



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

NEATH PORT TALBOT COUNCIL

Education, Skills & Wellbeing Cabinet Board
28th September 2023

Report of the Head of Planning and Public Protection
Ceri Morris

Matter for Decision

Wards Affected: All

Trading Standards Legislation – Changes to Officer Delegation Arrangements

Purpose of the Report

To seek approval to amend the Council's current delegation arrangements to officers in relation to the legislation enforced by the Trading Standards, Food and Health Protection Service.

Executive Summary

This report seeks to add the 'Leasehold Reform (Ground Rent) Act 2022' and the 'Children and Families Act 2014' to the list of legislation that is enforced by the Trading Standards, Food and Health Protection Service.

Background

1. Leasehold Reform (Ground Rent) Act 2022

As part of the wider reform agenda to tackle unfair practices in the leasehold market and to promote fairness, the Leasehold Reform (Ground Rent) Act 2022 effectively prevents most new residential leaseholders from facing financial demands for ground rent in England and Wales.

What is the Leasehold Reform (Ground Rent) Act 2022?

The Act came into force on 30th June 2022 and is the first major piece of legislation to reform the leasehold system in a generation. It means new regulated leaseholders will not face demands for ground rent and are entitled to refuse payment on any demand for any prohibited rent.

What is a regulated lease?

Generally, most residential long leases (over 21 years) of a single dwelling, which are not excepted leases, granted after 30th June 2022 will qualify for protections under the Act.

What is Ground Rent?

Ground rent is a property industry term given to a rent that is usually paid annually by leaseholders to their landlord on top of the property purchase price and service charges.

There is no clear service provided by the landlords in return for the payment of ground rent and there is no obligation for landlords to charge a ground rent.

What changes does the Act introduce?

- That if any ground rent is demanded as part of a new regulated lease, it cannot be for more than one peppercorn² per year (zero financial value).
- That a landlord cannot charge an administration fee for collecting a peppercorn rent. These provisions will reduce any incentive for a landlord to charge or collect any peppercorn rent. This means that future leaseholders will not be faced with financial demands for ground rent.

What are the consequences of breaching the Act and who can enforce?

An enforcement authority may impose a financial penalty of up to £30,000 (with a minimum penalty amount of £500) for a relevant breach. Under the Act, the enforcement authorities are:

- Local weights and measures, who have a duty to enforce the Act in their area and may enforce it elsewhere.
- District councils, who have a power to enforce, but do not have to, and may enforce the Act both inside and outside its area.

An enforcement authority may also order the repayment of prohibited rent to the leaseholder via a Recovery Order.

2. The Children & Families Act 2014

The use of E Cigarettes or “Vapes” is an increasingly popular method of consuming nicotine. The legislation seeks to update the law regarding the supply of tobacco products to persons under the age of 18 in line with the evolution of the sale and supply of these products to encompass products such as E cigarettes and E cigarette liquids containing nicotine amending the existing Children & Young Persons (Protection From Tobacco) Act 1991 and Children and Young Persons Act 1933 accordingly. It also makes provision for the creation of an offence of “proxy purchasing” – that is an adult who buys or attempts to buy tobacco, cigarette papers or vapes on behalf of someone under 18. The proxy purchaser commits the offence.

What are the consequences of breaching the Act and who can enforce?

Local Weights and Measures Authorities (i.e. Trading Standards departments) have the duty to enforce. A sale may result in a fine of up to £2,500.

The enforcement action for these Acts will be taken in accordance with the departmental enforcement policy to ensure consistency, proportionality and fairness.

Financial Impacts

The necessary resources are currently available within the Trading Standards, Food and Health Protection service to provide an advice service.

Should a enforcement investigation be undertaken, these can be lengthy and costly which will impact on the delivery of the wider service. The Act however specifically mentions enforcement through Weights and Measures Officers (which is provided through the Trading Standards service), therefore failure to perform the responsibilities under the Leasehold Reform (Ground Rent) Act 2022 or The Children & Families Act 2014, would detrimentally affect residents within Neath Port Talbot who would otherwise be protected from the introduction of this legislation.

Integrated Impact Assessment

A first stage impact assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.

Having had due regard to the first stage Integrated Impact Assessment, a more in-depth assessment is not required. The Assessment is attached at Appendix 1.

Valleys Communities Impacts

No implications.

Workforce Impacts

Should a enforcement investigation be undertaken, these can be lengthy and costly which will impact on the delivery of the wider service, however both Acts specifically mention enforcement through Weights and Measures Officers (which is provided through the Trading Standards service), therefore failure to perform the responsibilities under the Leaseholds Reform (Ground Rent) Act 2022 or The Children and Families Act 2014, would detrimentally affect residents within Neath Port Talbot who would otherwise be protected from this legislation. The Children and Families Act 2014 merely reinforces and redefines existing offences of sale of tobacco and nicotine products to persons under the age of 18. it does not add significantly to the responsibility of the authority.

Legal Impacts

The relevant authorised officers will be given powers to operate under the Act.

Risk Management Impacts

It is a statutory requirement to implement this legislation and failure to do so will result in a high risk of legal challenge as well as reputational damage to the Authority at a strategic and operational level.

Crime and Disorder Impacts

In undertaking the provisions of this Act, the actions of the Authority may have a positive impact upon crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment).

Consultation

There is no requirement for external consultation on this item.

Recommendations

That having considered the report and having due regard to the Integrated Impact Assessment, it is resolved that the delegation arrangements in respect of the Trading Standards, Food & Health Protection Service which are set out the Authority's Constitution are amended to:

- a) Add the Leasehold Reform (Ground Rent) Act 2022 and The Children and Families Act 2014 to the list of legislation delegated to the Director of Environment, the Head of Planning and Public Protection and the Trading Standards, Food & Health Protection Manager set out in Schedule 1 of Paragraph 20 of the Director of Environment and Regeneration Delegated Powers section of the Constitution.
- b) Delegate to those officers in [a] above the authority to authorise individual competent and qualified officers to act under that legislation.
- c) Delegate to those officers in [a] above the authority to institute legal proceedings under the provisions contained in the Leasehold Reform (Ground Rent) Act 2022 and The Children and Families Act 2014 in conjunction with the Head of Legal and Democratic Services [including the signing of any cautions in accordance with Home Office Guidelines] and, where an alleged offender is being held in custody in relation to an offence, to institute proceedings by way of charge.
- d) That the Head of Legal and Democratic Services be authorised to seek amendment of the Constitution by the Council in due course in order to reflect the above changes to the authority's delegation arrangements.

Reasons for Proposed Decision

To enable the new legislation to be implemented quickly and efficiently. The Trading Standards, Food & Health Protection service, located within the wider Planning & Public Protection Service, has responsibility for the enforcement of Trading Standards legislation.

Implementation of Decision

The decision is proposed for implementation after the three day call in period.

Appendices

Appendix 1– First Stage Integrated Impact Assessment

List of Background Papers

Leasehold Reform (Ground Rent) Act 2022 [Leasehold Reform \(Ground Rent\) Act 2022: statutory guidance for enforcement authorities | GOV.WALES](#)

<https://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

Officer Contact

Mark Thomas – Trading Standards, Food & Health Protection Manager
Tel: (01639) 685612 / Email: m.thomas2@npt.gov.uk



Appendix 1 – First Stage Integrated Impact Assessment

1. Details of the initiative

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|---|
| Initiative description and summary: Leasehold Reform (Ground Rent) Act 2022 and The Children & Families Act 2014 – NPTCBC constitutional change. |
| Service Area: Trading Standards |
| Directorate: Environment and Regeneration |

2. Does the initiative affect:

| | Yes | No |
|--------------------------------------|-----|----|
| Service users | | X |
| Staff | | X |
| Wider community | | X |
| Internal administrative process only | X | |

3. Does the initiative impact on people because of their:

| | Yes | No | None/ Negligible | Don't Know | Impact H/M/L | Reasons for your decision (including evidence)/How might it impact? |
|-----|-----|----|---------------------|---------------|-----------------|--|
| Age | | X | | | | It will have no direct impact on protected characteristics. |

| | | | | | | |
|----------------------------|--|---|--|--|--|---|
| Disability | | X | | | | It will have no direct impact on protected characteristics. |
| Gender Reassignment | | X | | | | It will have no direct impact on protected characteristics. |
| Marriage/Civil Partnership | | X | | | | It will have no direct impact on protected characteristics. |
| Pregnancy/Maternity | | X | | | | It will have no direct impact on protected characteristics. |
| Race | | X | | | | It will have no direct impact on protected characteristics. |
| Religion/Belief | | X | | | | It will have no direct impact on protected characteristics. |
| Sex | | X | | | | It will have no direct impact on protected characteristics. |
| Sexual orientation | | X | | | | It will have no direct impact on protected characteristics. |

4. Does the initiative impact on:

| | Yes | No | None/ Negligible | Don't know | Impact H/M/L | Reasons for your decision (including evidence used) / How might it impact? |
|---|-----|----|---------------------|---------------|-----------------|--|
| People's opportunities to use the Welsh language | | X | | | | No impact |
| Treating the Welsh language no less favourably than English | | X | | | | No impact |

5. Does the initiative impact on biodiversity:

| | Yes | No | None/ Negligible | Don't know | Impact H/M/L | Reasons for your decision (including evidence) / How might it impact? |
|--|-----|----|---------------------|---------------|-----------------|--|
| To maintain and enhance biodiversity | | X | | | | It will have no effect on the biodiversity duty |
| To promote the resilience of ecosystems, i.e. supporting protection of the wider environment, such as air quality, flood alleviation, etc. | | X | | | | It will have no effect on the biodiversity duty |

6. Does the initiative embrace the sustainable development principle (5 ways of working):

| | Yes | No | Details |
|---|-----|----|---|
| Long term - how the initiative supports the long-term well-being of people | X | | <p>Leasehold Reform (Ground Rent) Act 2022</p> <p>Enforcement of these new requirements will contribute to the wider reform agenda to tackle unfair practices in the leasehold market and to promote fairness, the Leasehold Reform (Ground Rent) Act 2022 effectively prevents most new residential leaseholders from facing financial demands for ground rent in England and Wales.</p> <p>The Children & Families Act 2014</p> |

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|--|---|--|--|
| | | | Enforcement of these new requirements will help prevent persons under the age of 18 from being sold tobacco and nicotine products by retailers and contributes to the health agenda. |
| Integration - how the initiative impacts upon our wellbeing objectives | X | | <p>Leasehold Reform (Ground Rent) Act 2022</p> <p>Enforcement of these new requirements in collaboration with will collaborate with the NTS Estate and Letting Agency Team will ensure advice / enforcement approach is consistent nationally.</p> <p>The Children & Families Act 2014</p> <p>Enforcement of these new requirements is consistent with the Neath Port Talbot Well Being objectives and prevention of harm to children.</p> |
| Involvement - how people have been involved in developing the initiative | X | | <p>Leasehold Reform (Ground Rent) Act 2022 / The Children & Families Act 2014</p> <p>The legislation has been developed and implemented by Welsh Government.</p> |
| Collaboration - how we have worked with other services/organisations to find shared sustainable solutions | X | | <p>Leasehold Reform (Ground Rent) Act 2022</p> <p>The Local Weights and Measures (Trading Standards in NPTCBC) have a duty to enforce, however will collaborate with the NTS Estate and Letting Agency Team to ensure advice / enforcement approach is consistent nationally.</p> <p>The Children & Families Act 2014</p> <p>The Local Weights and Measures (Trading Standards in NPTCBC) have a duty to enforce.</p> |
| Prevention - how the initiative will prevent problems occurring or getting worse | X | | <p>Leasehold Reform (Ground Rent) Act 2022</p> <p>Enforcement of these new requirements will contribute to the wider reform agenda to tackle unfair practices in the leasehold market and to promote fairness, the Leasehold Reform (Ground Rent) Act 2022 effectively prevents most new residential leaseholders from facing financial demands for ground rent in England and Wales.</p> |

| | | | |
|--|--|--|--|
| | | | <p>The Children & Families Act 2014 The legislation modernises the control of tobacco and nicotine products in line with developments in the market and assists the Trading Standards service in ensuring that these products are not sold to persons under the age of 18.</p> |
|--|--|--|--|

7. Declaration - based on above assessment (tick as appropriate):

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|--|---|
| A full impact assessment (second stage) is not required | X |
| Reasons for this conclusion | |
| <p>Welsh Government has implemented this legislation. The Trading Standards, Food and Health Protection service located within the Planning & Public Protection department, has responsibility for the enforcement of Trading Standards legislation. This report puts the legislation on the constitution of NPTCBC to enable delegated authority to be authorised to the appropriate Officers within the Council.</p> | |

| | |
|--|--|
| A full impact assessment (second stage) is required | |
| Reasons for this conclusion | |
| | |

| | Name | Position | Date |
|---------------|-------------|---|----------------------------|
| Completed by | Mark Thomas | Trading Standards, Food & Health Protection Manager | 6 th July 2023 |
| Signed off by | Ceri Morris | Head of Planning & Public Protection | 10 th July 2023 |