

Appendix B

Private Sector Housing

Rent Repayment Orders Policy

Version 1.0 – October 2017

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1.0 Introduction

- 1.1 Stockton on Tees Borough Council ('the Council') is committed to improving the housing conditions and management standards in privately rented and privately owned properties across the borough.
- 1.2 Although Stockton has some excellent landlords¹ there are a number of criminal, rogue and irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard and/or unsafe.
- 1.3 Since April 2017 Rent Repayment Orders have been extended through the Housing and Planning Act 2016 to cover a much wider range of offences, which are described in section 3.0 below.

2.0 Policy aim

- 2.1 This Rent Repayment Order Policy sets out the Council's approach to Rent Repayment Orders, taking into account the statutory guidance set out by the Government under Section 41 of the Housing and Planning Act 2016 and should be read in conjunction with the Enforcement and Regulatory Policy for Private Sector Housing.

3.0 Offences covered by Rent Repayment Orders

- 3.1 The Housing Act 2004 introduced Rent Repayment Orders to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed, specifically offences related to licensing of HMOs. The Housing and Planning Act 2016 introduced provisions to mean that Rent Repayment Orders have now been extended to cover a much wider range of offences.
- 3.2 Rent Repayment Orders are intended to be used against landlords who are in breach of legislation as detailed below:

Housing Act 2004

- Section 30 – Failure to comply with an Improvement Notice
- Section 32 – Failure to comply with a Prohibition Order
- Section 72 – Offences in relation to licensing of Houses in Multiple Occupation (HMOs)
- Section 95 – Offences in relation to licensing of housing under Part 3 of the Act

Criminal Law Act 1977

- Section 6 – Using violence to secure entry to a property

Protection from Eviction Act 1977

- Section 1 – Illegal eviction or harassment of the occupiers of the property

¹ In this policy the term landlord also refers to property agents, managing agents and letting agents

Housing and Planning Act 2016

- Section 21 – Breach of a Banning Order ²

4.0 Principles of Rent Repayment Orders

- 4.1 Stockton on Tees Borough Council will continue to take robust action against those landlords that flout the law, and will ensure that its use of Rent Repayment Orders is consistent, appropriate, proportionate and fair.
- 4.2 A Rent Repayment Order is an order made by the First-tier (Property) Tribunal requiring a landlord to repay a specified amount of rent.
- 4.3 A Rent Repayment Order can be applied for when a landlord has committed an offence whether or not a landlord has been convicted of an offence detailed in paragraph 3.2.
- 4.4 The Council must be able to demonstrate to the First-tier Tribunal beyond reasonable doubt that a landlord has committed an offence or show that a landlord has already been convicted in a court of the offence for which the Rent Repayment Order application is being made.
- 4.5 Rent Repayment Orders can be granted to either the tenant or the local housing authority. If the tenant paid their rent themselves, then the rent must be repaid to the tenant. If the rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority. If the rent was paid partially by the tenant with the remainder paid by Housing Benefit or through the housing element of Universal Credit, then the rent should be repaid on an equivalent basis.
- 4.6 The Council will offer advice and support to assist tenants to apply for a Rent Repayment Order if the tenant has paid the rent themselves.

5.0 Deciding on an appropriate sanction

- 5.1 The Council will consider applying for a Rent Repayment Order if becomes aware that a person who is a landlord is convicted of any of the offences detailed in paragraph 3.2.
- 5.2 The Council will decide on a case by case basis, having regard to the guidance set out in the Department for Communities and Local Government (DCLG) – Rent Repayment Orders under the Housing and Planning Act 2016, when to apply for a Rent Repayment Order.
- 5.3 On occasions the Council may decide to both prosecute and apply for a Rent Repayment Order in respect of the same offence committed under the relevant legislation.

² When Banning Orders come in to force, scheduled to be April 2018

Big plans for our places and open spaces

- 5.4 There may also be occasions when the Council impose a Civil Penalty and also apply for a Rent Repayment Order in respect of the same offence committed under the relevant legislation.
- 5.5 The use of Rent Repayment Orders will not only prevent the business of criminal, rogue and irresponsible landlords from profiteering from illegal and dangerous practices, but it will also demonstrate the Council's commitment to ensuring that it is offenders (rather than good, responsible landlords or the local Council Tax payers) who pay for the cost of housing enforcement.

6.0 Determining the amount of a rent to be repaid

- 6.1 Where a landlord has not been convicted of an offence to which a Rent Repayment Order application relates the Council will take in to account the following factors when considering how much rent to recover:
- Punishment of the offender
 - Deter the offender from repeating the offence
 - Dissuade others from committing similar offences
 - Remove any financial benefit the offender may have obtained as a result of committing the offence

7.0 Guidance

- 7.1 This policy has been developed with specific regard to:
- The Housing and Planning Act 2016
 - Rent Repayment Orders under the Housing and Planning Act 2016 Guidance for Local Housing Authorities – Department for Communities and Local Government published April 2017
 - Enforcement and Regulatory Policy for Private Sector Housing – (updated 2017)

8.0 Review

- 8.1 The policy is subject to change and will be reviewed periodically, in line with changes in legislation, Government guidance and Council policy. Minor changes to this policy may be required from time to time, and will be undertaken with the authorisation of the Director of Economic Growth and Development.

9.0 Complaints and Redress

- 9.1 If you have any complaints about this policy we will investigate your complaint and will look carefully at the issue you have raised.
- 9.2 Please forward any complaints regarding this policy to the Private Sector Housing team via email privatesectorhousing@stockton.gov.uk or via telephone 01642 527797.

- 9.3 We will respond to a complaint as quickly as possible. Generally this will be within 10 working days.

10.0 Contact details

Private Sector Housing
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16 Church Road
Stockton-on-Tees. TS18 1TX
Tel: 01642 527797
Email: privatesectorhousing@stockton.gov.uk

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