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**Energy Efficiency (Private Rented Property) ( England & Wales) Regulations 2015**

Relevant Portfolio Holder	Councillor Shirley Webb
Portfolio Holder Consulted	Yes
Relevant Head of Service	Judith Willis
Report Author	Job Title: Private Sector Housing Manager Contact email: steve.shammon@bromsgroveandredditch.gov.uk
Wards Affected	All wards
Ward Councillor(s) consulted	No
Relevant Strategic Purpose(s)	Affordable & Sustainable Homes Living Independent, active & healthy lives
<del>Key Decision</del> / Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

**1. RECOMMENDATIONS**

**The Cabinet RESOLVE that:-**

- 1) The Council adopt the enforcement powers under the Energy Efficiency (Private Rented Property)(England & Wales) Regulations 2015; and**
- 2) The implementation of these powers are delegated to the Head of Community & Housing Services.**

**2. BACKGROUND**

- 2.1 From 1<sup>st</sup> of April 2020 the Minimum Energy Efficiency requirement became applicable to all relevant tenancies where there is a legal requirement to hold a valid current Energy Performance Certificate (EPC) for the property. The property must meet the minimum E rating to comply with the Regulations, unless an exemption is available and is claimed by being registered in the Public Exemptions Register
- 2.2 The PRS Exemptions Register is for properties that are legally required to have an EPC, are let under a relevant tenancy but cannot be improved to meet the minimum standard of EPC band E for one of the following reasons.
  - High Cost Exemption – No improvements can be made for less than £3500

- All Improvements Made Exemption - But property remains below EPC 'E' rating
  - Wall Insulation Exemption - Cavity wall, external wall and internal wall insulation systems should not be installed due to adverse impact on the structure .
  - Consent Exemption- Where a third party consent is required but is being refused.
  - Devaluation Exemption – A RICS registered valuers report states the installation of specific energy efficiency measures would reduce the market value of the property by more than 5%.
  - New Landlord Exemption – A 6 month temporary exemption for unintended landlords.
- 2.3 These Regulations have been introduced to make it mandatory for relevant private rented properties to meet a minimum energy efficiency standard to ensure occupants benefit from homes that are both warm and affordable to heat in addition to the wider Government aim of meeting carbon reduction targets.
- 2.4 Since 01 April 2018 it has been unlawful for a landlord to grant a new letting of a non-compliant or substandard domestic property that has an EPC rating of F or G. As of 01/04/2020 this was extended so that landlords also cannot continue to let such domestic property.
- 2.5 Where a landlord has failed to take steps to comply, or has submitted misleading information to gain an exemption, a financial penalty under the regulations will be considered appropriate.
- 2.6 The Local Authority has discretion to decide the amount of penalty subject to the maximums prescribed by the Regulations for each type of breach. The prescribed maximums for letting a substandard property for are
- a) Less than 3 months - £2000
  - b) 3 months or more - £4000
  - c) Registering false information on the PRS Exemptions register - £1000
  - d) Failure to comply with a compliance notice - £2000
- 2.7 In determining an appropriate level of financial penalty officers will use the Financial Penalty Matrix prescribed at Appendix A which takes account of influencing factors.

- 2.8 It is a requirement that all aggravating or mitigating circumstances are taken into consideration and that any penalty is proportionate and defensible on appeal.

**3. FINANCIAL IMPLICATIONS**

- 3.1 This work will be continued within the existing service resources. Any financial penalty from the Energy Efficiency (Private Rented Property)(England & Wales) Regulations 2015 received by the Council will be applied to the costs of the enforcement functions in relation to the Private Rented Sector.

**4. LEGAL IMPLICATIONS**

- 4.1 A Local housing authority has a legal duty to enforce the Energy Efficiency (Private Rented Property)(England & Wales) Regulations 2015. There is an appeal process to the Residential Property Tribunal. The private rented sector plays an important role in meeting the diverse housing needs that exist in the Borough. It is therefore important that the accommodation is regulated effectively to ensure it is energy efficient to benefit the occupants and environment. Whilst the majority of landlords carry out their legal duties and obligations, the small minority of landlords may disregard their legal obligations if there is no deterrent.

**5. STRATEGIC PURPOSES - IMPLICATIONS**

**Affordable & Sustainable Homes**  
**Living independent, active & healthy lives**

- 5.1 A home that is warm is an integral part of maintaining health and the ability to maintain a warm home at minimal costs in terms of energy consumption and finances is crucial. With energy costs increasing rapidly it is essential that the private rental sector meets the standards required , being a sector most likely to include vulnerable persons and those on lower incomes where a higher percentage of income is spent on energy costs..

**Climate Change Implications**

- 5.2 Thermally efficient homes will reduce energy consumed for heating and therefore contribute to lowering of emissions and overall carbon footprint across the District.

**6. OTHER IMPLICATIONS**

**Equalities and Diversity Implications**

- 6.1 The application of these regulations will have a positive impact on many family households living in private rented sector accommodation from improvements in thermal efficiency and reduced energy consumption.

**Operational Implications**

- 6.2 There are no staffing implications, envisaged at this stage. Initial stages of enforcement are to be undertaken through a Joint Project with Wyre Forest District Council using funding awarded for a successful bid which included for staffing and other resources. Formal enforcement will be undertaken by existing staff in the course of general Private Sector Housing duties. No health and safety implications have been identified to staff by the introduction of new regulations.

**7. RISK MANAGEMENT**

- 7.1 There is a risk of legal challenge if the process is not followed correctly, which could result in Residential Property Tribunal over-turning Notices and penalty fines imposed by the Council. A Private Sector tenant could apply to the Housing Ombudsman if they feel the council has failed to act in a case of non-compliance.

**8. APPENDICES and BACKGROUND PAPERS**

Appendix 1 - Financial Penalty Matrix.

[Legislation](#)

**BROMSGROVE DISTRICT COUNCIL**

**Cabinet**  
2022

12<sup>th</sup> October

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**9. REPORT SIGN OFF**

<b>Department</b>	<b>Name and Job Title</b>	<b>Date</b>
Portfolio Holder		
Lead Director / Head of Service		
Financial Services		
Legal Services		
Policy Team (if equalities implications apply)		
Climate Change Officer (if climate change implications apply)		