Public Report
Cabinet

Committee Name and Date of Committee Meeting
Cabinet – 08 June 2026

Report Title
Renters' Rights Act Policy Consultation

Is this a Key Decision and has it been included on the Forward Plan?
Yes

Executive Director Approving Submission of the Report
Andrew Bramidge, Executive Director of Regeneration and Environment

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Ward(s) Affected
Borough-Wide

Report Summary
The Renters' Rights Act 2025 ["the Act"], and associated Statutory Guidance, introduces significant changes to Local Housing Authority enforcement powers, including expanded civil penalties, statutory "starting points" for financial penalties, and a range of new investigatory powers. The Act has not been included within the 'Legislative and Regulatory Reform (Regulatory Functions) Order 2007' and therefore is outside of the scope of the Regulator's Code and the principles of good regulation which are outlined within the Council's General Enforcement Policy.

This report seeks approval to consult on a Private Sector Housing Enforcement Policy to sit alongside the Council's General Enforcement Policy and a Civil Penalty Calculation Mechanism, for delivering Civil penalties under the Renters' Rights Act 2025 and other relevant legislation. This is necessary to comply with national legislation and guidance, delivering a transparent process for applying Civil Penalties across a range of housing legislation. It offers a consistent approach with other local authorities in the region and provides an option to tailor the financial impact of the legislation to the local housing market.

The proposed Private Sector Housing Enforcement Policy, along with the Civil Penalty Calculation Mechanism, consolidates housing enforcement tools, including those outside the national Regulator's Code, ensuring consistency, proportionality, and compliance with the legislation which will not disproportionally impact the local private rented sector.

Recommendations

That Cabinet:

1. Approve consultation on the draft:

    a. Private Sector Housing Enforcement Policy, derived from the Association of Chief Environmental Health Officers (ACEHO) National Model Enforcement Policy; and

    b. Civil Penalty Calculation Mechanism, including local market adjustment.

2. Note that a future report with the outcome of the consultation and revised policy documents will be presented to Cabinet in November 2026.

List of Appendices Included

Appendix 1	Draft Private Sector Housing Enforcement Policy
Appendix 2	Draft Civil Financial Penalty Calculation Mechanism
Appendix 3	Tables 1 & 2 – The effect of the Statutory Guidance, model policy and local market adjustment on levels of Civil Penalty
Appendix 4	Initial Equalities Screening Assessment
Appendix 5	Carbon and Climate Change Assessment

Background Papers

- Statutory guidance, Civil penalties under the Renters' Rights Act 2025 and other housing legislation Published 13 November 2025
- Part 4 of the Renters' Rights Act 2025
- Guide to the Renters' Rights Act Published 6 November 2025
- Rent repayment orders: guidance for local authorities.

Consideration by any other Council Committee, Scrutiny or Advisory Panel
None

Council Approval Required
No

Exempt from the Press and Public
No

Renters' Rights Act Policy Consultation

1. Background

1.1 The Renters' Rights Act 2025, and recent Statutory Guidance (published November 2025), significantly expands enforcement powers, increasing maximum civil penalties from £30,000 to £40,000 and introducing two national penalty tiers (£7,000 and £40,000 maximums). It requires councils to apply penalties in line with statutory starting points and guidance.

1.2 The phased implementation of the Renters' Rights Act 2025 brought several Civil Penalties into legal force on 1 May 2026, with further penalties becoming law over the coming months. These changes necessitate an update to the Council's approach to housing enforcement and the application of Civil Financial Penalties and are the drivers for introducing the draft Policy within this report.

2 Key Issues

2.1 As a result of the new legislation and guidance, there are 6 areas which require inclusion or amendment in relation to the Council's Policy. These are all addressed in the draft Private Sector Housing Enforcement Policy, attached as appendix 1, and the Civil Financial Penalty Calculation Mechanism, attached as appendix 2 and 3 respectively. These are:

- New offences and powers under the Renters' Rights Act 2025.
- Updated civil penalty calculation methodologies.
- Statutory "starting points" for penalty calculations.
- The ACEHO national model enforcement framework.
- Local economic conditions impacting penalty viability.
- Increases in the level of Rent Repayment Orders.

2.2 The proposed Private Sector Housing Enforcement Policy is based on the national model developed by the Association of Chief Environmental Health Officers (ACEHO).

This model aims to:

- Deliver national consistency in housing enforcement.
- Provide a clear, evidence-based decision framework.
- Include enforcement tools outside the Regulator's Code.
- Support robust, proportionate enforcement against non-compliance.
- Protect compliant landlords by ensuring fair, transparent regulation.

The local policy adapts the national model to reflect Rotherham's local context, housing market, and enforcement priorities, ensuring that fine levels are appropriate in the local context. This is further detailed in Appendix 2.

2.3 The Civil Financial Penalty Calculation Mechanism (Appendices 2 & 3) includes:

- *Statutory Starting Points* - Required by the Statutory Guidance.
- *Officer Discretion Range* - ± 20% adjustment for aggravating and mitigating factors.
- *Early Payment Discount* - 15% discount if paid in full within 28 days.
- *Local Market Adjustment* - Rotherham's private rents are significantly below the national average. Using Office for National Statistics (ONS) data, Rotherham's mean rents and the Yorkshire and Humber mean rents are 47.6% & 59.2% respectively of All England rent levels. The fact that Yorkshire and Humber cities are not representative of Rotherham's housing market means that the adoption of Rotherham's mean rent in isolation may offer a slight incentive for non-compliant landlords to operate in Rotherham. Therefore, an amalgamation of the two levels has been made. With the local housing market operating at around 53.4% of All England rent levels, it is proposed that a 46.6% local reduction factor is applied after using the model calculator to ensure penalties remain proportionate and recoverable while still acting as a deterrent. This approach is consistent with other regional authorities and protects the viability of the local private rented sector.
- The ability to vary the range of officer discretion and level of discount in specific cases when circumstances justify unusual treatment. This allows the Council to use the full range of the statutory penalty, at the discretion of the Service Director, Community Safety and Street Scene.

2.4 It is proposed that from 2027/28 the 'Civil Financial Penalty Calculation Mechanism' will be included in the Council's Fees & Charges Schedule, which is part of the annual budget setting report, and be reviewed annually in line with the budget process.

2.5 Appendices 1 and 2 contain the proposed Private Sector Housing Enforcement Policy and the Civil Financial Penalty Calculation Mechanism. Appendix 3 illustrates the effect of the Statutory Starting Points, required by the Statutory Guidance, with and without the proposed market adjustment. The documents provide the details of the proposed changes to the existing Policy and form the basis for the recommended consultation.

2.6 The increased number of potential civil penalty offences and breaches, and the range of potential penalty values which can be issued, mean it is sensible to create a mechanism by which officers can consistently apply penalties.

2.7 The proposed housing specific enforcement policy, and revised approach to the calculation of appropriate civil penalties, seek to ensure legal compliance and consistent, defendable decision-making. This will assist in defending any challenges, which can be made to the First-Tier Tribunal.

2.8 Without a local adjustment factor, penalties calculated strictly from statutory guidance may be disproportionately high, creating an enforcement environment which may force non-criminal landlords from the sector and prove difficult to recover. A local rent-based reduction (46.6%) is therefore proposed to ensure proportionality and fairness while still maintaining deterrence.

2.9 Given the scale of changes in relation to the range of offences, the levels of fines and local adjustments proposed, public consultation is necessary to ensure landlords, tenants, partners, and stakeholders understand how the new framework will operate and have the opportunity to provide views. Feedback will inform the final version of the policy before returning to Cabinet for approval.

3. Options considered and recommended proposal

3.1 **Option A** (do nothing): Retain the existing 2018 Policy for the Use of Civil Penalty and Rent Repayment Orders under the Housing Act 2004 as amended without amendment and rely solely on the Council's General Enforcement Policy to guide all enforcement.

Not recommended: The existing Policies are out of date and do not reference the Renters' Rights Act 2025 provisions. This may leave the Council more vulnerable to challenge at any appeal to the First Tier Tribunal.

3.2 **Option B –** Rely on Statutory Guidance on *Statutory Starting Points* for Civil Penalties without local adaptation.

Not recommended: This would not reflect local rent levels or enforcement context. The likely penalty values will be disproportionate to the local economic situation which may damage the local private rented sector. It may also invite increased numbers of appeals to the First Tier Tribunal.

3.3 **Option C –** Consult on adopting the Private Sector Housing Enforcement Policy and Civil Financial Penalty Calculation Mechanism.

Recommended: The draft revised local policy and civil penalty calculation mechanism are described in Appendices 1 and 2, including a local market reduction of 46.6%.

4. Consultation on proposal

4.1 Cabinet approval is sought to approve consultation on:

- The Draft Private Sector Housing Enforcement Policy.
- The 'Draft Civil Financial Penalty Calculation Mechanism.'

4.2 The consultation will commence in late June 2026 and run for 6 weeks. It will be designed to reach residents, businesses, neighbourhood groups, local charities, faith groups, landlord groups, tenants, owner occupiers and visitors, focused on those impacted by the private rented sector. The approach will concentrate on online and email engagement, utilising the corporate consultation mechanism where possible. Paper-based opportunities will be included.

4.3 The proposed consultation offers the opportunity for the community and relevant businesses to comment on the Council's proposed approach to

comply with national legislation, delivering a transparent and robust enforcement process and applying civil penalties across a range of legislation.

4.4 Consultation responses will provide the opportunity to consider any unforeseen adverse impacts on stakeholders and the local housing market, ensuring that the proposed policies do not disproportionally damage the local private rented sector. Responses will inform possible revisions of the proposed policies before they are returned to Cabinet for a final decision.

4.5 It is expected that the response to the consultation, and the final proposed policy, will be presented to Cabinet in November 2026 after full consideration of the responses.

5. Timetable and Accountability for Implementing this Decision

5.1 The responsibility for the implementation of this decision and further review sits with the Head of Community Safety and Regulatory Services.

6. Financial and Procurement Advice and Implications

6.1 There are no direct procurement implications arising from the recommendations detailed in this report.

6.2 Appendices 1 and 2 set out the proposed fines for each offence under the Local Housing Authority Enforcement Policy and Renters' Rights Act respectively. For each offence, mitigating and aggravating factors can be applied. It is proposed to apply a local discount to these amounts of 46.6% to reflect the fact that rental levels in Rotherham are lower than national averages. In addition, it is proposed to offer a 15% discount for prompt payments within 28 days. This is not required under the law but is a local decision to encourage prompt payment. It is not envisaged that any charging will take place before 1st April 2027. This timing would allow the proposed fee to be considered as part of the annual Budget and Council Tax Report and approved by full Council if agreed.

6.3 The Council has been provided with new burdens funding of £149,453 to assist with the implementation of the new legislation. However, the cost of the drafting of the new policy and consultation will be funded within existing revenue budgets. A plan for how the new burdens funding will be spent will be submitted to the S151 officer for approval, and an update on this provided in the next report to Cabinet.

6.4 It is difficult to predict what the expected income levels would be once these new penalty notices are introduced. Under the legislation, the Council is only allowed to spend any revenue generated on private sector housing enforcement. Therefore, any income generated must be reinvested back into the service and cannot be used elsewhere.

7. Legal Advice and Implications

7.1 The Act introduces significant change in relation to the statutory responsibilities of Local Housing Authorities. These statutory duties come into force on 1 May 2026. Section 107 of the Act places a general duty upon Local Housing Authorities to enforce Landlord Legislation in their area and defines 'Landlord Legislation'. Enforcement action means the imposition of a financial penalty or instituting prosecution proceedings for an offence.

7.2 Section 110 also introduces a duty to report whereby the Local Housing Authority must report to the Secretary of State on the exercise of its functions under the Landlord Legislation. A report requested under this Section must be provided at such time and in such form as the Secretary of State requires and contain such information as the Secretary of State requires. The purpose is to monitor the effectiveness of Local Housing Authorities when exercising their mandatory enforcement duties.

7.3 In order to ensure compliance with its statutory duties an Enforcement Policy should be adopted and specifically a civil penalty policy/framework should also be adopted. The draft Policy has been developed in collaboration with ACEHO and has been drafted to ensure alignment with the Act and published Statutory Guidance.

7.4 The published Statutory Guidance in relation to civil penalties does state that a transitional period will be required whereby Authorities operate their existing Civil Penalty Policy alongside the new Civil Penalty Policy/Framework. This is because the new Statutory Guidance will only apply to offences committed on or after 1 May 2026 with offences committed before this date to be dealt with in accordance with the Statutory Guidance published in April 2018.

7.5 A Policy setting out a clear mechanism for calculating civil penalties is vital to ensure compliance with the Statutory Guidance, ensure a consistent and transparent approach and in order to ensure that any challenge to a civil penalty by way of an appeal to the First Tier Property Tribunal can be properly defended. In any challenge the Tribunal will review the penalty issued against the application of the Council's own Policy/framework.

7.6 Option A holds the highest legal risk and would leave the Council open to legal challenge not only in relation to enforcement decisions and action taken but also in relation to demonstrating compliance with statutory requirements which must be reported to the Secretary of State.

7.7 Option B also risks legal challenge in relation to enforcement decision making and leaves the Council vulnerable in terms of any specific challenges to the Tribunal against civil penalties.

7.8 Option C will ensure that the Council's policies are aligned with legislative requirements and supports lawful and robust enforcement of the Landlord Legislation, which under the Act will be a statutory duty as of 1 May 2026. It also minimises the risk of challenge in relation to enforcement decisions and ensures consistency and transparency. It is important to note, as set out

above, that a transitional period will be necessary in relation to the existing policy and any new policy whilst any offences pre-date the commencement date of 1 May 2026. This should be accounted for in any decision.

7.9 There is no statutory consultation period in relation to a Local Housing Enforcement Policy, the recommended consultation period is 6 weeks. One of the key principles for an effective consultation is that adequate time must be given for consideration of the proposal and for consultees to prepare a response. The complexity of the matter subject to the consultation should be considered when determining the length of any consultation, best practice is generally a minimum of 6 weeks.

8. Human Resources Advice and Implications

8.1 There are no direct HR implications arising from the recommendations in this report.

9. Implications for Children and Young People and Vulnerable Adults

9.1 There are no direct adverse implications for children, young people, or vulnerable adults arising from this report. Strengthened enforcement activity and clearer penalty mechanisms support improved housing conditions, which can have a positive impact on vulnerable residents by reducing risks associated with unsafe or poorly maintained private rented homes.

10. Equalities and Human Rights Advice and Implications

10.1 The decision before Cabinet to progress Consultation on the proposed Polices will be conducted within the council's consultation accepted consultation framework and no adverse impacts are anticipated.

10.2 The proposal provides clarity and consistency in the enforcement of private sector housing legislation and the application of civil penalties, supporting transparent and proportionate enforcement.

10.3 An initial equalities screening assessment (Appendix 4) has been completed.

11. Implications for CO2 Emissions and Climate Change

11.1 No carbon impacts or effects on climate adaptation from the proposed consultation on a Local Housing Enforcement Policy and Civil Penalty Calculation Mechanism were identified in the climate impact assessment, at Appendix 5.

11.2 However, having such a policy and mechanism – informed by engagement with local residents, stakeholders, and partners – will support the delivery of better outcomes for climate change and the environment, as well as tenants in private rented properties.

11.3 Changes coming into force on 1 May 2026, introduced by the Renters' Rights Act 2025, will apply the Decent Homes Standard as a legal minimum standard

in the private rented housing sector, for the first time. By enforcing the Decent Homes Standard, the Council will enforce a minimum standard of thermal comfort in private rented homes, with benefits for energy efficiency and emissions from domestic heating.

12. Implications for Partners

12.1 There are no direct implications for partners arising from the proposed Consultation.

12.2 Similarly, there are no anticipated impacts for partners from the proposed Local Housing Enforcement Policy or the Civil Financial Penalty Calculation Mechanism. The refreshed policy provides greater clarity, consistency, and transparency in the Council's approach to enforcement, which supports effective joint working with partner agencies when addressing housing-related concerns.

13. Risks and Mitigation

13.1 There is a risk that continuing to use the outdated 2018 Policy for the Use of Civil Penalty and Rent Repayment Orders under the Housing Act 2004 as amended would lead to inconsistent decisions and increase the likelihood of successful First-tier Tribunal appeals. Updating the policy and penalty calculation mechanism mitigates this by ensuring decisions follow a clear, transparent, and legally compliant framework aligned with the Renters' Rights Act 2025.

13.2 A further risk arises from the potential for nationally-set penalty levels to be disproportionate within Rotherham's lower-value rental market. This could make penalties difficult to recover or discourage responsible landlords. This is mitigated through applying a locally-evidenced rent adjustment factor, ensuring penalties remain proportionate while retaining deterrent value.

13.3 There is also a risk of inconsistent practice as officers adjust to the wider range of offences and enforcement tools introduced by the Act. Alignment with the ACEHO national model and provision of officer training mitigates this, supporting consistency, defensibility, and effective implementation of the updated policy.

14. Accountable Officers

14.1 Emma Ellis, Head of Community Safety and Regulatory Services

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	**Date**
Chief Executive	John Edwards	22/05/26
Executive Director of Corporate Services (S.151 Officer)	Judith Badger	12/05/26
Service Director of Legal Services (Monitoring Officer)	Phil Horsfield	11/05/26

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