



<b>Subject:</b>	Department for Communities Private Tenancies Act (NI) 2022 -update on Powers for Council commencing April 2023
<b>Date:</b>	10 <sup>th</sup> January 2023
<b>Reporting Officer:</b>	Siobhan Toland, Director of City Services
<b>Contact Officer:</b>	Claire O'Neill Principal Environmental Health Officer

<b>Restricted Reports</b>	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

<b>Call-in</b>	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
1.1	To update members of the new provisions of the Private Tenancies Act (NI) 2022 commencing on 1 <sup>st</sup> April 2023 and to set fixed penalty levels for certain offences under said Act.
<b>2.0</b>	<b>Recommendations</b>
2.1	The Committee is asked to: <ul style="list-style-type: none"><li>Note the new legislative powers for Council's in relation to the private rented sector.</li></ul> And <ul style="list-style-type: none"><li>Agree the proposed fixed penalty levels at £500.</li></ul>
<b>3.0</b>	<b>Main report</b>
3.1	<u>Key issues</u> Members were previously appraised at their November 2021 Committee of the new provisions contained in The Private Tenancies Act (NI) 2022 which has received royal assent

on the 27<sup>th</sup> April 2022. It amends the Private Tenancies Order (NI) 2006 with 11 substantive clauses and three schedules aimed at making the private rented sector a safer and more protected housing option. This report provides the details of the elements of the new Order that will come into effect on the 1<sup>st</sup> April 2023, however it should be noted that there are still a number of provisions which require further consultation and members will be provided with an update when we receive the Department for Communities (DfC) consultation papers.

The Act creates new offences for which the Council will have powers to issue fixed penalty notices. The fixed penalty payable in respect of an offence is an amount determined by the Council, being an amount not exceeding one-fifth of the maximum fine payable on summary conviction of that offence which is currently £2500. Therefore, the maximum level of fixed penalty fine that the Council can set for the new offences is £500. The Council has previously set the fine level at £500 for failure to register as a landlord under the same legislation. Therefore, it is proposed that the fines for the new offences are set at the same level of £500 as detailed below.

The Act will provide additional powers to Councils in relation to the regulation of the private rented sector as follows:

### 3.2 **Tenancy Information Notice**

Tenancy Information Regulations 2022 require a landlord to give a tenant a Tenancy Information Notice containing specified information within 28 days of the commencement of a tenancy. A Tenancy Information Notice is an important legal document which provides the landlord and tenant with information on their respective rights and responsibilities. It can help to minimise disputes, as information, such as, the rent payable, deposit details, duration of tenancy, responsibility for repairs and notice of termination are given in writing. The Notice also provides tenants with the landlord's (and, if appropriate, agent's) contact information.

If the landlord has previously given a tenant a Notice which substantially meets the specified requirements, this would be deemed compliant.

If the landlord commits an offence, the council will have the power to issue a fixed penalty notice, not exceeding £500. If the landlord is convicted by a court, the penalty will be a fine not exceeding level 4 on the standard scale (currently £2,500).

The maximum fixed penalty notice fine level which can be issued by Council is £500. It is proposed that the fixed penalty level offence is set by the Council at £500.

3.3

### **Receipts**

It is now a requirement for a landlord to provide a written receipt for any payment made in cash in relation to a tenancy. A receipt is a method of documenting cash payments that a tenant pays to a landlord under a tenancy. A receipt is beneficial to both tenants and landlords offering tenants documented proof of cash payments and landlords a record of cash payments. For tenants who pay their rent in cash a rent receipt may be the only written evidence they have of their payments

Any written receipt must detail:

- the payment date;
- what the payment was for; and
- the amount paid, including:
  - if any amounts remain outstanding, and
  - if the payment was made in full.

If the landlord or his/her representative/agent commits an offence by failing to provide the receipt for cash payments, the Council may issue a fixed penalty notice not exceeding £500. If the landlord is convicted by a court the penalty, the fine will not exceed level 4 on the standard scale (currently £2,500).

The maximum fixed penalty notice fine level which can be issued by Council is £500. It is proposed that the fixed penalty level offence is set by the Council at £500.

3.4

### **Changes to Tenancy Deposits**

A landlord cannot ask for or retain a tenancy deposit that is more than one month's rent. If a landlord has unlawfully requested or retained a tenancy deposit of more than one month's rent, they are guilty of an offence. A council can issue a fixed penalty notice or fine for this offence. The amount of the fixed penalty notice will be determined by councils and cannot exceed £500. If the landlord is convicted by a court the penalty will be a fine not exceeding level 4 on the standard scale (currently £2,500). If a landlord is convicted of requiring or retaining a deposit in excess of one month's rent, the court may order the excess to be repaid to the person who paid it.

The maximum fixed penalty notice fine level which can be issued by Council is £500. It is proposed that the fixed penalty level offence is set by the Council at £500.

3.5

### **Increase in time for requirements relating to tenancy deposits**

The time limit for a deposit to be protected in an approved scheme has changed from 14 days to 28 days and landlords have additional time to provide the prescribed information to the tenant as this has changed from 28 days to 35 days.

If a landlord or agent fails to protect the deposit or notify a tenant of the deposit information, then they will be guilty of an offence.

**3.6 The Council may issue a fixed penalty three times the value of the deposit taken.**

If convicted of this offence, they may be liable for a fine not exceeding £20,000

**3.7 Removal of the 6-month time barrier to prosecution of tenancy deposit offence**

The Private Tenancies Act (Northern Ireland) 2022 makes the failure to protect a tenancy deposit a continuing offence and removes the 6-month time limit on prosecutions. This legislation provides that those offences continue to be committed throughout any period during which the failure to protect a deposit, or supply the required information to the tenant, continues. The result of this is that there will be no time barrier on prosecuting a person who fails to comply with the requirements.

**3.8 Change in length of notice to quit:**

From 5<sup>th</sup> May 2022, the Private Tenancies Act 2022 introduced the following notices to quit period for landlords and tenants:

Depending on the length of the tenancy, the landlord must give their tenant a minimum notice to quit period as indicated in the table below.

<b>Length of tenancy</b>	<b>Notice to quit</b>
Tenancy not been in existence for more than 12 months	No less than 4 weeks' written notice
Tenancy has been in existence for more than 12 months but not more than 10 years	No less than 8 weeks' written notice
Tenancy has been in existence for more than 10 years	No less than 12 weeks' written notice

Depending on the length of the tenancy the tenant must give their landlord a minimum notice to quit period.

<b>Length of tenancy</b>	<b>Notice to quit</b>
Tenancy not been in existence for more than 10 years	No less than 4 weeks' written notice
Tenancy has been in existence for more than 10 years	No less than 12 weeks' written notice

The Council will seek to publicise the new legislative provisions in advance of the start date on 1<sup>st</sup> April 2023 using our media outlets.

3.9	<p><u>Financial and Resource Implications</u></p> <p>The Private Tenancies Act will provide Councils with new enforcement powers to deal with issues in the Private Rented sector which will place additional resources demands on our existing resources. There is no financial support available from the Department for Communities (DfC) to assist Councils with these additional powers. The fixed penalty regime introduced for some of the new offences may provide some income but it will not cover the additional staffing and administrative resources required. Setting the fixed penalty fine to the maximum of £500 for each offence is a key consideration in the absence of any financial support to implement this important legislation.</p>
3.10	<p><u>Equality or Good Relations Implications /Rural Needs Assessments</u></p> <p>None associated with this report.</p>
<b>4.0</b>	<b>Appendices – Documents Attached</b>
	<p>Appendix 1 – Private Tenancies Act 2022</p> <p><a href="https://legislation.gov.uk">Private Tenancies Act (Northern Ireland) 2022 (legislation.gov.uk)</a></p>