



Notice of a public meeting of

**Decision Session - Executive Member for Housing and Safer
Neighbourhoods**

To: Councillor Carr

Date: Tuesday, 25 August 2015

Time: 12.00 pm

Venue: The Snow Room - Ground Floor, West Offices (G035)

AGENDA

Notice to Members - Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by **4:00pm** on **Thursday 27 August 2015**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Corporate and Scrutiny Management Policy and Scrutiny Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by 5.00pm on Friday 21 August 2015.

1. **Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. **Minutes** (Pages 1 - 2)

To approve and sign the minutes of the Decision Session - Executive Member for Housing and Safer Neighbourhoods held on 20 July 2015.

3. **Public Participation**

At this point in the meeting, members of the public who have registered their wish to speak at the meeting can do so. The deadline for registering is **5:00pm on Monday 24 August 2015**.

Members of the public may speak on an item on the agenda or an issue within the Executive Member's remit.

Filming or Recording Meetings

Please note this meeting will be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officers (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at: https://www.york.gov.uk/downloads/file/6453/protocol_for_webcasting_filming_and_recording_council_meetingspdf

4. **Legal Actions - 1 October 2014 to 31 March 2015** (Pages 3 - 14)
This report will be considered in consultation with the Executive Member for Culture, Leisure and Tourism and will ask the Executive Members to review the results of legal actions (prosecutions, cautions and fixed penalties).
5. **New Legislation affecting the Private Rented Sector** (Pages 15 - 32)
This report will inform the Executive Member how new and proposed legislation will affect the Private Rented Sector.
6. **Alterations to the Temporary Accommodation Agreement** (Pages 33 - 58)
The Executive Member is asked to approve the changes to the temporary accommodation agreement in light of legal advice and changes in case law.

Democracy Officers:

Name: Louise Cook and Catherine Clarke (job-share)

Contact details:

- Telephone: 01904 551031
- E-mail: louise.cook@york.gov.uk and catherine.clarke@york.gov.uk
(If contacting by email, please send to both Democracy Officers named above).

For more information about any of the following please contact the Democratic Services Officers responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

**Ta informacja może być dostarczona w twoim (Polish)
własnym języku.**

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

City of York Council

Committee Minutes

Meeting	Decision Session - Executive Member for Housing and Safer Neighbourhoods
Date	20 July 2015
Present	Councillor Carr

1. Declarations of Interest

At this point in the meeting, the Executive Member was asked to declare any personal, prejudicial or pecuniary interests in the business on the agenda. None were declared.

2. Minutes

Resolved: That the minutes of the Cabinet Member for Communities Decision Session held on 18 March 2015 be approved and signed by the Executive Member as a correct record.

3. Public Participation

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

4. Annual Homeless Report 2014/15

The Executive Member considered a report that highlighted the activity governed by the Housing Act 1996, the Homelessness Act 2002 and the City of York Council's Homelessness Strategy 2013-2018 in respect of the financial year 2014/15.

Officers gave an update and confirmed when working in statutory homelessness:

- The number of households in temporary accommodation and the number of homeless acceptances had reduced.
- The homeless acceptance figures in York had lowered but nationally had risen.
- Rough sleepers in York had increased from 9 to 13.

Officers highlighted their main priorities for 2015/16 which included an interim homeless strategy review.

In answer to the Executive Members questions it was confirmed that the number of people currently living in statutory temporary accommodation had surpassed the 2014/15 target.

The Executive Member noted the achievements and thanked officers for the level of improvements made.

Resolved:

- (i) That the contents of the report be noted
- (ii) That the priorities for 2015/16 as set out in paragraph 13 of the report, the targets and the forthcoming plan be agreed

Reason: To ensure the council continues to meet its statutory responsibilities and supports the most vulnerable in society.

Cllr Carr, Executive Member

[The meeting started at 10.00 am and finished at 10.05 am].



**Decision Session Executive Member for
Housing & Safer Neighbourhoods in
consultation with the Executive Member for
Culture, Leisure and Tourism**

25 August 2015

Report of the Assistant Director for Housing and Community Safety

Legal Actions – 1 October 2014 to 31 March 2015

Summary

1. The purpose of this report is to enable the Executive Members to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by:-
 - Environmental Health,
 - Trading Standards,
 - Licensing,
 - Regional Scambuster Team,
 - National Trading Standards eCrime Centre,
 - Housing Services

Recommendations

2. That the Executive Member in consultation with the Executive Member for Culture, Leisure and Tourism approve this report.

Reason: So that the Executive Member reviews formal enforcement activity undertaken by Environmental Health, Trading Standards, Licensing Services, the Regional Scambuster Team, the National Trading Standards eCrime Centre and Housing Services.

Background

3. The Cabinet Member for Crime and Stronger Communities approved an updated enforcement policy for Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services in February 2012. The Cabinet Member also approved an enforcement policy for the Scambusters and National eCrime team in June 2013.

4. This report details the results of legal action taken in the period specified. Each case is considered on its merits before legal proceedings are instituted.
5. Annexes A and B summarise the action taken. Please note that a Simple Caution is a Home Office approved procedure which is an alternative to prosecution. It involves a written acceptance that an offence has been committed and may be drawn to the attention of a court if any subsequent offence is committed within two years of issue.

Consultation

6. Not applicable.

Options

7. Not applicable as the Executive Members are being asked to note the content of the report.

Analysis

8. The main purpose of the environmental health, trading standards, licensing services are to maintain a fair and safe trading environment for consumers and businesses, to help reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York and to improve and protect public health and improve the environment.

We ensure legal compliance by:

- Helping and encouraging businesses and individuals to understand and comply with the law.
 - Responding proportionately to breaches of the law.
9. We consider the impact that our regulatory activities may have on businesses, including consideration of costs, effectiveness and perceptions of fairness. We will only adopt a particular approach if the benefits justify the costs and in doing so will endeavour to try to keep any perceived burdens to a minimum.
 10. Formal enforcement action will only be considered and taken in the first instance in cases involving unfair commercial practices against consumers or businesses, commercial fraud, sales of age restricted products, supply of counterfeit goods, intellectual property crime, occupational health and safety, public safety, risk to public health (including food safety), statutory nuisances, animal health and welfare, the compositions of safety or animal feeding stuffs, damage to the environment, overloaded goods vehicles, dog fouling, trading standard

offences committed by doorstep sellers, breaches of licence conditions, operation of unlicensed taxis, unauthorised street trading activities and charitable collections, or in any other case in which a head of service considers formal enforcement action is necessary. Formal enforcement action will also be considered and may be taken where advice has been ignored.

11. The purpose of the Scambuster and National eCrime teams is to tackle the scams and complex cases of fraud perpetrated on a regional and national basis in an effective way that isn't readily achievable by individual local authorities. It is not to provide advice, information or carry out inspections of regulated businesses. The Scambuster Team will take appropriate formal enforcement action in cases concerning fraud, significant unlawful consumer detriment, unlawful exploitation of vulnerable consumers groups, intellectual property crime and any other matter that the assistant director (housing and community safety) considers necessary within the scope of the purpose of the teams.

Council Priorities

12. Three current council priorities – which are due for review this year - are “Protect jobs and grow the economy”, “Protect vulnerable people” and “Protect the environment”. Many legal actions are taken in support of these priorities.

Implications

13. **Financial:** There are no financial implications associated with this report.
14. **Human Resources:** There are no Human Resources implications associated with this report.
15. **Equalities:** There are no equalities implications associated with this report.
16. **Legal:** There are no legal implications associated with this report
17. **Crime and Disorder:** Formal enforcement action contributes to reducing anti social behaviour and dishonest trading.
18. **Information Technology (IT):** There are no IT implications associated with this report.
19. **Other:** There are no other implications associated with this report.

Risk Management

20. There are no known risks associated with this report.

Contact Details

Author:

Matt Boxall
Head of Public Protection
Phone: 01904 551528

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director (Housing and
Community Safety)

Report
Approved



Date 17 August 15

Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services Enforcement Policy (Review of Street Trading Enforcement Controls, February 2012)

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=735&MId=6754>

Trading Standards Scambuster Team and National Trading Standards eCrime Centre Enforcement Policy Statement (June 2013). (Report available online only)

Annexes

Annex A : Environmental Health, Trading Standards, Licensing, the Regional Scambuster Team, and the National Trading Standards eCrime Centre Formal Enforcement Action between 1 October 2014 - 31 March 2015.

Annex B: Housing Formal Enforcement Action between 1 October 2014 - 31 March 2015

Environmental Health, Trading Standards, Licensing, the Regional Scambuster Team, and the National Trading Standards eCrime Centre
Formal Enforcement Action
1 October 2014 - 31 March 2015.

Animal Health

2 simple cautions were issued under the Animal Health Act 1981 for causing unnecessary suffering to an animal.

Food Unit

Defendant	Legislation	Nature of Case	Penalty	Costs
Abdul AHAD (Proprietor)	Food Safety Act 1990, as amended / Food Safety (England) Regulations 2013 made under the European Communities Act 1972	Food hygiene / peanuts found in takeaway	Fine £700.00 VC £70.00	£300.00
Giampaolo SILESU (Restaurant Owner)	Food Hygiene (England) Regulations 2006 (as amended) / Food Safety and Hygiene (England) Regulations 2013 made under section 2(2) of the European Communities Act 1972	Food hygiene	Fine £12,000.00 Victim Surcharge £120.00	£2,506.08

2 simple cautions were issued under the Food Safety Act 1990 as amended for selling food that was ordered without peanuts which contained peanut protein.

4 simple cautions were issued under the Food Hygiene (England) Regulations 2006 (as amended) made under the European Communities Act 1972 for hygiene offences.

A simple caution was issued under the Food Safety Act 1990 for falsely describing alcohol.

2 simple cautions were issued under the Food Safety Act 1990 for selling takeaway food which was not of the nature demanded.

A Simple caution was issued under the Food Safety Act 1990 for obstructing a person in execution of this Act.

Environmental Protection

Defendant	Legislation	Nature of Case	Penalty	Costs
Nikki MOLYNEUX (Private individual)	Environmental Protection Act 1990	Noise nuisance	Fine £100.00 VC £20.00	£50.00
Michael SMITH (Private individual)	Clean Air Act 1983	Burned insulation from cable with a view to recovering metal	Fine £700.00 VC £70.00	£1021.79

Trading Standards

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
Kits Cars Ltd (Car Retailer) Kit Peter BARRETT (Company Officer)	Road Traffic Act 1988 / Consumer Protection from Unfair Trading Regulations 2008	Supplied unroadworthy cars / misleading information/ offences committed by Kits Cars Ltd with consent or connivance as an officer of the body or attributable to neglect	3 yrs Conditional discharge	£1936.69 Victim Surcharge £15.00	£1039.86	N/A
Nicholas PERICLEOUS	Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 (as amended) / Consumer Protection Act 1987	Supplied/ possessed tobacco with incorrect labelling.	12 moths conditional discharge	£500.00 £15.00 Victim Surcharge	N/A	N/A

2 simple cautions were issued under the Consumer Protection from Unfair Trading Regulations 2008 for falsely claiming a product was approved, endorsed or authorised by a public or private body.

A written assurance was obtained under the Enterprise Act 2002 for breaches under the Consumer Protection from Unfair Trading Regulations 2008 for falsely claiming a product was approved, endorsed or authorised by a public or private body.

2 written assurances were signed under the Enterprise Act 2002 for various breaches of civil consumer protection legislation

Scambusters

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
John Charles BOON (Manager)	Conspiracy to Defraud / Proceeds of Crime	Council Tax banding scam	6 Months imprisonment suspended for 2 yrs	N/A	N/A	N/A
Wayne Peter BRAY (Used car dealer)	Conspiracy to defraud /Proceeds of Crime Act 2002/Consumer Protection from Unfair Trading Regulations 2008	Conspiracy to defraud/ money laundering/ misdescribed vehicles	Original Sentence: 2 years imprisonment Banned as a company director	N/A	N/A	Confiscation £204,242.60 Pay within 6 months or further 2 ½ years imprisonment

Scambusters (Continued)

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
Kirk Michael CLAUS (Used car dealer)	Confiscation Hearing - Conspiracy to defraud /Proceeds of Crime Act 2002/Consumer Protection from Unfair Trading Regulations 2008	Conspiracy to defraud/money laundering/ misdescribed vehicles.	Original sentence: 3 years imprisonment Banned as a company director Further 11 months imprisonment for Contempt	N/A	£44,430.20	Confiscation £6,203025.72 Pay within 6 months or face further 7 years imprisonment
Peter HALL (Company Director)	Proceeds of Crime Act 2002	Contempt of a Crown Court Restraint Order	56 days imprisonment	N/A	N/A	N/A
Jack Darrell HENRY (Company Director)	Conspiracy to Defraud / Proceeds of Crime	Council Tax banding scam	Imprisonment 5yrs 10 mths Banned from Company director for 13	N/A	N/A	N/A

			year Fraud was estimated as over £250,000.			
Wendy Ann SMITH (Sales- person)	Conspiracy to Defraud / Proceeds of Crime	Council Tax banding scam	2 years imprisonment	N/A	N/A	N/A

ECrime

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
Alexandru HINCU (Proprietor)	Fraud Act 2006	Fraudulent offers of employment	6 months imprisonment suspended for 2 years 180 hours unpaid community work	£5048.48	£2466.00	N/A

**Environmental Health, Trading Standards, Licensing & Housing
Formal Enforcement Action 1st October 2014 to 31st March 2015**

Anti Social Behaviour

Defendant	Legislation	Nature of Case	Penalty	Costs
Roma Burnside	Housing Act 1985	Possession Claim	Claim adjourned generally, subsequently handed keys in	None
Gilfred Hewitson	Housing Act 1996	Injunction Application	Final order granted	Costs not awarded
Viki Page	Housing Act 1996	Injunction Application	Final order granted	£285.00
Anthony Booth	Housing Act 1996	Injunction Application	Final order granted	Costs not awarded
Stacey Wilson	Housing Act 1985	Possession Application	Possession forthwith	No order for costs (Legal Aid)
Floyd Moynihan	Housing Act 1985	Possession Application	Suspended Possession Order	No order for costs (Legal Aid)
Stacey Wilson	Housing Act 1985	Injunction Application	Final Order granted	Costs not awarded
Alan Richardson	Housing Act 1985	Possession Application	Possession forthwith	No order for costs
Stuart Harding	Housing Act 1985	Possession Application	Possession forthwith, subsequently vacated	No order for costs
Dennis Patton	Housing Act 1985	Possession Application	Stay application dismissed, evicted	No order for costs
Ian Gibbons	Housing Act 1985	Possession Application	Suspended Possession order	£357.00

Donna Ward	Housing Act 1985	Possession Application	Possession forthwith	£357.00
Helen Richardson	Housing Act 1985	Possession Application	Possession forthwith	£357.00
Kerry Wright	Housing Act 1985	Possession Application	Application to suspend warrant dismissed, subsequently evicted	£4730.00
Denise Darlington	Housing Act 1985	Possession Application	Possession forthwith	£349.50

Rent (CYC) Held in Chambers (Private) so details as to names cannot be disclosed.

Legislation	Nature of Case	Penalty	Costs	Number of Cases
Housing Act 1885	Possession Application	Outright Possession Order	£319.50	13
Housing Act 1885	Possession Application	Outright Possession Order	No order for costs	0
Housing Act 1885	Possession Application	Suspended Possession Order (SPO) granted	£319.50	70
Housing Act 1885	Possession Application	Suspended Possession Order (SPO) granted	No order for costs	0
Housing Act 1885	Possession Application	adjourned generally with liberty to restore with automatic strike out if no application made within 12 months	£319.50	5
Housing Act 1885	Possession Application	Adjourned generally with liberty to restore with automatic strike out if no application made within 12 months	No order for costs	3
Housing Act 1885	Application to suspend warrant	Warrant suspended	£110.00	23

Housing Act 1885	Application to suspend warrant	Warrant suspended	No order for costs	4
Housing Act 1885	Application to suspend warrant	Application dismissed – evicted	£110.00	1
Housing Act 1885	Application to suspend warrant	Application dismissed – evicted	No order for costs	2

Other Possessions (CYC)

Defendant	Legislation	Nature of Case	Penalty	Costs
Mary Allan		Possession from temporary accommodation	Possession forthwith	No order for costs (Legal Aid in place)
John Harrison		Trespass	Possession forthwith	No order for costs
Mark Duncan		Possession from temporary accommodation	Possession forthwith	£349.50.
Rental case		Possession from temporary accommodation	Possession forthwith	£349.50.

Anti Social Behaviour (Yorkshire Housing Association).

Nothing to report

Anti Social Behaviour (Tees Valley Housing Association)

Nothing to report

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Executive Member for Housing and Safer Neighbourhoods– Decision Session

Report of the Assistant Director – Housing & Community Safety

New Legislation affecting the Private Rented Sector

Summary

1. To inform the Executive Member how new and proposed legislation will affect the Private Rented Sector, namely
 - a) The Redress Schemes for Lettings Agents and Property Management Work¹
 - b) Duty Of Letting Agents to Publicise Fees²
 - c) The installation of Smoke and Carbon Monoxide Detectors³

To ask the Executive Member to adopt a policy to enforce the new laws which will affect both letting agents and landlords, imposing the maximum penalty in most circumstances and to note the impact on the council's services which regulate the sector.

Recommendations:

- 2 The Executive Member for Housing and Safer Communities is asked to
 - a) Note the new legislation.
 - b) Recommend to impose the maximum £5,000 penalty for all three pieces of legislation and to delegate to the Housing Services Manager the discretion to impose a lower penalty when there are extenuating circumstances.
 - c) Recommend to adopt the new policy, to have a targeted and balanced approach by actively enforcing the new legislation relating to letting agents and management agents. To improve the professionalism of the sector and to provide support to smaller

¹ The Enterprise and Regulatory Reform Act 2013 and The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

² The Consumer Rights Act 2015 Chapter 3

³ The Smoke and Carbon monoxide Alarm (England) Regulations 2015

landlords to understand the requirements of the regulations regarding smoke and carbon detectors by providing information/ advice and working with NYFR provide free detectors to landlords on first come first serve basis.

d) Agrees to the operational process of the scheme as set out in Appendix A.

Reason: Imposing the maximum monetary penalty will send out the right message to agents/landlords who need to improve their management/safety and will provide a sufficient threat to agents/landlords who may be undecided as to whether they should comply.

The Council recognises that the majority of managing and letting agents and landlords operate a good business and treat their tenants with respect and manage their properties professionally. However there are a minority who will always try to work below the standards expected. By targeting limited resources we aim to provide a balanced approach supporting and recognising good letting agents and landlords who want to provide safe well managed homes and penalising letting agents and landlords who don't comply.

Background

Redress Scheme

3. This came into force from the 1st October 2014 and means that all letting and management agents must now become a member of a redress scheme. The purpose of these schemes is to deal with complaints made by tenants or landlords about agents. Essentially these are Ombudsman Schemes.
4. There are three approved schemes available for managing or letting agencies to join and all are government backed. These are run by
 - The Property Ombudsman – www.tpos.co.uk
 - The Ombudsman Services: Property- www.ombudsman-services.org
 - The Property Redress Scheme – www.theprs.co.uk

Typical costs of joining a scheme is around £170 to £350 per annum. There are certain exemptions and these include an employer letting to an employee, universities, social landlords and lawyers.

Publicising Fees

5. The Consumer Rights Act has made it a legal requirement for all lettings agents in England to display details of all fees and charges on websites and in offices from 27 May 2015. The list of fees must also include which redress scheme the Agent belongs to. The aim of the Act is to require full transparency of fees to deter double charging and enable tenants and landlords to shop around, encouraging letting tenants to offer competitive fees. Linking fees to the level of service provided enables landlords and tenants to make more informed choices. The requirement to advertise fees does not apply to landlords.
6. Agents will also need to display whether or not they are a member of a client money protection scheme. A holding deposits guide is available for agents and tenants to help explain when holding deposits may be taken, the process the agent should carry out, what information should be provided to the tenant and the fees the agent must justify if they are making a deduction from the holding deposit.
7. The Housing Standards and Adaptations team frequently sees examples of poor management and unlawful practices from people and organisations that set themselves up to operate as Property Managers or Estate Agents. Our recent consultation exercise identified that tenants were most concerned about letting agents
8. We have identified that there are potentially 80 agencies working within the city, however it should be noted that the home authority principle applies to the enforcement of the Redress Scheme provisions so the enforcing authority is the council where the registered home office is located. Currently no qualifications, experience or independent approval is needed to operate as a manager or agent, and bad practice can lead to frustration and an unpleasant experience for both landlords and tenants in the city. The introduction of this legislation is welcomed as it will help discourage incompetent property managers and agents, and those lacking the necessary knowledge and expertise, from operating within the city.
9. It will encourage the better managers and agents to be even more diligent, and will provide those tenants and landlords who do receive a poor service with a means of getting redress including compensation.

Smoke and Carbon Monoxide Detectors

- 10 From 1st October 2015 these regulations will require landlords in the private rented sector to ensure that a smoke detector is fitted on every storey of their rented property when occupied and that a carbon monoxide alarm is fitted in any room which contains a solid fuel burning combustion appliance. They also require that alarms are in proper working order at the start of each new tenancy. An important exemption is that the regulations don't apply to licensed Houses in Multiple Occupation (HMO) as this is already a requirement of the HMO licensing regime.
- 11 We will have a duty to serve a remedial notice on the Landlord where they have reasonable grounds to believe that the landlord has not provided the smoke and/or carbon monoxide detectors or where the landlord has not ensured that they are in good working order at the beginning of the tenancy.
- 12 If the remedial notice is not complied with the council will be placed under a duty to arrange the remedial action. This may involve installing a prescribed alarm, or repairing a prescribed alarm checking a prescribed alarm is working
- 13 Typical costs of installing a smoke alarm are around £5 and £20 for a Carbon Monoxide detector. It has been estimated nationally that these regulations will prevent, in the case of smoke detectors, 231 deaths and 5860 injuries over 10 years providing benefits of £606.7million and for carbon detectors will result in 6-9 fewer fatalities and 306-460 fewer injuries and providing benefits of £16.8 million.
- 14 It is our recommendation to impose the maximum penalty in all cases unless there are extenuating circumstances. We believe that the relatively small cost of fitting alarms and the wider benefits to society compared to the fine will send a clear message to the sector that tenants' safety matters.
- 15 As part of a government initiative North Yorkshire Fire and Rescue Service (NYFR) has been provided with a number of smoke and carbon monoxide detectors to give free of charge. We are working with NYFR about how we can ensure that the landlords with small numbers of properties are made aware of these new regulations and can obtain them. We have estimated about that there are about 15000 properties in the sector and that about 75-80% of landlords in the city own 1-3 properties

- 16 We are the enforcing authority for these three statutory requirements and are required to take enforcement action where we are aware that a person engaged in letting agency or property management work is not registered with an approved redress scheme or has not fulfilled its duty to publish their fees or has not installed the relevant detectors. A financial penalty of up to £5,000 can be levied by the authority for non-compliance with each piece of legislation. There is obviously a financial incentive for agents to join a scheme and for landlords to install the relevant detectors.
- 17 It is recognised nationally that it will be the housing teams already dealing with the private rented sector that would take on this responsibility for enforcement. It is therefore proposed that the Council's Housing Standards and Adaptation team will take on the responsibility as the team is already responsible for regulating the private rented sector and are experts in this field. This report seeks approval as to how the council will exercise its enforcement duties in the way described in Appendix A including how we propose to deal with the financial penalties.

Options and Analysis

- 18 There are two decisions being sought and there are options put forward for each decision
- A) The first is about the level of fine to impose
- B) The second is about the proposed policy and how we will implement the new changes

19 Decision A—level of fine

Option 1 – to take action when there has been non-compliance and impose a monetary penalty of £5,000 (or lower in extenuating circumstances)

Option 2- to take action when there has been non-compliance and impose a reduce fine

Analysis of decision A

- 20 **Option 1** There is no discretion as to whether a council takes action where they become aware of non-compliance. The three new pieces of legislation will be helpful tools improving safety and management. The maximum penalty should be imposed in all normal cases to send a clear message to

the sector. Where extenuating circumstances exist the decision to impose a lower penalty should be delegated

- 21 **Option 2** –The council should enforce the legislation to improve safety and management of the sector. Imposing a reduced fine may send the wrong message out and in turn may make it a more cost effective option to risk the fine rather joining a scheme or providing adequate information or installing a detector.

Decision B–The council’s approach to implementing the regulations

- 22 **Option 1** – To proactively implement the regulations relating to Letting Agents and Property Management Companies, ensuring that they are compliant with the regulations which have been in force for several months. To prepare Landlords, in particular those who own a few properties, for the new regulations regarding the implementation of smoke and carbon monoxide detectors across the wider rented sector (some 15,000+ properties).The approach will focus on having a significant media campaign with NYFR promoting the installation of the detectors within the sector and then advising tenants to contact the service where the landlord doesn’t make arrangements to install them.
- 23 **Option 2** –To provide a reactive service to complaints about Letting Agents and Property Management Companies and to complaints about the failure by Landlords to install the relevant detectors.

Analysis of decision B

- 24 **Option 1** There is no discretion as to whether a council takes action where they become aware of non-compliance. However there is discretion about the approach they can adopt. This first option will mean that the council can target its limited enforcement resources at the letting agents and property management companies, the regulations have been in force some period and these larger organisations should have ensured that they are complying with the regulations. There has been significant discussion in the property press and so there shouldn’t be any reason for agencies to be unaware of the changes in the law.
- 25 However the new regulations regarding installation of detectors don’t come in to force until October 2015 and will affect a significant number of private rented properties. The change to the law hasn’t been widely publicised given that it received parliamentary approval just before Purdah. By having a policy

which aims to raise awareness of the regulations and encouraging tenants to complain if the property isn't adequately protected will mean that the limited council resources are used effectively. It should be noted that all three pieces of legislation were released without upfront funding and relies on the income from fines to cover the enforcement costs incurred by the council. It is envisaged given the relatively low cost of joining a scheme, publicising fee or installing a detector that where the council draws the attention through the notice process that the agent or the landlord will comply. Therefore it is prudent that the council takes a balanced approach to ensure the most effective enforcement within the sector.

- 26 **Option 2:** By having a purely reactive approach to the regulations and only dealing with complaints as they arise we will not be dealing with the part of the sector which has raised most concerns, namely letting agents. We recognise that most agents are professional and provide a valuable service for the sector. However we are also aware that there has been a proliferation of the sector and by having a more proactive approach it will help discourage incompetent property managers and agents, and those lacking the necessary knowledge and expertise, from operating within the city.
- 27 75-80% of landlords in the sector have fewer than 3 properties. If we didn't have a campaign smaller landlords would be unaware of their responsibilities and tenants would be unaware of their ability to contact the council where the law is being ignored.

Consultation

- 28 As part of the consultation on the Private Rented Sector (September – October 2014) we did consult with a range of stakeholders, tenants, landlords and letting agents. The exercise raised some concerns about the standard of letting agents and their management practises within the city. We have consulted with other local authorities across North Yorkshire and can advise where they have set penalties that these are in line with our approach.

Council Plan

- 29 Enforcing these new laws will support and contribute towards a number of the Administration's 12 point plan and draft council key priorities:
- A prosperous city for all
 - A focus on frontline services

- A council that listens to residents

The private rented sector forms a significant part of the housing offer to the City, enforcing these laws will help to drive up standards in the sector

It also meets with the specific strategic Aim 2 of the Draft York Private Sector Housing Strategy 2014-2019 to encourage and enable private landlords and agents to provide good quality, well managed properties

Financial and Procurement Implications

- 30 The costs associated with enforcing the policy will be met from within existing budgets. Under the legislation any fine income received can be used by the council as it sees fit. The number of fines issued is likely to be very low as membership of a scheme costs little. Any income is likely to be one – off in nature and on that basis it would not be prudent for the council to consider income to its budgets

Human Resources Implications

- 31 None

Equalities Implications:

- 32 The new legislation will provide a recognised and independent route through which tenants can complain about unfair practises including discriminatory behaviour.

Legal Implications:

- 33 As discussed above the Council is under a duty to enforce this legislation in line with its enforcement policy. However there is discretion as to the amount of monetary penalty to be imposed for non- compliance. It is a legitimate position to adopt to set a normal penalty at the £5,000 maximum but the council must not fetter its discretion and therefore the power to impose a lower figure in suitable cases should be delegated to the person serving the Final Notice (see Appendix A).

Risk Management

- 34 The Council must make arrangements for the enforcements of these regulations without doing so it will breach of the legislation.

Authors:	Executive Member & Chief Officer Responsible for the report:		
Ruth Abbott Housing Standards and Adaptations Manager 554092 Pamela Shaw Senior Officer Housing Standards and Adaptations 554091	Councillor David Carr Executive Member for Housing and Safe Neighbourhoods Steve Waddington Assistant Director - Housing & Community Safety.		
	Report Approved	✓	Date 10 August 2015
Wards Affected: <i>All</i>			
For further information please contact the authors of the report			

Abbreviations:

(NYFR) - North Yorkshire Fire and Rescue Service

(HMO) - Houses in Multiple Occupation

Appendix A: New Legislation for the Private Rented Sector

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Appendix A: New Legislation for the Private Rented Sector

The new requirements are:

1. for property managers and agents to register with a redress scheme, and the Council's duty to enforce the legislation, are introduced by The Enterprise and Regulatory Reform Act 2013 and The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014.
2. for letting agents to publish the fees and the Council duty to enforce the legislation is introduced by the Consumer Rights Act 2015.
3. for relevant landlords to install Smoke and Carbon Monoxide Detectors to enforce the legislation is introduced by The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Elsewhere in this appendix these pieces of legislation are referred to together as, 'the law'.

It is not a criminal offence if a landlord or agent does not comply with the regulations. However we have a duty to enforce compliance where it is satisfied, on the balance of probabilities, that a person who has not complied with the above legislation and in such cases the Council can apply a monetary penalty up to a limit of £5,000

There are notice processes that the Council must follow before imposing a penalty, giving the recipient the right to raise objections. Where the Council decides to apply a penalty there is a right of appeal to the first –tier tribunal. Where the Council decision is not appealed, or if appeal is not upheld, the Council may recover the penalty. If necessary, the Council may apply to the civil court for recovery.

There is no limit to the number of penalties that may be imposed on an individual letting agent, so further penalties can be applied if they continue to be in breach of the legislation

The proposed administration process for discharging the Council's statutory duties under the laws are set out below

General

Letting Agents/Property Agents

It is our intention to proactively implement the regulations relating to Letting Agents and Property Management Companies, ensuring that they are compliant with the regulations which have been in force for several months.

The **first letter** will provide information and advice on the schemes and the financial penalties for not joining a redress scheme/publishing fees, a form will be included in the letter which will request details of which redress scheme they have joined and how they have fulfilled their duty to publish fees, allowing 21 days for its return.

If a satisfactory response is not received, to ensure compliance with the Council's general enforcement policy, a second letter will be sent allowing 14 days to contact the investigating officer to discuss the matter or to submit written representations. The second letter will explain that if an unsatisfactory response/no response is received that the issue will be formally investigated

Landlords

To prepare Landlords, in particular those who own a few properties, for the new regulations regarding the implementation of smoke and carbon monoxide detectors across the wider rented sector (some 15,000+ properties). The approach will focus on having a campaign with North Yorkshire Fire Rescue who have been provided with a limited number of detectors of both types to promote the installation of the detectors within the sector and advising tenants to contact the service where the landlord doesn't make arrangements to install them.

1) Investigation of non compliance by Letting Agents/Agents

Where information comes to the attention of the Housing Standards and Adaptations team (team) that there may be non-compliance, an investigation will be conducted by an officer from the team (the Investigating Officer). Information may be received from the public, external organisations or any other person, or arise from a proactive investigation.

When the Investigating Officer has completed his/her investigation he/she will need to decide on the balance of probabilities, whether he/she is satisfied that there has been non-compliance by the letting agent or property manager. Where he/she has decided that there has been non-compliance, he/she will serve a Notice of Intent.

A Notice of Intent

In line with the law and our enforcement policy a Notice of Intent will be served within 28 days of the date the Investigating Officer making (on the balance of probabilities) that the letting agent or property manager has failed to comply with the requirement to belong to a redress scheme. The notice will be served on the letting agent or property manager.

The Notice of Intent must include:

- (a) the reasons for imposing the monetary penalty;
- (b) the amount of the penalty to be paid;
- (c) information as to the right to make representations and objections within 28 days beginning with the day after the date on which the Notice of Intent was sent.

A Notice of Intent will be served by the Investigating officer.

Representations and objections:

A person on whom a Notice of Intent is served has 28 days beginning with the day after the date on which the notice was sent, to make written representations and objections to the enforcement authority in relation to the proposed monetary penalty.

After the end of the period, the decision of the Investigation Officer, that there was non-compliance with the redress scheme requirements and the penalty imposed, will be reviewed by a more senior officer (the Reviewing Officer).

The Reviewing Officer, will have regard to any representations and objections made by the recipient of the notice.

The Reviewing Officer can be any of the following officers:

- where the Notice of Intent was served by Enforcement Officer it will be reviewed by the Senior Officer
- where the Notice of Intent was served by a Senior Officer by the Team Manager.

The Reviewing Officer having taken into account any representations or objections made, will decide on the balance of probabilities whether or not to confirm the Investigation Officer's decision that there was a failure to comply with the redress scheme requirements. If he/she confirms the decision that there was non-compliance with either of the scheme requirements, he/she will need to decide whether or not to confirm the decision to impose the financial penalty set in the Notice of Intent, with or without modifications.

Where representations or objections are received from a person who has been served a Notice of Intent, and the Reviewing Officer is satisfied from the information provided that, on a balance of probabilities, there are exceptional circumstances, and that as a consequence, the application of the full financial penalty will not serve the strategic goal of improving housing or management standards within the private rented sector in the city, he may impose a reduced penalty. Such circumstances could, for example include, but are not be limited to:

- the agent or manager not having set out to engage in property management, or estate agency, as a course of business,
- exceptional personal hardship, or
- having other reasonable excuse for failing to comply with the property redress scheme regulations (not knowing about the regulations will not itself usually amount to reasonable excuse).

Where the Reviewing Officer is satisfied, on a balance of probabilities, that a Letting Agent or Property Manager is being obstructive, in failing to answer reasonable questions put to them regarding their compliance with the requirement to register, or answers such questions falsely, or otherwise hinders the reasonable investigations of officers in relation to compliance, this will be taken into account where the Council is considering reducing the financial penalty and may be weighed, by the Reviewing Officer against any factors in favour of reducing the financial penalty.

Where the decision to impose a penalty is confirmed, a Final Notice will be served on the recipient of the Notice of Intent.

A Final Notice

Where it is decided to impose a financial penalty, a Final Notice will be served on the recipient of the Notice of Intent.

The Final Notice must include:

- (a) the reasons for imposing the monetary penalty;
 - (b) information about the amount of the penalty to be paid;
 - (c) information about how payment may be paid;
 - (d) information about the period in which the payment must be made, which must not be less than 28 days;
 - (e) information about rights of appeal; and
 - (f) information about the consequences of failing to comply with the notice.
- The Final Notice may be served by a Senior Officer or Team Manager, but cannot be served by the Investigating Officer.

2) Investigation of non-compliance by landlords

On receiving a complaint an officer will investigate as to whether there has been breach of the landlord's duties to install a smoke alarm on each storey of the building and a carbon monoxide alarm in any room which contains a solid fuel burning combustion appliance. Where an officer has reasonable grounds to believe that a landlord is in breach of this duty the officer will serve a remedial notice on the landlord requiring the landlord to take action within 28days of the notice is served.

The Remedial notice must:

- (a) specify the premises to which the notice relates
- (b) the specific duty that the Council considers the landlord is failing
- (c) the remedial action and to take action within 28days
- (d) information as to the right to make representations and objections within 28 days beginning with the day after the date on which the Notice of Intent was sent.
- (e) information about the consequences of failing to comply with the notice including the penalty charge.

If the landlord fails to comply with the notice

- (a) The council will arrange for remedial action to be taken at the premises
- (b) Will impose a penalty charge on the landlord – see below re recovery of money

A landlord may give a written notice that the council reviews the penalty charge notice.

Withdrawing or amending a Notice of Intent or Final Notice or Remedial Notice

The Council, at any time, where it receives or becomes aware of information, not considered when it decided to serve a Notice of Intent or Final Notice or Remedial Notice, may review the decision. Where it decides on a balance of probabilities, that the recipient of the notice had complied with the redress scheme requirements or that he was not subject to the requirements, it may withdraw the notice. Further, where, upon review, the Council decides that there has been none compliance with the redress scheme requirements, but considers that the penalty should be reduced; it may reduce the amount specified in the notice. The decision to carry out a review, and the carrying out of that review, will be taken by a more senior officer to the officer who made the original decision to serve the notice in line with the service requirements above

First tier Tribunal Appeal

All three pieces of legislation provide for right of appeal to the First-tier tribunal against a Council decision. The process for bringing an appeal is governed by the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (SI 2009/1976). Where the Council receives from the First-tier Tribunal notice that a recipient of Final Notice has made an appeal to it, the fine will not be enforced until the appeal is disposed of

Recovering the penalty monies

The monies will be recovered by using the council's existing debt recovery processes. However, if the person subject to the penalty fails to pay the monies owed, the Council may choose to pursue court proceedings. Where there is a failure to pay a penalty, the matter will be consider in line with our Enforcement Policy, to decide whether enforcement action will be taken and if so, what form that action will take, including court proceedings.

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**Executive Member for Housing and Safer
Neighbourhoods Decision Session**

25 August 2015

Report of the Assistant Director of Housing and Community Safety

Alterations to the Temporary Accommodation Agreement

Summary

- 1 The Executive Member is asked to approve the changes to the temporary accommodation agreement in light of legal advice and changes in case law.

Recommendations

2. The Executive Member is asked to approve

Option 2 to make the changes to the temporary accommodation agreement for existing and future residents

Reason: This will enable the service to manage temporary accommodation well and efficiently, to the benefit of the customers and the staff in the service. This will reduce wasteful use of staff time in contesting legal arguments in situation where customers should have left the site.

Background

- 3 Temporary accommodation is for customers who are homeless and in priority need, this housing is provided whilst their circumstances are investigated. If the council has a long term duty then they remain in temporary accommodation until duty is discharged to appropriate accommodation.
- 4 Recent case law relating to homeless accommodation means that the existing agreement needs to be updated to take advantage of the case law.
- 5 Case Law: (LB Newham v LB Lewisham s188 notice to vacate only required) allows the council to ask a customer to leave if they

are breaching their accommodation conditions provided that this is prior to City of York Council (CYC) accepting a full decision to house. The precedent set by this case law means that the council is entitled to ask a customer to leave without needing to take the case to court, or to apply for a bailiff's warrant.

- 6 External legal representatives are challenging CYC when a customer is asked to leave without a court order which is preventing the council from exercising their legal right. The challenges received so far are based on the existing wording of the temporary accommodation agreement.
- 7 Advice from the council's legal team is that we can amend this agreement in order to reduce or eliminate these challenges in future, which would enable the council to follow the legal process established in case law.

Advice from barrister at Zenith Chambers indicates that changes in case law (LB Newham v LB Lewisham s188 notice to vacate only required) would allow the council to evict customers who pose high risk to staff and other residents without a court order (providing that a S193 duty to house is not in operation) preventing a lengthy court case during which high risk situations could occur for both staff and other residents. It is a requirement of all landlords that proportionality of the action and the impact of this on the customer is taken into account prior to any legal action

- 8 City of York Council employees do not lightly carry out evictions and only do so where it is absolutely necessary but these delays are causing a lot of extra work for staff, cost an awful lot of money especially where we have had to consult or engage a barrister which is becoming more common. This is also causing blockages in temporary accommodation preventing us from moving customers on.

Consultation

- 9 Consultation has taken place with the following and all comments have been considered.

Support Workers
Homeless and Supported Housing Managers
CYC Legal Team
Barrister at Zenith Chambers

Options

- 10 Option 1 to leave the temporary accommodation agreement as it is.
- 11 Option 2 to make the changes as requested to the temporary accommodation agreement for existing and future residents of temporary accommodation

Analysis

- 12 Option 1: To leave the Temporary Accommodation Agreement as it currently is. The challenges that we are currently receiving with regard to asking customers to vacate their accommodation or evicting customers will continue. This will inevitably cost the authority more and more as the legal arguments involved can be very complex and therefore require significant input from legal professionals, as well as housing staff. As long as customers who are not entitled to accommodation continue to reside there they block the accommodation for those who are newly homeless. In addition this can mean that rent arrears increase, and that nuisance or threatening behaviour continues. This can compromise the safety of staff and other residents who can be very vulnerable, and include young children.
- 13 Option 2: To make the changes to the Temporary Accommodation Agreement. The significant change to the TA agreement is that we have changed the 28 days notice to vacate to notice to vacate which may be less than the normal 28 days under extreme circumstances such as threats to life. This is to protect both staff and customers from high risk.

The changes will enable the council to give reasonable notice to customers (normally 28 days but can be shorter in exceptional circumstances) and then reasonably expect them to leave without lengthy and expensive court cases.

This process was followed immediately following the change in case law and the support team were successful in ensuring that customers left on the day their notice expired, without any adverse incidents. Therefore making these changes would enable support staff to manage the accommodation more efficiently and appropriately. This would also reduce the risk of anti-social

behaviour or threatening behaviour on site, which would benefit all customers and staff.

- 14 The temporary accommodation agreement has remained substantially the same in terms of the rights and responsibilities of customers. Therefore the customers will continue to receive a high quality service from housing and support.

Council Plan

- 15 **Protect Vulnerable People:** temporary accommodation houses a wide range of people who are vulnerable in a variety of ways. An appropriate temporary accommodation agreement in place will ensure that this accommodation can be managed well and efficiently to benefit the vulnerable customers living there.

Implications

Financial: – There will not be a direct budget saving as a result of these changes, however this will prevent staff resources from being used unnecessarily to manage cases which should not need to go to court. An External barrister can cost for advice between £300 and £600 and for an all day court case between £1000 and £1500

Human Resources (HR): Support staff have raised concerns regarding their safety on site, partly as a result of the time it can take to remove customers from site when they pose a risk to staff and other customers. Therefore Option 2 would help to reduce staff anxieties and prevent a staff grievance over this matter in future.

Equalities: A community will be required

Legal: A representative from the CYC legal team who specialises in housing law has been consulted and they in turn have consulted an external barrister who specialises in Housing Law.

Crime and Disorder: There may be a reduction in the need to call out police to address issues on site if customers can be given notice to leave the site in a timely matter.

Information Technology (IT) – none

Property: None

Other: None

Risk Management

16 If the amendments to the agreement are not made the ability of the service to act quickly without redress to legal action will not be possible and the authority will face costly legal fees defending decision.

Author:

Ann-Marie Douglas
Temporary
Accommodation, Housing,
Tel No. 554122

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director CANS

Report
Approved



Date 13/08/15

Specialist Officer Implications: None

Wards Affected: List wards or tick box to indicate all

All



For further information please contact the author of the report

Abbreviations

CYC - City of York Council

Annex A

Temporary Accommodation Agreement

Annex B

Community Impact Assessment

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TEMPORARY ACCOMMODATION

AGREEMENT

THIS AGREEMENT IS IN RELATION TO TEMPORARY
ACCOMMODATION
PROVIDED BY CITY OF YORK COUNCIL PURSUANT TO S188
HOUSING ACT 1996

THIS AGREEMENT IS GIVEN IN RESPECT OF THE PROVISION OF
TEMPORARY ACCOMMODATION IN RESPECT OF HOMELESS
PERSONS UNDER SCHEDULE 1, PARA 4 OF THE HOUSING ACT
1985 IT IS EXEMPT FROM BEING A SECURE TENANCY.



Communities and
Neighbourhood
Housing Services
(Temporary Accommodation
Team)
Customer Services
West Offices
Station Rise
York YO1 6GA

Dear

I am writing to inform you that City of York council has agreed to allow you to occupy premises, namely:

from Monday

These Premises are temporary accommodation provided by City of York Council to persons believed to be homeless and believed to be in priority need pursuant to s188 Housing Act 1996. **You will occupy the Premises temporarily pending a decision as to whether the Council has a full duty to house you, and will therefore not occupy the Premises as a secure tenant.**

City of York Council reserve the right to withdraw your right to occupy these premises and you must vacate the premises when any notice period expires. Notice may be with immediate effect if risk / violence / harm is involved. You may also be required to move to any alternative accommodation at little or no notice.

The Premises may only be occupied by you, the Occupier, and your immediate household, as follows:

Occupier (you).....	Date of birth.....
Partner	Date of birth.....
Children	Date of birth

If there is a change in your family circumstances please advise staff immediately

Set out below are your rights and responsibilities while you occupy temporary accommodation provided by City of York Council.

City of York Council responsibilities

That the City of York Council will provide:

- Emergency accommodation for you and your immediate household in accordance with the Housing Act 1996
- Assessment of your support and future housing needs
- Provision of support while in temporary accommodation
- Emergency and planned repairs in accordance with the maintenance partnership agreement
- Advice about 'Have your say' complaint and compliment system
- CYC staff will advise you of any former arrears (rent arrears, temporary accommodation arrears) and help you set up a payment plan to address these

Your responsibilities while in temporary accommodation

1. Temporary Accommodation Charge

A weekly charge of £ _____ (inc £ _____ amenity) will be made whilst you are in occupation and you must pay this charge weekly. The charge is for use and occupation of the land. If it is necessary to vary the charge, you will be given two weeks notice of such variation.

You may be able to claim Housing Benefit. Please ask a representative for more details. Any housing benefit payments to which you are entitled will not include the weekly personal charges for gas, electricity, water and sewerage.

2. **Assessment of you and your families needs**

You must engage with an assessment of you and your families needs. You must engage with your support worker as required. You must engage with all support, which is provided for you by other agencies as required

3. **Nuisance or Antisocial Behaviour**

You must be considerate to all residents, visitors, neighbours (including those in the local area), staff and any other representative of the City of York Council which includes;

You must not cause any noise or behave in a manner, which will cause nuisance to all of the above.

You must not be verbally or physically abusive to any person on or around the site, including the local area and to include all of the above.

You must not cause any damage to the property.

You must not tamper with or obstruct the CCTV equipment.

You must keep the premises clean and tidy including any shared areas.

You must not use the premises for any illegally activities (including keeping stolen goods on the premises).

You must not operate a business from your temporary accommodation

This applies to you and your immediate household.

Violence, abuse, intimidation, racial harassment, threatening staff, other residents or local neighbours will not be tolerated. Any resident or visitor (whether permitted or not) who treats any person in this way within the temporary accommodation or shared areas will be asked to leave the Premises immediately.

4. **Alcohol**

Drinking alcohol is not permitted in any shared areas of the accommodation including the grounds.

5. **Smoking**

Smoking is not allowed in the communal areas inside the hostels.

6. **Pets**

You are not allowed pets / animals in shared housing schemes.

7. **To Occupy the Temporary Accommodation provided**

You must live in the accommodation we provide for you.
You must tell a support worker if you are staying out overnight.
Non-occupation of the accommodation without permission will affect your homeless application as you may be seen to have alternative accommodation and are therefore not homeless.

8. **Visitors and lodgers**

The accommodation we have provided is for you and those named within this agreement. You are not permitted to have lodgers. You are not permitted to have any visitors and therefore you must make alternative arrangements to meet friends and family off site.

9. **Car/motorcycle/pedal cycle repairs**

These are not permitted as they could be dangerous and cause nuisance to other residents and the local neighbourhood. Pedal cycles should not be kept within the accommodation and should be securely locked in bike storage areas. Motor vehicles must be kept in car parking area and be in good condition. Relevant documentation should be provided if requested by hostel staff. CYC take no responsibility for any vehicle damaged or stolen whilst on these premises.

10. **Illegal Substances and Dangerous Weapons**

All illegal drugs and dangerous weapons are prohibited in all temporary accommodation. If any drugs or dangerous weapons are

found or suspected to be in your possession by a support worker the police will be informed and your accommodation may be terminated.

11. **Keys**

You are responsible for returning all the keys you were given at the commencement of your temporary accommodation agreement when you leave the accommodation.

Keys must be returned to a staff member as soon as you vacate the premises. Failure to do so will result in an ongoing temporary accommodation charge until the keys are returned.

The weekly cost of the accommodation will continue to be charged for a total of 4 weeks. If you still have not returned the keys by the end of the 4 weeks a lock change will be carried out and you will be charged for the cost of this in addition to the rental charges.

If you lose your keys you will be charged for the cost of replacement keys and the lock as necessary.

Do not give your keys to anybody else to use.

12. **Access to rooms**

City of York Council representatives have a right to enter your accommodation in order to ensure that anything needing attention can be dealt with and to ensure that you are using the accommodation provided in a safe manner. This includes checking the smoke detectors and fire notices.

13. **TV Licence**

You may wish to use a television in your room, if you do have a TV it is also your responsibility to purchase a TV licence. Staff can advise you on the different ways to purchase a TV licence. If you already have a TV licence you need to change the address it is registered to.

14. Electrical Appliances

Use of your own tumble dryers, washing machines and electric heaters is prohibited. The laundry is available on site.

15. Satellite Dishes

Do not install a satellite dish on or in any temporary accommodation

16. Insurance

City of York Council does not have any insurance to cover resident's belongings for fire or theft; therefore, you are advised to arrange this personally.

17. Fire

The fire alarm will be tested for a couple of minutes every Sunday Afternoon if it rings for longer, or at any other time you must leave the building immediately and wait outside. You must not go back into the building until a member of staff or the Fire Service tells you that it is safe and you should not leave the outside area until it is safe to do so and without letting a member of staff know.

You must not cause damage, move or put things in front of any fire safety equipment including smoke detectors, extinguishers and fire notices. Tampering with fire equipment will result in you being recharged and you could receive a notice to vacate your accommodation.

You must not burn candles, joss sticks or oil lamps in the building.

You must not use a chip pan in your accommodation.

18. Introductory Tenancy Advice Sessions

You must attend these sessions if invited. These are advice sessions on starting and maintaining a tenancy in permanent accommodation. The sessions will last approximately one hour.

19. Leaving the Property

You must leave the property in a clean and tidy condition. If you leave the property in an unreasonable condition, this includes leaving it in a dirty condition, leaving any rubbish behind or if you have deliberately caused any damage you may be recharged for cleaning and for any other charges incurred by CYC for rubbish clearance and repairs.

20. Continuing to occupy following a S193 decision

If you continue to occupy your temporary accommodation following a S193 duty to house you whilst we find alternative suitable accommodation you will be bound by the same terms and conditions.

21. Breach of conditions

If any of these conditions are broken we will speak to you about it and may give you a written warning and/or notice to vacate the accommodation.

I have read these conditions and I understand and accept them. If under 18, I understand that in law I cannot hold a tenancy but sign to say that I understand and accept the conditions of the temporary accommodation agreement and understand that a trustee is required for legal reasons

Signed
Occupier

Dated.....

Trustee.....
(If under 18)

Dated.....

Witnessed
Support Worker

Dated.....

SECTION 1: CIA SUMMARY
Community Impact Assessment: Summary
1. Name of service, policy, function or criteria being assessed:

Housing, Supported Housing,

Changes to the Temporary Accommodation Agreement

2. What are the main objectives or aims of the service/policy/function/criteria?

To provide temporary accommodation to those customers who present as homeless and are eligible, believed to be homeless and in priority need as defined in the Housing Act 1996. All customers access temporary accommodation through the same legal process and there is no discretion as to who we accommodate.

The Temporary accommodation agreement has been updated in line with recent case law and has been updated in general at the same time. All customers who move into Temporary Accommodation must sign to agree to the conditions as they would in any other accommodation.

The significant change to the TA agreement is that we have changed the 28 days notice to vacate to notice to vacate which may be less than the normal 28 days under extreme circumstances such as threats to life. This is to protect both staff and customers from high risk.

Advice given by Barrister at Zenith Chambers indicates that changes in case law (**LB Newham v LB Lewisham s188 notice to vacate only required**) would allow the council to evict customers who pose high risk to staff and other residents without a court order (providing that a S193 duty to house is in operation) preventing a lengthy court case during which high risk situations could occur for both staff and other residents. It is a requirement of all landlords that proportionality of the action and the impact of this on the customer is taken into account prior to any legal action.

All customers are assessed under the homeless legislation at the point where they present as homeless. In a general rule customers would be housed within the Temporary Accommodation stock but where necessary alternative accommodation would be sourced such as elderly, extra care, learning disabilities.

The three strategies which support the work of the Housing Options Team (the gateway into temporary accommodation) and the Temporary accommodation

provided are;
Supported Housing Strategy
Homeless Strategy
Equality duty 2010

Staff – All staff attend Equalities training, Mental Health awareness, Updates to changes in legislation, Housing Benefits training.

3. Name and Job Title of person completing assessment:

Ann-Marie Douglas Temporary Accommodation Manager.

4. Have any impacts been Identified? (Yes/No)

Y

Community of Identity affected:

Summary of impact:

5. Date CIA completed: 28.05.15

6. Signed off by:

7. I am satisfied that this service/policy/function has been successfully impact assessed.

Name:

Position:

Date:

8. Decision-making body:

Date:

Decision Details:

Send the completed signed off document to ciasubmission@york.gov.uk It will be published on the intranet, as well as on the council website.

Actions arising from the Assessments will be logged on Verto and progress updates will be required

Community Impact Assessment (CIA)

Community Impact Assessment Title:
Changes to the Temporary Accommodation Agreement.

What evidence is available to suggest that the proposed service, policy, function or criteria could have a negative (N), positive (P) or no (None) effect on quality of life outcomes? (Refer to guidance for further details)

Can negative impacts be justified? For example: improving community cohesion; complying with other legislation or enforcement duties; taking positive action to address imbalances or under-representation; needing to target a particular community or group e.g. older people. NB. Lack of financial resources alone is NOT justification!

Community of Identity: Age

Evidence	Quality of Life Indicators	Customer Impact (N/P/None)	Staff Imp (N/P/None)
	Standard of living Identity, expression and self respect Health Productive and valued activities	None	None

Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
<p>Notice to vacate</p> <p>Staff needing to refresh their knowledge of the changes.</p>		<p>Support is provided to all customers in temporary accommodation to minimize customers failing in their tenancies but where this is inevitable there are referral pathways to other services both within CYC and external partners and agencies.</p> <p>Staff training</p>		

Community of Identity: Carers of Older or Disabled People

Community of Identity: Carers of Older or Disabled People					
Evidence		Quality of Life Indicators		Customer Impact (N/P/None)	Staff Impact (N/P/None)
		Standard of living Identity, expression and self respect Health Productive and valued activities		N	None
Details of Impact		Can negative impacts be justified?	Reason/Action	Lead Officer	Completion Date
A carer of a customer with a disability may find it harder to find alternative accommodation.		Y	Support is provided to all customers in temporary accommodation to minimize customers failing in their tenancies but where this is inevitable there are referral pathways to other services both within CYC and external partners and agencies		

Community of Identity: Disability

Community of Identity: Disability					
Evidence		Quality of Life Indicators		Customer Impact (N/P/None)	Staff Impact (N/P/None)
		Standard of living Identity, expression and self respect Health Productive and valued activities		N	None
Details of Impact		<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
A customer with a disability may find it harder to find alternative accommodation.		Y	Support is provided to all customers in temporary accommodation to minimize customers failing in their tenancies but where this is inevitable there are referral pathways to other services both within CYC and external partners and agencies		

Community of Identity: Gender

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
			None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Community of Identity: Gender Reassignment

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
			None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Community of Identity: Marriage & Civil Partnership

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
			None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Community of Identity: Pregnancy / Maternity

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
			N	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
If a birth was imminent action to vacate premises could be detrimental to the health and well being of the child and parent.	Y	All customers would be assessed on a case by case basis. Action may be delayed or depending on the severity the customer may be moved to alternative premises.		

Community of Identity: Race

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Housing Strategy, NYHC policy			N	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
If English is not the first language customers may not understand the implications of the agreement.	Y	Language Line is available for staff to use Interpretor services are available The Temporary Accommodation Agreement can be translated in written form upon request.		

Community of Identity: Religion / Spirituality / Belief

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
			None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Community of Identity: Sexual Orientation

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
			None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

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