Private Sector Housing Enforcement Policy

1. Aim of Policy

This policy sets out the Council's principles for enforcing and executing its duties as a Housing Authority under the relevant statute to regulate housing standards and tackle empty homes in Bexley. The policy will also cover the Council's approach to dealing with other public health functions carried out by Regulatory Services such as, but not limited to pest, rubbish and Filthy and Verminous issues.

The Council's enforcement activity will be guided by the principles of proportionality, consistency, transparency, accountability and the targeting of resources to the greatest risks. Decisions will be taken on a case-by-case basis having regard to the individual circumstances of each matter and the Council's wider statutory duties.

The Council aims to protect public health, reduce antisocial behaviour and safeguard housing standards by ensuring compliance with the relevant legislation, whilst recognising the needs of local businesses.

S3 Housing Act 2004 imposes a duty on Councils to keep housing conditions in their district under review with a view to identifying any action that may need to be taken by them.

S107 Renters' Rights Act 2025 imposes a duty on the Council to enforce the Landlord Legislation. The Landlord Legislation is comprised of the following:

- Chapters 3 and 6 of Part 1 of the Renters' Rights Act 2025,
- Part 2 of the Renters' Rights Act 2025,
- Sections 1 and 1A of the Protection from Eviction Act 1977, and
- Chapter 1 of Part 1 of the Housing Act 1988.

S110 Renters' Rights Act 2025 imposes a duty on the Council to report to the Secretary of State on the exercise of its functions under the Landlord Legislation.

In this policy, the term 'landlord' should be read as including letting agents, managing agents, licensors, property owners, directors of corporate landlords and any other person involved in the letting or management of privately rented accommodation.

In this policy, the terms 'House of Multiple Occupation' or 'HMO' are defined by the Housing Act 2004.

1.1. Approach to Enforcement

The Council wants to support responsible landlords and owners to raise housing standards and resolve public health issues. The Council expects landlords to have a good understanding of the housing standards and management issues that should be met in privately rented accommodation. Where there are public health concerns, we expect owners and landlords to act upon them promptly.

S5 Housing Act 2004 places a duty on Councils to take appropriate enforcement action where a Category 1 hazard exists.

S7 Housing Act 2004 gives Councils a discretionary duty to take action where a Category 2 hazard exists. The Council will usually take action where a Category 2 hazard exists.

In addition, Council officers will often investigate and identify the need to take enforcement action through a range of routes, including (but not limited to): proactive inspections of dwellings through licensing provisions; in response to a complaint or request for assistance; and referrals from other public bodies. All investigations will be carried out in accordance with the relevant statutory requirements. The Council will ensure that appropriate governance is in place to ensure that action is taken in accordance with appropriate policies.

The Council may commence enforcement with formal action instead of informal action in the first instance. In deciding whether to do so, the circumstances of the case will be taken into account. Relevant factors may include, but are not limited to:

- Where there is a risk to public health
- Where there is a blatant or deliberate contravention of the law
- Where there is history of non-compliance

The Council will usually take formal action in the first instance if there has been:

- Non-compliance with previous formal or informal action
- Offences in relation to the licensing of HMOs and selective licensing

The Council will take formal enforcement action in the first instance for breaches of the Landlord Legislation.

1.2. **Enforcement duties**

Duties fall under four headings as follows:

- Undertaking inspections/audits and providing guidance to ensure that residential accommodation meets minimum legal standards. Taking formal action as necessary to secure compliance with statutory requirements
- The administration and enforcement of the mandatory licensing of prescribed HMO accommodation.
- The administration and enforcement of the Council's selective licensing scheme.
- Maximising the use of the existing housing stock through a range of measures to bring empty properties back into use.

1.3. **Authorisation of officers**

All officers across Regulatory and Housing Services are fully trained, competent and authorised to carry out their duties. All investigations will be carried out in accordance with the requirements of the relevant legislation, in particular and not confined to the following:

1.3.1. Human Rights Act 1998

1.3.2. Regulation of Investigatory Powers Act 2000

1.3.3. Police and Criminal Evidence Act 1984

1.3.4. Criminal Procedure and Investigations Act 1996

1.3.5. Equality Act 2010

1.3.6. Enforcement Guidance issued under section 9 Housing Act 2004

1.3.7. The Code for Crown Prosecutors

1.3.8. The Enforcement Concordat

1.3.9. Regulators' Code of Compliance

The Renter's Rights Act 2025 and the 'Landlord Legislation' (as defined by S107) sit outside of the Regulators' Code, and its provisions do not apply.

Part 1 of the Housing Act 2004 is also outside of the code's scope.

Notwithstanding this, the following legislation and its enforcement does come within the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 and is therefore within the scope of the Regulators' Code and the principles of good regulation:

- Parts 8, 9 and 10 of the Housing Act 1985
- Part 8 of the Housing Act 1996
- Parts 2 to 5 of the Housing Act 2004

All enforcement action taken will be in accordance with relevant statutory Codes of Practice, Council procedures and protocols, and official guidance from central and local government bodies.

As a public body under the Human Rights Act 1998, the Council will apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

2. Informal action

In most cases, following a complaint about housing conditions, landlord/tenant behaviour the Council will contact the tenant or complainant and discuss the issues, if the officer then decides that a visit is required, they will arrange this with the tenant. Prior to visiting, the officer will usually contact the landlord or owner and inform them

of the issues and their intention to visit the property. If there are minor deficiencies, then written or verbal advice may be deemed sufficient.

Where written advice is deemed necessary and is provided, suggested timescales will normally be included to undertake any specified works or actions.

If there are more substantial issues to be addressed, the Council will detail the actions to be taken and timescales. A clear distinction will be made in between what is required by law and anything included that is recommended good practice.

3. Formal action

Formal action will be considered in the following circumstances on all types of tenure:-

- Where there is a serious risk to public health
- Where there is a blatant or deliberate contravention of the law
- Where there is history of non-compliance, or cooperation with an informal approach is not forthcoming.
- Where landlords or property owners fail to take action in the timescales agreed within an informal process.

Statutory Notices

These are notices used when a landlord /owner is failing to comply with housing or other health and environmental legislation. They normally require that necessary remedial action is taken at a specified property by the landlord/owner within a specified time period, which will vary depending on the nature and scale of the works.

Legal Notices served by the Council will detail any rights of appeal and an extension of time to comply with any notices requiring works can be requested if there are legitimate reasons. However, failure to comply with the requirements of any issued Notice without good reason is an offence and will normally result in prosecution or, where appropriate, the issuing of a civil penalty. (See Section 13 for enforcement options).

4. Powers of Entry

S118 Renters' Rights Act 2025 permits Council officers to enter business premises of relevant people (including landlords, letting agents, and marketers) if it is necessary for the production or seizure of documents under s122-s123 Renters' Rights Act 2025. This power will be exercised without a warrant.

S121 Renters' Rights Act 2025 allows a Council officer named in a warrant to enter premises used for a rental sector business which is not mainly accommodation if there are documents on the premises which the officer could require under s122 or seize under s123. In addition, for this power to be exercised, one of the following conditions must be met:

- That access to the premises has been or is likely to be refused, and the Council has provided notice of their intention to apply for a warrant to the occupier;

- Those documents on the premises would likely be concealed or interfered with if notice of entry were to be given;
- That no occupier is present, and waiting for their return might defeat the purpose of the entry.

Following a s118 or s121 Renters' Rights Act 2025 entry, s122 allows an officer at any reasonable time to require a relevant person on the premises to produce any documents relating to the business and to take copies of them. This may only be exercised to ascertain whether there has been a breach of the Rented Accommodation Legislation where an officer reasonably suspects there has been a breach or an offence; or to ascertain whether the documents may be required in evidence for proceedings regarding a breach or offence.

Following a s118 or s121 Renters' Rights Act 2025 entry, s123 authorises Council officers to seize and detain documents that the officer reasonably suspects may be required as evidence in proceedings relating to a breach of, or an offence under, the Rented Accommodation Legislation. When doing so, the officer will provide evidence of the officer's identity and authority if reasonably practicable. The officer will take reasonable steps to inform the person from whom documents have been seized that they have been seized, and will provide that person with a written record of what has been taken.

S126 Renters' Rights Act 2025 permits the Council to enter residential premises used for a tenancy at a reasonable time if the officer considers it necessary as part of an investigation into potential offences specified in subsection 1(b). Where required, the Council will give at least 24 hours' notice of this to the occupier and individuals with an interest in the property as per subsection 1(c), detailing in writing why the entry is necessary and the suspected offences. Where there are occupiers found on the premises, the officer will provide evidence of the officer's identity and authority to at least one of the occupiers if reasonably practicable.

In addition, s239 Housing Act 2004 permits Council officers to enter, if necessary and at a reasonable time, a property in order to carry out a survey or examination. This may be done if any one of the following is met:

- to determine if any Part 1-4 enforcement functions should be exercised;
- the premises are part of an Improvement Notice or Prohibition Order;
- a management order is in force under Chapter 1 or 2 of Part 4 on the premises.

In certain circumstance the Council may obtain a warrant to enter, by force if necessary, under s240 Housing Act 2004.

When investigating public health concerns or taking action under other legislation, officers will follow the appropriate guidance and legislation when entering premises.

5. Power to Require Information

S114 Renters' Rights Act 2025 gives the Council power to issue a notice to a relevant person to require the person to provide specified information to the Council.

This notice may be given to any person with an estate or interest in the land; the licensor; their agents; or a marketer of a property. It may be given in regard to any offence under the following Legislation:

- Sections 1 and 1A of the Protection from Eviction Act 1977;
- Chapter 1 of Part 1 of the Housing Act 1988;
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013;
- Sections 21 to 23 of the Housing and Planning Act 2016;
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

Failure to comply with a s114 notice is an offence under s131 Renters' Rights Act 2025, as is being obstructive and intentionally or recklessly making false or misleading statements in response to a s.113 notice.

S115 Renters' Rights Act 2025 permits the Council when it reasonably suspects a breach of the Rented Accommodation Legislation to issue a notice to any person requiring them to provide the information specified. This may only be done to investigate whether a breach has occurred under the Rented Accommodation Legislation, or to determine the amount of a penalty.

For the purposes of this section, the Rented Accommodation Legislation means:

- Sections 1 and 1A of the Protection from Eviction Act 1977;
- Chapter 1 of Part 1 of the Housing Act 1988;
- Parts 1 to 4 and 7 of the Housing Act 2004 ;
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013;
- Sections 21 to 23 of the Housing and Planning Act 2016;
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

Where an individual has not complied with a s115 notice, s116 Renters' Rights Act 2025 enables the Council to make an application to the Court to enforce the provisions of the notice and seek reimbursement for the costs of the application.

S131 Renters' Rights Act provides that, in addition to the offence of non-compliance with a s114 notice, it is an offence for an individual to obstruct a Council officer seeking to exercise their powers without reasonable excuse. It is also an offence to fail to give an officer any additional assistance or information which they reasonably require without reasonable excuse.

S235 Housing Act 2004 allows the Council to issue a notice to relevant individuals, including occupiers, directing them to provide specified documents under their

control for the purpose of investigating whether an offence has been committed under Parts 1 to 4 of the Housing Act 2004 or exercising the Council's functions under Parts 1 to 4 of the Housing Act 2004.

S16 Local Government (Miscellaneous Provisions) Act 1976 also permits the Council to issue a notice to an occupier, manager, or individual with an interest in the land to compel them to provide the Council with information on the nature of their interest and the names and addresses of current occupiers and of any others with an interest in the land.

6. Housing Act 2004 - Housing Health and Safety Rating System (HHSRS)

The underlying principle of the HHSRS is that "*any residential premises should provide a safe and healthy environment for any potential occupier or visitor".* A dwelling should be capable of satisfying the basic fundamental needs for the everyday life of a household. It should provide shelter, space and facilities for the occupants.

The HHSRS assesses 29 categories of housing hazard divided into four parts, Physiological requirements, Psychological requirements, Protection against infection and Protection against accidents. Examples of the hazards covered by the rating system are excess heat or cold, noise, food safety and falls.

The hazards are assessed in a two-stage process, looking first at the likelihood of an occurrence and then the range of probable harm outcomes. These two factors are combined using a standard method to give a score in respect of each hazard. A score is not produced for the whole of the house, just the individual 29 hazards.

Those hazards that score more than 1000 on the Housing Health and Safety Rating System are classed as a Category 1 hazard, less than 1000 are Category 2.

In determining the most appropriate course of enforcement action, the Council will have regard to the vulnerability of occupiers and the potential impact of hazards on vulnerable groups in accordance with the HHSRS Operating Guidance.

Category Two Hazards

The Council would not normally take formal action if the identified defects equated only to minor or moderate Category 2 hazards. Where written advice is deemed necessary and is provided, suggested timescales will normally be included to undertake any specified works or actions.

The Council will exercise its discretion and consider individual cases and circumstances when deciding whether to take action in response to Category 2 hazard

If the most appropriate course of action is to serve an Improvement Notice (see 6.1), and the hazards do not pose an immediate risk to the tenants, the Council will write to the landlord. The letter will set out the deficiencies, the works needed to remedy them and a date to complete the works. No formal action will be taken providing the landlord gives a written undertaking to complete the works and completes the works specified on the letter.

Category One Hazards

The Council has a duty to take appropriate action in response to a Category 1 hazard. (When a Category 1 hazard is identified, the Council must decide which of the available enforcement options it is most appropriate to use. These are explained in more detail in 6.1.

If the most appropriate course of action is to serve an Improvement Notice (see 6.1), and the hazards do not pose an immediate risk to the tenants, the Council will write to the landlord or owner first. The letter will set out the deficiencies, the works needed to remedy them and a date to complete the works. No formal action will be taken providing the landlord or owner gives a written undertaking to complete the works and completes the works specified on the letter. However, if the works pose an immediate risk to the tenants and the landlord has not engaged with the Council or has a previous track record of failing to carry out repairs in other properties then the Council may proceed straight to enforcement action.

6.1. **Formal Notices, Orders and Actions**

- **Improvement Notice**

  This can be used for Category 1 or 2 hazards and can be served to cover a range of hazards. The Council may carry out works in default and recover expenses. The Council also has the option of suspending the notice for a specific time or the occurrence of an event. The following are situations where it may be appropriate to suspend an improvement notice:

  - The need to obtain planning permission (or other appropriate consent) that is required before repairs and/or improvements can be undertaken.
  - Works which cannot properly be undertaken whilst the premises are occupied and which can be deferred until such time as the premises falls vacant or temporary alternative accommodation can be provided.
  - Personal circumstances of occupants; for example, temporary ill health, which suggests that works ought to be deferred.

  When deciding whether it is appropriate to suspend an Improvement Notice, the Council will have regard to:

  - The level of risk presented by the hazard(s).
  - The turnover of tenants at the property.
  - The response or otherwise of the landlord or owner.
  - Any other relevant circumstances (e.g. whether the vulnerable age group is present).

  Suspended Improvement Notices will be reviewed on an ongoing basis, at least every 6 months.

- **Prohibition Notice**

  This may be used for Category 1 or 2 hazards and may prohibit the use of part or all of a premises for some or all purposes or occupation by particular numbers or descriptions of persons. The Council also has the option of suspending the notice for a specific time or the occurrence of an event.

  The Council has the power to suspend a Prohibition Order once served and will consider this course of action where it is reasonable in the circumstances to do so.

  Suspended Prohibition Orders will be reviewed on an ongoing basis, at least every 6 months.

  The Council will consider any written requests made for alternative uses of premises or part-premises which are subject to a Prohibition Order, and will not withhold its consent unreasonably. Any such consent will be confirmed in writing.

- **Emergency Remedial Action**

  This is available when a Category 1 hazard is considered to involve an imminent risk of serious harm to the health or safety of any occupiers. The authority may carry out remedial works immediately and where necessary obtain a warrant. A Notice must be served within 7 days of taking the emergency action detailing the hazard and the remedial measures taken.

- **Emergency Prohibition Order**

  This is available when a Category 1 hazard is considered to involve an imminent risk of serious harm to the health or safety of any occupiers. The Order has the effect of preventing occupation of all or part of the premises with immediate effect.

- **Hazard Awareness Notice**

  This discretionary action has the effect of notifying the responsible person of the presence of a hazard. It can be used for Category 1 or 2 hazards. The service of a Hazard Awareness Notice does not prevent the use of other formal action.

- **Demolition Orders**

  These remain available under the provisions of the Housing Act 1985 and may be used where a Category 1 hazard is found.

- **Clearance**

  This remains available under the provisions of the Housing Act 1985 and may be used where each of the residential buildings in the area contains one or more Category 1 hazards.

6.2. **Power to charge for Enforcement Action**

The local authority has powers under section 49 of the Housing Act 2004, to make a reasonable charge as a means of recovering certain administrative and other expenses incurred in taking the following courses of action:

- Section 11 & 12 Improvement Notices
- Section 20 & 21 Prohibition Order
- Section 28 & 29 Hazard Awareness Notices
- Section 40 Emergency Remedial Action
- Section 43 Emergency Prohibition Order
- Making a demolition order under section 265 of the Housing Act 1985

The Council will generally look to make a reasonable charge when taking enforcement action under the above. However, there may be circumstances when it is not reasonable to charge and these are taken on a case by case basis and most likely when prohibiting an owner-occupied or empty property.

6.3. **Power to Revoke and Vary Notices**

The Council must revoke an Improvement Notice, Prohibition Order and Emergency Prohibition Order if they are satisfied that the requirements of the notice have been complied with.

The Council may revoke or vary an Improvement Notice, Prohibition Order and Emergency Prohibition Order.

6.4. **Policy for taking action under Part 1 Housing Act 2004 (Part One)**

Below is the enforcement framework for housing conditions according to the tenure of the property, although the decision will be made case-by-case based on individual circumstances.

- **Private rented and all Houses in Multiple Occupation (HMOs)**

  For all Category 1 hazards, the full range of formal notices, orders and actions will be used. For Category 2 hazards the full range of enforcement options will be used depending on the severity and nature of the hazard.

- **Owner Occupied**

  For both Category 1 and 2 hazards, the Council will give advice to the owners. If there is significant risk to the occupier or others and/or where the hazard prevents the occupier receiving suitable care in the home then the full range of enforcement options will be considered.

- **Registered social landlords of non HMO properties**

  For both Category 1 and 2 hazards, the Council will contact the registered social landlord to inform them of the hazard. If the registered social landlord fails to take action and the hazard poses a risk to the occupiers or others then the Council may consider taking action using the full range of enforcement options.

- **Empty properties**

  For both Category 1 and 2 hazards, the Council will inform the owner and inform them of the hazards. Should the owner be unable to provide sufficient reassurance that the property will be brought back into use or if the hazards pose a risk to the public then the council may consider taking action using the full range of enforcement options.

  In addition to the powers set out in 6.1, the Council may also take the following courses of action:

  Compulsory Purchase Orders CPO) is a legal function that allows certain bodies which need to obtain land or property to do so without the consent of the owner. This would be used as a last resort.

  Empty Dwelling Management Orders enable local authorities to put an unoccupied property back into use as housing.

  Enforced Sale can be used to recover outstanding debt owed to The London Borough of Bexley.

7. Housing Act 2004 – Mandatory and Selective Licensing (Part Two and Part Three)

Currently unless there is an exemption all HMOs that are occupied by five or more people are required to be licensed.

The Council designated a selective licensing scheme for Belvedere Ward in January 2025 for five years.

In determining an application for any property licence, the Council must decide whether to grant or refuse a licence. The Council will carry out a test to decide whether the licence holder or the person managing the property is a fit and proper person. Section 66 of the Housing act 2004, sets out the evidence that the Council must have regard to in determining fit and proper which is whether the licence holder or person managing the property has:

Committed an offence involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003.

- Practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or in connection with the carrying on of a business.

- Contravened any provision of the law relating to housing or landlord and tenant law.
- The code of practice set out in section 233 of the Housing Act 2004.

The Council must also consider whether any person associated or previously associated with the licence holder has done any of the things listed above.

Where the Council is minded to grant a licence, the licence period should not exceed 5 years for Mandatory HMO Licences. Selective Licences will all expire on the date the scheme ends.

Landlords and managing agents who have a previous poor management record or have failed in the past to comply with the Council's requirements to manage their properties may not be able to hold a licence or may be given a shorter term licence and subjected to more frequent checks. Where landlords fail to apply for the relevant planning permission, a licence may be granted for 12-18 months initially. The licence may then be varied to cover five years in total if the landlord is successful in obtaining planning permission. If the Council grants a licence on shorter terms or refuses to grant a licence the decision may be appealed and details of how to appeal to the residential property tribunal will be provided.

If someone is found not to be a fit and proper person, this will usually remain the case for a period of 5 years. In cases where the person is not considered fit and proper and the property is to continue to be rented, an alternative person will have to apply to be the licence holder, such as a suitable management agent. If a suitable licence holder cannot be found then under part 4 of the Housing Act 2004 the Council has powers to take over the management of the property by making an interim management order initially and then a final management order.

7.1. Unlicensed properties

Failure to license a property is a criminal offence and the Council may take prosecution proceedings or impose a financial penalty of up to £40,000. On conviction, the Court may impose an unlimited fine.

If convicted of operating a property without a licence (or the Council is satisfied that the offence has been committed even though the landlord has not been prosecuted), the Council can reclaim any benefits paid when they were operating without a licence by applying for a Rent Repayment Order. Similarly, tenants (including former tenants) are also allowed to make an application for a Rent Repayment Order where landlords have been convicted of the offence or where a Rent Repayment Order has already been granted to the Council on the same property.

When the Council identifies a non-licensed property, it will write to the landlord and inform them that the property needs to be licensed. Providing,

the Council receives a full licence application within seven days the Council may take no enforcement action but this will be assessed on a case by case basis and will take into account any previous enforcement action taken against the landlord. If there has been previous history of non-compliance the Council will move to take formal action straight away

7.2. Non-compliance with licence conditions

A failure to meet one or more of the licensing conditions will be individually assessed but may result in one, or a combination of 2 or more, enforcement outcomes including:

- A written warning.
- Prosecution.
- The imposition of a civil penalty (where appropriate).
- The service of formal notices.
- Refusal or revocation of a licence and/or the granting of a licence for a shorter period.
- Management orders

7.3. Interim and Final Management Orders

Where a licence has not been obtained, either for an HMO or a selective licence, the Council may, at its discretion, apply to take over the management of the property for an appropriate period of time, or use a managing agent. This provision is detailed under Part 4 of the Housing Act 2004 but would only be used as a last resort and with approval by a senior manager.

7.3.1 Interim Management Order

An interim management order (IMO) is made for the purpose of securing any action that the Council considers necessary, to protect the health, safety and welfare of the occupants. There are specific circumstances when the Council have a statutory duty to make an IMO on a licensable property (under Part 2 or Part 3 of the Act) including:

- Where a property that should be licensed but is not so licensed, and there is no reasonable prospect of it becoming licensed in the near future;
- When a property that should be licensed but is not so licensed, there are serious health, safety or welfare concerns that cannot be dealt with adequately by using the statutory powers available under Part 1 of the Act (e.g. Improvement Notices);

- When the Council have revoked the licence from a licensable property and there will be no reasonable prospect of it becoming licensed again in the near future;
- When the Council have revoked the licence on a property and there will be (on the revocation date) serious health, safety or welfare concerns that cannot be dealt with adequate

An IMO cannot last for more than 12 months.

7.3.2 **Final Management Order (FMO)**

Final management orders (FMOs) are orders which may only be made after the making of an IMO. FMOs are similar to IMOs, but provide for a longer-term solution and can be in place for up to five years. An FMO must include a "management scheme" that sets out how the Council would manage the property while the FMO is in place. A management scheme must be in two parts, including:

- Part 1 of the scheme must contain a plan giving details of the way in which the Council proposes to manage the house.
- Part 2 must describe, in general terms, how the Council intends to address the matters which caused them to make the FMO.

Under an FMO, the Council has the power to issue assured shorthold tenancies without obtaining permission from the landlord.

An FMO cannot last for more than five years.

8. Management Regulations

The Management of Houses in Multiple Occupation (England) Regulations 2006 impose duties on the persons managing HMOs in respect of:

- Providing information to occupiers (Regulation 3)
- Taking safety measures, including fire safety measures (Regulation 4)
- Maintaining the water supply and drainage (Regulation 5)
- Supplying and maintaining gas and electricity, including having these services/appliances regularly inspected (Regulation 6)
- Maintaining common parts (Regulation 7)
- Maintaining living accommodation (Regulation 8)
- Providing sufficient waste disposal facilities (Regulation 9)

If the person managing the HMO fails to comply with these regulations the Council can either serve a civil penalty notice (see 15.4) or prosecute them (see 15.5).

9. The Smoke Alarm and Carbon Monoxide (England) Regulations 2015

The regulations impose obligations upon landlords to ensure that tenanted properties are provided with smoke alarms and carbon monoxide alarms. See Appendix II.

10. The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020

These regulations require all landlords to have the electrical installations in their properties inspected and tested by a qualified person at least every 5 years. They must obtain a report from the qualified person and provide a copy of this to their tenants, and to the local Council if requested.

Social landlords must also have the electrical equipment that they provide under the tenancy checked by a qualified person at least every 5 years. They must provide a copy of the record to their tenants, and to the local Council if requested.

11. Rent repayment orders

Part 2 of the Housing and Planning Act 2016 permits the Council to seek a Rent Repayment Order at the First Tier Tribunal Property Chamber to require the landlord of the property where the offence(s) has been committed to refund rent to the

tenants or the Council. S48 of the Housing and Planning Act 2016 places a duty on the Council to consider applying for Rent Repayment Orders.

Where a landlord has been convicted or received a Civil Financial Penalty in respect of the offence, the Tribunal must award the maximum applicable amount, except in exceptional circumstances.

This power will be considered in response to all qualifying offences and where there is sufficient evidence for a successful application to the First Tier Tribunal.

The qualifying offences are:

Unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997

- Failure to comply with an Improvement Notice [s30 Housing Act 2004]
- Offences in relation to unlicensed HMOs [s72(1) Housing Act 2004]
- Offences in relation to unlicensed houses [s95(1) Housing Act 2004]
- Failure to comply with an Improvement Notice [s30(1) Housing Act 2004]
- Failure to comply with a Prohibition Order [s32(1) Housing Act 2004]
- Breach of a Banning Order [s21 Housing and Planning Act 2016]
- Using Violence to secure entry [s6(1) Criminal Law Act 1977]
- Knowingly or recklessly misusing a possession ground [s16J(1) Housing Act 1988]
- Letting or marketing of a property within twelve months of using the 'moving in' or 'selling' ground of eviction [s16J(2) Housing Act 1988]
- Continuous breach of certain tenancy reform requirements [s16J(3) Housing Act 1988]

An application for an RRO may be in addition to other formal action, such as prosecution proceedings or the imposition of a Civil Penalty. Where the Council has issued a Civil Financial Penalty or pursued prosecution, it will usually apply for a Rent

Repayment Order where public funds have been paid to a landlord who has committed a qualifying offence.

S49 of the Housing and Planning Act 2016 enables the Council to assist tenants in applying for Rent Repayment Orders. The Council will usually assist tenants by referring or signposting them to a relevant organisation.

12. Banning orders

Part 2, Chapter 2 of the Housing and Planning Act 2016 permits a Council to apply for a Banning Order against a person who has been convicted of one or more of the relevant offences. This would prevent the landlord from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

The Council may consider a Banning Order for the more serious offenders. It will take into account the seriousness of the offence(s), whether the landlord has committed other offences (or received any Civil Penalty in relation to a Banning Order offence) and any history of failing to comply with their obligations or legal responsibilities. It will also take into account other relevant factors, including but not limited to:

- The harm, or potential harm, caused to the tenant;
- The need to punish the offender;
- The need to deter the offender from repeating the offence;
- The need to deter others from committing similar offences.

Costs and Charges

The Council incurs costs in carrying out its functions. Where legislation allows, the Council will seek to recover reasonable costs and expenses associated with its enforcement, licensing and wider regulatory activity. This may include (non-exhaustively) costs arising from inspections, investigation, evidence gathering,

notices and other statutory documentation, follow-up action, compliance monitoring, and works or other interventions.

Recovery may be pursued using all available lawful routes, which may include civil action, local land charges, and enforcement against the property.

Where permitted, interest may be applied to outstanding sums until paid.

13. Renters' Rights Act 2025

13.1. Local Authority Enforcement Duties

Currently there are powers available to local authorities to enforce various legislation relating to illegal evictions and other enforcement. Chapter 2 of the Renters' Rights Act 2025 updates this so that it becomes a duty on the local authority to enforce the landlord legislation in its area. This section relates to:

- Discrimination in the Rental Market
- Rental Bidding and advertisement of rent
- Landlord redress scheme
- Illegal evictions

There is an option to initially work informally. However, the legislation states where the Council is satisfied beyond reasonable doubt that a landlord or person acting on their behalf has committed a breach or offence, the Council must issue a civil penalty notice or start prosecution proceedings.

Where the evidential threshold of "beyond reasonable doubt" has not yet been met, the Council may continue to investigate the matter further or seek to resolve the issue informally before determining whether formal enforcement action is required.

13.2. The Council will initially work with landlords informally to resolve the issue. However, depending on the severity and previous history the Council may proceed straight to formal action. Decisions will be taken on a case by case basis having reference to 15.4 and 15.5

13.3. PRS Database

The Renters' Rights Act will introduce a new Private Rented Sector Database, that will be administered by Central Government. All landlords of assured and regulated tenancies will be legally required to register themselves and their properties on the database.

Local authorities will have full access to this database to identify privately rented properties in their Borough.

Tenants and members of the public will have limited access to the database but will be able to confirm that their property is registered on the database.

If a landlord lets or advertises a property without it first being registered on the database, they can be issued with a civil penalty of up to £7,000 by the Council. If a landlord repeatedly breaches the requirement, or if they commit a serious offence such as providing fraudulent information to the database, they may be issued with a civil penalty of up to £40,000 or could face criminal prosecution.

Landlords will pay a fee to register their property, and the fee will cover the cost of the administration and enforcement of the database.

Additional legislation will need to be passed but the intention is that it will be mandatory by the end of 2026 for landlords to sign up to the database. The Enforcement Policy will be amended to reflect these changes.

13.4. Private Rented Sector Landlord Ombudsman

A new Private Rented Sector Landlord Ombudsman Service will be introduced, which all private landlords in England with assured or regulated tenancies will be required by law to join, including those who use a managing agent.

It is expected that landlords will be required to sign up to this from 2028. The Council will be able to act against landlords who fail to join, or against anyone who markets a PRS property where the landlord is not registered. This will include civil penalties of up to £7,000 for initial breaches and up to £40,000 or criminal prosecution for continuing or repeated breaches. Tenants will be able to seek rent repayment orders against their landlord if the landlord commits an offence by persistently failing to join the ombudsman service.

The Councils' main duties will be around enforcement for failing to join. Additional legislation will need to be passed before these provisions come into force. The Enforcement Policy will be amended to reflect these changes.

14. Other Relevant Legislative Requirements

There are a wide range of other legislative provisions available to the Council that that enable it to regulate housing standards, assist in tackling empty homes and resolving other public health issues.

This includes but is not confined to:

- The Public Health Act 1936
- The Prevention of Damage by Pests Act 1949
- The Local Government Miscellaneous Provisions Act 1976 and 1982

- The Building Act 1984
- The Housing Act 1985
- The Environmental Protection Act 1990
- Town and Country Planning Act 1990
- Anti-Social Behaviour Crime And Policing Act 2014
- The Housing and Planning Act 2016

The Council will also make use of any future legislative provisions relevant to the regulation of housing standards, empty property enforcement and public health issues.

When dealing with non-Housing Act 2004 and Renter's Rights Act 2025 issues, the Council's approach to dealing with these issues will be decided in line with the points made in 1.1 and it applies to all types of tenure. After serving a notice under the relevant legislation, the enforcement options would be considered in 15 on a case-by-case basis.

15. Enforcement options

15.1. There are a range of options available to the Council for non-compliance with statutory, notices, orders and other enforcement action. The Council may take one or more of the following courses of action. For the avoidance of doubt, the taking of one course of action does not prejudice the council from taking other actions.

- A written warning.
- Works in default
- Prosecution.
- The imposition of a civil penalty.
- Refusal or revocation of a licence and/or the granting of a shorter licence period
- Rent repayment orders
- Management orders
- Civil proceedings including applications for an injunction

15.2. Works in default

In situations where a landlord or owner fails to comply with a formal notice including a civil penalty notice requiring remedial works, the Council may undertake the work in default of the owner. The Council will then take steps to recover any costs incurred and will also add a works in default fee to the total cost of the works.

This power may be exercised in addition to any prosecution proceedings.

The Council has no duty to undertake works in default and it will be at its discretion.

15.3. Civil Penalty Notices

The Council may serve notices imposing civil penalties as an alternative to prosecution, of up to a maximum of £40,000 in respect of the following offences:

- unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997
- failure to give a written statement of terms under section 16D of the Housing Act 1988
- failure to give an existing tenant information about changes made by the Renters' Rights Act under paragraph 7(2) of schedule 6 to the Renters' Rights Act 2025
- attempting to let a property for a fixed term under section 16E of the Housing Act 1988
- attempting to end a tenancy orally or by service of a notice to quit under section 16E of the Housing Act 1988
- serving an eviction notice that attempts to end a tenancy outside the prescribed section 8 process under section 16E of the Housing Act 1988
- relying on a ground where the person does not reasonably believe that the landlord is/will be able to obtain possession under section 16E of the Housing Act 1988
- relying on a ground knowing the landlord would not be able to obtain possession or being reckless as to whether they would under section 16J of the Housing Act 1988
- failing to provide a tenant with prior notice that a ground which requires it may be used under section 16E of the Housing Act 1988
- reletting or remarketing a property before expiry of the 12 month no-let period after using the moving and selling grounds under sections 16E and 16J of the Housing Act 1988
- failure to comply with an Improvement Notice under section 30 of the Housing Act 2004
- offences in relation to licensing of houses in multiple occupation (HMOs) under section 72 of the Housing Act 2004
- offences in relation to licensing of other houses under section 95 of the Housing Act 2004

- contravention of an overcrowding notice under section 139 of the Housing Act 2004
- failure to comply with management regulations in respect of houses in multiple occupation under section 234 of the Housing Act 2004
- breach of a banning order under section 21 of the Housing and Planning Act 2016
- discriminating against prospective tenants during the letting process on the grounds that those tenants are in receipt of benefits or have children under sections 33 and 34 of the Renters' Rights Act 2025
- marketing a letting without stating the proposed rent under section 56 of the Renters' Rights Act 2025
- inviting or encouraging any person to offer to pay an amount of rent under the proposed letting that exceeds the stated rent under section 56 of the Renters' Rights Act 2025
- accepting an offer from any person to pay an amount of rent under the proposed letting that exceeds the stated rent under section 56 of the Renters' Rights Act 2025

The Council will determine, on a case by case basis, whether to instigate prosecution proceedings or to serve a civil penalty in respect of any of the offences listed above.

Examples of situations in which a decision to prosecute would normally be taken include:

- For what are judged to be particularly serious offences
- Where the offender has committed similar offences in the past

In circumstances where the Council has determined that it would be appropriate to issue a civil penalty as an alternative to prosecution, the level of the penalty would be calculated having regard to the matrix set out in Appendix I – civil penalty notices.

13.4 Prosecution

The Council intends to use the new Civil Penalty Notices powers for the offences detailed in 15.3 but will also consider prosecutions depending on the factors below. For other offences where Civil Penalty Notices cannot be used and the alleged offence is serious enough, prosecution may be necessary and will be assessed based on the factors set out below.

The following factors will be taken into account:

- The seriousness of the offence.
- The previous history of the party concerned.

- The willingness of the party to prevent a recurrence of the problem.
- Whether the issuing of a simple caution would be more appropriate or effective.
- Whether the offence was committed deliberately, any evidence of obstruction of the officers in their lawful duty or of the investigation.
- Financial considerations - the benefit obtained from the alleged offences(s).

13.5 Recovery of debts

Where charges for enforcement action are levied and where the legislation allows, they will be registered as a local land charge against the owner's property and may also be pursued as simple debts through the civil courts. In the case of a local land charge, or a charge secured on property as a result of taking proceedings, when the property is sold the secured debt has to be repaid including any interest accrued on the initial charge. The Council will vigorously pursue all debts owed to it as a result of enforcement charges or charges for carrying out works in default (as well as any other charges).

16. Rogue Landlord Database

16.1. Ministry of Housing, Communities and Local Government Database

The Housing and Planning Act 2016 ("the Act") introduced measures to establish and operate a database of rogue landlords and property agents.

Local housing authorities in England are responsible for maintaining the content of the database. They must make an entry on the database for a person or organisation who has received a banning order.

The Council may make an entry on the database in respect of a person who has:

- been convicted of a banning order offence that was committed at a time when the person was a residential landlord or property agent; and/or
- received two or more financial penalties in respect of a banning order offence within a period of 12 months committed at a time when the person was a residential landlord or a property agent.

In cases where the Council exercises its discretion to make an entry onto the database it will issue a decision notice before making an entry, specifying the period for which the entry will be maintained.

The Council will have regard to the following criteria when deciding the period to specify in a decision notice:

- Severity of offence.
- Mitigating factors.
- Culpability and serial offending

- Deter the offender from repeating the offence.

16.2. Greater London Authority Rogue Landlord Database

The GLA has launched a Rogue Landlord database that will name and shame landlord and letting agents who have been successfully prosecuted or have faced civil enforcement action for housing offences. All London Boroughs and the London Fire Brigade have signed up to the database.

The council intends to add details of all successful prosecutions and civil penalty notices to the database.

17. Background Papers

Key legislation and guidance in relating to housing enforcement and London Borough of Bexley key decision and supporting documents on Licensing Private Renting (Decision reference CAB17-17/18).

- Cabinet Report 10th April 2018 – Rent it Right (Licensing Private Renting). London Borough of Bexley, decision reference CAB17-17/18 key decision on Licensing Private Renting.
- Housing Act 2004.
- Housing Health and Safety Rating System – Operating Guidance. Published 27th February 2006 by Ministry of Housing, Communities and Local Government.
- Housing Health and Safety Rating System – Enforcement Guidance. Published 23rd August 2006 by Ministry of Housing, Communities and Local Government.
- Smoke Alarm and Carbon Monoxide (England) Regulations 2015.
- The Housing and Planning Act 2016.
- The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018.
- Civil penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities. Published 6th April 2017 and updated on the 6th April 2018 by Ministry of Housing, Communities and Local Government.
- Banning Order Offences under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities. Published 6th April 2018 by Ministry of Housing, Communities and Local Government. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697643/Banning_order_guidance.pdf
- Banning orders for landlords and property agents under the Housing and Planning Act 2016 - Guidance for local housing authorities Published 6 April 2018 Ministry of Housing, Communities & Local Government

- Rent repayment orders under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities. Published 6th April 2017 by Ministry of Housing, Communities and Local Government.

  https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/606654/Rent_Repayment_Orders_guidance.pdf

- Database of rogue landlords and property agents under the Housing and Planning Act 2016. Statutory guidance for Local Housing Authorities. Published 6th April 2018 by Ministry of Housing, Communities and Local Government.

  https://www.gov.uk/government/publications/database-of-rogue-landlords-and-property-agents-under-the-housing-and-planning-act-2016

- The Code for Crown prosecutors. Issued by the Director of Public Prosecutions (DPP). Published January 2013.
  https://www.cps.gov.uk/sites/default/files/documents/publications/code_2013_accessible_english.pdf

- The Regulators Compliance Code. Issued by the Office for Product Safety & Standards. Published on the 6th April 2014

  https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

- Civil Penalties under the Renters' Rights Act 2025 and other Housing Legislation

  Civil penalties under the Renters' Rights Act 2025 and other housing legislation - GOV.UK

Appendix I

Civil Penalty Notices

1.1. Introduction

The Council may serve notices imposing Civil Penalties (CP) as an alternative to prosecution, of up to a maximum of £40,000. The maximum amount varies according to the offence. Civil Penalty Notices may be issued for the following offences:

- unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997
- failure to give a written statement of terms under section 16D of the Housing Act 1988
- failure to give an existing tenant information about changes made by the Renters' Rights Act under paragraph 7(2) of schedule 6 to the Renters' Rights Act 2025
- attempting to let a property for a fixed term under section 16E of the Housing Act 1988
- attempting to end a tenancy orally or by service of a notice to quit under section 16E of the Housing Act 1988
- serving an eviction notice that attempts to end a tenancy outside the prescribed section 8 process under section 16E of the Housing Act 1988
- relying on a ground where the person does not reasonably believe that the landlord is/will be able to obtain possession under section 16E of the Housing Act 1988
- relying on a ground knowing the landlord would not be able to obtain possession or being reckless as to whether they would under section 16J of the Housing Act 1988
- failing to provide a tenant with prior notice that a ground which requires it may be used under section 16E of the Housing Act 1988
- reletting or remarketing a property before expiry of the 12 month no-let period after using the moving and selling grounds under sections 16E and 16J of the Housing Act 1988
- failure to comply with an Improvement Notice under section 30 of the Housing Act 2004
- offences in relation to licensing of houses in multiple occupation (HMOs) under section 72 of the Housing Act 2004
- offences in relation to licensing of other houses under section 95 of the Housing Act 2004

- contravention of an overcrowding notice under section 139 of the Housing Act 2004
- failure to comply with management regulations in respect of houses in multiple occupation under section 234 of the Housing Act 2004
- breach of a banning order under section 21 of the Housing and Planning Act 2016
- discriminating against prospective tenants during the letting process on the grounds that those tenants are in receipt of benefits or have children under sections 33 and 34 of the Renters' Rights Act 2025
- marketing a letting without stating the proposed rent under section 56 of the Renters' Rights Act 2025
- inviting or encouraging any person to offer to pay an amount of rent under the proposed letting that exceeds the stated rent under section 56 of the Renters' Rights Act 2025
- accepting an offer from any person to pay an amount of rent under the proposed letting that exceeds the stated rent under section 56 of the Renters' Rights Act 2025

The legislation does not permit local authorities to impose a civil penalty and prosecute for the same offence. If a person has been convicted (or acquitted) or is currently being prosecuted, the local authority cannot impose a civil penalty in respect of the same offence. Conversely, if a civil penalty has been imposed, a person cannot then be convicted for the same offence

Examples of situations in which a decision to prosecute would normally be taken include:

- For what are judged to be particularly serious offences
- Where the offender has committed similar offences in the past

In circumstances where the Council has determined that it would be appropriate to issue a civil penalty as an alternative to prosecution, the level of the penalty will be calculated having regard to the matrix set out further in this appendix.

The maximum civil penalty is £7,000 for breaches and £40,000 for offences. This is set out in the various legislation. There is no statutory minimum penalty. The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord's previous record of offending. The Council needs to ensure that the penalty constitutes an adequate punishment and deterrent.

Local housing authorities should consider the following factors to help ensure that the civil penalty is set at an appropriate level:

- **Severity of the offence**.

  The more serious the offence, the higher the penalty should be.

- **Culpability and track record of the offender**.

  A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.

- **The harm caused to the tenant**.

  This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.

  The offence to be assessed against the degree of potential or actual harm caused, both to individual tenant and more widely

- **Punishment of the offender**.

  A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.

- **Deter the offender from repeating the offence**.

  The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

- **Deter others from committing similar offences**.

  While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that:

  (a) The local housing authority is proactive in levying civil penalties. Where the need to do so exists and (b) That the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.

- **Remove any financial benefit the offender may have obtained as a result of committing the offence**.

  The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

The process for determining the penalty involves consideration of three stages.

These consider the statutory guidance in that the Fixed Penalty (FP) should reflect: the severity of the offence, the culpability and track record of the offender, the harm caused to the tenant, ensure the punishment of the offender, to need to deter the offender from repeating the offence, the need to deter others from committing similar offences and any financial benefit the offender has from offending.

2. Legal process

Notice of intent

After the financial penalty has been calculated by the officer, it will be checked by a manager prior to it being passed for processing. A checklist will be completed and kept on file

The Council will then give the person a notice of its proposal ('notice of intent') to impose a financial penalty to the landlord in question. The notice must be served within six months of the last day on which the Council has evidence of the offence occurring.

The notice of intent will set out:

- The amount of the proposed financial penalty;
- The reasons for proposing to impose the penalty; and
- Information about the right of the landlord to make representations

The notice of intent must be given no later than 6 months after the local housing authority has sufficient evidence of the conduct to which the penalty relates or at any time when the conduct is continuing.

Representation Period

A person who is given a notice of intent may make written representations to the Council about the intention to impose a financial penalty. All representations from landlords will be considered by an appropriate senior colleague.

Any representations must be made within 28 days from when the notice was given.

Written responses will be provided to all representations made by the recipients of a notice of intent. No other parties have an automatic right to make representations but if any are received, they will be considered on a case by case basis and responded to where the Council considers it necessary.

At the end of the period for representations, the Council will then decide whether to impose a penalty and, if so, the amount of the penalty.

Final Notice

If the local housing authority decides to impose a financial penalty, it must give the person a notice ('final notice') requiring that the penalty is paid within 28 days.

The final notice must set out:

- The amount of the financial penalty
- The reasons for imposing the penalty
- Information about how to pay the penalty
- The period for payment of the penalty (28 days)
- Information about rights of appeal; and
- The consequences of failure to comply with the notice.

The period of payment for the civil penalty must be 28 days beginning with the day after that on which the notice was given.

Withdrawing or amending notices

At any time, the Council may withdraw a notice of intent or a final notice or reduce the amount of a civil penalty. This is done by giving notice in writing to the person on whom the notice was served.

Where a civil penalty has been withdrawn, and there is a public interest in doing so, the Council can still pursue a prosecution against the landlord for the conduct for which the penalty was originally imposed. Each case will be considered on a case by case basis.

Appeals to the tribunal

On receipt of a final notice imposing a financial penalty a landlord can appeal to the First tier Tribunal against the decision to impose a penalty and/or the amount of the penalty. The appeal must be made within 28 days of the date the final notice was issued. The final notice is suspended until the appeal is determined or withdrawn.

Other consequences of having a Civil Penalty imposed

Where a civil penalty has been imposed on a landlord, this will form a part of the Council's consideration when reviewing licence applications for properties in which they have some involvement. This includes licences under Part 2 or Part 3 of the Housing Act 2004.

Whilst a civil penalty will not automatically preclude the Council from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person's involvement in the property will be considered.

3. Civil Penalties Matrix

In determining the level of a civil penalty, officers will have regard to the matrix set out, which is to be read in conjunction with the associated guidance. The matrix consists of the following sequential steps:

- Determining the starting point based on the seriousness of the breach or offence.
- Adjustment for factors relating to the type of landlord; size and type of portfolio controlled, owned or managed; experience of the landlord ("Landlord Type")
- Mitigating and aggravating factors the Council deems significant including, but not limited to, factors relating to the track record and culpability of the landlord and the actual or potential harm to the occupants.
- Financial considerations.
- Applying the totality principle.

3.1. Starting point based of seriousness of the breach or offence

The Ministry of Housing, Communities & Local Government has provided statutory guidance that prescribes starting points for all breaches and offences based on the seriousness of the breach or offence.

https://www.gov.uk/government/publications/civil-penalties-under-the-renters-rights-act-2025-and-other-housing-legislation/civil-penalties-under-the-renters-rights-act-2025-and-other-housing-legislation

The exception to this prescription is for breaches of licensing conditions under sections 72(3) and 95(2) of the Housing Act 2004, where the Council has determined its own starting levels based on the seriousness of the specific licence condition or type of licence condition that has not been complied with.

The matrix is intended to provide indicative 'starting level' under the various offence categories, the starting level with the final level of the civil penalty adjusted in each case, taking into account aggravating and mitigating factors the Council deems significant including, but not limited to, factors relating to the track record and culpability of the landlord and the actual or potential harm to the occupants.

3.2. Adjustment for factors relating to the type of landlord; size and type of portfolio controlled, owned or managed; experience of the landlord ("Landlord Type")

While all landlords are expected to comply fully with their legal obligations, the Council considers that a higher standard of professionalism and regulatory awareness is reasonably expected of landlords who operate at greater scale, who have greater experience, or who are involved in more complex forms of

letting. Where such landlords fail to comply with their obligations, this will ordinarily justify a higher civil penalty.

In particular, a higher degree of professionalism is expected of landlords who:

- Control, own, or manage a significant portfolio of properties;
- Have significant experience in the letting or management of property;
- Are or have been involved in the letting or management of Houses in Multiple Occupation (HMOs);
- Are corporate landlords; or
- Are or have been directors of corporate landlords.

An upward adjustment of 20% of the applicable starting point will be applied where the landlord meets any one or more of the following criteria:

- The landlord has, at any point in time, controlled, owned, or managed six or more properties. These properties need not have been held concurrently or at the time civil penalty proceedings are brought.
- The landlord has, at any point in time, controlled, owned, or managed three or more
- properties that operated as HMOs, whether or not concurrently.
- The landlord is, or has previously been, a director of a corporate landlord.
- The landlord is a corporate landlord.
- The landlord has, in the Council's assessment and by reference to the available evidence, significant experience in the letting or management of property.

A downward adjustment of 20% of the applicable starting point will be applied only where all of the following criteria are met:

- The landlord has, at any point in time, controlled, owned, or managed no more than two properties.
- The landlord has controlled, owned, or managed no more than one property that has operated as an HMO, at any point in time.
- The landlord has, in the Council's assessment and by reference to the available evidence, very limited experience in the letting or management of property.

3.3. Mitigating and aggravating factors

These are factors the Council deems significant including, but not limited to, factors relating to the track record and culpability of the landlord and the actual or potential harm to the occupants.

To promote fairness and consistency in the administration of civil penalties, the Council will apply a structured and consistent framework when determining the extent to which mitigating and aggravating factors affect the quantum of any civil penalty.

General approach

Each breach or offence may have offence-specific mitigating and/or aggravating factors, which will be considered alongside the generic factors set out below.

Where multiple civil penalties are issued under this policy against the same landlord at the same time, and except where expressly stated otherwise, mitigating and aggravating factors will be considered and applied separately to each civil penalty when determining the quantum of each penalty.

Mitigating factors

The Council may reduce the level of a civil penalty by up to 20% of the applicable starting point to reflect the presence of mitigating factors.

Only in exceptional circumstances may the Council depart from the application of this policy in respect of mitigating factors and apply a reduction in excess of 20%. Exceptional circumstances are rare and unusual and are not established merely by the presence of multiple mitigating factors.

Within the framework of this policy, the Council has not sought to provide an exhaustive list of mitigating factors, recognising that a wide range of circumstances may potentially give rise to mitigation. However, the following generic mitigating factors will be considered in respect of each breach or offence:

Steps taken to remedy the basis of the breach or offence

Non-exhaustive examples include:

- Promptly remedying all elements of the breach or offence afer receiving communication from the Council.
- Promptly remedying all the significant elements of the breach or offence leaving only less significant elements of the breach or offence.

A high level of cooperation

Non-exhaustive examples include:

- Proactive provision of significant information the Council reasonably considers relevant beyond that required by statutory notice.

Acceptance of liability

Non-exhaustive examples include:

- Accepting liability before or within the period for representations.

Where a landlord relies on a reasonable excuse defence or otherwise contests liability, this mitigating factor will not usually apply.

Health circumstances

Non-exhaustive examples include:

- A serious health condition or medical incident experienced by the landlord during, or in the period immediately preceding, the breach or offence, where there is clear and reliable evidence that the condition had a direct and material impact on the landlord's ability to comply with the relevant legal obligation. Examples may include, but are not limited to, a heart attack, stroke, cancer diagnosis, or other acute or serious medical event causing significant incapacity or impairment.

Diminished culpability (limited responsibility)

Non-exhaustive examples include:

- A joint landlord who has evidenced that compliance arrangements for the subject property were directed and controlled by another joint landlord, and not by them.
- A landlord who became involved only after an unforeseen change in circumstances (such as the death of the previous landlord) and who committed the breach or offence only for a limited period while pushing their affairs in order.

The instruction of a managing or letting agent, or reliance on an agent's actions or omissions, will not of itself constitute diminished culpability.

Aggravating factors

The Council may increase the level of a civil penalty by up to 20% of the applicable starting point to reflect the presence of aggravating factors.

Only in exceptional circumstances may the Council depart from the application of this policy in respect of aggravating factors and apply an increase in excess of 20%. Exceptional circumstances are rare and unusual and are not established merely by the presence of multiple aggravating factors.

The following generic aggravating factors will be considered in respect of each breach or offence:

Previous history of non-compliance.

Non-exhaustive examples include:

- Previous successful prosecutions (including relevant spent convictions), previous civil penalties, previous rent repayment orders, previous works in default, previous simple cautions.

Concurrent investigations or proceedings relating to other civil penalties, prosecutions, or rent repayment orders will not be treated as previous non-compliance.

Non-cooperation with the Council.

Non-exhaustive examples include:

- Failure to comply with notices issued under section 16 of the Local Government (Miscellaneous Provisions) Act 1976, section 235 of the Housing Act 2004, or section 114 of the Renters' Rights Act 2025.
- Failing to provide a substantive response to a le□er of alleged offence.
- Failing to attend previously agreed meetings.

Where the Council has prosecuted, or is pursuing a prosecution, in respect of the same act or omission involving failure to provide legally required information (including failure to comply with a statutory notice), that conduct will not also be treated as an aggravating factor for the purposes of seeing the civil penalty, in order to avoid double counting.

Where multiple civil penalties are imposed against the same landlord at the same time, this aggravating factor will be applied only to the civil penalty with the highest starting point, unless there is a clear and reasoned basis for applying it differently.

Deliberate intent or negligence when committing the offence.

Non-exhaustive examples include:

- Knowledge that the breach or offence was occurring.
- Continuation of offending after communication from the Council.
- Premeditation or planning, including steps taken to prevent detection or effective investigation.
- Providing false or misleading information to the Council.
- Applying pressure to occupants to deter cooperation with the Council.

The number of occupants affected.

Non-exhaustive examples include:

- **3-5 occupants affected.**

Duration of non-compliance.

Non-exhaustive examples include:

- The offence or breach occurred over a 3–6 month period.

Vulnerability of occupants

Non-exhaustive examples include children and young adults, persons vulnerable by reason of age, disability or sensory impairment, persons with drug or alcohol dependency, victims of domestic abuse, children in care, persons with complex health needs, persons who do not speak English as a first language, victims of trafficking or sexual exploitation, refugees, asylum seekers, and pregnant women.

Financial considerations

The Council will review the quantum of the civil penalty and consider whether it is sufficient to act as an effective deterrent to future non-compliance. Where the Council has evidence that it considers to be sufficiently reliable regarding rental income and/or asset value from the landlord's, it may determine that an increase in the level of the penalty is appropriate in order to achieve effective deterrence.

It is essential that, as an absolute minimum, landlords do not financially benefit from their offending behaviour.

Financial circumstances will ordinarily be considered after any written representations have been received and as part of the determination of any final notice.

Where a landlord seeks to rely on a strained or limited financial position as a basis for reducing the level of a civil penalty, that position must be supported

by appropriate and verifiable evidence sufficient to enable the Council to assess the landlord's financial position consistently, objectively, and transparently. Unsupported assertions, partial disclosure, or selective provision of information will not be given weight.

At a minimum, and where such information exists, the following should be provided as part of any written representations:

- The last three full tax years full self-assessment tax returns filed with HMRC, including all additional and supplemental pages;
- The last three full tax years' SA302 documents & tax year overviews;
- The last three months' payslips;
- The last three years P60 certificates;
- The last twelve months' Universal Credit payment statements;
- A list of all property assets owned or jointly owned (not limited to rental properties), together with corresponding Land Registry title documents;
- A list of all property assets owned, or held on a long lease, by any corporate entity in which the landlord has a beneficial interest, together with corresponding Land Registry documentation;
- The most recent annual mortgage statement for each property, or the last twelve months' mortgage statements where the mortgage has been in place for less than twelve months;
- Valuation statements for all ISAs held;
- Statements from any cryptoasset exchange accounts showing balances and valuations;
- A list of all shareholdings;
- Recent bank statements for any account holding a balance in excess of £5,000;
- Recent statements for all secured and unsecured loans;
- Bankruptcy orders and official notifications of bankruptcy.

Where the Council is not satisfied that it has been provided with sufficiently reliable, complete, and accurate information to assess the landlord's financial position, the Council may draw the inference that the landlord is able to pay the civil penalty as imposed.

A claimed inability to pay will not, of itself, outweigh the need to ensure effective deterrence or to remove any financial benefit obtained as a result of the breach or offence.

Any financial information provided to the Council for the purposes of determining the appropriate level of civil penalty will be processed in accordance with data protection legislation and will be used solely for the purposes of determining the level of penalty and associated enforcement action.

3.4. The totality principle

The Council will have regard to the totality principle to ensure that the overall outcome of its enforcement action is just and proportionate. In exceptional cases, and having regard to the particular circumstances of the case, the Council may take account of totality at an earlier stage by deciding not to pursue a civil penalty in respect of a specific breach or offence where doing so would render the overall outcome disproportionate.

In general, however, the application of the totality principle will form the final step in the Council's decision-making process, undertaken after any written representations have been considered and

before final notices are issued, once the level of each individual civil penalty has been assessed in accordance with this policy.

As a final step before issuing final notices, the Council will consider whether multiple civil penalties being imposed under this policy against the same landlord at the same time result in an aggregate amount that is just and proportionate. Where the Council concludes that the aggregate amount would not be just and proportionate, it will consider whether a proportionate reduction of the penalties is appropriate.

The totality principle does not operate across different legal persons who are separately liable in law, nor does it operate across civil penalties imposed at different times. In general, it applies only to multiple civil penalties imposed under this policy on the same person at the same time. Where, however, legislation provides that an officer of a body corporate, or a person concerned in its management, may be separately liable in relation to the same conduct as the body corporate, and that officer also holds a shareholding interest in the body corporate, the Council will, where civil penalties are imposed at the same time on both the body corporate and the officer arising from that same conduct, consider whether the combined outcome results in punitive duplication and is therefore not just and proportionate.

Where a reduction is applied under the totality principle, the Council will ordinarily do so by applying a uniform percentage reduction across all relevant civil penalties being issued at the same time, being those civil penalties that form part of the same totality assessment. Where, however,

the application of the totality principle is required to address punitive duplication arising from a shared economic interest between a body corporate and an officer, the Council may apply a differential adjustment to ensure that the overall outcome is just and proportionate.

This approach reflects the statutory guidance on the application of the totality principle and is intended to promote consistency, transparency, and proportionality, while avoiding arbitrary or selective adjustment of individual penalties.

In accordance with the statutory guidance, any rent repayment orders made in respect of the same breach or offence will be disregarded for the purposes of assessing the totality of civil penalties under this policy.

3.5. Offences and breaches where a civil penalty may be levied and relevant considerations as to the level of that penalty

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
Protection from Eviction Act 1977 offences					
Unlawful eviction and harassment (s1(2)and (3))	£35,000	£40,000	£28,000	£40,000	No offence mitigating factors Offence-specific aggravating factors: • Violence or threats of violence. • Disposal of possessions or threats to dispose of possessions. • Breach or evasion of an injunction or undertaking. • Loss of home
Housing Act 1988 breaches and offences					
Failing to issue a written statement of terms within 28 days of an assured tenancy coming into existence (s16D)	£4,000	£7,000	£3,200	£4,800	Offence-specific mitigating factors • Provision of some of the required terms and prescribed information within the required period. No offence-specific aggravating factors
Attempting to let a property for a fixed term - section 16E(1)(a) of the Housing Act 1988	£4,000	£7,000	£3,200	£4,800	None
Attempting to end a tenancy by service of a notice to quit - section 16E(1)(b) of the Housing Act 1988	£6,000	£7,000	£4,800	£7,000	No offence mitigating factors Offence-specific aggravating factors: • Tenant vacates property within four months of the date of vacation or equivalent specified in the notice to quit.

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
Attempting to end a tenancy orally or requiring that it is ended orally - section 16E(1)(c) of the Housing Act 1988	£6,000	£7,000	£4,800	£7,000	No offence mitigating factors Offence-specific aggravating factors: Tenant vacates property within four months of the date of vacation or equivalent specified in the notice to quit.
Serving a possession notice that attempts to end a tenancy outside the prescribed section 8 process - section 16E(1)(d) of the Housing Act 1988	£6,000	£7,000	£4,800	£7,000	No offence mitigating factors Offence-specific aggravating factors: Tenant vacates property within four months of the date of vacation or equivalent specified in the notice to quit.
Relying on a ground where the person does not reasonably believe that the landlord is, will, or may be able to obtain possession on that ground and the tenant(s) surrendered the tenancy within the period of four months beginning with the date of the contravention, without an order for possession of the dwelling-house being made - section 16E(1)(e) of the Housing Act 1988	£6,000	£7,000	£4,800	£7,000	None
Failing to provide a tenant with prior notice that a ground which requires it may be used - section 16E(1)(f) of the Housing Act 1988	£3,000	£7,000	£2,400	£3,600	None
Attempting to end a tenancy orally or requiring that it is ended orally - section 16E(1)(c) of the Housing Act 1988	£6,000	£7,000	£4,800	£7,000	No offence mitigating factors Offence-specific aggravating factors: • Tenant vacates property within four months of the date of vacation or equivalent specified in the notice to quit.

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
Serving a possession notice that attempts to end a tenancy outside the prescribed section 8 process - section 16E(1)(d) of the Housing Act 1988	£6,000	£7,000	£4,800	£7,000	No offence mitigating factors Offence-specific aggravating factors: • Tenant vacates property within four months of the date of vacation or equivalent specified in the notice to quit.
Relying on a ground where the person does not reasonably believe that the landlord is, will, or may be able to obtain possession on that ground and the tenant(s) surrendered the tenancy within the period of four months beginning with the date of the contravention, without an order for possession of the dwelling-house being made - section 16E(1)(e) of the Housing Act 1988	£6,000	£7,000	£4,800	£7,000	None
Failing to provide a tenant with prior notice that a ground which requires it may be used - section 16E(1)(f) of the Housing Act 1988	£3,000	£7,000	£2,400	£3,600	None
Failure to give an existing tenant prescribed information about changes made by the Renters' Rights Act 2025 in the prescribed form and timeframe - paragraph 7(2) of schedule 6 to the Renters' Rights Act 2025	£4,000	£7,000	£3,200	£4,800	Offence-specific mitigating factors: • Provision of some of the required prescribed information within the required period. • Provision of prescribed information but not in the prescribed form. No offence-specific aggravating factors.

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
Continuation of conduct subject to a relevant penalty (under s.16I or s.16K Housing Act 1988) after the 28-day period (or, if appealed, after conclusion of the appeal) where the final notice has not been withdrawn — section 16J(3) of the Housing Act 1988	Double the starting level for the two constituent breaches added together	Dependent on the constituent breaches	Dependent on the constituent breaches	Dependent on the constituent breaches	None
Conduct giving rise to liability under s.16I, where within the preceding five years the person has either (i) had a relevant penalty (under s.16I or s.16K Housing Act 1988) imposed for different conduct and the final notice has not been withdrawn, or (ii) been convicted under s.16J for different conduct – section 16(J)(4) of the Housing Act 1988	Double the starting level for the two constituent breaches added together	Dependent on the constituent breaches	Dependent on the constituent breaches	Dependent on the constituent breaches	Both Offence-specific mitigating factors and offence-specific aggravating factors : Dependent on the most recent conduct giving rise to liability to a civil penalty under section 16I of the Housing Act 1988.
Relying on a ground where the person knows that the landlord would not be able to obtain an order for possession on that ground, or being reckless as to whether the landlord would be able to do so and the tenant(s) surrendered the tenancy within the period of four months beginning with the date the ground was relied on, without an order for possession of the dwelling-house being made – section 16J(1) of the Housing Act 1988	£30,000	£40,000	£24,000	£36,000	None
Breach of restrictions relating to reletting (s16(E)(2) Housing Act 1988) or remarketing (s16(E)(3) Housing Act 1988) a property within restricted period after using Grounds 1 or 1A of Schedule 2 Housing Act 1988 - section 16J(2) of the Housing Act 1988	£25,000	£40,000	£20,000	£30,000	None

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
Housing and Planning Act 2016 offences					
Breach of a banning order - section 21(1) of the Housing and Planning Act 2016	£35,000	£40,000	£28,000	£35,000	Offence-specific mitigating factors: • A single, isolated incident. Offence-specific aggravating factors: • Concealment or evasion.
Renter's Rights Act 2025 breaches					
Discrimination relating to children in the lettings process – section 33(1) of the Renters' Rights Act 2025	£6,000	£7,000	£4,800	£7,000	None
Discrimination relating to benefits in the lettings process – section 34(1) of the Renters' Rights Act 2025	£6,000	£7,000	£4,800	£7,000	None
Failure to specify proposed rent within a written advertisement or offer – section 56(2) of the Renters' Rights Act 2025	£3,000	£7,000	£2,400	£3,000	None
Inviting, encouraging or accepting any offer of rent greater than the stated rate – section 56(3) of the Renters' Rights Act 2025	£4,000	£7,000	£3,200	£4,800	

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 breach of duties					
Failure to comply with The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 Regulation 3: (3)(b), (3)(d), (3)(e). Regulation 3D: (a), (b),(c), (f)	£5,000	£40,000	£4,000	£6,000	Offence-specific mitigating factors: • The report or records show evidence that the electrical installations were compliant at all points. Offence-specific aggravating factors: • The number or nature or severity of the issues observed on the report or record.
Failure to comply with The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 Regulation 3: (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (3)(ca), (5)(b), (5)(c). Regulation 3B: (1)(a), (1)(b), (1)(c). Regulation 3C: (1), (2)(a). Regulation 3D: (d), (e)	£12,500	£40,000	£10,000	£15,000	Offence-specific mitigating factors: • The report or records show evidence that the electrical installations were compliant at all points. Offence-specific aggravating factors: • The number or nature or severity of the issues observed on the report or record.
Failure to comply with The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 Regulation 3: (4), (5a), (6). Regulation 3C: (2)(b), (4)	£20,000	£40,000	£16,000	£24,000	No offence mitigating factors Offence-specific aggravating factors: • The number or nature or severity of the issues observed on the report or record.

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
Housing Act 2004 offences					
Failure to comply with an improvement notice - section 30(1) of the Housing Act 2004	£25,000	£40,000	£20,000	£30,000	Offence-specific mitigating factors: • The nature and extent of hazard(s) that are present once the deadline for compliance has passed. • Whether the property is unoccupied once the deadline for compliance has passed. • Access to the property was prevented by the actions or refusal of the occupant(s) and a landlord can evidence that they took steps to obtain access to the property for the purpose of carrying out the required works, but those steps fell short of establishing a reasonable excuse for non-compliance. Offence-specific aggravating factors: • The nature and extent of hazard(s) that are present once the deadline for compliance has passed.
Failure to comply with an overcrowding notice - section 139(7) of the Housing Act 2004	£20,000	£40,000	£16,000	£24,000	No offence specific mitigating factors Offence-specific aggravating factors: • The level of overcrowding present.

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
Failure to obtain a selective licence - section 95(1) of the Housing Act 2004	£12,000	£40,000	£9,600	£14,400	No offence specific mitigating factors Offence-specific aggravating factors: • The landlord has knowledge or experience of licensing requirements.
Failure to obtain an HMO licence - section 72(1) of the Housing Act 2004	£17,000	£40,000	£13,600	£20,400	No offence specific mitigating factors Offence-specific aggravating factors: • The landlord has knowledge or experience of licensing requirements. • The condition of the unlicensed property.
Knowingly permitting over-occupation of an HMO - section 72(2) of the Housing Act 2004	£20,000	£40,000	£16,000	£24,000	Offence-specific mitigating factors: • There are suitable amenity and space provisions in the HMO. Offence-specific aggravating factors: • The level of over-occupation present.

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
Failure to Comply with The Management of Houses in Multiple Occupation [England] Regulations 2006 and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 – section 234(3) of the Housing Act 2004 Where there are multiple breaches of a single Management Regulation at a single HMO, a single civil penalty will be imposed which will cover all the breaches of that Management Regulation. Where multiple Management Regulations have been breached at a single HMO, a separate civil penalty will be imposed for each Management Regulation that has been breached.					
Duty of manager to provide information to occupier	£3,000	£40,000	£2,400	£3,600	Offence-specific mitigating factors: • The nature and extent of offences within the specific regulation Offence-specific aggravating factors: • The nature and extent of offences within the specific regulation • The landlord has refused to provide any outstanding contact information more than 48 hours after it has been requested by an occupant or on behalf of an occupant.
Duty of manager to take safety measures	£20,000	£40,000	£16,000	£24,000	Offence-specific mitigating factors: • The nature and extent of offences within the specific regulation Offence-specific aggravating factors: • The nature and extent of offences within the specific regulation

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
Duty of manager to maintain water supply and drainage	£10,000	£40,000	£8,000	£12,000	Offence-specific mitigating factors: • The nature and extent of offences within the specific regulation Offence-specific aggravating factors: • The nature and extent of offences within the specific regulation
Duty of manager to supply and maintain gas and electricity	£12,000	£40,000	£9,600	£14,400	
Duty of manager to maintain common parts, fixtures, fittings and appliances	£7,000	£40,000	£5,600	£7,000	
Duty of manager to maintain living accommodation	£7,000	£40,000	£5,600	£8,400	
Duty to provide waste disposal facilities	£7,000	£40,000	£5,600	£8,400	Offence-specific mitigating factors: • The nature and extent of offences within the specific regulation Offence-specific aggravating factors: • The nature and extent of offences within the specific regulation • The lack of sufficient refuse and/or litter containers either inside and/or outside the property has been previously reported • The refuse and/or litter that requires disposal includes hazardous materials

Breach of licence conditions – Section 72(3) Housing Act 2004

All granted HMO licences impose a set of conditions on the licence holder. It is important that the licence holder of a licensed property complies with all imposed conditions, but the Council recognises that a failure to comply with certain licence conditions is likely to have a much bigger impact on the safety and comfort of residents than others.

The starting levels for each different type of licence condition breach is set out below based on the seriousness of the offence. Where a licence condition could be interpreted to fall within two different potential starting levels, the higher starting level will be chosen.

Where multiple licence conditions have been breached at a single property, a separate civil penalty will be imposed for each licence condition that has been breached.

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
As noted below	**£4,000**	**£40,000**	**£3,200**	**£4,800**	Offence-specific mitigating factors: • The nature and extent of the licence condition breach Offence-specific aggravating factors: • The nature and extent of the licence condition breach

Failure to comply with licence conditions related to:

- Signage or the provision of information for tenants
- Provision of written terms of occupancy for tenants
- Procedures regarding complaints
- Procedures regarding vetting of incoming tenants
- Compliance with deposit protection legislation
- The recording and provision of information regarding rent payments
- Procedures relating to rent collection
- The provision of information regarding occupancy of the property
- The provision of information regarding change of managers or licence holder details

- The provision of information related to changes in the property
- Requirements relating to the sale of the property
- Attending training courses or becoming accredited
- Requirements to hold insurance
- The provision of insurance documentation
- The provision of or obtaining of suitable references
- The provision of keys and alarm codes
- Security provisions for access to the property
- The provision of suitable means for occupiers to regulate temperature
- Carrying out items on a schedule of works not otherwise mentioned in the HMO licence conditions section of this policy, relating to non-compliance with items on a schedule of works

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
As below	£7,000	£40,000	£5,600	£8,400	Offence-specific mitigating factors: • The nature and extent of the licence condition breach Offence-specific aggravating factors: • The nature and extent of the licence condition breach
Failure to comply with licence conditions related to: • Procedures and actions regarding Inspections • Procedures regarding Repair issues • Maintenance and use of common parts (including gardens, outbuildings and property exterior) and living areas • Safeguarding occupiers and minimising disruption during works • The provision of information regarding alterations and construction works • Procedures regarding emergency issues • Waste and waste receptacles, pests, minor repairs, alterations or decoration. • Giving written notice prior to entry • Allowing access for inspections • Minimising risk of water contamination • The compliance of furnishings or furniture with fire safety regulations • Carrying out items on a schedule of works in relation to provision of mechanical extraction or electrical sockets					

<table>
<tr><th>Offence</th><th>Starting Level of Penalty Notice/ No Adjustments</th><th>Maximum Penalty Amount</th><th>Landlord Downward Adjustment</th><th>Landlord Upward Adjustment</th><th>Adjustments</th></tr>
<tr><td>As below</td><td>£12,500</td><td>£40,000</td><td>£10,000</td><td>£15,000</td><td>Offence-specific mitigating factors:
The nature and extent of the licence condition breach
Offence-specific aggravating factors:
The nature and extent of the licence condition breach</td></tr>
<tr><td colspan="6">Failure to comply with licence conditions related to:
The provision of documentation regarding energy performance certificates, fire detection and prevention, emergency lighting, carbon monoxide detection, fire risk assessments, gas installations, electric installations and appliances
Notification of legal proceedings, contraventions and other relevant information that may affect a fit and proper person status
Procedures and actions regarding ASB
Carrying out items on a schedule of works in relation to the provision of personal hygiene facilities, kitchen facilities or heating</td></tr>
<tr><td>As below</td><td>£20,000</td><td>£40,000</td><td>£16,000</td><td>£24,000</td><td>Offence-specific mitigating factors:
The nature and extent of the licence condition breach
Offence-specific aggravating factors:
The nature and extent of the licence condition breach</td></tr>
<tr><td colspan="6">Failure to comply with licence conditions related to:
Minimum floor areas
Occupancy rates and/or Occupancy of rooms or areas that are not to be used as sleeping accommodation
Limits on number of households allowed to occupy the property or part of the property</td></tr>
</table>

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
As below	£25,000	£40,000	£20,000	£30,000	Offence-specific mitigating factors: • The nature and extent of the licence condition breach Offence-specific aggravating factors: • The nature and extent of the licence condition breach
Failure to comply with licence conditions related to: • The condition or existence of smoke alarms, carbon monoxide alarms, emergency lighting, gas installations, electric installations and appliances, fire detection or other fire safety features or requirements • The provision and maintenance of safe means of escape, including requirements to keep escape routes and exits free from obstruction • Carrying out items on a schedule of works in relation to fire safety or the provision of a Carbon Monoxide detector					

Breach of licence conditions – Section 95(2) Housing Act 2004

All granted selective licences impose a set of conditions on the licence holder. It is important that the licence holder of a licensed property complies with all imposed conditions, but the Council recognises that a failure to comply with certain licence conditions is likely to have a much bigger impact on the safety and comfort of residents than others.

The starting levels for each different type of licence condition breach is set out below based on the seriousness of the offence. Where a licence condition could be interpreted to fall within two different potential starting levels, the higher starting level will be chosen.

Where multiple licence conditions have been breached at a single property, a separate civil penalty will be imposed for each licence condition that has been breached.

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
As Below	£3,000	£40,000	£2,400	£3,600	Offence-specific mitigating factors: • The nature and extent of the licence condition breach Offence-specific aggravating factors: • The nature and extent of the licence condition breach

Failure to comply with licence conditions related to:

- Signage or the provision of information for tenants
- Provision of written terms of occupancy for tenants
- Procedures regarding complaints
- Procedures regarding vetting of incoming tenants
- Compliance with deposit protection legislation
- The recording and provision of information regarding rent payments
- Procedures relating to rent collection
- The provision of information regarding occupancy of the property
- The provision of information regarding change of managers or licence holder details
- The provision of information related to changes in the property
- Requirements relating to the sale of the property
- Attending training courses
- Requirements to hold insurance
- The provision of insurance documentation

- The provision of keys and alarm codes
- Security provisions for access to the property
- The provision of suitable means for occupiers to regulate temperature
- Carrying out items on a schedule of works not otherwise mentioned in the selective licence conditions section of this policy, relating to non-compliance with items on a schedule of works

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
As Below	£5,200	£40,000	£4,200	£6,300	Offence-specific mitigating factors: • The nature and extent of the licence condition breach Offence-specific aggravating factors: • The nature and extent of the licence condition breach
Failure to comply with licence conditions related to: • Procedures and actions regarding Inspections • Procedures regarding repair issues • Maintenance and use of common parts (including gardens, outbuildings and property • exterior) and living areas • Safeguarding occupiers and minimising disruption during works • The provision of information regarding alterations and construction works, • Procedures regarding emergency issues • Waste and waste receptacles, pests, minor repairs, alterations or decoration. • Giving written notice prior to entry • Allowing access for inspections • Minimising risk of water contamination					

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
As below	£9,375	£40,000	£7,500	£11,250	Offence-specific mitigating factors: • The nature and extent of the licence condition breach Offence-specific aggravating factors: • The nature and extent of the licence condition breach
Failure to comply with licence conditions related to: • The provision of documentation regarding energy performance certificates, fire detection • and prevention, emergency lighting, carbon monoxide detection, fire risk assessments, gas • installations, electric installations and appliances • Notification of legal proceedings, contraventions and other relevant information that may • affect a fit and proper person status • Procedures and actions regarding ASB • Minimum floor areas • Occupancy rates • Occupancy of rooms that are not to be used as sleeping accommodation • Limits on number of households allowed to occupy the property or part of the property					

Offence	Starting Level of Penalty Notice/ No Adjustments	Maximum Penalty Amount	Landlord Downward Adjustment	Landlord Upward Adjustment	Adjustments
As below	£15,000	£40,000	£12,000	£18,000	Offence-specific mitigating factors: • The nature and extent of the licence condition breach Offence-specific aggravating factors: • The nature and extent of the licence condition breach
Failure to comply with licence conditions related to: • The condition or existence of smoke alarms, carbon monoxide alarms, emergency lighting, gas installations, electric installations and appliances, fire detection or other fire safety features or requirements • The provision and maintenance of safe means of escape, including requirements to keep escape routes and exits free from obstruction					

Appendix II

Carbon Monoxide and Smoke Alarm Regulations

Statement of principles

1. Introduction

The Smoke and Carbon Monoxide (England) Regulations 2015 came into force on the 1st October 2015. The Government passed the Regulations as a way of tackling the increased risk of fire deaths and carbon monoxide poisoning in the private rented sector. The Council is required under the Regulations to prepare and publish a Statement of Principles which it must follow when determining the amount of a penalty charge.

It is understood that the imposition of the maximum penalty charge, being £5,000 under the Regulations, can present an excessive financial burden however this is balanced against the risk and the fact that reasonable opportunity will have been given to the Landlord to comply prior to any penalty charge being levied. Additionally such alarms are readily available for purchase and are inexpensive, and Fire Authorities continually run schemes that provide such detectors for free. As such, it is not considered that a failure to comply cannot be based on financial or legal burden.

Government figures suggest that a person is 4 times more likely to die from a fire in a property which does not have a smoke detector in place. Additionally, the successful implementation of these regulations is estimated, in terms of smoke detectors, to prevent 231 deaths and 5,860 injuries over a 10 year period, at a benefit to the economy of £606.7 million. In terms of Carbon Monoxide it is estimated that this could result in 6-9 fewer fatalities and 306-460 fewer injuries, at a saving of £16.8 million.

The Council may revise its statement of principles at any time, but where it does so, it must publish the revised statement. The current statement of principles which is in force at the time of the commission of the offence is to be used when deciding on the amount for the penalty charge.

2. Landlord duties

The Regulations require that landlords for all let properties (some exemptions exist) ensure that:

- a smoke alarm is installed on each storey of premises where there is living accommodation
- a carbon monoxide alarm is installed in any room of premises used as living accommodation, which contained a solid fuel burning appliance.

AND for tenancies starting from 1 October 2015

- that checks are made by the landlord, or someone acting on his behalf, that the alarm(s) are in proper working order on the day the tenancy starts.

Properties subject to Part 2 or Part 3 licensing are exempt from the 2015 Regulations although compliance is achieved through an additional clause being added to the property licensing conditions.

3. Exemptions from the requirements

3.1. Social Housing

Registered providers of social housing are excluded from the requirements

3.2. Houses in multiple occupation (HMOs)

Licensed HMOs are exempt from the regulations; however, these regulations will apply to unlicensed HMOs. This is because the regulations also amend the HMO licensing requirements in the Housing Act 2004, imposing similar requirements through the HMO licensing scheme.

Part 6 will amend the conditions in Schedule 4 to the Housing Act 2004 which must be included in a licence granted or renewed on or after 1 October 2015. The amendments will mean landlords of licensed HMOs will have to ensure at least one smoke alarm is installed on every storey of their properties and a carbon monoxide alarm in any room containing a solid fuel burning appliance. A landlord of a licensed HMO will be required to keep the alarms in proper working order.

3.3. Live-in landlords

An agreement under which the occupier shares accommodation with the landlord or landlord's family is excluded.

3.4. Long leases

Leases which grant a right of occupation for 7 years or more without a break clause for either party are excluded. This type of arrangement is closer to one of home ownership than the traditional landlord / tenant relationship.

3.5. Student halls of residence

Student halls of residence are excluded from the requirements

3.6. Hostels and refuges

Hostels and refuges are excluded from the requirements

4. Enforcement Process

4.1. Remedial notice

Where the Council believes that a landlord is in breach of one or more of the duties listed in section 2, the Council must serve a Remedial Notice (RN) on the landlord under Regulation 5. This will list the remedial works required to be taken by the Landlord.

The landlord has 28 days beginning with the day on which the remedial notice is served to comply with the notice.

4.2. Penalty charge notice and remedial action

If the Landlord fails to take remedial action, within the specified timescale, a penalty charge notice ("PCN") may be issued. The penalty charge ("PC") may not exceed £5,000.00. The Regulations require the Council to carry out the works in default and can then reclaim all reasonable costs incurred by the builder and themselves in organising the works.

Where the Local Housing Authority is satisfied, on the balance of probabilities (civil standard of proof), that a landlord has not complied with a remedial notice a Penalty Charge Notice ("PCN") can be served. The option of taking a criminal prosecution in a Magistrates Court is not available. Regulation 12 (6) states that the sums received by the local authority can be used for any of its functions.

In light of the above, it is proposed that the penalty charge level set comprises two specific elements with the Regulations setting the maximum at £5,000:

- a punitive (or fine) element for failure to comply with the absolute requirement to comply with a remedial notice, and
- a "reasonable cost element" relating to costs incurred by the Council in its duties as LHA in complying with its duties to undertake the remedial works in default of the landlord.

	Level of PCN	(and) Costs	Reduction for early payment
First offence	£500	Reasonable Costs	-£150
Second offence	£2,500	Reasonable Costs	None
Third and subsequent offences	£4,500	Reasonable Costs	None

The Council has discretion to offer an early payment reduction. An early payment must be made by the landlord within 14 days. We propose that the Council will offer, in the PCN, an early payment reduction to the landlord where it is the landlord's first offence. A landlord is only entitled to the offer of one early payment reduction regardless of number of rented properties.

Reasonable costs.

The Council is able to recover its costs in complying with the remedial notice. The reasonable costs incurred by the Council could include time spent with; investigating, surveying, contacting relevant parties, administration and any remedial works (labour and materials) arranged and carried out by the Council's contractors.

The level of reasonable costs in completing the works in default is unlikely to exceed £500 in any case. With access, the installation of a smoke or carbon monoxide alarm is not time consuming and each item is in the region of £30. The current approved method for recovering works in default costs is 30% of the builders net cost. This Statement of Principles allows the option of charging the current officer hourly rate to ensure the Council recovers monies that reflect the reasonable costs employed in meeting its duties.

4.3. Review

If a landlord does not agree with a penalty charge notice, they can request to the relevant for it to be reviewed. This request must be made in writing and within the time period specified in the penalty charge notice. The Council will consider any representations made by the landlord, and decide whether to confirm, vary or withdraw the notice. The Council will consider the following when making its decision:

1. Whether the facts of the matter supported the service of the PCN
2. Whether the decision was correct having regard to the relevant laws.
3. The amount of the PC was reasonable having regard to any mitigating, aggravating or other circumstances submitted with the request for review.
4. Whether the early payment reduction has already been offered.
5. That there must be a significant factor to make an adjustment.

The council will serve a notice of its decision on the landlord.

4.4. Appeals

If the Council decides to confirm or vary a penalty charge notice, the landlord can appeal to First-tier Tribunal. Appeals should be made within 28 days from the date of the decision notice served by the Council.

If an appeal is lodged, the penalty cannot be enforced until the appeal is disposed of.

4.5. Recovery of penalty charges

If the PCN is not paid, then recovery of the PC will be pursued as laid out in the Regulations. Where landlords do make an appeal to the First-tier Tribunal, recovery will commence after the appeal period has elapsed or from when the appeal is finally determined or withdrawn.

5. Remedial works to comply with regulations

5.1. Smoke alarms

To comply with these Regulations the type of smoke alarm deemed acceptable is either a mains powered alarm or one operated with a sealed battery with a 10-year life with one fitted on each floor.

It is important to remind landlords that a full fire risk assessment should be undertaken to ensure that this level of detection meets the risk within the premises. The Council can assess risk using the Housing Act 2004 and this may require additional detection. Such circumstances include mode of occupation, nature of tenants, property layout or height of building. Freeholders may also be required to risk assess the common ways under the Regulatory Reform (Fire Safety) Order 2005.

5.2. Carbon Monoxide alarms

In order to comply with these Regulations, a carbon monoxide alarm will be installed in every room containing a solid fuel combusting appliance.