



CABINET

Tuesday, 08 February 2022

Subject	Delegated authority to take action against landlords who do not have an Energy Performance Certificate
Report by	Councillor Richard Kerry Cabinet Member with responsibility for Housing
Supporting Officer	Teresa Howarth Principal Environmental health Officer teresa.howarth@eastsoffolk.gov.uk Heather Tucker Head of Housing heather.tucker@eastsoffolk.gov.uk

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable
Wards Affected:	All Wards

Purpose and high-level overview

Purpose of Report:

To approve the seeking of delegations from Suffolk County Council for the enforcement of the Energy Performance of Buildings (England and Wales) Regulations 2012 (the Regulations).

The delegation, to authorise the Head of Housing to enforce the Regulations as appropriate.

Options:

Option 1 - Retain the current arrangement: this relies on enforcement of the Regulations by the “Weights and Measures” authority, who do not have the resources to prioritise non-compliances in domestic properties. Their work is otherwise focussed on commercial trading. Not seeking to bring this under the jurisdiction of East Suffolk Council would leave breaches of the regulations un-enforced.

Option 2 - Approve the seeking of delegations from Suffolk County Council for the enforcement of the Energy Performance of Buildings (England and Wales) Regulations 2012 (the Regulations). This would enable the relevant officers within the Private Sector Housing service, to take appropriate action to ensure the privately rented properties in our District meet the required standards relating to EPC's.

Recommendation/s:

That it be approved to proceed with obtaining the appropriate delegations for the Head of Housing to enforce the Energy Performance of Buildings (England and Wales) Regulations 2012.

Corporate Impact Assessment

Governance:

The Council is the Strategic Housing Authority for East Suffolk. The Private Sector Housing team with oversight by the Head of Housing are responsible for upholding standards in the residential sector including standards relating to energy efficiency in private rented accommodation.

ESC policies and strategies that directly apply to the proposal:

[We are East Suffolk Strategic Plan 2020-24](#)

The approach in dealing with energy efficiency contributes towards the Councils Strategic Plan with primary and secondary priorities in 2 of the 5 key theme areas ‘Enabling our Communities’ and ‘Caring for the Environment’.

[East Suffolk Housing Strategy 2017-23](#)

Work with the private rented sector to ensure properties are well maintained and managed

Tackling fuel poverty and reducing carbon emissions through energy efficiency measures in homes of all tenures.

The priorities for the service are a focus on poor private rented housing conditions more generally, including disrepair, overcrowding and poor heating; assisting vulnerable owner occupiers in poor housing, helping reduce the number of cold homes and fuel poverty and isolated, poor quality rural homes.

[Private Sector Housing Strategy](#)

Living in a cold home can have a profound effect on health conditions and in extreme cases can lead to death. In the UK we have a phenomenon called Excess Winter Deaths where more people die in the winter months than the rest of the year.

In Suffolk, 353 more people died over the winter of 2015/16 than would have been expected at another time of year. This is more than road accidents, and drug and alcohol related deaths combined. Up to 30% of these deaths are linked to a cold home (World Health Organisation).

The Government are committed to tackling this issue which arises primarily to a lack of preparedness, poorly insulated homes, high fuel costs and inadequate heating.

We do all we can to educate, inform and encourage property owners to fulfil their responsibilities. However, firm enforcement action to protect the health and safety of tenants, occupiers and others will sometimes be required.

The initiation of formal enforcement action will only occur when other measures have failed to produce the necessary response, or where there is an urgent need for action.

Environmental:

Improving the energy efficiency of a property can have the dual benefit of reducing energy usage and associated carbon emissions as well as creating a warmer, healthier home. Engagement with landlords through work such as investigating energy efficiency compliance provides opportunities to signpost to funding streams that will deliver more than the minimum required by current legislation.

Equalities and Diversity:

ESC has declared Deprivation and Disadvantage as a 10th 'characteristic' for the purpose of assuring Equality in our District. Many of the private sector housing initiatives seek to assist those on low incomes who are suffering from poverty including this one.

Financial:

The regulations introduce the opportunity to issue civil penalties for non-compliance. The impact on income is not anticipated to be significant.

Human Resources:

No impacts

ICT:

No Issues

Legal:

Legal have been consulted on the process for implementing these delegations.

Risk:

The risks in taking on these additional duties are considered minimal as they complement the existing suite of powers open to the Private Sector Housing team.

External Consultees: Suffolk County Council.

Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input checked="" type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input checked="" type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XXX	Governance		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>

How does this proposal support the priorities selected?

We want to maintain and increase our focus on poor private rented housing conditions more generally, including disrepair, overcrowding and poor heating; assisting vulnerable owner occupiers in poor housing, helping reduce the number of cold homes and fuel poverty and isolated, poor quality rural homes.

These actions will improve residents' quality of life and potentially improve their health and wellbeing.

Having the ability to use enforcement action, as a last resort, in relation the EPC's in the private rented sector, will support us to achieve that.

Background and Justification for Recommendation

1 Background facts	
1.1	The Energy Performance of Buildings (England and Wales) Regulations 2012 sets out the legal obligation for landlords to provide energy performance certificates to new and prospective tenants in the majority of rented homes. Currently this legislation is only enforceable by the local weights and measures service, this service sits within the Suffolk County Council remit.
1.2	The Energy Performance Certificate (EPC) provides a rating for the energy performance of a home. The rating ranges from A to G with A being the most efficient. The rating is based on factors such as age, layout, heating, lighting and insulation. The EPC is presented in such a way to allow occupiers / prospective occupiers of the property to make an informed decision relating to energy costs and the thermal efficiency of the building.
1.3	A breach of the regulations will take place if the person who is responsible for letting the property has not provided an EPC to new tenants where the regulations require them to do so. A penalty notice may be served by the enforcing authority for such a breach.

2 Current position	
2.1	The Private Sector Housing team investigate breaches of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, which make it unlawful to rent out a property with an EPC rating of F or G unless the property has been registered as exempt. Enforcement involves the issuing of penalty notices against landlords.
2.2	Where a landlord has failed to provide an EPC, the team are unable to penalise them in the same manner due to the legislation having been delegated to the first-tier authorities.
2.3	East Suffolk is currently leading a partnership project with all the other Suffolk Districts and Boroughs, funded by Central Government, looking at minimum energy efficiency standards across the private rented sector. The project balances education and enforcement and supports landlords to comply with the requirements as the first stage of engagement.

	The inability to take action for not having an EPC, is a missing element of the project as the experience to date is that there are a significant number of landlords failing to comply with this requirement, which has been in existence since 2008.
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3 How to address current situation

3.1	Officers within the Fire and Public Safety, Trading Standards Department do not inspect residential properties in the course of their normal duties. The Private Sector Housing Team only visit residential properties. It is only logical that this team take on the enforcement of the regulations requiring a landlord to have a valid EPC.
3.2	Seeking delegations in this way is unusual but was successfully trialled by Cambridge City and Peterborough as part of an earlier pilot study around EPC enforcement. The documents used by them are available to be adapted to facilitate this process.

4 Reason/s for recommendation

4.1	<p>The Council is currently unable to take any action for non-provision of an EPC although this may have been identified as an issue during a property inspection following a complaint.</p> <p>The provision of an EPC may have supported the tenant in making an informed decision about the efficiency of the property before they had moved in.</p> <p>This in some cases may have created a more suitable and sustainable housing choice to have been made.</p>
4.2	<p>Reliance cannot be placed on enforcement through SCC due to other priorities.</p> <p>Adding this enforcement tool to the options available to Private Sector Housing Officers would create a more joined up and effective service.</p>

Appendices

Appendices:

None

Background reference papers:

None