

Record of Decisions

Housing Standards Civil Penalty Policy & HMO Licence Conditions Review

Decision Taker

Cabinet on 14 July 2025.

Decision

1. that the Housing Standards Civil Penalty Policy as set out in Appendix 1 of the submitted report be approved;
2. that the amended House In Multiple Occupation (HMO) Licence Conditions as set out in Appendix 2 to 4 of the submitted report be approved; and
3. that delegated authority be given to the Director of Adults and Community Services, in consultation with the Cabinet Member for Adult and Community Services, Public Health and Inequalities, to make further updates to the Housing Standards Civil Penalty Policy and House In Multiple Occupation Licence Conditions following Royal Ascent of the Renters Rights Bill.

Reason for the Decision

The adoption of the amended Housing Standards Civil Penalty Policy would ensure that the Council were compliant with current legislative developments to ensure that when landlords breach legislation to the degree that action was justified, the Council were able to apply the appropriate sanctions. In addition the adoption of the amended HMO licence conditions ensured that the Council were able to apply the relevant conditions without the need to clarify poorly drafted legislation making it easier for HMO licensee's to understand the requirements and making any review more efficient.

Implementation

This decision will come into force and may be implemented on 28 July 2025 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

Following the commencement of the Housing and Planning Act 2016, Torbay Council adopted a Housing Standards Civil Penalty Policy. The Policy deliberately mirrored the Statutory guidance and was tested at First-tier Tribunal (FtT). In 2023 an appeal (Leicester vs Morjariato) to the FtT resulted in a decision that was a catalyst for Housing Standards Civil Penalty policies to be reviewed

Following the case, government set aside a small fund for a 3rd sector organisation to organise procurement of legal support to update policy, including Housing Standards Civil Penalty Policies whilst keeping abreast of the policy demands of the Renters Rights Bill (RRB).

Torbay Council accessed these funds early and received £5,000 for policy drafting support, legal support and training. The outcome was confirmation that a number of Torbay Council Housing Standards Policies were suitable, with drafting of a new Housing Standards Civil Penalty Policy and a review of the House-in-Multiple Occupation licence conditions being

required.

At the meeting Councillor Tranter proposed and Councillor Bye seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

The options were:

Option 1 – Adopt both policies and delegate authority to make adjustments following forthcoming legislation. The updated policies would ensure that the Council was legislatively compliant, able to action requirements efficiently and effectively, able to direct landlords and licensees to clear and understandable requirements. By delegating authority, it would enable updates of any new requirements promptly. This was the preferred option.

Option 2 – Refuse to adopt the new Housing Standards Civil Penalty Policy. The way the current policy was drafted was not in line with the most recent case law. Whilst this would not impact the Council's ability to seek action at the First-tier Tribunal, it undermines the Council's ability to set the fine levels resulting in the possibility of escalation to the Upper tribunal and the associated resources for Torbay Council and landlords.

Option 3 – Refuse to adopt the HMO licence condition amendments. There would be no fundamental problem other than inefficiency in managing the HMO licensing and a missed opportunity to provide a clearer set of conditions for licensees to follow.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

Councillor Bye declared a non-pecuniary interest as a landlord who owns properties within Torbay.

Published

18 July 2025

Signed: _____
Leader of Torbay Council on behalf of the Cabinet

Date: _____