

Private Sector Housing

Enforcement Policy

Updated 2025



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

Private Sector Housing

Enforcement Policy

Introduction

The Environmental Health Department's Private Sector Housing Team aims to protect the health, safety and welfare of residents and the public, who are affected by poor housing conditions and deficient property management by,

- Seeking a behaviour change and pursuing legal punishment of those who flout the law;
- Making a fairer private rented sector (PRS) market by eliminating the financial gain or benefit from those who are non-compliant;
- Providing transparent and consistent regulation within the PRS market;
- Promoting professionalism and resilience within the PRS.

They do this by enforcing housing law, mainly in the Housing Act 2004 ("the Act"), the Housing and Planning Act 2016, Public Health Acts and other legislation.

This enforcement policy is drawn up in line with the principles of good enforcement outlined in the Enforcement Concordat, the Hampton report and with specific regard to the [Regulator's Code](#) (Legislative and Regulatory Reform Act 2006), Regulatory Enforcement and Sanctions Act 2008. This policy is specific to the enforcement action taken by the Private Sector Housing Team and takes precedence.

Enforcement action initiated by Private Sector Housing will normally be taken in accordance with this specific policy, rather than the Environmental Health Enforcement Policy. This avoids any confusion between some similar terminology used across environmental health disciplines which have different definitions and meanings.

This policy sets out the practical application of enforcement and the available powers we have at our disposal to regulate and manage non-compliance, predominantly within the private rented sector, as found in Appendix 1.

To avoid unnecessary regulatory burdens, the Council expects landlords to comply with the law and proactively manage their properties. This is to ensure that the health and welfare of tenants are protected, their properties, and activities at their properties, are not having a negative effect on the neighbourhood and compliant businesses operating in the private rented sector can operate fairly and grow economically.

Enforcement action and resources will be applied proportionally based on the seriousness of the offence/s and focused toward seeking the highest penalties for the worst offenders. This means taking legal action where we detect serious or systematic breaches of housing and public health legislation.

Where less significant breaches of the law are witnessed and/or the risk to health is lower, we will attempt to resolve problems through the signposting of complainants, possible using lesser civil legal routes or informally. This will enable economic growth for compliant businesses.

Our enforcement policy contributes to the Council's values of Putting Our Communities First, Integrity, Respect and Working Together. With the aim of making the Borough a great place to live, work and learn, to assist in the Grenfell Recovery and to make it a place where vulnerable residents are supported and the PRS is healthy, clean and safe.

How will we investigate?

When a complaint had been received, it will normally be responded to within 2 working days by an officer in the Private Sector Housing Team. The case will be allocated a case officer (CO) and they will be responsible for keeping the complainant up to date, contacting all other interested parties (landlords, residential providers, etc), they will follow reasonable lines of enquiry and investigate to obtain accurate and reliable information and evidence, to enable themselves to progress the case to conclusion.

In the first instance for most cases, service users are expected to take their own action to resolve the problem by contacting their landlord and allowing them adequate time to respond.

Leaseholder/Freeholder complaints: The Private Sector Housing Team is generally not able to respond to complaints by leaseholders requesting assistance in taking action against other leaseholders or freeholders for breach of contract or civil disputes (this includes all tenure types). We will only offer assistance in cases where there are exceptional circumstances; this may include cases where there is imminent risk to health.

Leaseholders are advised to contact; The Leasehold Advisory Service - Fleetbank House, 2-6 Salisbury Square, London, EC4Y 8JX. Telephone: 020 7832 2500. <http://www.lease-advice.org>

Residential Providers (RP) (Housing Associations) complaints. The PSH team will deal with, and enforce, Residential Providers (Housing Association) complaints in the same way as any normal private sector housing disrepair complaints.

Where the complaint is concerning the RP act or conduct outside of our powers we will try to assist wherever possible. However in these circumstances outside of PSH powers we would advise the complainant to contact the Housing Ombudsman Service (HOS) after using the RPs own internal complaints process.

The HOS details are (<https://www.housing-ombudsman.org.uk/>) on 0300 111 3000 or email to info@housing-ombudsman.org.uk written enquires to Housing Ombudsman Service, Exchange Tower, Harbour Exchange Square, London E14 9GE.

Enforcement Approach

The PSH Team's enforcement activity is guided by three key principles

Consistency: This means taking a similar approach in similar circumstances to achieve similar ends. It does not mean uniformity. Officers will take into account many factors such as the level of risk, culpability of the offender, the history of compliance and the attitude and actions of those involved.

Openness: We will explain our actions clearly, in appropriate language and discuss compliance failures or problems. A clear distinction will be made between legal requirements and advice or guidance.

Proportionality: We will endeavour to balance the punishment of an offender against the direct risks to the persons effected, the effect on the wider community and severity of the breach of the law involved, in order to deter offenders from repeating the offence and discouraging others from committing similar offences.

The Private Sector Housing Team (PSH Team) will operate in a supportive 'light touch' manner for compliant landlords, owners, agents and tenants. We will endeavour to provide general information, advice and guidance to make it easier for landlords to understand and meet their regulatory obligations. Our enforcement focus will be on those who are non-compliant. We will use data from various sources, such as complaints, licensing audits and historical data to target our interventions.

Where property defects and evidence of poor management are identified and are likely to significantly impact on health, the PSH Team will take action. We will also take action where information is not provided or misleading information is given and when fraud is uncovered. A significant health impact is related to the existence of Category 1 hazards, statutory nuisances, management regulations breaches and other significant public health hazards.

The PSH Team will usually serve a statutory Notice or Order where Category 1 hazards are found and reasonable time will be given to complete the works. For nuisances and other public health matters that are not abated by the responsible person before the Council witnesses the offence, this will normally result in the relevant statutory notice being served. Breaches of HMO management regulations and/or breach of the conditions of a property licence will normally lead to enforcement as detailed appendix 1.

Where legislation allows, charges for the service of each notice will normally be made.

Failure to comply with notices served, will normally lead to legal action being taken against the appropriate person. Where legal action is necessary to address housing offences and crimes, financial penalties will normally be used as the primary enforcement tool. Prosecutions will be taken as an alternative where there have been,

- serious neglect of their responsibilities as a landlord/agent, or
- significant harm as a result of their criminality, or
- where there have been previous criminal convictions or out of court disposals, or
- Poor history of compliance with housing and associated legislation, or
- the criminality has had significant adverse effects on tenants or other victims, or
- Issuing a Financial Penalty is not likely to change perpetrator behaviour or housing conditions.

The PSH Team may also carry out works in default of the owner. The cost of these works and the administrative costs will be raised as a charge against the property.

All information obtained will be treated in confidence and in accordance with the The Data Protection Act 2018 and the General Data Protection Regulations (GDPR). However, it must be recognised that the Council operate secure mechanisms to share information with other internal and external agencies and law enforcement bodies. There will be circumstances where shared or complimentary enforcement action may be

taken with other agencies to help target resources and activities and minimise duplication.

A list of enforcement options and outcomes can be found in appendix 1.

Contacting Private Sector Housing Team

Those persons and individuals who are regulated by this department should expect that they will be dealt with professionally and in a manner in accordance with the [Council's code of conduct for officers](#).

If an individual or company is not satisfied with the service or if not in agreement with the action taken by the investigating officer or wish to give feedback about the service they have received, they should first contact the Team Manager. If you wish to make a compliment you should also contact the Team Manager at,

Royal Borough of Kensington and Chelsea
Private Sector Housing Team Manager
Council Offices
37 Pembroke Road
London
W8 6PW

Tel: 0207 361 3002

Email: environmentalhealth@rbkc.gov.uk

If this does not resolve the complaint, the Council also has a formal complaints system. Please visit https://www.rbkc.gov.uk/footer-links/contact-us/complaints-comments-and-compliments#Corporate_complaints_process or called 0207 361 3000.

Please note you can still make a complaint in cases where the Council has instigated legal proceedings. However, making a complaint will not stop any impending legal action. Where statutory notices have been served, making a complaint does not replace your statutory rights of appeal or your right to make representation. Nor does it allow you extra time to comply with any notice.

If you disagree with a statutory notice then you should take action specified in the notice to make an appeal, if any exists. Please read the notes that accompany the notice for more detail.

If a summons or directions have been issued by a Court or Tribunal you must continue to follow these. As with all cases where legal action is being taken, it is strongly recommended that you seek legal advice.

Deterrence through publicity

We will work with various media organisations and persons to deter, promote and inform people about our enforcement regime.

We will publish prosecutions and civil penalty charge notices on the Greater London Authority (GLA) Rogue Landlord Database and the Ministry Housing, Communities and Local Government (MHCLG) statutory database.

Media coverage will normally be sought where the offence/s are serious or has significant factors such as the risk to health of tenants, visitors or neighbours, the exploitation of tenants, anti-social behaviour or an issue affecting the wider area or private rented sector.

We will seek media coverage to assist in securing compliance by others or is in the public interest to demonstrate the Councils actions and to help inform issues in the wider housing sector.

Publicity will also be sought to support other local authorities and regulatory partners in their enforcement efforts, especially where the perpetrator/s operate across borough boundaries.

Coverage will be sought to provide potential renters and tenants with information to enable them to check whether a landlords history of non-compliance. This to ensure the private rented housing market operates in a fair, equal and open way. In order to prevent tenants from being exploited by dishonest landlords/letting agents, and to create a level playing field for the good, compliant landlords/agents.

Press releases may also be issued about convictions where it is considered that publicity will bring in benefits by promoting compliance with those statutory requirements designed to protect the health, safety and welfare of customers, residents, workers and visitors.

Media coverage will not be sought where the primary motive is to cause damage to the subject.

APPENDIX 1: Enforcement Options

Action	Circumstances
1. No action	<ul style="list-style-type: none"> Complaints or allegations of housing legislation breaches or statutory nuisances are of minor or low risk to health and the landlord has not been informed by the complainant, or allegations are unsubstantiated and unwitnessed. Formal action is inappropriate in the circumstances.
2. Advisory notices and letters	<ul style="list-style-type: none"> Where conditions are evidenced to justify action and investigation and it is appropriate to give opportunity to landlords and tenants to make representations, provide information or effect change to meet compliance. No health impacts are present which poses a risk to health or nuisance.
3. Formal notices or orders	<ul style="list-style-type: none"> The defect/conditions presents a risk to health and/or a nuisance. There are previous failures of statutory requirements. Previous advisory notices/letters ignored or action was not taken in a timely manner or to the correct standard. There is a lack of confidence in the individual or management i.e. the willingness to respond to an informal approach The Council is legally required to serve a statutory notice.
3. Financial Penalties (of up to £30,000.)	<ul style="list-style-type: none"> Non-compliance with an improvement or overcrowding notice. Failure to obtain a property licence (Both parts 2 and 3 Housing Act 2004). Significant and/or repeated breaches of HMO management regulations. Breaches of the conditions of the property licence. For certain Housing Act 2004 breaches, amount of penalty decided by financial penalty Matrix (see appendix 2) Used as alternative to a prosecution. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020: We may issue a penalty charge of up to £30,000 where a landlord has breached their duty. Smoke & Carbon Monoxide Regulations 2015: We may issue a penalty charge of up to £5,000 where a landlord has breached their duty. (see appendix 3) Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (MEES regs): We may issue a penalty charge of up to £5,000 where a landlord has breached their duty.
4. Works in Default - Emergency Remedial Action & Emergency Prohibition Order	<ul style="list-style-type: none"> There is an imminent risk to health and safety to the occupant and/or public. Examples include serious pest infestation, waste on land, filthy and verminous /hoarding cases. Awaiting the service of a notice or a prosecution would not adequately protect the public interest. However this does not rule out subsequent action being taken in conjunction with a prosecution, financial penalty, RRO or other legal action.

5. Works in Default – non-compliance with a notice	<ul style="list-style-type: none"> • We may choose to carry out works required by a notice if they have not been completed within the permitted time or are not likely to be completed within the permitted time. • This may be taken in conjunction or followed with a prosecution or financial penalty and/or RRO.
6. Reducing the term (length) of a Property Licence.	<ul style="list-style-type: none"> • When assessing a Property Licence application, where appropriate and in conjunction with the Council's Fit and Proper and Cause for Concern policies, we may reduce the term of the licence. • A Licence holder may continue to stay on a 1 year licence if they still are a 'Cause for Concern'. e.g not fulfilling the training requirement, poor management etc;
7. Adding new property licence conditions	<ul style="list-style-type: none"> • When assessing a Property Licence application, where appropriate and in conjunction with the Council's Fit and Proper and Cause for Concern policies, we may add further conditions to remedy poor landlord behaviour or standards e.g. not fulfilling the training requirement, poor management etc.;
8. Formal (Simple) Caution	<ul style="list-style-type: none"> • Where a prosecution or Financial Penalty is determined not to be in the public interest.
9. Refusal to grant a property licence and Revocation of property licenses and approvals	<ul style="list-style-type: none"> • Where the Licence application is not made in accordance with the Council's application requirements; or • Where the Licence application is not accompanied by the appropriate fee; or • Where the proposed manager/licence holder is not a 'fit and proper' person; or • Where the proposed manager/licence holder is not the most appropriate person to hold a licence; or • Where the proposed manager/licence holder is not the person or an agent of a person who has control of the property; or • Where the proposed management arrangements are not satisfactory; or • Where the property is not reasonably suitable of occupation in regards the number of persons or households. • Where the Council consider that the licence holder or any other person has committed a serious breach or repeated breaches of a condition of the licence. • Or a combination of the above.
10. Prosecution	<ul style="list-style-type: none"> • There is sufficient and reliable evidence beyond all reasonable doubt that an offence has been committed. • There is a realistic prospect of conviction. • The prosecution is in the public interest. • See section 3.15 for more detail.
11. Rent Repayment Orders (RRO)	<ul style="list-style-type: none"> • RRO will be considered after every successful prosecution for failure to comply with an Improvement Notice (section 30); Prohibition Order, including Emergency Prohibition Orders (section 32); Offences in relation to licensing of HMOs (section 72) and i relation to licensing of houses under Part 3 of the Act (section 95). • Where a landlord fails to licence a licensable property and they received a significant amount of Housing Benefit, a RRO application may be made to the First Tier Tribunal

12. Banning Order	<ul style="list-style-type: none"> The Council may decide to seek a Banning Order following the breach of 'banning order offences' by landlords and agents. A banning order last for a minimum of 12 months and prevent landlords or agents from letting their own properties or being involved in the lettings and property management industry across England. (Due to come into force by October 2017)
13..Proceeds of Crime Act	<ul style="list-style-type: none"> Where landlords or others have benefited from the proceeds of a criminal activity a Proceeds of Crime application may be made.

Appendix 2 : 2025 Amended Policy and Statements of Principles for Civil Penalties under the Private Sector Housing Enforcement policy.

Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

This document replaces the Civil Penalty Matrix and Penalty bands in Appendices A and C of the Council's Civil Penalties Policy dated 8 January 2019 and Appendices 2 and 3 of the Council's Private Sector Housing Enforcement Strategy 2020

1. Interpretation

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 in Multiple Occupation' or 'HMO' are defined by section 254 of the Housing Act 2004.

2. Civil Penalties, Context

Section 126 and Schedule 9 of the Housing and Planning Act 2016 provide local authorities with the power, through the insertion of section 249A Housing Act 2004, to impose a civil penalty as an alternative to prosecution in respect of the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice [section 30]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) under Part 2 [section 72]
- Offences in relation to the Selective Licensing of 'houses' under Part 3 [section 95]
- Failure to comply with an Overcrowding Notice [section 139]
- Failure to comply with a management regulation in respect of an HMO [section 234]
- Breach of a Banning Order (section 21 of the Housing and Planning Act 2016)

Regulation 11 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 provides local authorities with the power to impose a civil penalty in respect of breaches of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

The Council has the power to impose a civil penalty of up to a maximum of £30,000 for each separate offence. If multiple offenders have committed the same offence at the same property, a separate civil penalty can, and usually will, be imposed on each

offender. In each case, the level of civil penalty imposed on each offender will be in line with this policy.

This guidance outlines the Council's policy in setting the level of a civil penalty in each case where it has been determined to issue a civil penalty as an alternative to prosecution proceedings.

3. Objectives of this policy

The Council considers the need for transparency and consistency in the discharge of its functions under the Housing Act 2004 to be of primary importance. The general objective of this policy is, therefore, to promote both transparency and consistency in the imposition of financial penalties under the 2004 Act so that, for example, those managing and having control of rented properties in the Council (a) know how the Council will generally penalise relevant offences and (b) are assured that, generally, like cases will be penalised similarly, and different cases penalised differently. The further objectives of using financial penalties in particular as a means of enforcing the above offences are explained below.

4. Statutory Guidance

The Government has issued statutory guidance under Schedule 9 of the Housing & Planning Act 2016 entitled "Civil penalties under the Housing and Planning Act 2016. Guidance for Local Housing Authorities". The Council has regard to this guidance in the exercise of their functions in respect of civil penalties.

Paragraph 3.5 of the statutory guidance states that '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 same paragraph sets out several factors that should be taken into account to ensure that the civil penalty is set at an appropriate level in each case:

- a. **Severity of the offence.** The more serious the offence, the higher the penalty should be.
- b. **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.
- c. **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.
- d. **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 demonstrate the consequences of not complying with their responsibilities.

e. 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.

f. 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 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.

g. 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 factors detailed in the statutory guidance and policy aims will be considered by the Council when deciding where, within the Civil Penalties matrix below, a particular offence and penalty fall.

5. Other Policy Aims

The Council is mindful that despite its best efforts, many landlords may operate unlawfully for a significant period of time without detection, and only a proportion of landlords committing relevant offences will be discovered. The Council is, therefore, mindful that when deciding to impose a Civil Penalty, it should create an environment where it is clear to the offender and others that operating unlawfully as a landlord will be financially disadvantageous when compared to operating lawfully.

The Council intends to create an environment where landlords engage with the Council's requests and demands fulsomely, openly and honestly. This helps create a level playing field which supports the aims of transparency and consistency. No landlord should be able to financially benefit from withholding information the Council deems relevant that is, or should be, in their control to disclose. It is expected that fulsome and complete supporting evidence is provided to support any Written Representations received in response to a Notice of Intent.

6. Civil Penalties Matrix

In determining the level of a civil penalty, officers will have regard to the policy matrix set out below, which is to be read in conjunction with the associated guidance. The matrix is intended to provide indicative 'starting levels' under the various offence categories, 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.

In deciding what level of penalty to impose, officers will conduct the following five stage process.

1. they will consider the seriousness of the relevant housing offence to identify a starting level of the penalty.
2. an assessment of the number of rental properties controlled or owned or managed by the landlord and/or their experience in the letting/management of property will be considered, which may have the effect of increasing or decreasing the penalty.

3&4 aggravating and mitigating factors that may relate to a number of factors including, but not limited to, culpability, track record and harm will be considered, which may have the effect of increasing or decreasing the penalty.

5. if any of the discounts, as set out below, apply, the penalty may be decreased.

Once the seriousness of the relevant housing offence has been identified, the starting level of the penalty will be identified using the table below with the headings 'Seriousness of offence' and 'Starting level [£]'. Consideration of the number and type of rental properties controlled or owned or managed may adjust the penalty.

To reflect the seriousness of the offence(s) in question, the presence of one or more mitigating factors will rarely result in the penalty being decreased in excess of a total of £5,000. In exceptional circumstances, officers may determine that the presence of one or more mitigating factors justify a decrease in the penalty in excess of £5,000. The presence of numerous mitigating factors will not automatically be considered as exceptional circumstances.

The Council has not provided a list of mitigating factors in this policy because it acknowledges that there are myriad possible circumstances that might give rise to mitigation.

To ensure that any penalty imposed is proportionate to the offending behaviour the presence of one or more aggravating factors will rarely result in the penalty being increased in excess of a total of £5,000. In exceptional circumstances, officers may determine that the presence of one or more aggravating factors justify a increase in the penalty in excess of £5,000. The presence of numerous aggravating factors will not automatically be considered as exceptional circumstances.

The Council may, exceptionally, including for the reason given above, increase the penalty by greater than £5000 on account of aggravating factors or, again exceptionally, decrease it by greater than £5000 on account of mitigating factors. In order to meet the objectives of this policy, including the need for transparency and consistency in the use of such penalties, the Council will exercise its discretion to increase or decrease a penalty by greater than £5,000 on account of aggravating or mitigating factors in exceptional circumstances only excluding any Discounts as set

out below. The Council will consider on a case-by-case basis whether any such circumstances exist.

7. Seriousness of offence consideration

Offences for which a Civil Penalty may be issued vary in their level of seriousness. The assessment of that seriousness is the basis for setting a starting level for the penalty sum. The range of seriousness of offence and their corresponding penalty starting sum levels are set out below.

Table 1: Seriousness of offence and corresponding starting level of penalty sum

Seriousness of offence	Starting level [£]
Mild	£2,500
Moderate	£7,500
Serious	£12,500
Very Serious	£17,500
Severe	£22,500
Very Severe	£27,500

8. Applying civil penalties to offences under the Housing Act 2004 as an alternative to prosecution and relevant considerations as to the penalty sum

The following section sets out the specific offences to which a Civil Penalty may be imposed and begins with the methodology for calculating a penalty sum for each of the offences.

9. Methodology for calculating the penalty sum

For each offence, to calculate the penalty sum follow the five steps set out below:

1. Select the “**Starting level**” for the penalty sum from table 1 above. This reflects the perceived “seriousness” of the offence,
2. Select a category of landlord to which the case applies best:
 - (i) landlord with a small property portfolio,
 - (ii) landlord with a significant property portfolio, or
 - (iii) landlord with a large property portfolio.

At stage 2 the penalty sum starting level is adjusted to reflect the landlord’s assets and means and is applied assuming no aggravating or mitigating features/factors.

3. Consider any aggravating features/factors:
 - (i) Aggravating features/factors specific to the offence, as set out below under each offence heading.
 - (ii) Generic aggravating features/factors, applicable to all offences are set out below. This is not an exhaustive list, other considerations may apply in some cases.

4. Consider any mitigating factors. This policy does not provide a list of mitigating factors because the Council acknowledges that there are myriad possible circumstances that might give rise to mitigation.

Where there are aggravating or mitigating features/factors in the case, the Council can exercise its discretion to increase or decrease the penalty. The penalty should not be increased or decreased by more than £5,000 except in exceptional circumstances. This adjustment is to be made prior to the application of any discounts as set out below.

5. Discounts

In cases where there have been no relevant or aggravating factors, as outlined in each case above, the Council will retain the discretion to apply a discounted rate to any civil penalty in the following circumstances:

- in the event that the offender complies with the identified breach (for example by making an application to license a previously unlicensed address) within the Notice of Intent representation period, the Council will consider reducing the level of penalty by 20%.
- the Council will consider exercising its discretion to apply a further discount of 20% on the final penalty sum (after the application of any discount under the above paragraph) for payment of the penalty sum in full within a period of 28 days of the issuing of the final penalty notice.

Steps 1 - 5 produce a Civil Penalty sum specific to the case.

Generic aggravating features/factors

The Council will have regard to general factors in determining the final level of the civil penalty including, but not limited to:

- A previous history of non-compliance would justify an increased civil penalty. Non-exhaustive examples of previous non-compliance would include previous successful prosecutions [including recent convictions that were 'spent'], receipt of financial penalties, rent repayment orders, works in default of the landlord and breaches of regulations/obligations, irrespective of whether these breaches had been the subject of separate formal action.
- A failure to cooperate with a Council investigation. Non-exhaustive examples of failure to cooperate would include failing to comply with a s.16 Local Government (Miscellaneous Provisions) Act 1976 notice, failing to comply with a s.235 Housing Act 2004 notice, failing to provide a substantive response to a letter of alleged offence.
- Deliberate intent when committing the offence. Non-exhaustive examples of deliberate intent would include knowledge that the offence was occurring, committing the offence after relevant correspondence was sent by the Council.
- The number of residents placed at risk
- Offending over an extended period of time i.e. 6 months or longer
- Whether any vulnerable residents were in occupation at the time of the offence. Non-exhaustive examples of vulnerable residents include young adults and children, persons vulnerable by virtue of age, persons vulnerable by virtue of disability or sensory impairment, persons with a drug or alcohol addiction, victims of domestic abuse, children in care or otherwise vulnerable by virtue of age, people with complex health conditions, people who do not speak English as their first language, victims of trafficking or sexual exploitation, refugees, asylum seekers

10. Guidance specific to each offence

Failure to comply with an Improvement Notice - Section 30 of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with an Improvement Notice - Unlimited

An Improvement Notice served under Part 1 Housing Act 2004 specifies repairs/improvements that the recipient should carry out in order to address one or more identified Category 1 and/or Category 2 hazards in a property. Category 1 hazards are the most serious hazards, judged to have the highest risk of harm to the occupiers; the Council has a duty to take appropriate action where a dwelling is found to have one or more Category 1 hazards present.

In some cases, the service of an Improvement Notice will have followed an informal stage, where the landlord had been given the opportunity to carry out improvements without the need for formal action. In such cases, an identified failure to comply with an Improvement Notice will represent a continued failure on the part of the landlord to deal appropriately with one or more significant hazards affecting the occupier[s] of the relevant dwelling.

The Council will view the offence of failing to comply with the requirements of an Improvement Notice as a significant failing, exposing the tenant[s] of a dwelling to one or more significant hazards.

Starting level: the seriousness of the offence is viewed by the Council as being **severe**, attracting a financial penalty with a starting level of £22,500.

Under this policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £17,500.

Under this policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22,500.

Under this policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £27,500.

Aggravating factors

<i>Aggravating features/factors specific to non-compliance with an Improvement Notice</i>
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The nature and extent of hazards that are present. Multiple hazards and/or severe/extreme hazards that are considered to have a significant impact on the health and/or safety of the occupant[s] in the property or their guests would justify an increase in the level of the civil penalty.

Generic aggravating features/factors

As set out in section 9 above.

Failure to license a property under the Mandatory HMO Licensing Scheme – Section 72(1) of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to license an HMO - Unlimited

Under Part 2 Housing Act 2004, most higher risk HMOs occupied by 5 or more persons forming 2 or more households are required to hold a property licence issued by the local authority. HMO licensing was introduced to allow local authorities to regulate standards and conditions in high risk, multiply occupied residential premises. Through the property licence regime, local authorities ensure that the HMO has sufficient kitchens, baths/showers and WCs and place a limit on the number of persons permitted to occupy it and the licence holder is required to comply with a set of licence conditions.

The Council will view the offence of failing to license an HMO as a significant failing; licensing was introduced by the Government in order to regulate management, conditions, standards and safety in the properties considered to represent the highest risk to tenants as regards such matters as fire safety and overcrowding.

Starting level: the seriousness of the offence is viewed by the Council as being **very serious**, attracting a financial penalty with a starting level of £17,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £22,500.

Aggravating features

<i>Aggravating features/factors specific to failure to licence offence</i>
The condition of the unlicensed property. The nature and extent of any significant hazards that are present would justify an increase in the level of the civil penalty. Equally, an HMO that was found to be poorly managed and/or lacking amenities/fire safety precautions and/or overcrowded would also justify an increased civil penalty.

Any demonstrated evidence that the landlord/agent was familiar with the need to obtain a property licence e.g. the fact that they were a named licence holder or manager in respect of an already licensed premises.
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<i>Generic aggravating features/factors</i>
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As set out in section 9 above.

Failure to license a property under the Council's Additional HMO Licensing Scheme – Section 72(1) of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to license an HMO - Unlimited

The Council has designated the whole of the borough as an additional licensing area. The scheme came into force on 1 June 2023 and expires on 31 May 2028. Under the scheme, most HMOs occupied by three or more persons forming two or more households sharing one or more basic amenities such as a WC or kitchen, but which fall outside the scope of mandatory HMO licensing, will be required to hold an additional licence in order to be legally let.

The Council would view the offence of failing to license an HMO under its additional licensing scheme as a significant failing. The Council has introduced additional HMO licensing, amongst other reasons, in order to regulate management, conditions, standards and safety in the properties considered to represent a higher risk to tenants as regards such matters as fire safety and overcrowding compared with properties occupied by a single-family household.

Starting level: the seriousness of the offence is viewed by the Council as being **serious**, attracting a financial penalty with a starting level of £12,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £17,500.

<i>Aggravating features/factors specific to failure to licence offence</i>
<p>The condition of the unlicensed property. The nature and extent of any significant hazards that are present would justify an increase in the level of the civil penalty. Equally, an HMO that was found to be poorly managed and/or lacking amenities/fire safety precautions and/or overcrowded would also justify an increased civil penalty.</p> <p>Any demonstrated evidence that the landlord/agent was familiar with the need to obtain a property licence e.g. the fact that they were a named licence holder or manager in respect of an already licensed premises.</p>
<i>Generic aggravating features/factors</i>

As set out in section 9 above.

Failure to Comply with an Overcrowding Notice – Section 139 of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with an Overcrowding Notice – Unlimited

Section 139 Housing Act 2004 allows the Council to serve an Overcrowding Notice in respect of an HMO that is not required to be licensed under Part 2 Housing Act 2004. The notice specifies, on a room-by-room basis, the maximum number of persons allowed to occupy each room as sleeping accommodation or that the room is not considered suitable for that purpose.

The Council would view the offence of failing to comply with the requirements of an Overcrowding Notice as a significant matter, exposing the tenant[s] of an HMO to unacceptably cramped living conditions.

Starting level: The seriousness of the offence is viewed by the Council as being **very serious**, attracting a financial penalty with a starting level of £17,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £22,500.

Aggravating factors

<i>Aggravating features/factors specific to non-compliance with an Overcrowding Notice</i>
The level of overcrowding present – breaches that related to over-occupation of multiple rooms or extreme over-occupation of an individual room would justify a higher civil penalty
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

Failure to Comply with a Banning Order – Section 21 of the Housing And Planning Act 2016

Maximum Court fine that can be levied for failure to comply with a Banning Order following prosecution – Unlimited. In addition, the Court can also impose a prison sentence for up to 51 weeks.

The Housing and Planning Act 2016 includes provisions and processes for a person to be banned from being involved, for a specified period, in one or more of the following activities:

- Letting housing
- Engaging in letting agency work
- Engaging in property management work

Banning Orders are reserved for what are recognised as being the **most serious** housing-related offences. If the Council was satisfied that the offence of breaching a Banning Order had occurred, this would normally be the subject of prosecution proceedings. Where it was determined that a civil penalty would be appropriate in respect of a breach of a Banning Order, this would normally be set at the maximum level permitted, of £30,000 to reflect the severity of the offence.

Aggravating factors: as this is the maximum penalty permitted under the legislation, aggravating features are not relevant.

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

Maximum Court fine following prosecution that can be levied for failure to comply with each individual regulation - unlimited

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]

The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 impose duties on the persons managing HMOs as defined by Section 257 Housing Act 2004 in respect of:

- Providing information to occupiers [regulation 4]
- Taking safety measures, including fire safety measures [regulation 5]
- Maintaining the water supply and drainage [regulation 6]
- Supplying and maintaining gas and electricity, including having these services/appliances regularly inspected [regulation 7]
- Maintaining common parts [regulation 8]
- Maintaining living accommodation [regulation 9]
- Providing sufficient waste disposal facilities [regulation 10]

It is important that the manager of an HMO complies with all regulations, but the Council recognises that a failure to comply with certain regulations is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with the duty of manager to provide information to occupier (Regulation 3 or 4)

Starting level: the Council will view the seriousness of the offence of failing to comply with the duty of the manager to provide information to occupier as **mild**, attracting a financial penalty with a starting level of £2,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £2,000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five

dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2,000, attracting a civil penalty of £4,500.

Aggravating factors

<i>Aggravating features/factors specific to Management Regulation breach offences</i>
The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

Duty of manager to take safety measures

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to take safety measures as **very serious**, attracting a financial penalty with a starting level of £17,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £22,500.

Aggravating factors

<i>Aggravating features/factors specific to Management Regulation breach offences</i>
The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation.
<i>Generic aggravating features/factors</i>

As set out in section 9 above.

Duty of manager to supply and maintain gas and electricity

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the gas and electricity supply as **serious**, attracting a financial penalty with a starting level of £12,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £17,500.

Aggravating factors

<i>Aggravating features/factors specific to Management Regulation breach offences</i>
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The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation.
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<i>Generic aggravating features/factors</i>
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As set out in section 9 above.

Duty of manager to maintain common parts, fixtures, fittings and appliances

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the common parts, fixture, fittings and appliances as **moderate**, attracting a financial penalty with a starting level of £7,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £2,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five

dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £12,500.

Aggravating factors

<i>Aggravating features/factors specific to Management Regulation breach offences</i>
The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

Duty of manager to maintain living accommodation

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the living accommodation as **moderate**, attracting a financial penalty with a starting level of £7,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £2,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £12,500.

Aggravating factors

<i>Aggravating features/factors specific to Management Regulation breach offences</i>
The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation.

<i>Generic aggravating features/factors</i>
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As set out in section 9 above.

Duty to provide waste disposal facilities

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide waste disposal facilities as **moderate**, attracting a financial penalty with a starting level of £7,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £2,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £12,500.

Aggravating factors

<i>Aggravating features/factors specific to Management Regulation breach offences</i>
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The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation.
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<i>Generic aggravating features/factors</i>
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As set out in section 9 above.

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

Maximum Court fine following prosecution that can be levied for failure to comply with a licence condition - unlimited

All granted HMO licences impose a set of conditions on the licence holder. These conditions impose a variety of obligations relating to the letting, management and condition of the rented property.

It is important that the manager 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.

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 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 Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as **mild**, attracting a financial penalty with a starting level of £2,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £2,000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no

other relevant factors or aggravating factors [see below], will increase by £2,000, attracting a civil penalty of £4,500.

Aggravating factors

<i>Aggravating features/factors specific to Licence Conditions breach offences</i>
The number and/or nature and/or extent of the licence conditions breach(es) and/or the deficiencies within each regulation.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

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
- Providing 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
- Security of entry points
- The compliance of furnishings or furniture with fire safety regulations
- The provision of information regarding occupancy of the property

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as **moderate**, attracting a financial penalty with a starting level of £7,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £2,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £12,500.

Aggravating factors

<i>Aggravating features/factors specific to Licence Conditions breach offences</i>
The number and/or nature and/or extent of the licence conditions breach(es) and/or the deficiencies within each regulation.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

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 Anti-Social Behaviour

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as **serious**, attracting a financial penalty with a starting level of £12,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £17,500.

Aggravating factors

<i>Aggravating features/factors specific to Licence Conditions breach offences</i>
The number and/or nature and/or extent of the licence conditions breach(es) and/or the deficiencies within each regulation.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

Failure to comply with licence conditions related to:

- 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

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as **very serious**, attracting a financial penalty with a starting level of £17,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £22,500.

Aggravating factors

<i>Aggravating features/factors specific to Licence Condition breach offences</i>
The number and/or nature and/or extent of the licence condition breach(es) and/or the deficiencies within each licence condition breach.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

In an HMO licenced under the Council's Additional HMO licensing scheme - 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 of safe means of escape

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as **severe**, attracting a financial penalty with a starting level of £17,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO,

with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £22,500.

Aggravating factors

<i>Aggravating features/factors specific to Licence Condition breach offences</i>
The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

In an HMO licenced under the Council's Mandatory HMO licensing scheme –

Failure to comply with licence conditions related to:

- The condition or existence of smoke alarms/automatic fire detection and warning, carbon monoxide alarms, emergency lighting, gas installations, electric installations and appliances, fire detection or other fire safety features or requirements
- The prevention including provision of safe means of escape

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as **severe**, attracting a financial penalty with a starting level of £22,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £17,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the

letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £27,500.

Aggravating factors

<i>Aggravating features/factors specific to Licence Condition breach offences</i>
The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

11. Discounts

In cases where there have been no relevant aggravating factors, as outlined in each case above, the Council will retain the discretion to apply a discounted rate to any civil penalty in the following circumstances:

- in the event that the offender complies with the identified breach (for example by making an application to license a previously unlicensed address) within the Notice of Intent representation period, the Council will consider reducing the level of penalty by 20%.
- should the penalty be paid within 28 days of the date of the Final Penalty Notice, the Council will consider reducing the level of penalty by 15%.

12. Process for imposing a civil penalty and the right to make representations

Before imposing a financial penalty on a person, the Council will give the person a Notice of Intent.

A person who is given a Notice of Intent may make written representations to the Council about the proposal to impose a financial penalty. Any representations must be made within a 28-day period, this period starting the day after the date on which the Notice of Intent was given. As the burden lies with the recipient of any such notice to explain why, exceptionally, the Council should, or should not, depart from the Civil Penalties Matrix and guidance above, the Council will expect the recipient of a Notice of Intent to explain and provide fulsome and cogent evidence to support the existence of any such circumstances when they make representations in response to the notice.

In the event of two or more persons receiving separate Notices of Intent for the same matter, it should be noted that acceptance/payment of a civil penalty by one person will not negate the Council's intention to impose a civil penalty on the second or further persons. Each person served with the Notice of Intent is considered individually liable to pay the civil penalty notified to them. It is therefore important that any recipient of a Notice of Intent takes the opportunity to make representations

should they consider for any reason a civil penalty should not be individually imposed upon them.

After the end of the period for representations the Council will:

- (a) Decide whether to impose a financial penalty on the person, and
- (b) If it decides to impose a financial penalty, decide the amount of the penalty

In determining whether to impose a financial penalty, and the level of any penalty, the Council will consider any written representations received in the appropriate time period, and will also consider the totality principle.

Furthermore, an offender's compliance with the identified breach during the representation period would not, in itself, be reason for the Council to determine that the imposition of a financial penalty was inappropriate. However, compliance at that stage may be relevant with respect to any mitigating factors that could decrease the amount of any imposed financial penalty.

If, following the receipt of written representations and/or the expiry of the time period to make written representations, the Council decides to impose a financial penalty on the person, it will give the person a Final Notice imposing that penalty.

The Final Notice will set out and summarise:

- a) The amount of the financial penalty,
- b) The reasons for imposing the penalty,
- c) Information about how to pay the penalty,
- d) The period for payment of the penalty,
- e) Information about rights of appeal, and
- f) The consequences of failure to comply with the notice

Offences under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 impose duties on private landlords in relation to electrical installations. Regulation 3 is detailed below:

3. Duties of private landlords in relation to electrical installations

(1) A private landlord who grants or intends to grant a specified tenancy must—

- (a) ensure that the electrical safety standards are met during any period when the residential premises are occupied under a specified tenancy;
- (b) ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; and
- (c) ensure the first inspection and testing is carried out—
 - (i) before the tenancy commences in relation to a new specified tenancy; or
 - (ii) by 1st April 2021 in relation to an existing specified tenancy.

(2) For the purposes of sub-paragraph (1)(b) "at regular intervals" means—

- (a) at intervals of no more than 5 years; or
- (b) where the most recent report under sub-paragraph (3)(a) requires such inspection and testing to be at intervals of less than 5 years, at the intervals specified in that report.

(3) Following the inspection and testing required under sub-paragraphs (1)(b) and (c) a private landlord must—

- (a) obtain a report from the person conducting that inspection and test, which gives the results of the inspection and test and the date of the next inspection and test;
- (b) supply a copy of that report to each existing tenant of the residential premises within 28 days of the inspection and test;
- (c) supply a copy of that report to the local housing authority within 7 days of receiving a request in writing for it from that authority;
- (d) retain a copy of that report until the next inspection and test is due and supply a copy to the person carrying out the next inspection and test; and
- (e) supply a copy of the most recent report to—
 - (i) any new tenant of the specified tenancy to which the report relates before that tenant occupies those premises; and
 - (ii) any prospective tenant within 28 days of receiving a request in writing for it from that prospective tenant.

(4) Where a report under sub-paragraph (3)(a) indicates that a private landlord is or is potentially in breach of the duty under sub-paragraph (1)(a) and the report requires the private landlord to undertake further investigative or remedial work, the private landlord must ensure that further investigative or remedial work is carried out by a qualified person within—

- (a) 28 days; or
 - (b) the period specified in the report if less than 28 days, starting with the date of the inspection and testing.
- (5) Where paragraph (4) applies, a private landlord must—
- (a) obtain written confirmation from a qualified person that the further investigative or remedial work has been carried out and that—
 - (i) the electrical safety standards are met; or
 - (ii) further investigative or remedial work is required;
 - (b) supply that written confirmation, together with a copy of the report under sub-paragraph (3)(a) which required the further investigative or remedial work to each existing tenant of the residential premises within 28 days of completion of the further investigative or remedial work; and
 - (c) supply that written confirmation, together with a copy of the report under sub-paragraph (3)(a) which required the further investigative or remedial work to the local housing authority within 28 days of completion of the further investigative or remedial work.
- (6) Where further investigative work is carried out in accordance with paragraph (4) and the outcome of that further investigative work is that further investigative or remedial work is required, the private landlord must repeat the steps in paragraphs (4) and (5) in respect of that further investigative or remedial work.
- (7) For the purposes of sub-paragraph (3)(e)(ii) a person is a prospective tenant in relation to residential premises if that person—
- (a) requests any information about the premises from the prospective landlord for the purpose of deciding whether to rent those premises;
 - (b) makes a request to view the premises for the purpose of deciding whether to rent those premises; or
 - (c) makes an offer, whether oral or written, to rent those premises.

It is important that a private landlord complies with all aspects of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, however, the Council recognises that a failure to comply with certain aspects of Regulation 3 is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (3)(b), 3(d), 3(e)

The Council would view the seriousness of the offence of failing to comply with (3)(b), 3(d) or 3(e) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as **mild**, attracting a financial penalty with a starting level of £2,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO,

with no other relevant factors or aggravating features [see below], will reduce by £2,000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will attract a civil penalty of £4,500.

Aggravating factors

<i>Aggravating features/factors specific to Electrical Safety Regulations breaches of duty</i>
The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation
Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (5)(b), (5)(c)

The Council would view the seriousness of the offence of failing to comply with (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (5)(b) or (5)(c) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as **serious**, attracting a financial penalty with a starting level of £12,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the

letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £17,500.

Aggravating factors

<i>Aggravating features/factors specific to Electrical Safety Regulations breaches of duty</i>
The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation
Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work.
<i>Generic aggravating features/factors</i>
As set out in section 9 above.

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (4), (5a), (6)

The Council would view the seriousness of the offence of failing to comply with (4), (5a) or (6) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as **very serious**, attracting a financial penalty with a starting level of £17,500.

Under the Council’s policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £12,500.

Under the Council’s policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

Under the Council’s policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5,000, attracting a civil penalty of £22,500.

Aggravating factors

<i>Aggravating features/factors specific to Electrical Safety Regulations breaches of duty</i>
The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation

Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work.

<i>Generic aggravating features/factors</i>
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As set out in section 9 above.

Penalty charges under Part 4 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 (“the regulations”)

Interpretation

In this policy, for the purposes of the legislation, “living accommodation” includes a bathroom or lavatory.

Requirements of the regulations

Regulation 13 requires local housing authorities to prepare and publish a statement of principles which they propose to follow in determining the amount of a penalty charge under the regulations.

Occupiers are around ten times more likely to die from a fire if they don't have a working smoke alarm in their home¹. Working smoke alarms alert occupiers to a fire at an early stage before it prevents physical escape to safety.

The regulations introduced legal requirements on most private sector landlords to:

1. Instal a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation.
2. During any period when the premises were occupied under the tenancy, to ensure that a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation, and which contains a fixed combustion appliance other than a gas cooker.
3. Carry out checks by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.
4. Where, following a report made on or after 1st October 2022 by a tenant or by their nominated representative to the landlord, a prescribed alarm is found not to be in proper working order, ensure the alarm is repaired or replaced.

Where the Council believes that a landlord is in breach of one or more of the above duties, the Council must serve a remedial notice on the landlord. The remedial notice is a notice served under regulation 5 of the regulations.

If the landlord then fails to take the remedial action specified in the notice within the specified timescale, the Council can require a landlord to pay a penalty charge. The power to charge a penalty arises from regulation 8 of the regulations. Failure to comply with each remedial notice can lead to a fine of up to £5,000. Fines will be applied per breach, rather than per landlord or property.

¹ <https://firekills.campaign.gov.uk/>

The Council will impose a penalty charge where it is satisfied, on the balance of probabilities, that the landlord has not complied with the action specified in the remedial notice within the required timescale.

A landlord will not be considered to be in breach of their duty to comply with the remedial notice if they can demonstrate they have taken all reasonable steps to comply. Where there is evidence, including written correspondence, of repeated and consistent efforts to obtain access to the property, with access repeatedly being prevented by the occupant(s) of the property, a landlord will not be considered to be in breach of their duty to comply with the remedial notice. A landlord will be expected to have:

- Communicated the risk of harm, in writing, that the lack of functioning alarms posed to all occupants in writing on multiple occasions,
- Requested access to comply with the remedial notice on a regular basis of no longer than every seven days in writing.

In considering the imposition of a penalty, the Council may look at the evidence concerning the breach of the requirement of the notice. A non-exhaustive list of methods that may be used to obtain relevant evidence includes, but is not limited to:

- Evidence obtained from a property inspection,
- Evidence provided by the tenant or agent,
- Evidence provided by the landlord demonstrating compliance with the regulations by supplying dated photographs of alarms, together with installation records.

Landlords need to take steps to demonstrate that they have met the alarm testing requirements at the start of the tenancy. A non-exhaustive list of methods that may be used to evidence compliance with the testing requirements includes, but is not limited to:

- Tenants signing an inventory form which states that they observed the alarms being tested and confirming that the alarms were in working order at the start of the tenancy

Where a landlord is in breach, the local housing authority may serve a remedial notice. Failure to comply with each remedial notice can lead to a penalty of up to £5,000. Fines will be applied per breach, rather than per landlord or property

When determining the amount of the penalty charge, regard will be had to whether this is a first breach under the regulations.

Determining the amount of the penalty charge for a first breach

The minimum amount of a penalty charge for a first breach of the regulations will be £2,500.

Starting level: The starting level of a penalty charge for a first breach of the regulations will be £3,000. The penalty charge sum will then be varied depending on aggravating and mitigating factors.

Aggravating and mitigating factors

Aggravating factors specific to these regulations

Aggravating factors include, but are not limited to:

- The number of alarms not working or missing (the regulations state there should be one per storey)
- Other fire safety concerns/defects in the property which increase the risk posed to the occupants
- The length of time the offence is believed to have been on-going
- The frequency of complaints by the occupiers to the landlord about the non-working or missing alarms
- The costs of any remedial work the Council have carried out in response to the breach
- Whether the property is let as an HMO (which increases the overall risk)
- The number of occupants living in the property
- Presence of vulnerable occupiers such as elderly, children or disabled people
- Any history of previous enforcement or non-compliance of the landlord
- Attempts to obstruct the investigation

Mitigating factors

Mitigating factors include, but are not limited to:

- The property being small and low-risk (for example a one-bedroom ground floor flat with a large number of fire escapes including large windows)
- A single occupant living in the property
- Evidence that all required alarms were checked and in working order at the start of the tenancy
- Written evidence that some efforts to gain access and comply with the remedial notice were made and access was prevented by the occupant

Subsequent breaches

The penalty for subsequent breaches by the same landlord will be £5000.

Penalty charges under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (MEES)

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (“the regulations”) make it unlawful to rent out a domestic property if it has an EPC (Energy Performance Certificate) rating of F or G (unless a valid exemption has been registered on the PRS Exemptions register).

The regulations make it unlawful to fail to comply with a compliance notice served by the Council.

The regulations cover all relevant properties, even where there has been no change of tenancy.

The regulations were introduced to improve the energy efficiency of housing in the private rented sector, to reduce greenhouse gas emissions and tackle climate change. They also help make tenants’ homes more thermally efficient.

An energy performance certificate (EPC) gives the property an energy efficiency rating. “A” rated properties are the most energy efficient and “G” rated are the least efficient. An EPC is valid for ten years and must be provided by the owner of a property to a buyer (when it is sold), or to a renter (when it is rented).

If a landlord fails to provide an EPC at the start of a tenancy, s/he will be in breach of the regulations.

An EPC contains information about the type of heating system and typical energy costs. It also contains energy efficiency improvement recommendations.

Private landlords must either:

- ensure their rented properties have an EPC with a minimum ‘E’ rating, or
- register a valid PRS exemption on the PRS exemptions register

Failure to do either of these is a breach of the regulations and the Council may issue a penalty notice.

The Council investigates any potential breaches of the regulations. If the Council is satisfied that a landlord is, or has at any time during the preceding 18 months, breached the regulations, s/he may be subject to a “penalty notice” imposing a financial penalty. The Council may also impose a “publication penalty”.

The “publication penalty” means publication, for a minimum period of twelve months, or such longer period as the Council may decide, on the PRS Exemptions Register of such of the following information in relation to a penalty notice as the Council decides:

- Where the landlord is not an individual, the landlord’s name

- Details of the breach of these Regulations in respect of which the penalty notice has been issued
- The address of the property in relation to which the breach has occurred, and
- The amount of any financial penalty imposed.

The Council may impose the following financial penalties:

- (a) For letting a property with an F or G rating for less than 3 months: £2,000
- (b) For letting a property with an F or G rating for more than 3 months: £4,000
- (c) For registering false or misleading information on the PRS exemptions register: £1,000
- (d) For failing to provide information to the Council demanded by a compliance notice: £2,000

The Council may not impose a financial penalty under both subsections (a) and (b) above in relation to the same breach of the regulations. The Council may impose a financial penalty under either paragraph (a) or paragraph (b), together with financial penalties under paragraphs (c) and (d), in relation to the same breach. Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.

APPENDIX 3: THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015

STATEMENT OF PRINCIPLES (under regulation 13)

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduced legal duties on private sector landlords from the 1st October 2015 in respect of premises occupied under tenancies starting on or after that date. The requirements are to:

- 1. Equip a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation;*
- 2. Equip a carbon monoxide alarm in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and*
- 3. Carry out checks by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.*

Enforcement

Where the council has reasonable grounds for believing that the relevant landlord has breached one or more of their legal duties, then the Royal Borough of Kensington and Chelsea (RBKC) shall, within 21 days, serve on the landlord a Remedial Notice detailing the actions that must be taken to comply with the regulations.

Within 28 days of becoming aware the remedial notice has not been complied with, will

- 1) If the necessary consent is given, arrange for an authorised person to take the remedial action specified in the remedial notice.
- 2) And a Penalty Charge will be levied by means of a Penalty Charge Notice on the responsible landlord.

Penalty Charge Principles

The absence of working smoke alarms and carbon monoxide alarms in residential premises in RBKC is a serious and significant risk to the occupants, adjacent properties and the surrounding neighbourhood.

The provision of smoke detectors and carbon monoxide alarms does not place an excessive burden on a landlord. The cost of the alarms is low and in many cases they can be self-installed without the need for a professional contractor. The impact on occupiers, damage to property and financial costs resulting from a fire or Carbon Monoxide poisoning event are far out of proportion to the cost of installing alarms.

Therefore the imposition of the maximum potential fixed penalty charge, being £5,000 under the regulations is justified and will be the usual charged.

In some cases this could present an excessive financial burden but this is balanced against the risk, the low cost of compliance and the fact that all reasonable opportunity will have been given, through the remedial notice process, to comply prior to any penalty charge being levied. The council may exercise discretion and reduce the penalty charge if there are extenuating circumstances following a representation made by the landlord.

In the year ending June 2019, 215 people lost their lives due to a fire at home. Occupiers are around 8 times more likely to die from a fire if they don't have a working smoke alarm in your home¹. Working smoke alarms alert occupiers to a fire at an early stage before it prevents physical escape to safety.

Appeals in relation to a penalty charge notice

The landlord has a right to make a representation in regards the service of a penalty charge notice. This should be in writing to the Council (details will be found on the Notice) and made within 28 days of the Penalty Charge Notice being issued. Any representation shall be considered on its individual merit. Any extenuating circumstances will be considered by the Council in deciding whether to reduce the cost of the penalty charge. On consideration of any representation and accompanying evidence, the council may confirm, vary or withdraw the penalty charge notice. This decision is then confirmed by issuing a decision notice on the landlord. If the penalty charge is confirmed or varied, the notice shall state a further appeal can be made to a Residential Property Tribunal.

Recovery of Penalty Charge

The Council will normally recover unpaid penalty charges on the order of a court, as if payable under a court order.

Review of Statement

This Statement of Principles shall be reviewed and amended to reflect any change in legislation, corporate policy or official guidance. Any amendment shall be in line with meeting the requirements of the legislation and in the public interest.

References

- 1) [Regulator's Code](#)
- 2) <https://firekills.campaign.gov.uk/>
- 3) [Civil Penalty Guidance: Housing Act 2004](#)

Document Control

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0.1	AQ	First draft	24/4/2020
0.2	AQ	Second draft	10/7/2020
0.3	AQ	Third Draft	6/10/2020
0.4	AQ	Fourth Draft	20/10/2020
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*Each successive draft of a document is numbered sequentially from 0-1, 0-2, 0-3... until a finalised or approved version is complete. The first final/approved version should be numbered 1-0. If version 1-0 is revised, drafts are numbered as 1-1, 1-2... until version 2-0 is complete, and so on.