

Equality Impact Assessment Form

Reference –

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The Equality Act 2010 requires the Council to have due regard to the need to

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups

Section 1: What is being assessed?**1.1 Name of proposal to be assessed.**

The proposed Council policy relating to the use of civil penalty notices for housing offences.

1.2 Describe the proposal under assessment and what change it would result in if implemented.

The Housing and Planning Act 2016 introduces a number of amendments to the Housing Act 2004. One of these amendments is to introduce a new section into the Act which establishes the legal basis for imposing civil penalties as an alternative to prosecution for specific offences under the Housing Act 2004.

In order to implement these new powers the Council must first adopt and publicise its policy with regard to the use of civil penalty notices for these offences.

A civil penalty is a financial penalty imposed by a Council on an individual or organisation as an alternative to prosecution. Under the above legislation the Council would be able to impose a civil penalty of up to £30,000 per offence for the following offences under the Housing Act 2004:

- Section 30 – failure to comply with an improvement notice

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- Section 72 – mandatory licensing of Houses in Multiple Occupation (HMO)
- Section 95 – licensing under Part 3 of the Housing Act 2004
- Section 139 – failure to comply with an overcrowding notice
- Section 234 – breach of management regulations in respect of HMO

Prior to the introduction of civil penalty notices, the Council would have prosecuted the individual or organisation responsible for the offence. If the prosecution was successful the Courts could have imposed a financial penalty, often for an unlimited amount (dependent on the offence) on the individual/organisation.

The Government has laid out statutory guidance as to the process and the criteria that needs to consider when determining Civil Penalties. These are:

Level of culpability

Level of harm

Severity of the offence

Aggravating Factors

Mitigating Factors

Penalty to be fair and reasonable

Penalty to be such as to be a deterrent and remove the gain derived through the failure to comply

The statutory guidance indicates that the Council should ensure that the civil penalty acts as a punishment, takes into account any previous patterns of offending and no offender should benefit as a result of committing an offence.

The legislation allows a maximum financial penalty of £30,000 per offence. In determining the level of any penalty the Council will have regard to local circumstances, the relevant local enforcement policy and the relevant Government guidance detailing the factors to take into account, as shown above.

Section 2: What the impact of the proposal is likely to be

2.1 Will this proposal advance equality of opportunity for people who share a protected characteristic and/or foster good relations between people who share a protected characteristic and those that do not? If yes, please explain further.

Poor quality housing in the private rented sector is often occupied by more vulnerable individuals. The proposed policy will enable the Council to penalise any individual/organisation that commits a housing offence by failing to comply with housing legislation.

Compliance with housing legislation will ensure that housing conditions are improved by removing hazards that are prejudicial to the health and safety of tenants. This should indirectly improve opportunities available to those with protected characteristics.

2.2 Will this proposal have a positive impact and help to eliminate discrimination and harassment against, or the victimisation of people who share a protected characteristic? If yes, please explain further.

Poor quality housing in the private rented sector is often occupied by more vulnerable individuals. The proposed policy will enable the Council to penalise any individual/organisation that commits a housing offence by failing to comply with housing legislation.

Compliance with housing legislation will ensure that housing conditions are improved by removing hazards that are prejudicial to the health and safety of tenants.

2.3 Will this proposal potentially have a negative or disproportionate impact on people who share a protected characteristic? If yes, please explain further.

The policy should advance equality of opportunity between tenants who share a protected characteristic and those who don't (please refer to 2.1).

The policy will have an equal impact on all landlords. The Council's Private Sector Housing Enforcement Policy will ensure that any action taken against landlords will be based on risk and will normally give landlords the opportunity to address any hazards to health and safety informally before any formal action is taken, meaning that a civil penalty would normally only be served where a landlord has not taken such opportunities to comply. This policy will ensure that a defined set of criteria are applied consistently when deciding whether to enforce a civil penalty.

The power to civil penalty notices for housing offences is introduced by the Housing and Planning Act 2016. Prior to the introduction of this legislation the Department for Communities and Local Government (DCLG) undertook an equality impact assessment of the proposed new powers. The DCLG has also extensively publicised the new powers with landlord organisations and in the general media.

In order to implement these new powers the Council must first adopt and publicise its policy with regard to the use of civil penalty notices for these offences.

Publicising the proposed policy through the press and the Council's website will raise awareness amongst landlords of their legal obligations.

2.4 Please indicate the level of negative impact on each of the protected characteristics?

(Please indicate high (H), medium (M), low (L), no effect (N) for each)

Protected Characteristics:	Impact (H, M, L, N)
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Age	L
Disability	L
Gender reassignment	L
Race	L
Religion/Belief	L
Pregnancy and maternity	L
Sexual Orientation	L
Sex	L
Marriage and civil partnership	L
Additional Consideration:	
Low income/low wage	N

2.5 How could the disproportionate negative impacts be mitigated or eliminated?
(Note: Legislation and best practice require mitigations to be considered, but need only be put in place if it is possible.)

N/A

Section 3: Dependencies from other proposals

3.1 Please consider which other services would need to know about your proposal and the impacts you have identified. Identify below which services you have consulted, and any consequent additional equality impacts that have been identified.

Legal, Finance (including Debt Recovery and Fraud).
No additional equality impacts identified.

Section 4: What evidence you have used?

4.1 What evidence do you hold to back up this assessment?

DCLG guidance
DCLG consultation.
Performance data relating to Housing Operations service
Stock Condition Survey 2015 data.

4.2 Do you need further evidence?

No.

Section 5: Consultation Feedback

5.1 Results from any previous consultations prior to the proposal development.

The power to civil penalty notices for housing offences is introduced by the Housing and Planning Act 2016. Prior to the introduction of this legislation the Department for Communities and Local Government (DCLG) undertook an equality impact assessment of the proposed new powers. The DCLG has also extensively publicised the new powers with landlord organisations and in the general media.

Housing officers have worked with colleagues across West Yorkshire to agree a consistent approach across the sub region with regard to the enforcement approach to Civil Penalty notices for Housing Act offences and level of monetary fine. This is important due to the fact that property owners often operate across local authority boundaries.

A number of other proposed new powers in The Housing and Planning Act 2016 are still to be introduced. Officers from the Housing service will continue to work with the other Authorities to ensure shared learning and a consistent approach.

5.2 The departmental feedback you provided on the previous consultation (as at 5.1).

The Council provided a response to the DCLG consultation on the Housing and Planning Act 2016.

5.3 Feedback from current consultation following the proposal development (e.g. following approval by Executive for budget consultation).

N/A

5.4 Your departmental response to the feedback on the current consultation (as at 5.3) – include any changes made to the proposal as a result of the feedback.

N/A