed reflects the approach recommended by the National Trading Standards Estate and Letting Agents Team and has been successfully implemented across England by other Local Authorities.
- 3.2 Traditional enforcement outcomes for consumer protection offences often result in prosecution however these legislations implement a new approach to this business sector in terms of

creating civil sanctions. These newly created penalties mean that rogue agents can be effectively tackled, and vulnerable consumers protected.

#### **4. Reasons for Recommendation**

- 4.1 If this policy is not agreed by the Committee, then Trading Standards will not be able to impose financial penalties on unscrupulous landlords and letting agents. This will be to the detriment of Thurrock Residents who very often are vulnerable due to the nature of their short lease rental agreements.

#### **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 None

#### **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 The work on Tenant Fees contributes to all three of Thurrock's priorities in terms of;
- People - protecting vulnerable residents from being exploited by rogue landlords and letting agents.
  - Place – safeguarding communities from illegal activity
  - Prosperity – ensuring Thurrock has a thriving rental sector with a level playing field.

#### **7. Implications**

##### **7.1 Financial**

Implications verified by: **Laura Last**  
**Senior Management Accountant**

This statutory work is funded by the Trading Standards budget. There are no additional financial implications arising from this report. There will be a small element of income generation from this work which should be invested back into the service. This will be reliant on identifying offenders and bringing them to task. This will not be a consistent income stream however as the intention of the policy is to bring about compliance.

##### **7.2 Legal**

Implications verified by: **Godwin Mangse**  
**Interim Manager Housing & Litigation, Legal Services**

The current work of the Public Protection Service of the Council is governed by the legislation detailed in the body of this report and Legal Service will advise appropriately on any identified legal implications arising thereof from this report and as when required.

Furthermore, internal policies and working instruction should be formulated to guide officers on the issuing of financial penalties, in relation to breaches of relevant housing legislation. These

documents will deal with the process by which notices are issued, appeals handled and penalties collected and enforced if unpaid.

In accordance with the remit of the CGS Overview and Scrutiny Committee, Members are asked to review and scrutinise the outline in this report.

### 7.3 **Diversity and Equality**

Implications verified by: **Rebecca Lee**  
**Team Manager – Community Development and Equalities**

The work outlined in this report helps protect vulnerable members of the community by ensuring rogue traders are brought to task. A CEIA has been completed.

### 7.4 **Risks**

None

### 7.5 **Other implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

None

### 8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

Tenant Fees Act 2019 – Statutory Guidance for Enforcement Authorities

### 9. **Appendices to the report**

- Appendix 1: The Tenant Fees Act Policy

### **Report Author:**

Charlotte Edwards - Trading Standards Manager

Public Protection