

APPENDIX 4 - PRSH Enforcement Policy ESHIA

Shropshire Council

Equality and Social Inclusion and Health Impact Assessment (ESHIA)

Initial Screening Record 2021-2022

A. Summary Sheet on Accountability and Actions

Name of proposed service change
Private Rented Sector Housing Enforcement Policy

Name of lead officer carrying out the screening
Terry Alexander, Housing Enforcement and Service Support Team Manager

Decision, review, and monitoring

Decision	Yes	No
Initial (part one) ESHIA Only?	✓	
Proceed to Full ESHIA or HIA (part two) Report?		✓

If completion of an initial or Part One assessment is an appropriate and proportionate action at this stage, please use the boxes above. If a Full or Part Two report is required, please move on to full report stage once you have completed this initial screening assessment as a record of the considerations that you have given to this matter.

Actions to mitigate negative impact or enhance positive impact of the service change in terms of equality, social inclusion, and health considerations
<p>The service change is a proposal to update the Private Rented Sector Housing Enforcement Policy. This would allow the use of additional civil (financial) penalties for the purposes of enforcing electrical safety standards and minimum energy efficiency requirements relating to private rented property.</p> <p>The updated Policy is intended to replace the existing policy that was agreed by Cabinet on 3 July 2019. The updated policy sets out to extend the use of financial penalties to protect tenants in privately rented accommodation by:</p> <ul style="list-style-type: none">• tackling criminal, rogue and irresponsible landlords;• improving standards in the private rented sector; and• ensuring that private rented accommodation is safe, well managed and that property is adequately maintained. <p>Regulations made under the Housing and Planning Act 2016, the Housing Act 2004 and the Energy Act 2011 have now extended the powers of the Council to permit civil penalties to be imposed, as an alternative to prosecution, specifically in</p>

relation to electrical safety standards and minimum energy efficiency levels of private rented domestic property.

As with the existing Policy, the updated Policy should have a positive impact for all communities and groupings within communities, principally by deterring or removing rogue landlords from the Private Rented Sector in Shropshire. Effective enforcement in relation to private rented accommodation, including the use of civil penalties, is likely to improve the life chances of the population generally and particularly those with Protected Characteristics such as older people, those with disabilities and families with children.

By improving housing standards in respect of electrical safety and ensuring properties have energy performance certificates to at least the minimum level standards, there will be a predicted positive health and safety impact for all tenants. This includes households in the tenth category, social inclusion, that we think about in Shropshire, in addition to the nine Protected Characteristics set out in the Equality Act 2010. The social inclusion category includes people in rural areas and people or households that we may describe as vulnerable. Examples could be households on low incomes or people for whom there are safeguarding concerns, as well as people in fuel poverty.

The option of penalties of up to £30,000 sets out to show the intent of the Council to act with regard to the very small percentage of landlords who do not comply with legislation, and to demonstrate that the Council shares the Government's twin desires to support good landlords and agents who provide decent well-maintained homes and to crack down on unscrupulous landlords who are flouting the law and seeking profit from their non-compliance.

It is recognised that adverse impacts on tenants may occur because landlords may increase property in order to cover the costs associated with civil penalties or that it may lead to tenant evictions. As a mitigatory action, the Housing Enforcement Team specifically, together with the overarching Business and Consumer Protection Service, will continue to work with other Council services that have a role in relation to housing matters as well as external partners to provide multi-agency support, where necessary, to prevent illegal eviction and other forms of exploitation within the Private Rented Sector.

Effective enforcement in relation to private rented accommodation, including the use of civil penalties, is likely to improve the life chances of the population generally and particularly those with Protected Characteristics such as older people, those with disabilities and families with children.

Better energy performance will help mitigate the risk of fuel poverty, especially at a time with increased fuel costs, and reduce carbon emissions.

Any adverse impacts of the updated Policy on landlords/letting agents who may themselves have Protected Characteristics is mitigated against by virtue of the fact that the Council's approach is set out in the updated Policy and this will apply to all landlords/letting agents. In addition, any enforcement action will be taken in line

with the principles set out in the Council's [Better Regulation and Enforcement Policy](#).

The public consultation period enabled the Council to provide an opportunity for all to comment on the proposals, including members of the public, households likely to be affected now and in the future and also landlords and letting agents who are likely to be impacted by the Policy.

Actions to review and monitor the impact of the service change in terms of equality, social inclusion, and health considerations

The intention is that the impact of imposing or anticipating that civil penalties could be imposed (the deterrent effect) will be monitored by the level of compliance that we see in the private rented sector. Enforcement is a last resort as we already work with landlords and agents to improve standards and ensure health and safety; this approach will continue under the updated Policy. We anticipate that including the option to impose penalties of up to £30,000 (for certain offences) will demonstrate to both tenants and landlords/agents that the Council shares the Government's desire to support good landlords/agents, who are committed to providing decent well-maintained homes for tenants, and that the Council will crack down severely on the small percentage of unscrupulous landlords who repeatedly flout the law and seek profit from their non-compliance.

For the energy performance of privately rented accommodation, the intention is that we will monitor the level of compliance before we undertake the review of properties and then the number after we have contacted owners who are potentially renting properties below the minimum standard. The regulations are complex and there are many exemptions or reasons whereby a property may not be required to achieve the minimum standards. However, we can monitor the exemptions register to ensure owners are complying with the requirement to register an exemption or have actually taken steps to improve the energy rating. There are grants available for landlords to improve heating in properties so we can monitor the uptake of these grant applications.

We will develop a range of good communication approaches to increase positive impacts:

- work with landlords and agents who manage properties to ensure that their properties comply with the regulations and are safe, and that they are providing a compliant standard of accommodation. Only as a last resort do we propose to enforce by imposing financial penalties
- organise Shropshire Council Elected Member briefing sessions to make Members aware of changes in the legislation and the work of the Housing Enforcement Team as well as continuing to update relevant Portfolio Holders through the existing and regularly held Housing Portfolio Holder's Briefing
- share knowledge and understanding of the updated Policy and its outcomes/impacts with the Council's Housing Executive Board

- update Propertymark, including the National Residential Landlords Association, at joint meetings and ask for their comments/input on an ongoing basis
- publish details of the updated policy on the Council's website

Customer feedback will also be collected through a variety of existing mechanisms, including complaints/compliments and there will be ongoing engagement with Portfolio Holders and with Shropshire Council Elected Members as local community leaders for their locality.

We have drawn upon feedback from the public consultation in order to further inform the Policy, and have made adjustments, including with regard to equality impacts. The results of the consultation and engagement exercises have been recorded in the relevant section of this assessment along with the actions that are proposed to enhance the positive impacts and mitigate the negative impacts of the proposals within the Policy.

It is acknowledged that responses to the consultation are low, and that none were received from target groups, e.g., older people and people with disabilities. We will continue to work with those groupings in order to seek to ensure that the positive impacts are enhanced for these households.

We will also continue to share our policy approaches with other comparator authorities in order that we may learn from each other, enhance good practice, and seek to influence national policy development that will take due account of our circumstances as a large and sparsely populated rural county.

Associated ESHIAs

Equality and Social Inclusion Impact Assessment (ESIIA) completed when the original Private Rented Sector Housing Enforcement Policy was approved in 2019.

ESHIA that is currently being drawn up for the purposes of the proposed Policy for the Enforcement and Determination of Financial Penalties for Breaches of Relevant Letting Agency Requirements

Actions to mitigate negative impact, enhance positive impact, and review and monitor overall impacts in terms of any other considerations. This includes climate change considerations

Climate change

It is reasonable to conclude that where enforcement powers are used to ensure compliance with both the Energy Performance Regulations and the Electrical Safety Standards Regulations, there will be a positive climate outcome, particularly in relation to energy and fuel consumption.

Improving the energy performance of a property whether by better insulation, new windows or more efficient heating is likely to reduce carbon emissions. There is a strong likelihood of significant improvements for tenants on low incomes, with associated co-benefits such as improved physical health and mental wellbeing. Financial grants may be available to improve heating and insulation.

It is estimated that housing accounts for around 30% of Shropshire's carbon emissions and reducing heat loss through better insulation and installing more energy efficient and low carbon heating and lighting will help to reduce emissions.

With respect to renewable energy sources, proactive enforcement of the legal requirements may also prompt landlords to consider fitting roof-mounted solar panels to reduce energy use and costs for their tenants or to generate an income stream from their property assets.

It is acknowledged that enforcement of both the Energy Performance Regulations and the Electrical Safety Standards Regulations will not generate any potential opportunities for carbon offsetting or specific measures to improve resilience to climate related extreme weather events.

Health and wellbeing

Tenants should be able to heat their properties without the worry of wasting energy because properties are in the lowest two energy performance categories of F and G. Fuel costs are rising and if tenants are struggling to pay heating bills because of inefficiencies, they may reduce the heating to save money. It is widely recognised that a cold property can cause someone's physical health to suffer as the reducing temperature becomes an unacceptable hazard, and also mental health as a result of the constant worry about how to pay for fuel costs.

The Housing Health and Safety Rating System is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupants.

The introduction of Civil Penalties of up to £30,000 for the most serious offences under the Energy Performance Regulations, demonstrates the commitment the Council shares with the Government to support good landlords and agents who provide decent well-maintained homes and to crack down on the small number of unscrupulous landlords who are flouting the law and seeking to profit from their non-compliance.

The Electrical Safety Standards Regulations now also carry Civil Penalties of up to £30,000 for the most serious offences and this reinforces the message that a tenant's health and wellbeing is paramount. Landlords must ensure that electrical installations in their properties are safe and that they have the appropriate certification from a qualified electrician.

We are committed to working with landlords to make repairs and improve properties and the imposition of civil penalties is always a last resort.


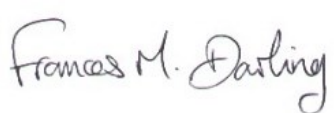
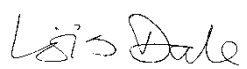
Economic and societal/wider community

With climate change being one of the greatest societal challenges we face, more extreme weather is likely to generate higher maintenance and insurance costs for landlords and higher utility bills for tenants: reducing the carbon emissions are, therefore, essential.

There have been various national grants available for landlords to make improvements to help improve the energy efficiency of rented properties; this assistance has always been subject to certain stipulations and conditions. The most recent grants under the Minimum Energy Efficiency Standards (MEES) have now ceased; however, the Government expected landlords to have spent up to £3,500 to improve the energy performance of F or G rated properties. These grants offered the opportunity to install these measures for a contribution of as little as £1,000.

The Council is currently developing a Sustainable Affordable Warmth Strategy and this will set out how the Council intends to investigate and harness future funding opportunities that will benefit landlords, tenants and others.


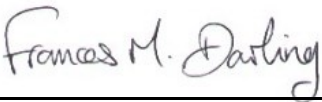
Scrutiny at Part One screening stage

People involved	Signatures	Date
<i>Lead officer carrying out the screening</i> Terry Alexander Housing Enforcement and Service Support Team Manager		26 th May 2022
<i>Any internal service area support*</i> Frances Darling Head of Business and Consumer Protection		19 April 2022
<i>Any external support**</i> Mrs Lois Dale Rurality and Equalities Specialist		8 th March 2022

**This refers to other officers within the service area*

***This refers to support external to the service but within the Council, e.g., the Rurality and Equalities Specialist, the Feedback and Insight Team, performance data specialists, Climate Change specialists, and Public Health colleagues*

Sign off at Part One screening stage

Name	Signatures	Date
<i>Lead officer's name</i> Terry Alexander Housing Enforcement and Service Support Team Manager		26 th May 2022
<i>Accountable officer's name</i> Frances Darling Head of Business and Consumer Protection		27 May 2022

**This may either be the Head of Service or the lead officer*

B. Detailed Screening Assessment

Aims of the service change and description
<p>The Council has a responsibility to regulate private rented domestic accommodation to ensure it is safe to live in, free from health and safety hazards and meets minimum energy efficiency levels.</p> <p>Cabinet approved the current Private Rented Sector Housing Enforcement Policy ('the PRSH Enforcement Policy') in July 2019. This Policy was brought into effect to reflect a range of new powers that were given to the Council under the Housing and Planning Act 2016, which included, amongst others, the power to impose civil penalties as an alternative to prosecution. The new powers were and continue to be aimed at:</p> <ul style="list-style-type: none">• tackling criminal, rogue and irresponsible landlords;• improving standards in the private rented sector; and• ensuring that private rented accommodation is safe, well managed and that property is adequately maintained. <p>Shropshire has a wide range of good landlords and letting agents who take their legal responsibilities seriously and provide decent well-maintained homes. However, there are also a small number of rogue, criminal and irresponsible landlords who knowingly flout their legal obligations and rent out accommodation that is substandard, unsafe, unlicensed and/or has poor energy efficiency levels. These landlords create an unfair trading environment that undermines the operation of legitimate businesses.</p> <p>The powers available to the Council have now been extended, and this requires the current PRSH Enforcement Policy to be updated. The Council may, as an alternative to prosecution, impose civil penalties on landlords who are in breach of their duties contained in the following regulations:</p> <ul style="list-style-type: none">• The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 ('the Electrical Safety Standards Regulations')• The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 ('the Energy Efficiency Regulations')

The Electrical Safety Standards Regulations carry Civil Penalties of up to £30,000 for the most serious offences, which reinforces the message that a tenant's health and wellbeing is paramount. Imposing Civil Penalties is a last resort, and we are committed to working with landlords to make repairs and improve properties. Landlords must ensure the electrical installations of their properties are safe and that they have the appropriate certification in place from a qualified electrician.

Better energy performance will help with the risk of fuel poverty, especially at a time with increasing fuel costs. Tenants should be able to heat their properties without the worry of wasting energy because properties are in the lowest two energy performance categories of F and G. Fuel costs are rising and if tenants are struggling to pay heating bills because of inefficiencies, they may reduce the heating to save money. It is widely recognised that a cold property can cause someone's physical health to suffer as the reducing temperature becomes an unacceptable hazard, and also mental health as a result of the constant worry about how to pay for fuel costs.

The Energy Efficiency Regulations gives the Council the power to impose civil penalties of up to £5,000. It is for the Council to determine the level of any civil penalty within certain individual maximum levels for different types of breaches.

In all instances where civil penalties are being considered as an alternative to prosecution, the Council will still have to be satisfied that if the case were to be prosecuted in the Magistrates' Court, there would be a realistic prospect of conviction, i.e. the standard of proof remains the same as if the decision had been taken to institute legal proceedings. The Council needs to demonstrate beyond reasonable doubt that the offence has been committed before imposing a civil penalty. For this purpose, officers involved in cases will consult the Crown Prosecution Service Code for Crown Prosecutors and liaise with Legal Services before any decision is made to impose a civil penalty.

In order to ensure civil penalties are used fairly and are set at an appropriate level, the following factors, as set out in the Statutory Guidance issued by the Department of Communities and Local Government in April 2017, will be considered:

- severity of the offence
- culpability and track record of the offender
- harm caused to the tenant
- punishment of the offender
- whether it will deter the offender from repeating the offence
- whether it will deter others from committing the offence
- whether it will remove any financial benefit the offender may have obtained as a result of committing the offence

Where it is intended that civil penalties will be used for the purposes of enforcing the Energy Efficiency Regulations, it is proposed that the method, contained with Section 8 of the Policy, will be used to determine the individual level of any penalty imposed; in particular, the impact on the following factors will be taken into account:

- the health of the tenants
- the environment
- the cost of heating the property
- the level of fuel poverty

Both the Electrical Safety Standards Regulations and the Energy Efficiency Regulations provide landlords with the right to make representations to the Council against the intention to impose a civil penalty and ultimately, they have a right of appeal to a First-tier Tribunal. The Tribunal is an informal body that has the power to quash, confirm, cancel or change any notice, order or decision made by the Council, including increasing or reducing the level of civil penalties.

Intended audiences and target groups for the service change

- Households living in private sector rented housing
- Local landlords/letting agents
- National Residential Landlords Association
- Communities in Shropshire
- Shropshire Council elected members as community leaders
- Shropshire MPs
- Partner agencies and organisations

Evidence used for screening of the service change

Learning points from the application of the existing Policy have been drawn upon to inform and shape the updated Policy.

The Council's [Better Regulation and Enforcement Policy](#) also provides guidance to officers, businesses, residents and the general public on the range of options that are available to achieve compliance with all legislation enforced by Shropshire Council.

Specific national legislation introduced by the Government (in addition to wider housing legislation):

- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 ('the Electrical Safety Standards Regulations')
- The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 ('the Energy Efficiency Regulations')

The updated Policy is required so that it is clear how the Council will determine the amount of any civil penalty when there is evidence of non-compliance under the above legislation.

Specific consultation and engagement with intended audiences and target groups for the service change

A public consultation has been carried out. The Consultation was active on the Shropshire Council website from 11 April 2022 to 22 May 2022 and open to the public and all stakeholders to put forward their comments.

The following stakeholders were contacted directly by email and signposted to the Council's website for further information about the consultation:

- Country Land and Business Associate (CLA) – Midlands
- Propertymark
- CAB Shropshire
- National Residential Landlords Association (NRLA) – Shropshire

Portfolio Holder briefing sessions were held to ensure all Portfolio Holders with a housing related responsibility were aware of the changes to the legislation and the work of the Housing Enforcement Team.

Comments were sought directly from the following Shropshire Council service areas:

- Housing, Resettlement & Independent Living
- Property and Development
- Climate Change Task Force

Consultation responses were received from CLA Midlands and Propertymark; Propertymark includes the NRLA. In summary, the amendments made to the Policy, as a result of their feedback, are:

- to confirm that the Council agrees that effective enforcement is achieved more successfully when a collaborative approach with letting agents, landlords and professional bodies is adopted to tackle issues within the private rented sector;
- to clarify the position that the Council will take in the event that changes are made to legislation during the lifetime of the Policy; and
- provide an explanation detailing how the Policy will be kept under review and updated.

A number of additional amendments have been made to the Policy based on internal feedback; these are aimed at providing further clarification and relate specifically to:

- the inclusion of the definition that the Council uses to describe who may be a vulnerable person and acknowledgment that there are specific definitions of vulnerable groups within the Housing Act 2004;
- in the majority of cases, the Council will charge for the issue of enforcement notices based on a fixed rate charge, with additional hours charged at an hourly rate only where there are extenuating/exceptional circumstances that have significantly increased the time taken to issue and effectively deal with an enforcement notice;

- the interest rate charged in relation to the repayment of the costs incurred when the Council has undertaken works in default will be increased from the Bank of England Base Rate +2% to the Bank of England Base Rate +8% to align with the 'statutory interest' rate for late payments on commercial contracts and with interest rates charged by other services within the Council for similar works; and
- confirming that it is HM Land Registry that holds the register of local land charges and not the Council.

Details of the finalised and approved updated Policy will be published on the Council's website.

Initial equality impact assessment by grouping (Initial health impact assessment is included below)

Please rate the impact that you perceive the service change is likely to have on a group, through stating this in the relevant column.

Please state if it is anticipated to be neutral (no impact) and add any extra notes that you think might be helpful for readers.

Protected Characteristic groupings and other groupings in Shropshire	High negative impact <i>Part Two ESIIA required</i>	High positive impact <i>Part One ESIIA required</i>	Medium positive or negative impact <i>Part One ESIIA required</i>	Low positive, negative, or neutral impact (please specify) <i>Part One ESIIA required</i>
<u>Age</u> (please include children, young people, young people leaving care, people of working age, older people. Some people may belong to more than one group e.g., a child or young person for whom there are safeguarding concerns e.g., an older person with disability)		Yes		
<u>Disability</u> (please include mental health conditions and syndromes; hidden disabilities including autism and Crohn's disease; physical and sensory disabilities or impairments; learning disabilities; Multiple Sclerosis; cancer; and HIV)		Yes		
<u>Gender re-assignment</u> (please include associated aspects: safety, caring responsibility, potential for bullying and harassment)				Neutral
<u>Marriage and Civil Partnership</u> (please include associated aspects: caring responsibility, potential for bullying and harassment)				Neutral

<u>Pregnancy and Maternity</u> (please include associated aspects: safety, caring responsibility, potential for bullying and harassment)			Yes	
<u>Race</u> (please include ethnicity, nationality, culture, language, gypsy, traveller)				Neutral
<u>Religion and belief</u> (please include Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Nonconformists; Rastafarianism; Sikhism, Shinto, Taoism, Zoroastrianism, and any others)				Neutral
<u>Sex</u> (this can also be viewed as relating to gender. Please include associated aspects: safety, caring responsibility, potential for bullying and harassment)				Neutral
<u>Sexual Orientation</u> (please include associated aspects: safety; caring responsibility; potential for bullying and harassment)				Neutral
<u>Other: Social Inclusion</u> (please include families and friends with caring responsibilities; households in poverty; people for whom there are safeguarding concerns; people you consider to be vulnerable; people with health inequalities; refugees and asylum seekers; rural communities; veterans and serving members of the armed forces and their families)		Yes		

Initial health and wellbeing impact assessment by category

Please rate the impact that you perceive the service change is likely to have with regard to health and wellbeing, through stating this in the relevant column.

Please state if it is anticipated to be neutral (no impact) and add any extra notes that you think might be helpful for readers.

Health and wellbeing: individuals and communities in Shropshire	High negative impact <i>Part Two HIA required</i>	High positive impact	Medium positive or negative impact	Low positive negative or neutral impact (please specify)
Will the proposal have a <i>direct impact</i> on an		<ul style="list-style-type: none"> Prevent risk of ill health resulting from cold and 		

<p>individual's health, mental health and wellbeing?</p> <p>For example, would it cause ill health, affecting social inclusion, independence and participation?</p> <p>.</p>		<p>damp homes (CVD, asthma)</p> <ul style="list-style-type: none"> • Reduction in stress will have mental health and wellbeing benefits • Improved feelings autonomy and social status • Increased social inclusion and participation as better physical and mental health • Particularly households on low incomes households living in fuel poverty, and rural households 		
<p>Will the proposal indirectly impact an individual's ability to improve their own health and wellbeing?</p> <p>For example, will it affect their ability to be physically active, choose healthy food, reduce drinking and smoking?</p> <p>.</p>			<p>Positive:</p> <ul style="list-style-type: none"> • Reductions in heating and maintenance costs potentially allow for more healthful activities as income can be spent on other things such as food (improved nutrition), social and leisure activities (improved physical and mental health) • Health equity: people on low incomes have greater positive outcomes for health and wellbeing from energy efficiency interventions 	

			<ul style="list-style-type: none"> • Increased social cohesion / community pride from gains to local environment • Improved perceptions of safety and risk 	
<p>Will the policy have a <i>direct impact</i> on the community - social, economic and environmental living conditions that would impact health?</p> <p>For example, would it affect housing, transport, child development, education, employment opportunities, availability of green space or climate change mitigation?</p> <p>.</p>		<ul style="list-style-type: none"> • Increased social capital • Improved education and productivity • Reduced absenteeism • Savings in energy and carbon emissions • Climate change mitigation • Increased asset value of property • Local job opportunities and tax revenues • Improved quality of local environment • Should lead to better standards of private sector rented housing accommodation 		
<p>Will there be a likely change in <i>demand</i> for or access to health and social care services?</p> <p>For example: Primary Care, Hospital Care, Community Services, Mental Health, Local Authority</p>			<p>Positive:</p> <ul style="list-style-type: none"> • For every £1 spent on improving warmth in vulnerable households, there are £4 of health benefits, and every £1 spent on insulation interventions 	

<p>services including Social Services?</p> <p>.</p>			<p>provides a return of £1.87</p> <ul style="list-style-type: none"> • Reduction in cost to the emergency services, following a home health incident • Reduction in direct care, aftercare and assistance • Reduction in cost of future interventions, including those of LA's, charities, care sector • Reduction in LA resources associated with inadequate/ poor housing 	
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Clair, A., & Hughes, A. (2019). Housing and health: new evidence using biomarker data. *J Epidemiol Community Health*, 73(3), 256-262.

Garrett, H., Mackay, M., Nicol, S., Piddington, J., & Roys, M. (2021). BRE: the cost of poor housing in England. 2021 briefing paper https://files.bregroup.com/research/BRE_Report_the_cost_of_poor_housing_2021.pdf

Health Foundation (2020) Better housing is crucial for our health and the Covid 19 recovery. <https://www.health.org.uk/publications/long-reads/better-housing-is-crucial-for-our-health-and-the-covid-19-recovery>

NICE (2015) NICE guideline (NG6). Excess winter deaths and illness and the health risks associated with cold homes. <https://www.nice.org.uk/guidance/ng6/chapter/3-context>

PHW (2021). The importance of household energy efficiency for health and well-being. Discussion paper. <https://phw.nhs.wales/publications/publications1/the-importance-of-household-energy-efficiency-for-health-and-well-being-discussion-paper/>

Identification of likely impact of the service change in terms of other considerations including climate change and economic or societal impacts

Climate change

It is reasonable to conclude that where enforcement powers are used to ensure compliance with both the Energy Performance Regulations and the Electrical Safety Standards Regulations, there will be a positive climate outcome, particularly in relation to energy and fuel consumption.

Improving the energy performance of a property whether by better insulation, new windows or more efficient heating is likely to reduce carbon emissions. There is a strong likelihood of significant improvements for tenants on low incomes, with associated co-benefits such as improved physical health and mental wellbeing. Financial grants may be available to improve heating and insulation.

With respect to renewable energy sources, proactive enforcement of the legal requirements may also prompt landlords to consider fitting roof-mounted solar panels to reduce energy use and costs for their tenants or to generate an income stream from their property assets.

It is acknowledged that enforcement of both the Energy Performance Regulations and the Electrical Safety Standards Regulations will not generate any potential opportunities for carbon offsetting or specific measures to improve resilience to climate related extreme weather events.

Health and well being

The Housing Health and Safety Rating System is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupants. The introduction of Civil Penalties of up to £30,000 for the most serious offences, shows the commitment the Council shares with the Government to support good landlords and agents who provide decent well-maintained homes and to crack down on the small number of unscrupulous landlords who are flouting the law and seeking profit from their non-compliance.

The Electrical Safety Standards Regulations now also carry Civil Penalties of up to £30,000 for the most serious offences which reinforces the message that a tenant's health and wellbeing is paramount. Imposing civil penalties is a last resort, and we are committed to working with landlords to make repairs and improve properties. Landlords must ensure the electrical installations in their properties are safe and they have the appropriate certification from a qualified electrician.

The policy indicates explicit recognition by the Council that tenants should be able to heat their properties without the worry of wasting energy because properties are in the lowest two energy performance categories of F and G. Fuel costs are rising and if tenants are struggling to pay heating bills because of inefficiencies, they may reduce the heating to save money. It is widely recognised that a cold property can cause someone's physical health to suffer as the reducing temperature becomes an unacceptable hazard, and also mental health as a result of the constant worry about how to pay for fuel costs.

Economic and societal/wider community

Economic

There are national grants available for landlords to make improvements to help improve the energy efficiency of rented properties; this assistance is subject to certain stipulations and conditions. Under the Minimum Energy Efficiency Standards (MEES), the Government expects landlords to have spent up to £3,500 to improve the energy performance of F or G rated properties. These grants offer the opportunity to install these measures for a contribution of as little as £1,000.

With climate change being one of the greatest challenges we face, more extreme weather is likely to generate higher maintenance and insurance costs for landlords and higher utility bills for tenants, reducing carbon emissions are essential.

Housing accounts for around 30% of Shropshire's carbon emissions but reducing heat loss through better insulation and installing more energy efficient and low carbon heating and lighting will help to significantly reduce them.

The Policy recognises that prevention is better than enforcement; however, it is made clear that under certain circumstances formal enforcement action will be necessary against those who repeatedly flout the law or act irresponsibly or fraudulently. The Policy sets out that effective regulation needs to be proportionate and flexible in order to support and encourage fair competition, economic growth and prosperity, as well as promoting safer communities and public confidence, whilst ensuring the highest level of protection for the public. The Policy therefore promotes a positive, proactive and balanced approach to ensure compliance with regulatory matters.

Societal: application of high standards of conduct

The principles of openness, helpfulness, proportionality, fairness and consistency, together with appropriate complaints policies, underpin the operation of the Policy and will help businesses to comply with regulations, local residents to abide by their legal responsibilities and regulators to achieve higher levels of voluntary compliance.

The policy sets out that officers will be professional in their conduct, customer focused, fair and consistent, helpful, use targeted and intelligence-led interventions, take a proportionate response, be open and transparent, provide feedback and protect data and information. Non-compliance will be dealt with through escalated enforcement action beginning with advice, information and assistance unless the circumstances require immediate enforcement action, and these circumstances are set out in the Policy. The Policy sets out clearly the aims of enforcement action.

Where prosecution is considered, the Policy sets out that each case will be considered on its own merits and regard will be had for the evidential and public interest tests in the Code for Crown Prosecutors.

Any landlords who are issued with a civil penalty will have the right to make representations against it to a Final-Tier Tribunal, who can remove or reduce the penalty if they consider the Council's action to be incorrect or disproportionate.

In all instances where civil penalties are being considered as an alternative to prosecution, the Council will still have to be satisfied that if the case were to be prosecuted in the Magistrates' Court, there would be a realistic prospect of conviction, i.e. the standard of proof remains the same as if the decision had been taken to institute legal proceedings. The Council needs to demonstrate beyond reasonable doubt that the offence has been committed before imposing a civil penalty. For this purpose, officers involved in cases will consult the Crown Prosecution Service Code for Crown Prosecutors and liaise with Legal Services before any decision is made to impose a civil penalty.

Guidance Notes

1. Legal Context

It is a legal requirement for local authorities to assess the equality and human rights impact of changes proposed or made to services. It is up to us as an authority to decide what form our equality impact assessment may take. By way of illustration, some local authorities focus more overtly upon human rights; some include safeguarding. It is about what is considered to be needed in a local authority's area, in line with local factors such as demography and strategic objectives as well as with the national legislative imperatives.

Carrying out these impact assessments helps us as a public authority to ensure that, as far as possible, we are taking actions to meet the general equality duty placed on us by the Equality Act 2010, and to thus demonstrate that the three equality aims are integral to our decision making processes.

These are: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations.

These screening assessments for any proposed service change go to Cabinet as part of the committee report, or occasionally direct to Full Council, unless they are ones to do with Licensing, in which case they go to Strategic Licensing Committee.

Service areas would ordinarily carry out a screening assessment, or Part One equality impact assessment. This enables energies to be focussed on review and monitoring and ongoing evidence collection about the positive or negative impacts of a service change upon groupings in the community, and for any adjustments to be considered and made accordingly.

These screening assessments are recommended to be undertaken at timely points in the development and implementation of the proposed service change.

For example, an ESHIA would be a recommended course of action before a consultation. This would draw upon the evidence available at that time, and identify the target audiences, and assess at that initial stage what the likely impact of the service change could be across the Protected Characteristic groupings and our tenth category of Social Inclusion. This ESHIA would set out intended actions to engage with the groupings, particularly those who are historically less likely to engage in public consultation eg young people, as otherwise we would not know their specific needs.

A second ESHIA would then be carried out after the consultation, to say what the feedback was, to set out changes proposed as a result of the feedback, and to say where responses were low and what the plans are to engage with groupings who did not really respond. This ESHIA would also draw more upon actions to review impacts in order to mitigate the negative and accentuate the positive. Examples of this approach include the Great Outdoors Strategy, and the Economic Growth Strategy 2017-2021

Meeting our Public Sector Equality Duty through carrying out these ESHIAs is very much about using them as an opportunity to demonstrate ongoing engagement across groupings and to thus visibly show we are taking what is called due regard of the needs of people in protected characteristic groupings

If the screening indicates that there are likely to be significant negative impacts for groupings within the community, the service area would need to carry out a full report, or Part Two assessment. This will enable more evidence to be collected that will help the service area to reach an informed opinion.

In practice, Part Two or Full Screening Assessments have only been recommended twice since 2014, as the ongoing mitigation of negative equality impacts should serve to keep them below the threshold for triggering a Full Screening Assessment. The expectation is that Full Screening Assessments in regard to Health Impacts may occasionally need to be undertaken, but this would be very much the exception rather than the rule.

2. Council Wide and Service Area Policy and Practice on Equality, Social Inclusion and Health

This involves taking an equality and social inclusion approach in planning changes to services, policies, or procedures, including those that may be required by Government.

The decisions that you make when you are planning a service change need to be recorded, to demonstrate that you have thought about the possible equality impacts on communities and to show openness and transparency in your decision-making processes.

This is where Equality, Social Inclusion and Health Impact Assessments (ESHIA) come in. Where you carry out an ESHIA in your service area, this provides an opportunity to show:

- What evidence you have drawn upon to help you to recommend a strategy or policy or a course of action to Cabinet.
- What target groups and audiences you have worked with to date.
- What actions you will take in order to mitigate any likely negative impact upon a group or groupings, and enhance any positive effects for a group or groupings; and
- What actions you are planning to review the impact of your planned service change.

The formal template is there not only to help the service area but also to act as a stand-alone for a member of the public to read. The approach helps to identify whether or not any new or significant changes to services, including policies, procedures, functions, or projects, may have an adverse impact on a particular group of people, and whether the human rights of individuals may be affected.

This assessment encompasses consideration of social inclusion. This is so that we are thinking as carefully and completely as possible about all Shropshire groups and communities, including people in rural areas and people or households that we may describe as vulnerable.

Examples could be households on low incomes or people for whom there are safeguarding concerns, as well as people in what are described as the nine 'protected characteristics' of groups of people in our population, e.g., Age. Another specific vulnerable grouping is veterans and serving members of the Armed Forces, who face particular challenges with regard to access to Health, to Education, and to Housing.

We demonstrate equal treatment to people who are in these groups and to people who are not, through having what is termed 'due regard' to their needs and views when developing and implementing policy and strategy and when commissioning, procuring, arranging, or delivering services.

When you are not carrying out an ESHIA, you still need to demonstrate and record that you have considered equality in your decision-making processes. It is up to you what format you choose.-You could use a checklist, an explanatory note, or a document setting out our expectations of standards of behaviour, for contractors to read and sign. It may well not be something that is in the public domain like an ESHIA, but you should still be ready for it to be made available.

Both the approaches sit with a manager, and the manager has to make the call, and record the decision made on behalf of the Council. Help and guidance is also available via the Commissioning Support Team, either for data, or for policy advice from the Rurality and Equalities Specialist. Here are some examples to get you thinking.

Carry out an ESHIA:

- If you are building or reconfiguring a building.
- If you are planning to reduce or remove a service.
- If you are consulting on a policy or a strategy.
- If you are bringing in a change to a process or procedure that involves other stakeholders and the wider community as well as particular groupings

For example, there may be a planned change to a leisure facility. This gives you the chance to look at things like flexible changing room provision, which will maximise positive impacts for everyone. A specific grouping that would benefit would be people undergoing gender reassignment

Carry out an equality and social inclusion approach:

- If you are setting out how you expect a contractor to behave with regard to equality, where you are commissioning a service or product from them.
- If you are setting out the standards of behaviour, we expect from people who work with vulnerable groupings, such as taxi drivers that we license.

- If you are planning consultation and engagement activity, where we need to collect equality data in ways that will be proportionate and non-intrusive as well as meaningful for the purposes of the consultation itself.
- If you are looking at services provided by others that help the community, where we need to demonstrate a community leadership approach

For example, you may be involved in commissioning a production to tour schools or appear at a local venue, whether a community hall or somewhere like Theatre Severn. The production company should be made aware of our equality policies and our expectation that they will seek to avoid promotion of potentially negative stereotypes. Specific groupings that could be affected include: Disability, Race, Religion and Belief, and Sexual Orientation. There is positive impact to be gained from positive portrayals and use of appropriate and respectful language in regard to these groupings in particular.

3. Council wide and service area policy and practice on health and wellbeing

This is a relatively new area to record within our overall assessments of impacts, for individual and for communities, and as such we are asking service area leads to consider health and wellbeing impacts, much as they have been doing during 2020-2021, and to look at these in the context of direct and indirect impacts for individuals and for communities. A better understanding across the Council of these impacts will also better enable the Public Health colleagues to prioritise activities to reduce health inequalities in ways that are evidence based and that link effectively with equality impact considerations and climate change mitigation.

Health in All Policies – Health Impact Assessment

Health in All Policies is an upstream approach for health and wellbeing promotion and prevention, and to reduce health inequalities. The Health Impact Assessment (HIA) is the supporting mechanism

- Health Impact Assessment (HIA) is the technical name for a common-sense idea. It is a process that considers the wider effects of local policies, strategies and initiatives and how they, in turn, may affect people's health and wellbeing.
- Health Impact Assessment is a means of assessing both the positive and negative health impacts of a policy. It is also a means of developing good evidence-based policy and strategy using a structured process to review the impact.
- A Health Impact Assessment seeks to determine how to maximise health benefits and reduce health inequalities. It identifies any unintended health consequences. These consequences may support policy and strategy or may lead to suggestions for improvements.

- An agreed framework will set out a clear pathway through which a policy or strategy can be assessed and impacts with outcomes identified. It also sets out the support mechanisms for maximising health benefits.

The embedding of a Health in All Policies approach will support Shropshire Council through evidence-based practice and a whole systems approach, in achieving our corporate and partnership strategic priorities. This will assist in promoting, enabling and sustaining the health and wellbeing of individuals and communities whilst reducing health inequalities.

Individuals

Will the proposal have a *direct impact* on health, mental health and wellbeing?

For example, would it cause ill health, affecting social inclusion, independence and participation?

Will the proposal directly affect an individual's ability to improve their own health and wellbeing?

This could include the following: their ability to be physically active e.g., being able to use a cycle route; to access food more easily; to change lifestyle in ways that are of positive impact for their health.

An example of this could be that you may be involved in proposals for the establishment of safer walking and cycling routes (e.g., green highways), and changes to public transport that could encourage people away from car usage. and increase the number of journeys that they make on public transport, by foot or on bicycle or scooter. This could improve lives.

Will the proposal *indirectly impact* an individual's ability to improve their own health and wellbeing?

This could include the following: their ability to access local facilities e.g., to access food more easily, or to access a means of mobility to local services and amenities? (e.g. change to bus route)

Similarly to the above, an example of this could be that you may be involved in proposals for the establishment of safer walking and cycling routes (e.g. pedestrianisation of town centres), and changes to public transport that could encourage people away from car usage, and increase the number of journeys that they make on public transport, by foot or on bicycle or scooter. This could improve their health and well being.

Communities

Will the proposal directly or indirectly affect the physical health, mental health, and wellbeing of the wider community?

A *direct impact* could include either the causing of ill health, affecting social inclusion, independence and participation, or the promotion of better health.

An example of this could be that safer walking and cycling routes could help the wider community, as more people across groupings may be encouraged to walk more, and as there will be reductions in emission leading to better air quality.

An *indirect impact* could mean that a service change could indirectly affect living and working conditions and therefore the health and well being of the wider community

An example of this could be: an increase in the availability of warm homes would improve the quality of the housing offer in Shropshire and reduce the costs for households of having a warm home in Shropshire. Often a health promoting approach also supports our agenda to reduce the level of Carbon Dioxide emissions and to reduce the impact of climate change.

Please record whether at this stage you consider the proposed service change to have a direct or an indirect impact upon communities.

Demand

Will there be a change in demand for or access to health, local authority and social care services?

For example: Primary Care, Hospital Care, Community Services, Mental Health and Social Services?

An example of this could be: a new housing development in an area would affect demand for primary care and local authority facilities and services in that location and surrounding areas. If the housing development does not factor in consideration of availability of green space and safety within the public realm, further down the line there could be an increased demand upon health and social care services as a result of the lack of opportunities for physical recreation, and reluctance of some groupings to be outside if they do not perceive it to be safe.

For further information on the use of ESHIAs: please contact your head of service or contact Mrs Lois Dale, Rurality and Equalities Specialist and Council policy support on equality, via telephone 01743 258528, or email lois.dale@shropshire.gov.uk.

***For further guidance on public health policy considerations: please contact
Amanda Cheeseman Development Officer in Public Health, via telephone Tel:
01743 253164 or email
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