

# CIVIL PENALTY POLICY 2025



**Civil Penalties under the  
Housing and Planning Act  
2016; The Electrical Safety  
Standards in the Private  
Rented Sector (England)  
Regulations 2020 and The  
Energy Efficiency (Private  
Rented Property) (England  
and Wales) Regulations 2015**

# 1.0 Introduction

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

In this policy, the terms 'House of Multiple Occupation' or 'HMO' are defined by the Housing Act 2004 sections 254-257.

## 1.1 Current Offences liable for the issue of Civil Penalty

**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]

**Section 23 of the Housing and Planning Act 2016** provides that a civil penalty may be imposed in respect of a breach of a **Banning Order**.

### **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.

### **Regulation 38 of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations**

**2015** provides local authorities with the power to impose a civil penalty in respect of breaches of Regulation 23; 27 and 37(4)(a) of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

## 1.2 Setting a Civil Penalty

The Council has the power to impose a civil penalty of up to a maximum of £30,000 for each separate offence and £5,000 for certain offences under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. 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 document 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.

The Council considers the need for transparency and consistency in the discharge of its functions under the Housing Act 2004, The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 and The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 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 so that, for example, those managing and having

control of rented properties across the Hinckley and Bosworth borough (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.

## 2.0 Statutory Guidance

The Government has issued statutory guidance under Section 23(10) and Schedules 1 and 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 its 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.

### 3.0 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 completely, 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 complete supporting evidence is provided to support any Written Representations received in response to a Notice of Intent.

### 4.0 Civil Penalties Matrix

In determining the level of a civil penalty, officers will have regard to the matrix set out below (figure 4.1), which is to be read in conjunction with the associated guidance. The matrix is intended to provide an indicative 'starting level' 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 four 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. Aggravating and mitigating 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.
4. If any of the Discounts, as set out below, apply, the penalty will 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 at Figure 4.1 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 by more than £5000. In exceptional circumstances, officers may determine that the presence of one or more mitigating factors justify a decrease in the penalty in excess of £5000. 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 a large number of 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 by more than £5000. In exceptional circumstances, officers may determine that the presence of one or more aggravating factors justify an increase in the penalty in excess of £5000. The presence of numerous aggravating factors will not automatically be considered as exceptional circumstances.

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

**Figure 4.1**

Seriousness of offence	Starting level [£]
Mild	2500
Moderate	7500
Serious	12500
Very Serious	17500
Severe	22500
Very Severe	27500

## **5.0 Offences where a civil penalty may be levied as an alternative to prosecution and relevant considerations as to the level of that penalty**

### **5.1 Failure to comply with an Improvement Notice - Section 30 of the Housing Act 2004.**

Maximum Court fine following successful 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 would view the offence of failing to comply with the requirements of an Improvement Notice as a significant issue, exposing the tenant[s] of a dwelling to one or more significant hazards. The seriousness of the offence is viewed by the Council as being a Severe matter (in accordance with Figure 4.1 above), attracting a financial penalty with a starting level of £22,500.

Under the Council's policy, the following table, Figure 5.1, shows the starting level financial penalty for a landlord controlling/ owning/ managing the number of dwellings/HMOs specified:

**Figure 5.1**

Offence	Starting level for Financial Penalty	Landlord controlling/ owning/ managing 1 – 2 dwellings (no more than 1 HMO).  No other mitigating relevant factors or aggravating features	Landlord controlling/ owning/ managing 3 – 5 dwellings and/or 2 HMOs).  No other mitigating relevant factors or aggravating features	Landlord controlling/ owning/ managing 6+ dwellings and/ or 3+ HMOs) and/or relevant experience.  No other mitigating relevant factors or aggravating features
Failure to Comply with an Improvement Notice	£22,500	£17,500	£22,500	£27,500

Should mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly from the figures shown in Table 5.1.

#### **Aggravating features/factors specific to non-compliance with an Improvement Notice**

- 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**

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

- A previous history of non-compliance could justify an increased civil penalty. Examples of previous non-compliance would include previous successful prosecutions, receipt of financial penalties, rent repayment orders, works in default undertaken by the Council 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. 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. 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. 3 months or longer.
- Whether any vulnerable residents were in occupation at the time of the offence. 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, people with complex health conditions, people who do not speak English as their first language, victims of trafficking or sexual exploitation, refugees, asylum seekers.

## 5.2 Failure to Licence Offences

Maximum Court fine following successful prosecution that can be levied for failure to license an HMO or Part 3 House – Unlimited

### Failure to license a Mandatory 'HMO' – Section 72(1) of the Housing Act 2004

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 would 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.

This seriousness of the offence is viewed by the Council as being a Very Serious matter (in accordance with Figure 4.1 above), 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 £5000, 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 £5000, attracting a civil penalty of £22,500.

Should there be other mitigating/relevant or aggravating factors, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

### **Aggravating features/factors specific to failure to licence offences**

- 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.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at paragraph 5.1 above.

### **5.3 Failure to comply with an Overcrowding Notice - Section 139 (7) of the Housing Act 2004**

Maximum Court fine following successful prosecution that can be levied for failure to comply with an Overcrowding Notice – Level 4 - £2,500

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.

The seriousness of the offence is viewed by the Council as being a Very Serious matter (in accordance with Figure 4.1 above), 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 £5000, 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 £5000, attracting a civil penalty of £22,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

## **Aggravating features/factors specific to non-compliance with an Overcrowding Notice**

- The level of overcrowding present – breaches that relate to over-occupation of multiple rooms or extreme over-occupation of an individual room would justify a higher civil penalty.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at paragraph 5.1 above.

## **5.4 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 successful 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. In the event that 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 of £30,000 to reflect the severity of the offence.

## **5.5 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 successful prosecution that can be levied for failure to comply with each individual regulation - unlimited

### **5.5.1 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]

### **5.5.1a 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.

### **5.5.2 Failure to comply with the duty of manager to provide information to occupier**

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide information to occupier as a Mild matter (in accordance with Figure 4.1 above), 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 £2000, 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 £2000, attracting a civil penalty of £4,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

### **Aggravating features/factors specific to Management Regulation breach offences**

- The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at paragraph 5.1 above.

### 5.5.3 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 a **Very Serious** matter (in accordance with Figure 4.1 above), 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 £5000, 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 £5000, attracting a civil penalty of £22,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

### Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' at Paragraph 5.5.2 above.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at paragraph 5.1 above.

### 5.5.4 Duty of manager to maintain water supply and drainage

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the water supply and drainage as a Serious matter (in accordance with Figure 4.1 above), 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 £5000, 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 £5000, attracting a civil penalty of £17,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly

### **Aggravating features/factors specific to Management Regulation breach offences**

As set out under 'Failure to comply with the duty of manager to provide information to occupier' at Paragraph 5.5.2 above.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

#### **5.5.5 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 a Serious matter (in accordance with Figure 4.1 above), 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 £5000, 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 £5000, attracting a civil penalty of £17,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly

### **Aggravating features/factors specific to Management Regulation breach offences**

As set out under 'Failure to comply with the duty of manager to provide information to occupier' at Paragraph 5.5.2 above.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

#### **5.5.6 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 a **Moderate** matter (in accordance with Figure 4.1 above), 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 £5000, 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 £5000, attracting a civil penalty of £12,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly

### **Aggravating features/factors specific to Management Regulation breach offences**

As set out under 'Failure to comply with the duty of manager to provide information to occupier' at Paragraph 5.5.2 above.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

#### **5.5.7 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 a Moderate matter (in accordance with Figure 4.1 above), 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 £5000, 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 £5000, attracting a civil penalty of £12,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly

### **Aggravating features/factors specific to Management Regulation breach offences**

As set out under 'Failure to comply with the duty of manager to provide information to occupier' at Paragraph 5.5.2 above.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

### 5.5.8 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 a **Moderate** matter (in accordance with Figure 4.1 above), 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 £5000, 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 £5000, attracting a civil penalty of £12,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly

### Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' at Paragraph 5.5.2 above.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

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

Maximum Court fine following successful 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.

### 5.6.1 Failure to comply with licence conditions related to:

- Signage or the provision of information for tenants
- Provision of written terms of occupancy for tenants
- Procedures regarding complaints
- Procedures regarding vetting of incoming tenants
- Compliance with deposit protection legislation
- The recording and provision of information regarding rent payments
- Procedures relating to rent collection
- The provision of information regarding occupancy of the property
- The provision of information regarding change of managers or licence holder details
- The provision of information related to changes in the property
- The provision of information relating to a change in mortgage provider
- Requirements relating to the sale of the property
- Attending training courses
- Requirements to hold insurance
- The provision of insurance documentation
- The provision of or obtaining of suitable references
- The provision of keys and alarm codes
- Security provisions for access to the property
- The provision of suitable means for occupiers to regulate temperature

The Council would view the seriousness of the offence of failing to comply with a licence condition as set out in Paragraph 5.6.1 above as a **Mild** matter (in accordance with Figure 4.1 above), 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 £2000, 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 £2000, attracting a civil penalty of £4,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

## **Aggravating features/factors specific to Licence Condition breach offences**

The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

### **5.6.2 Failure to comply with licence conditions related to:**

- Procedures and actions regarding Inspections
- Procedures regarding repair issues
- Maintenance and use of common parts (including gardens, outbuildings and property exterior) and living areas
- Safeguarding occupiers and minimising disruption during works
- The provision of information regarding alterations and construction works
- Procedures regarding emergency issues
- Waste and waste receptacles, pests, minor repairs, alterations or decoration.
- Giving written notice prior to entry
- Allowing access for inspections
- Minimising risk of water contamination
- The compliance of furnishings or furniture with fire safety regulations

The Council would view the seriousness of the offence of failing to comply with a licence condition as set out in Paragraph 5.6.2 above as a Moderate matter, 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 £5000, 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 £5000, attracting a civil penalty of £12,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

## **Aggravating features/factors specific to Licence Condition breach offences**

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

### **5.6.3 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 a licence condition as set out in Paragraph 5.6.3 above as a Serious matter, 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 £5000, 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 £5000, attracting a civil penalty of £17,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

## **Aggravating features/factors specific to Licence Condition breach offences**

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

#### **5.6.4 Failure to comply with licence conditions related to:**

- Minimum floor areas
- Occupancy rates
- Occupancy of rooms or areas that are not to be used as sleeping accommodation
- Limits on number of households allowed to occupy the property or part of the property

The Council would view the seriousness of the offence of failing to comply with a licence condition as set out in Paragraph 5.6.4 above as a Very Serious matter, 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 £5000, 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 £5000, attracting a civil penalty of £22,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

#### **Aggravating features/factors specific to Licence Condition breach offences**

The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

Generic aggravating features/factors : As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

#### **5.6.5 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 prevention including provision of safe means of escape

The Council would view the seriousness of the offence of failing to comply with a licence condition as set out in Paragraph 5.6.5 above as a Severe matter, 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 £5000, 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 £5000, attracting a civil penalty of £27,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly

### **Aggravating features/factors specific to Licence Condition breach offences**

The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

## **6.0 Additional Offences where a civil penalty may be levied and relevant considerations as to the level of that penalty**

### **6.1 Failure to Comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020**

Where a local housing authority is satisfied, beyond reasonable doubt, that a private landlord has breached a duty under Regulation 3, the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach.

The penalty may be of such amount as the authority imposing it determines but it must not exceed £30,000. The duties on private landlords in relation to electrical installations is detailed below:

#### **Regulation 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 are likely to have a more impact on the safety and comfort of residents than others.

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

The Council would view the seriousness of the offence of failing to comply with Sub-Regulations (3)(b), 3(d) or 3(e) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a **Mild** matter, 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 £1500, attracting a civil penalty of £1000.

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 £1500, attracting a civil penalty of £4,000.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

#### **Aggravating features/factors specific to Electrical Safety Regulations breaches of duty**

- 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.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

### **6.1.2 Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 Sub-Regulations (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 Sub-Regulations (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 a **Serious** matter, 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 £2500, attracting a civil penalty of £10,000.

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 £2500 attracting a civil penalty of £15,000.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly.

#### **Aggravating features/factors specific to Electrical Safety Regulations breaches of duty**

- 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.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

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

The Council would view the seriousness of the offence of failing to comply with Sub-Regulations (4), (5a) or (6) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Very Serious matter, 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 £5000, 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 £5000, attracting a civil penalty of £22,500.

Should other mitigating/relevant or aggravating factors exist, then under the Council's policy, the civil penalty imposed by the Council may be decreased or increased accordingly

#### **Aggravating features/factors specific to Electrical Safety Regulations breaches of duty**

- 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.

**Generic aggravating features/factors:** As set out under 'Failure to comply with an Improvement Notice' at Paragraph 5.1 above.

### **6.2 Statement of principles to determine the amount of a penalty charge for a breach of the Minimum Energy Efficiency Standards (MEES) with respect to domestic privately rented property under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015**

**Regulation 38 of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015** provides local authorities with the power to impose a civil penalty in respect of breaches of Regulation 23; 27 and 37(4)(a) of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 ("the Energy Efficiency Regulations").

The Energy Efficiency Regulations were introduced to improve the energy efficiency of housing in the private rented sector and to reduce greenhouse gas emissions and tackle climate change. They should 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 10 years and must be provided by the owner of a property, when it is rented or sold.

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

An EPC contains information about the type of heating system and typical energy costs. It also gives recommendations about how the energy use could be reduced, lowering running costs. You can find the recommended energy efficiency improvements on the current EPC.

If you're a private landlord, you must either:

- ensure your rented properties have an EPC with a minimum 'E' rating
- register a valid PRS exemption on the PRS exemptions register
- Failure to do either of these is a breach of the Regulations.

The Energy Efficiency Regulations make it unlawful to rent out a domestic property if it has an EPC rating of 'F' or 'G' (unless a valid exemption has been registered on the PRS Exemptions register).

If you are a landlord and you fail, when requested, to provide an EPC for the start of a tenancy, you will be in breach of the Regulations

The Council investigates any potential breaches of the Energy Efficiency Regulations. If the Council is satisfied that you are in breach of the Energy Efficiency Regulations or have, at any time in the 18 months preceding the date of service of the penalty notice, breached the Energy Efficiency Regulations, you 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 12 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 will impose the following financial penalties:

- a) letting a property with an 'F' or 'G' rating for less than 3 months: £2,000
- b) letting a property with an 'F' or 'G' rating for more than 3 months: £4,000
- c) registering false or misleading information on the PRS exemptions register: £1,000
- d) 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 Energy Efficiency Regulations but 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.

However, where a Landlord fails to take the action required by a penalty notice within the period specified in that penalty notice the Council may issue a further penalty notice based on the financial penalties above.

## 7.0 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, apart from in relation to offences under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

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 served on the recipient. As the burden lies with the recipient of any such notice to explain why the Council should, or should not, depart from the Civil Penalties Matrix and guidance above and Statement of Principles (in respect of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015), the Council will expect the recipient of a Notice of Intent to explain and provide strong evidence to support the existence of any exceptional 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 by applying a total penalty reflecting the overall seriousness of the breach. Furthermore, an offender's actions to remedy 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 this stage may be relevant with respect to any mitigating factors which 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 (or in the case of penalties under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 a notice confirming or modifying the 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.

## 8.0 Discounts

The Council will automatically apply the following discounted rates to any imposed financial penalties in the following circumstances:

- A discount of 15% of the original calculated financial penalty will be deducted from the penalty imposed in the Final Notice should the penalty be paid within a specified time period (normally 28 days).

### Illustrative example

The landlord of a Mandatory HMO property fails to obtain a licence. They only operate two HMO properties and there are no other relevant factors or aggravating features. The offence is regarded as a Very Serious matter. Upon receipt of the 'Notice of Intent' to impose a £17,500 financial penalty, written representations are made to the Council.

On account of the written representations received from the landlord, the Council imposes a financial penalty of £16,000. In the event the landlord pays within the specified period, a 15% discount will be given, so that the landlord makes a discounted payment of £13,600.

## 9.0 Service Complaints

9.1 If you feel the Council has not acted in accordance with this policy please contact

**The Environmental Services Manager, Hinckley and Bosworth Borough Council Hinckley Hub,  
Rugby Road, Hinckley, Leicestershire, LE10 0FR**

**E-mail: [esadmin@hinckley-bosworth.gov.uk](mailto:esadmin@hinckley-bosworth.gov.uk) Telephone: 01455 213342**

If you are dissatisfied with the response you can pursue your complaint through the Council's complaints procedure.

## 10.0 Policy Review

This policy will be reviewed periodically to ensure it continues to meet the principles of good enforcement.

