



<b>REPORT TO:</b>	CORPORATE AND COMMUNITY COMMITTEE
<b>DATE:</b>	THURSDAY 1 DECEMBER 2022
<b>SUBJECT:</b>	Addition of Locally Adopted Charges for Minimum Energy Efficiency Standards and Electrical Safety Standards to the Private Sector Housing Policy Framework.
<b>PURPOSE:</b>	To enable Civil Penalty Notices to be issued to landlords where Compliance/Remedial Notices fail to secure the required standard of private rental properties to be met.
<b>KEY DECISION:</b>	Yes
<b>PORTFOLIO HOLDER:</b>	Councillor Martin Griggs
<b>REPORT OF:</b>	Jon Challen
<b>REPORT AUTHOR:</b>	Safer Communities Service Manager
<b>WARD(S) AFFECTED:</b>	All
<b>EXEMPT REPORT?</b>	No

## **SUMMARY**

This report brings forward two updates to the Private Sector Housing Policy Framework to introduce Locally Adopted Charges for the enforcement of Minimum Energy Enforcement Standards (MEES) and Electrical Safety Standards. Both pieces of legislation have been in force for some time and will enable the Housing Standards Team to take appropriate action where landlords are non-compliant.

A funded award from the Department for Business, Energy and Industrial Strategy (BEIS) has been secured to undertake a project specifically focussing on enforcement of the MEES regulations and these Charges need to be in place so that where engagement and Compliance Notices fail, the Council has the power to proceed to issue Civil Penalties.

## **RECOMMENDATIONS**

Cabinet agrees the Locally Adopted Charges in relation to enforcement of Minimum Energy Enforcement Standards and Electrical Safety Standards.

Cabinet approves the required amendments to the Private Sector Housing Policy Framework.

## **REASONS FOR RECOMMENDATIONS**

To enable the Council to take enforcement action where other efforts to ensure private-sector landlords comply with relevant legislation have been unsuccessful.

## **OTHER OPTIONS CONSIDERED**

Not to implement the charges. This decision would however undermine the Council's role in protecting the welfare of tenants by ensuring that landlords are complying with relevant legislation.

## **1. BACKGROUND**

- 1.1** The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 introduced a minimum level of energy efficiency which private-rented properties must meet known as the Minimum Energy Efficiency Standards (MEES).
- 1.2** The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 require landlords to have property electrics checked at least every five years by a suitably qualified person. The electrics must meet standards and landlords must give their tenants proof of this.
- 1.3** This report sets out the updates required to the Council's existing Private Sector Housing Policy Framework to enable the Council to take action where it has reasonable grounds to believe that a landlord has failed to fulfil their duties under these regulations.

## **2. REPORT**

- 2.1** The MEES regulations mean that, subject to certain requirements and exemptions, since 1 April 2018, landlords of relevant domestic private rented properties must not grant a tenancy to new or existing tenants if their property has an Energy Performance Certificate (EPC) rating of F or G.
- 2.2** Furthermore, from 1 April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating F or G.

- 2.3** EPCs outline how energy efficient a building is and give it a rating from A (very efficient) to G (inefficient). The less efficient the building, the more it will cost tenants to heat and light and the higher the carbon dioxide emissions are likely to be.
- 2.4** In September 2022, Boston Borough Council was awarded £102,021 by the Department for Business, Energy and Industrial Strategy to put in place the steps to enforce the MEES regulations within the private-rented sector and to resource a project to identify those properties that don't currently comply.
- 2.5** Landlords have a responsibility to keep themselves abreast of changes to legislation. The introduction of MEES regulations has been widely publicised within the sector. The project intends to undertake initial engagement with landlords and an event will be held in Boston to provide advice and information to landlords around compliance.
- 2.6** As the enforcing authority, the Council will issue a Compliance Notice which gives the landlord 28 days to improve the energy efficiency of the property and gain a new certificate which shows a rating of E or above to continue to let the property.
- 2.7** Should the landlord fail to address the issue or ignore the Compliance Notice then the Council can proceed down the Civil Penalty route. The fixed penalty for non-compliance of the notice is £500 and the penalty for non-compliance with the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 is £1500.
- 2.8** When a Penalty Notice is served on the Landlord under section 38 of the Regulations, it allows a further timescale to comply (usually 2 months maximum) and if the landlord complies within this timeframe then he is allowed a 50% discount to the non-compliance with the regulations part of the penalty. In cases such as this where the Landlord complies at Penalty Notice stage, the penalty issued would be £1,250.
- 2.9** Should the Landlord fail to comply at this stage then the Penalty would be £2,000 in total (£500 for committing the offence and a further £1,500 for failure to comply within the timeframe given). The Council would then proceed to issue a further Penalty Notice giving more time to comply and the cycle continues until the Landlord carries out the works and provides the new EPC to prove the property complies. Should the Landlord evict the tenant as a result of the Penalty Notice, he cannot enter into another tenancy agreement without improving the EPC to E or above as he would be committing a further offence by doing so.
- 2.10** Properties let with an Energy Performance rating of F or G present a hazard under the Housing Health and Safety Rating System (HHSRS) of excess cold. It also impacts on the running costs to keep the property warm adding to fuel poverty and assisting with keeping deprivation indicators high. Fuel poverty and poor thermal performance of homes adds to deprivation and can impact on resident's health, educational standards and impacts on the amount of available funding for other matters such as food and higher quality housing.
- 2.11** Some exemptions to the regulations apply such as in cases where a landlord has made all the relevant energy efficiency improvements to the property that can be made within a £3,500 cap and the property remains sub-standard.

- 2.12** The Government has previously indicated that it intends to increase the minimum standard for EPC ratings and this could see landlords being expected to upgrade their buildings to a B rating by 2030.
- 2.13** The Electrical Safety Standards regulations include a requirement that the installation is inspected/tested by a suitably qualified person at intervals of no more than 5 years (or less if specified within the previous report), and to undertake such further investigative or remedial work as may be identified within that report.
- 2.14** Copies of the report must be provided to new occupants before that tenant occupies the property, to existing tenants within 28 days of the inspection and test, and to the Council within a period of 7 days of receiving a request to do so.
- 2.15** Failure to supply a certificate to the Council following a formal request to do so will incur a financial penalty of £360.
- 2.16** Failure to ensure that an inspection/test was carried out by the required date (as specified within Section 3(1)(c)) will incur a financial penalty of £500.
- 2.17** Where the Council has reasonable grounds to believe that a landlord has failed to fulfil their duties under these regulations, the Council must serve the landlord a Remedial Notice requiring them to take action within 28 days.
- 2.18** Should a landlord fail to comply with the Remedial Notice then the Council can proceed down the Civil Penalty route. The fixed penalty for non-compliance with the notice is £1,000.
- 2.19** The Council may also arrange for a suitable contractor to carry out the work which may require the landlord to pay a financial penalty determined by the authority. This must not exceed £30,000.

### **3. CONCLUSION**

- 3.1** This report asks members to agree the proposed amendments to the Private Sector Housing Policy Framework to enable the Council to undertake enforcement action against landlords that are not complying with current legislation. The legislation is there to protect tenants and the Council is the enforcing authority to ensure it is complied with.
- 3.2** Agreement of these amendments will ensure the BEIS-funded MEES enforcement project can progress with the tools required to ensure it delivers on its outcomes to engage landlords but ultimately impose Civil Penalties where the landlord fails to comply.
- 3.3** Putting these amendments in place will bring Boston Borough Council in line with East Lindsey District Council and South Holland District Council who have both already implemented the regulations.

## **EXPECTED BENEFITS TO THE PARTNERSHIP**

The recommendations will bring Boston Borough Council in line with both East Lindsey District Council and South Holland District Council in enforcing current legislation – presenting a coordinated approach across the sub-region. Poor quality housing hits straight at the heart of local communities because of the many associated impacts it can have on the lives of local residents from increasing fuel poverty to impacting on health and wellbeing outcomes.

This project will help to protect residents by working closely with the Private-Rented Sector landlords to ensure they understand the current legislation as well as Government plans for future improvements, and to assist them with making the required changes to continue to offer decent living accommodation for their tenants for years to come.

## **IMPLICATIONS**

### **SOUTH AND EAST LINCOLNSHIRE COUNCILS PARTNERSHIP**

This strategy seeks to align activity across the three sovereign council areas to improve accommodation standards within the private rented-sector and reduce carbon emissions from housing. Existing knowledge from within the Partnership Councils who are already delivering enforcement of these standards will assist Boston Borough Council in aligning its approach and helping to support the resourcing of this work.

### **CORPORATE PRIORITIES**

This report will support the Council's corporate priorities around People, in particular to *Educate and enforce to improve the quality of rented properties in the Borough* but also around *Environmental Awareness and Accountability* in helping to reduce carbon emissions from less energy efficient properties.

## **STAFFING**

Funding from BEIS has provided the resources to put in place the Policy Framework amendments required and will also fund an external administrator to work on the MEES project until March 2023. This will support the organisation of an engagement event for landlords, ensure our communications are updated to reflect the regulations and inform landlords of potential future change and to undertake the enforcement action required where landlords fail to comply.

A S113 agreement will be established for ELDC's Project Manager (Sustainable Housing) for a small number of hours each week through to March 2023 to enable their support for this project at Boston – funded through the BEIS grant.

## **CONSTITUTIONAL AND LEGAL IMPLICATIONS**

*In order to proceed with this piece of work it will be necessary for the Council to amend the current Housing Policy Framework*

## **DATA PROTECTION**

There are none specifically arising from this report however these will be important in delivery of the MEES project due to engagement with landlords and in some cases tenants.

## **FINANCIAL**

Funding of £102,021 has been provided by BEIS to support delivery of a MEES enforcement project through until March 2023. The funding will also support the production of an updated BRE Housing Stock survey to provide us with a better evidence base in terms of the local picture in relation to the quality of housing and associated considerations.

## **RISK MANAGEMENT**

The key risk from this project surrounds landlords and whether taking enforcement action against them for non-compliance may result in them evicting tenants or choosing to sell their properties rather than pay out for the improvements required. This risk will need to be carefully managed through engagement with the Council's Housing Teams and other agencies to support landlords and tenants in these situations. It should not however be a reason not to move forward with enforcement of the regulations which have been in place for some time and were not actioned during the height of the Covid pandemic for obvious reasons.

## **STAKEHOLDER / CONSULTATION / TIMESCALES**

Consultation has taken place with both the Cabinet member for Housing and with the Leader of the Council.

## **REPUTATION**

There is a reputational risk for the Council of failing to enforce the regulations because it could be seen that we are not doing enough to support tenants living in sub-standard accommodation.

## **CONTRACTS**

A contract with an outside consultancy will provide the short-term administrator support required for this project.

## **CRIME AND DISORDER**

None directly however sub-standard accommodation can sometimes be linked to a number of wider social concerns that stem from this.

## **EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING**

Fuel poverty and poor thermal performance of homes adds to deprivation and can impact on educational standards and on the amount of available funding for other matters such as food and higher quality housing. This project will address some aspects of this by ensuring that private rented sector housing in the Borough has an energy performance rating of E and above helping to ensure residents are not disadvantaged through living in sub-standard accommodation.

## **HEALTH AND WELL BEING**

Fuel poverty and poor thermal performance of homes can also lead to poorer health and wellbeing outcomes. This can be both through related issues of living in cold and damp properties on physical health but also through impact on mental wellbeing as a result of living in sub-standard accommodation.

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

Improving the energy efficiency rating of properties also reduces the carbon emissions of those properties. Improved insulation reduces heat loss and keeps homes warmer, leading to reduced heating requirements. In some cases, working with landlords to moving to low carbon heating options may also be appropriate – benefitting the environment through moving away from carbon intensive fossil fuel systems.

## **LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER**

*(Use this section to highlight any links to the 12 missions contained in the Levelling Up White Paper set out below. Delete any which are not applicable. If none, insert the word 'none'.)*

<b>MISSIONS</b>	
<b>This paper contributes to the follow Missions outlined in the Government's Levelling Up White paper.</b>	
<b>Living Standards</b>	This project will ensure that residents across the Borough are living in properties which meet an agreed minimum standard. This not only helps to assist educational and occupational productivity through improved living conditions but reduces residents spending on heating and lighting their homes.
<b>Education</b>	Sub-standard accommodation has been proven to impact on the educational attainment of students. This project will help to ensure that young people are living in accommodation that is warmer and more energy efficient which should have beneficial outcomes on their productivity in educationa.
<b>Health</b>	Poor quality housing is associated with a range of health issues including asthma, cardiovascular diseases as well as mental health implications. By improving the quality of homes and reducing issues such as damp and cold, this should result in better health outcomes for residents.
<b>Wellbeing</b>	Mental and physical wellbeing can both be impacted by poor quality housing. This project aims to bring properties up to a minimum standard which should in turn lead to better wellbeing outcomes for residents.

<b>Housing</b>	This project will engage with landlords who are renting out substandard accommodation and where they refuse to cooperate in improving their properties, enforcement action will be taken to ensure that residents are not living in poor conditions.
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## ACRONYMS

PRS – Private Rented Sector

MEES – Minimum Energy Efficiency Standards

BEIS – Department for Business, Energy and Industrial Strategy

EPC – Energy Performance Certificate

<b>APPENDICES</b>	
Appendices are listed below and attached to the back of the report: -	
<i>APPENDIX A</i>	<i>Private Sector Housing Policy Framework</i>

<b>BACKGROUND PAPERS</b>
<i>No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.'</i>

<b>CHRONOLOGICAL HISTORY OF THIS REPORT</b>	
<b>Name of body</b>	<b>Date</b>

<b>REPORT APPROVAL</b>	
Report author:	Jon Challen
Signed off by:	Name and full contact details
Approved for publication:	Name of Councillor (if required)

## CHECKLIST - DELETE BEFORE SUBMISSION TO DEMOCRATIC SERVICES

S151 Officer consulted on financial implications:	Yes / No / NA
Monitoring Officer consulted on legal and constitutional implications:	Yes / No / NA
Portfolio Holder consulted:	Yes / No / NA



Ward Member consulted:	Yes / No / NA
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**FINANCE PROFORMA**

PROFORMA FOR APPROVAL OF THE RELEASE OF RESOURCES

(CAPITAL AND REVENUE BUDGETS)

FROM:

THIS PROFORMA PROVIDES THE FINANCIAL IMPLICATIONS  
IN RESPECT OF THE ATTACHED

REPORT:

REPORT DATE:

<b>OPTION 1</b>	£ Year 1 2020/21	£ Year 2 2021/22	£ Year 3 2022/23	£ Year 4 2023/24	£ Year 5 2024/25
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**Revenue**

**Total Revenue Cost**

**Funding required:**

Total capital cost      £

Revenue cost              £

**Considered by:**

Enter committee here

Enter Council or  
Cabinet/Executive here

**Date:**

**Financial Services Comments**

**Risk**

**Procurement**

**Value for Money Efficiency**

This FP is valid for 3 months from FP date	If this FP is no longer required please advise Finance	If there are changes to the original report it may invalidate this document, it must be reviewed by Finance.