

BRIEFING - EXECUTIVE DECISION FOR IMPLEMENTING A BANNING ORDERS POLICY (HOUSING IMPROVEMENT)



This briefing note sets out the reasons for implementing a Banning Orders policy.

1.0 The Council is committed to improving standards in private sector housing, with the aim of ensuring that all private rented accommodation is well managed, properly maintained, safe and habitable. Whilst the Council acknowledges that the vast majority of landlords are compliant and do operate their business responsibly in Plymouth, there are some irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard, or unsafe. Since March 2019, Community Connections Housing Improvement Team have been utilising some of the additional available powers under the Housing & Planning Act 2016 to tackle Rogue Landlords and Property Agents. The Civil Penalty policy has enabled Community Connections Housing Improvement officers to impose a Financial Penalty, as an alternative to prosecution, for specified offences when it is considered the most appropriate course of action.

1.1 However, the Housing and Planning Act 2016 introduced a range of measures to help local authorities deal more robustly with rogue and irresponsible landlords, and whilst we have utilised this in respect of Civil Penalties and, more recently, the Database of Rogue Landlords and Property Agents. We have not yet utilised the power to apply for a Banning Order, to impose limitations on the most serious and/or prolific offenders. A Banning Order, if granted, would prevent the subject (for a minimum of 12 months – no maximum period) from;

- Letting housing in England
- Engaging in English letting agency work
- Engaging in English property management work; or
- Doing two or more of those things

Additionally;

- A landlord subject to a banning order is also unable to hold a licence for a House in Multiple Occupation (HMO) and their property may also be subject to a management order
- A landlord is prevented from transferring the property to certain persons whilst the banning order is in force.

1.2 To utilise the banning order powers, the council is required to have in place its own policy as to when to pursue a banning order, and to decide the most appropriate course of action on a case-by-case basis in line with that policy. In preparation, the following actions have been taken by Housing Improvement Technical Leads;

- Reviewed the [Housing & Planning Act 2016 – Banning Orders](#)

- Reviewed the [Housing & Planning Act 2016 \(Banning Order Offences\) Regulations 2018](#)
- Reviewed the relevant MHCLG [Guidance for Local Housing Authorities on Banning Order Offences under the Housing and Planning Act 2016](#)
- Reviewed published Banning Order policy information from selected other local authorities.
- Reviewed Banning Order information located on RIAMS, a Professional Forum for Local Authorities, which we subscribe to.
- Ongoing discussions with PCC Finance department.
- Ongoing discussions with PCC Legal department.
- Consultation with both Strategic Manager and Director of Service for Community Connections.

I.3 A Banning Orders policy has been created in an open and transparent way. The policy sets out how Plymouth City Council will utilise powers under the Housing and Planning Act 2016 to ban non-compliant landlords and managing agents, who are the most serious and prolific offenders, from operating within the Private Rented Sector.

I.4 The following factors will be considered by The Council in deciding whether to apply for a Banning Order, and when recommending the length of the Banning Order:

- The seriousness of the offence
- Previous conviction/rogue landlord database entries
- Harm caused to the tenant
- Punishment of the offender
- Deterrence to the offender from repeating the offence
- Deterrence to others from committing similar offences

With the decision to commence the procedure to apply for a banning order and length of proposed time for any such order to be confirmed and authorised by a Technical Lead (Housing Improvement). All applications for a Banning Order will be brought to the attention of, and discussed with, Strategic Manager/Service Director for Community Connections.

I.5 On decision to proceed with an application for a Banning Order there is a set process in the legislation that will be followed. The Council will give the landlord a notice of our proposal to apply for a banning order. This is called a 'notice of intent'. The council will serve the notice of intent within six months of the landlord being convicted of the offence. The notice of intent will set out that the Council is proposing to apply for a banning order and the reasons for this; the length of each proposed ban; Information about the right of the landlord to make representations during the notice period (minimum of 28 days representation period).

I.6 After the end of the period for representations, the Council will decide whether to pursue a banning order based on any representations received. If the decision is to proceed the Council will apply to the First-tier Tribunal who have the power to make the banning order. Where a banning order is made, and the Landlord is an HMO licence holder, the individual will be determined not to be 'fit and proper' to hold a licence

under part 2 or 3 under the Housing Act 2004 and any licences in force under those parts will be revoked.

- I.7 Where a successful banning order has been made, the Council will consider whether to publish details of these, including the names of individual landlords. Legal advice will be sought prior to this where appropriate, and consideration will be given to the [Ministry of Justice Guidance](#) as to whether to publish sentencing outcomes.
- I.8 A banning order does not invalidate any tenancy agreement held by occupiers in the property, regardless of whether the agreement was issued before or after the banning order was made. This is to ensure an occupier of the property does not lose their rights under the terms and conditions of their tenancy agreement. Information on banned landlords will be made available to tenants on request.
- I.9 There may be circumstances where, following a banning order, the management of the property is taken over by the Council. In such circumstances the tenant would pay their rent to the local housing authority. A management order enables the Council to take over the management of a privately rented property in place of the landlord. The aim is to ensure that the health and safety of occupiers of the property and persons living or owning property nearby are protected, and to ensure that a property is still available to rent, particularly in areas of high demand.