Leeds
CITY COUNCIL

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Publication of Banning Order and National Rogue Landlord Database Policy in line with the Housing and Planning Act 2016.

Date: 11 November 2024

Report of: Maria Simpson, Principal Housing Officer

Report to: Gerard Tinsdale, Chief Housing Officer

Will the decision be open for call in?   ☐ Yes ☒ No

Does the report contain confidential or exempt information?   ☐ Yes ☒ No

Brief summary

To request approval to adopt the Private Sector Housing team's Banning Order and National Rogue Landlord Database policy following the introduction of banning orders and the database under the Housing and Planning Act 2016.

The policy sets out the Council's statutory and non-statutory requirements introduced under the Act as well as the process officers shall following when deciding to apply for a banning order against a landlord or property agent or making an entry in respect on an individual onto the National Rogue Landlord Database.

Banning Orders are granted by the First Tier Tribunal (Property Chamber) and prevent property managers and landlords who have been prosecuted for one or more specific banning order offences from engaging in property management or letting agency work for a specified period. In additional, Local Authorities can make an entry onto the National Rogue Landlord Database in respect of an individual who has been convicted of a banning order offence or has received two or more civil penalties for banning order offences in a 12-month period.

Recommendations

a) The Director of Community, Housing and Environment approves the proposed Banning Order and National Rogue Landlord Database policy and its publication.

What is this report about?

1   The report sets out the proposed:
    a) Banning Order and National Rogue Landlord Database policy.

2   The Housing and Planning Act 2016 ("The Act") introduced a range of measures to help local housing authorities tackle rogue landlords and drive-up standards in the private rented sector. On 6 April 2018, new measures came into force:

    a) Banning Orders for the most serious offenders;

b) A database of rogue landlords and property agents against whom a banning order has been made, which may also include persons convicted of a banning order offence or who have received two or more financial penalties.

3   In order to make use of banning order powers the Council is required to have in place its own policy on when to pursue a banning order and to decide which option it wishes to pursue on a case-by-case basis in line with the policy.

4   The policy explains how the Council will use the powers in The Housing and Planning Act 2016 to determine whether to make a Banning Order Application and whether to add a landlord or property agents details to the National Database of Rogue Landlords and Property Agents ("the database"). The policy also documents the procedure LCC will follow when determining the length of time of a Banning Order or an entry on the database.

What impact will this proposal have?

5   Additional legal remedies for poor quality housing are provided. The impact may be further legal action for non-compliant landlords.

6   The database is a new tool for local housing authorities in England to keep track of rogue landlords and property agents. Database users will be able to view all entries on the database, including those made by other local housing authorities. The database can be searched to help keep track of known rogues, especially those operating across council boundaries and will help authorities target their enforcement activities.

7   Banning orders prohibit landlords and agents who has committed relevant offences from letting or managing residential properties.

How does this proposal impact the three pillars of the Best City Ambition?

☒ Health and Wellbeing   ☐ Inclusive Growth   ☐ Zero Carbon

8   The powers introduced in the Housing and Planning Act are intended to help local housing authorities tackle rogue landlords and drive-up standards in the private rented housing sector.

9   Improving Housing Quality is one of the 6 priorities in the Leeds Housing Strategy.

What consultation and engagement has taken place?

Wards affected:		
Have ward members been consulted?	☐ Yes	☒ No

10   Consultation with Councillors have not been considered necessary.

11   Detailed discussions have taken place with Legal Services about the Council's legal regulatory role. Legal Services have reviewed the policies, the drafted legal notices and correspondence.

What are the resource implications?

12 The capacity required to apply for banning orders and make entries onto the National Rogue Landlord Database will be found within existing resources. The extent to which the legislation will impact on the service is yet unknown.

What are the key risks and how are they being managed?

13 There is a reputational risk to the Council in not utilising the powers and potentially allowing rogue landlords to continue operating in the city.

14 A consequence of increased enforcement is a likely increase in complaints against the service and formal appeals against decisions to make entries onto the National Rogue Landlord Database is to be expected, and policy and procedures will be developed by the service to ensure all actions are taken in accordance with legislative requirements. The impact on the service is likely to be the increased time spent by staff and management in dealing with these complaints, representations and appeals.

15 The risk is managed by having templates produced for officers to use, training, and a robust enforcement policy that encourages compliance. The policy is fully in line with the Regulatory Code, statutory guidance and non-statutory guidance. Templates for legal notices and correspondence have been drawn up in consultation with Legal Services to ensure they are robust.

What are the legal implications?

16 The council has a power to apply to the First Tier Tribunal (Property Chamber) to ban a landlord or property manager from property management or letting work under the Housing and Planning Act 2016. However, before the council can apply for Banning Orders it must first adopt a policy on when to pursue a banning order. Failure to produce a policy will lead to difficulties in enforcing the new legislation and issuing financial penalties.

17 Where the Council have used their discretionary power to make an entry in respect of an individual onto the National Rogue Landlord Database, that decision can be subject to an appeal to the First-Tier Tribunal (Property Chamber). Failure to have a clear policy and process for how decisions are made with regards to making an entry and the length of time of the entry could be detrimental to the outcome of the appeal.

18 The policies are fully in line with the Regulatory Code, statutory guidance and non-statutory guidance. The service will ensure the policy is fairly and equitably administered.

19 The adoption of the policy is a Significant Operational Decision, and is therefore not eligible for call in.

Options, timescales and measuring success

What other options were considered?

20 Not applicable.

How will success be measured?

21 Not applicable.

What is the timetable and who will be responsible for implementation?

22 Once approved, Banning Order and National Rogue Landlord Database Policy come into force with immediate effect and will be uploaded to Leeds City Council webpages.

Appendices

- Appendix 1. Proposed Banning Order and National Rogue Landlord Database Policy.

Background papers

None