

<b>DECISION MAKER</b> Cabinet Member for Community Safety and Enforcement	<b>DATE</b> 7 October 2024
<b>TITLE</b> Update to Environmental Health Private Sector Housing Enforcement Policy	<b>WARD (S)</b> All wards
<b>CHIEF OFFICER</b> Director of Housing & Safer Communities	<b>CABINET MEMBER</b> Community Safety and Enforcement
<b>DECISION CLASSIFICATION</b>  <i>Non Key</i>  <i>Non-exempt from Call In</i>  <i>Non-exempt Appendix</i>	<b>IS THE FINAL DECISION ON THE RECOMMENDATIONS IN THIS REPORT TO BE MADE AT THIS MEETING?</b>      Yes

**I. Decision required**

Removal or reduction of discount offered for early payment of Civil Penalties Fines issued for Housing Act 2004 offences. :

Recommendation:

- I.1 To approve the revised Environmental Health Private Sector Housing Enforcement Policy ("Policy") as detailed in Appendix I.
- I.2 Reduction of the current 50% early payment discount to 25% for civil penalty notices for housing offences.
- I.3 Extend the time for early payment from 14 days to 21 days.

Signed.....Date.....  
Councillor Rachel Taggart-Ryan, Cabinet Member for Community Safety and Enforcement

**2. Links to Our Greenwich missions**

- 2.1 This report relates to the Council's agreed missions as follows:

Mission 6: People in Greenwich have access to a safe and secure home that meets their needs. One option to ensure renters in the borough have security and stability in their homes is to take proportionate enforcement action against noncompliant landlords.

### **3 Purpose of Report and Executive Summary**

3.1 At the Council Special Meeting on 6 March 2024, the Corporate Overview and Scrutiny Committee received a presentation relating to the Council's Medium Term Financial Strategy (MTFS), which includes the draft proposal for "Removal or Reduction of 50% Early Payment Discount Offer from Civil Penalties Notices (CPN) for Housing Offences".

3.2 This report seeks approval for reduction of the early payment discount to 25%.

### **4. Introduction and Background**

4.1 A civil penalty is a financial penalty that can be imposed by a local housing authority ("LHA") on an individual or organisation as an alternative to prosecution for a range of Housing Act 2004 offences as detailed within the Council's Enforcement Policy and listed below. This is relatively a new power which came to force in 2018. The offences for which a PCN can be issued are:-

- Failure to comply with an Improvement Notice (section 30 of the Housing Act 2004)
- Offences in relation to licensing of Houses in Multiple Occupation (section 72 of the Housing Act 2004)
- Offences in relation to licensing of houses under Part 3 of the Act (section 95 of the Housing Act 2004)
- Offences of contravention of an overcrowding notice (section 139 of the Housing Act 2004)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234 of the Housing Act 2004)
- A breach of a banning order under the Housing and Planning Act 2016

4.2 Under s.249A of the Housing Act 2004 LHAs have power to issue fines of up to £30,000.00 for each offence listed above. The Regulations and Guidance require LHAs to have due regard for a range of factors when determining the level of fines. The factors to be considered are:

Severity of offence  
Culpability and track record  
Harm caused to the tenant  
Punishment of the offender  
Deterrence to prevent repeat of offence  
Deter others from committing similar offences  
Removal of financial benefit from commission of the offence

- 4.3 As detailed in Appendix I, CPN is particularly an effective enforcement option for offence relating to property licensing. These include failing to licence Houses of Multiple Occupation or properties that are within the Selective Licensing designation as well as the offence relating to failure to comply with licence conditions. As there are currently 3 property licensing Schemes in operation in the borough, CPN is one of the Council's main enforcement options and therefore, having an effective CPN policy and procedure is crucial in achieving the licensing aims and objective.
- 4.4 Currently, if a Civil Penalty Notice is issued for any housing offence, a 50% discount on the original calculated amount will be applied if payment is received within 14 days of the date of the Final Notice.
- 4.2 The provision of offering discounts for early payment of the fines is common practice across the country. This is to encourage the offenders, landlords, to admit to their guilt by paying portion of the fine within the discount period as well as complying with their obligation. This helps both parties avoid the time and expense of an appeal or, in the event of non-payment, lengthy action through the civil courts to recover the debt. By incentivising early payment, the discount enables enforcement cases to be resolved more quickly.
- 4.3 Although the current discount provision appears very generous, it has been effective in increasing the level of compliance with fines and offenders' overall obligations. It must be remembered that the Council is duty bound to consider the potential impact the fines may cause to the landlords.
- 4.4 It is also important to consider that a CPN is not suitable for serious persistent offenders, in such cases the most appropriate route is prosecution, which on conviction carries an unlimited fine.
- 4.4 Research has shown that Local Authorities in London typically provide discounts on civil penalties for housing offences ranging between 20% and 40%.

4.5 This report includes an update to the Environmental Health Private Sector Housing Enforcement Policy, ensuring its alignment with current enforcement legislations and service functions.

## 5. **Available Options**

5.1 Option 1: Remove the 50% early payment discount from the Civil Penalties

5.2 Option 2: Reduce the early payment discount from 50% to **25%**.

Increase the time for payment to **21 days** from the date of issue of the Final Notice.

5.3 Option 3: Do nothing

## 6 **Preferred Option**

6.1 The preferred option is 5.2 (option 2). To reduce the early payment discount from 50% to 25% if payment is received within 21 days of the Final Notice date.

## 7. **Reasons for Recommendations**

7.1 Decision required: To approve the proposed change to the level of early payment discount for CPN from the current 50% to the proposed 25%, for the following reasons:

- **Encourages Payment:** Reducing the early payment discount to 25% will maintain this discount which is commonplace across the country but may still impact landlords' willingness to pay their fines, but it still incentivises early payment. Extending the early payment period from 14 days to the proposed 21 days may count balance the impact of the discount reduction and assist with implementation of this change. Is there any information to support a higher rate of payment within 21 days instead of 14 days?
- **Revenue Generation:** Reducing the level of the discount, rather than removing it altogether, will increase the income that can be generated from each offence, whilst maintaining the incentive to pay.
- **Discourages Appeals:** Without any discount offer, landlords are less likely to pay the fine and more likely to choose the appeal route. Maintaining the early payment discount at the reduce level of 25% discount

is likely to increase the number of appeals in comparison to the current level. We will monitor this and report back if necessary.

- **Manages Appeal Impact:** Increased appeals would significantly affect our periodic CPN targets and normal case management functions. Our records indicate that the majority of landlords took advantage of the early payment discount offer for the issued CPN, with only a few opting to pursue the appeal route.
- **Simplifies Recovery:** The recovery of fines is a complex and protracted process. We have a highly successful track record of recovering all issued fines through the early payment discount route, with only a few currently in the recovery process.

## 8 Consultation Results

8.1 None

## 9 Next Steps: Communication and Implementation of the Decision

9.1 We will work with the Communications Team to publicise the change and will include the details and the rationale in next landlord forum and Landlords news.

9.2 The policy will be uploaded to the Greenwich webpage to make it publicly available.

9.3 Once the decision is made, it will be reflected in the appropriate notices.

## 10 Cross-Cutting Issues and Implications

Issue	Implications	Sign-off
<b>Legal</b> including Human Rights Act	The Housing Act 2004 enables Local Housing Authorities to impose Civil Penalties for criminal offences, as set out in the body of the Report, in lieu of prosecution. The statutory provisions provide a right of appeal against a Civil Penalty to the First-tier Tribunal. The Tribunal has power to dismiss the appeal, or to vary the amount of the penalty notice. The	Kamaljit Jandu, Senior Lawyer, Prosecutions & Licensing, Legal Services 27 <sup>th</sup> August 2024

	<p>maximum sum for a penalty notice cannot exceed £30,000.</p> <p>The legislation does not require a discount to be available for early payment, it is discretionary on the part of the Local Housing Authority. However, penalty notice regimes invariably have an inbuilt discount for early payment. The full amount of the Penalty Notice must be paid in 28 days.</p> <p>The level of the penalty notice set must be arrived at having considered the factors set out in paragraph 4.2 of the Report</p>	
<p><b>Finance</b> and other resources</p>	<p>The Cabinet Member is requested to:</p> <ul style="list-style-type: none"> <li>- Approve the revised Environmental Health Private Sector Housing Enforcement Policy as detailed in Appendix I.</li> <li>- Either remove the current 50% early payment discount completely or reduce it to 25% for civil penalty notices related to housing offences.</li> </ul> <p>The report is recommending the reduction of the early payment discount to 25% and increasing the time period for payment from 14 to 21 days. The reasons for this are detailed at 7.1.</p> <p>The reduction of the discount was proposed as part of MTFs proposal HSC 19-AMC-04, which has full year savings of £90,000 deliverable from 2024/25 onwards. This is to be achieved through additional income being generated. Therefore, the approval of this change in discount application to CPN's is fundamental to the delivery of that full saving built into the 2024/25 base</p>	<p><i>Joanne Stark Head of Accounting &amp; Business Change 22<sup>nd</sup> August 2024</i></p>

	budget and the Council's ability to deliver a balanced budget position.	
<b>Equalities</b>	<p>The removal or reduction of the discount could disproportionately affect low-income landlords, making it harder for them to pay the penalties.</p> <p>The discount can be viewed as a measure that renders penalties more proportionate and equitable. Removing or reducing it could be seen as punitive, particularly for minor infractions.</p> <p>The decision could influence public perception of the council's commitment to fairness and equality. Ensuring that the policy change is communicated transparently and with a clear rationale is essential.</p> <p>The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no apparent equality impact on end users.</p> <p>The recommendations in this report make no specific to the Council's Equality and Equity Charter and the Council's Equality Objectives 2020-2024.</p> <p>Implementing a system to monitor the impacts of the change and review the policy periodically to ensure it does not exacerbate inequalities.</p>	<p>Mohammad Islam Operations Manager 7 July 2024</p>
<b>Climate change</b>	<p>This report has no implications on climate change and does not contribute to the Greenwich Carbon Neutral Plan agreed by Cabinet on 18 November 2020.</p>	<p>Mohammad Islam, Operations Manager 7 July 2024</p>

## **10 Report Appendices**

10.1 The following documents are to be published with and form part of the report:

- *Appendix 1: Revised Environmental Health Private Sector Housing Enforcement Policy*

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