

Private Sector Housing Enforcement Policy

1. General policy provisions - introduction and scope

This is the Brighton & Hove City Council (the council) Private Sector Housing Enforcement Policy. This is a single enforcement policy and not linked to any other enforcement policy at the council. However, we may decide, in the event of any exceptional circumstance, to depart from this policy.

The policy is reviewed annually.

Brighton & Hove is a popular place to live which has affected the cost of buying and renting in the city. This has resulted in high property prices and high rents.

The city has above average numbers of privately rented homes (33% of its housing stock), including Houses in Multiple Occupation, with demand for housing in the city outstripping supply. The private rented sector has also grown exponentially, at the national level, over the past 10 to 15 years.

The council believes that the private rented sector should be well managed and that everyone has the right to live in decent, safe accommodation.

This policy details how the council will regulate standards in private rented housing and address empty homes in Brighton & Hove. It also provides a background to the legislation and guidance on which it is based.

It is important for local authorities to have an enforcement policy to make sure the approach is consistent among officers. It also helps members of the public know what to expect from the service. An enforcement policy also provides clarity if the council takes legal proceedings or enforcement action is appealed against.

Section 107 Renters' Rights Act 2025 imposes a duty on the Council to enforce the Landlord Legislation. The Landlord Legislation is comprised of the following:

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

Section 110 Renters' Rights Act 2025 imposes a duty on the Council to report to the Secretary of State on the exercise of its functions under the Landlord Legislation.

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

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

The purpose of this enforcement policy is to provide guidance for Housing Authority officers to ensure enforcement action is taken in line with the provisions of the Renters' Rights Act 2025 and mandatory guidance to local authorities.

The Renters Rights Act 2025 and the 'Landlord Legislation' (as defined by section 107 of the Renters Rights Act 2025) sit outside of the Regulators' Code, and its provisions do not apply.

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

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

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

This policy document sets out what owners, landlords, their agents or any other person involved in the letting or management of privately rented accommodation, and tenants of private rented sector properties, can expect from officers when dealing with non-compliance.

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

2. Delegation and enforcement

The council's Corporate Director - Homes and Adult Social Care and Corporate Director - City Operations have the delegated authority to exercise the local authority functions referred to in this policy, in accordance with the council's scheme of delegation to officers. The Corporate Directors may authorise the carrying out of any relevant functions, in their name, by other officers within their Directorate, so they can take enforcement action, under a range of legislation, as set out in this policy.

Private Sector Housing, Housing Options or Trading Standards Managers will consult Legal Services at this council on decisions to instigate a prosecution.

Civil penalty notices are an alternative to prosecution and were introduced by the Housing and Planning Act 2016. There is no requirement for the Managers to consult Legal Services on the issue of the notices. However, in some circumstances it may be best practice to do so.

3. The decision to prosecute, impose a civil penalty or take informal action

The council is expected to have a policy in place to guide their decisions on when to prosecute, issue a civil penalty or take informal action. This policy is, therefore, the means for making those decisions.

Each decision on when to prosecute, issue a civil penalty or take informal action will be considered on a case-by-case basis.

The factors below will be taken into account:

- the facts of any particular case
- the risk to health and safety
- any protected characteristics of housing landlords, owners or tenants which could be reasonably known to the local authority
- the severity of any breach or non-compliance
- the impact on those interested parties or local communities

The factors above are not conclusive. There may be other relevant factors the council will take into consideration within this policy. The council must be satisfied that then criminal standard of proof, for a relevant breach, is met before pursuing a prosecution or issuing a civil penalty.

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

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

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

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

The council will take formal enforcement action in the first instance for breaches of the landlord legislation.

A council officer will consult their Private Sector Housing, Housing Options or Trading Standards managers before a decision to prosecute is made. If necessary, Legal Services may also be consulted. If new information becomes available during a particular investigation of breach etc, the council will be entitled to follow a new direction, as appropriate.

The evidential strength of the council's case must also be considered, before a decision to pursue a prosecution in a Magistrates' Court is decided. In addition, the

relevant public interest factors, as set by the Director of Public Prosecutions in the [Code for Crown Prosecutors](#) must be met. This is set out in the stages below.

- the evidential stage, the council must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the suspect on charge, any defence and how that affects the prospect of a conviction – a case that does not pass this stage must not proceed, no matter how serious or sensitive the case may be
- the public interest stage – if the evidential stage is passed, the council must consider if a prosecution is in the public interest, to do this the council considers each of the questions below
 - how serious is the offence committed?
 - what is the level of culpability of the suspect?
 - what are the circumstances of and harm caused to the victim?
 - what was the suspect's age and maturity at the time of the offence?
 - what is the impact on the community?
 - is prosecution a proportionate response?
 - do any sources of information require protection and if yes, what is the special care to be taken by the council for ensuring the protection?
 - or any other relevant factor

4. Aims

The Private Sector Housing and Housing Options Teams are part of the council's Homes & Adult Social Care Directorate with Trading Standards part of City Infrastructure Directorate. Private Sector Housing aims to protect and improve lives by making sure private rented homes are safe and warm. Housing Options aims to help people sustain settled homes and access their housing rights with Trading Standards investigating and enforcing consumer protection laws

We aim to seek conformity with legislation. We will work with landlords, letting and management agents, as well as owners of long-term or nuisance empty properties to achieve conformity.

The main themes of this policy are to make sure the council takes appropriate action to achieve the general aims below:

- tenants of private landlords occupy homes that are free from hazards and risks to their health and safety
- all licensable private rented properties are licensed and all licensing conditions are met
- tenants of private landlords can receive help if they experience any breach of their statutory entitlements relating to unlawful eviction or harassment

- effective intervention occurs where private housing remains empty for an unreasonable amount of time and/or becomes an eyesore and nuisance to neighbouring properties

The policy applies to all private sector homes in the city, long-term empty properties, private tenants, letting and managing agents and private landlords. The policy also applies to registered social landlords.

The Regulators' Code commenced on 6 April 2014 under the Legislative and Regulatory Reform Act 2006. The code provides a clear, flexible and principles-based framework for how regulators should engage with those on whom they regulate. Further, the council is a regulator, as set by the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, amended in 2009, 2010 and 2014. The council, as the regulator, has had regard to the code for the development of this policy.

[The Regulators' Code GOV.UK](#)

The Renters Rights Act 2025 and the 'Landlord Legislation' (as defined by section 107 of the Renters Rights Act 2025) sit outside of the Regulators' Code, and its provisions do not apply.

5. General principles

Openness

We will provide information and advice verbally or in writing about regulations, standards and enforcement.

Proportionality

We will take into account the factors highlighted in **3. The decision to prosecute, impose a civil penalty or take informal action** of this policy.

Consistency

We will make sure our actions are in line with legislation and other regulatory requirements.

Relevant legislation and guidance

We have written this policy taking into account relevant legislation, guidance and best practice that is currently available to this council.

Human rights and equality

We will conduct enforcement action in a manner which does not conflict or undermine the principles of the Human Rights Act 1998 or the Equalities Act 2010 (as amended).

The council is also committed to being an inclusive and fairer city in the [Brighton & Hove City Council plan 2023 to 2027 refresh 2025](#).

We also committed to our [Fair and Inclusive Action Plan 2023 to 2027](#).

Vulnerable groups

Any enforcement action will take into account any protected characteristics that are identified to us. Officers will also be mindful of vulnerabilities not covered by the Equalities Act 2010 (as amended).

Safeguarding

Where we carry out compliance and enforcement work, if we become aware of issues relating to safeguarding children and vulnerable adults, we have a duty to make the appropriate referrals. This will ensure we protect the welfare of the people at risk.

Working in partnership

We foster and maintain good working relationships with partner services to help ensure all homes in the city, across all the different tenures, including long-term empty properties, are well managed and maintained. In particular, the Private Sector Housing Team is committed to partnership work with East Sussex, Fire and Rescue Service. A joint protocol is in place with the Service and the other local authorities in East and West Sussex. The protocol forms the basis of collaboration and sharing of best practice. The Housing Options Team works in partnership with many external organisations to the council. They include Jobcentre Plus, the Probation Service and National Health Service (Accident and Emergency care) and Change Grow Live, Brighton and Hove Recovery Service.

Collaboration across all council services

The Private Sector Housing and Housing Options Teams will collaborate with other departments and teams at the council. For example, Trading Standards, Environmental Health, Building Control, Planning and Children's Services and Adult Social Care.

It means information, as well as intelligence, may be shared during collaboration. For example, on any non-compliance by housing landlords or letting or managing agents. The sharing of information will be done in accordance with all data protection and privacy requirements. [Further information on privacy and how data is used at this council](#).

6. What to expect from us

6.1 Landlords and letting or managing Agents

All housing landlords should be aware of their responsibilities. This also includes letting or managing agents. We will try to advise you of the legislation and help you

understand how you can follow it. But equally, the letting of properties is a business. It is fair to expect you should already have some, if not full awareness, of the various legislation. This includes on how to comply with the law or access to legal advice.

This means the council is not expected, before commencing any enforcement, to advise you of any action you need to take to follow legislation.

We will also prioritise the health and safety of private rented sector tenants.

We will also ask you to respond with how you intend to follow the requirements of any legislation.

If we are satisfied with your proposals, we will work with you to agree reasonable timescales for compliance. However, this does not preclude us from taking enforcement action.

If we are not satisfied with your proposal or how the work is progressing, we will normally start formal action that is appropriate to the circumstances. This often means the service of a statutory, requiring work, notice.

We also issue property licences that set various requirements by way of licensing conditions.

We will generally make a charge for the service of a statutory notice, confirming the breach of a requirement. You can find more information about this in **Appendix 1 - Setting levels of charges**

6.2 Tenants

We expect you to tell your landlord, letting or managing agent about any issues in your property, preferably in writing or by email. You need to do this before you contact us for advice and guidance.

When contacting the council about your issue, we require your name, property address and telephone number. The council may not always be able to assist everyone without this information.

We will tell you what action we can take and advise you of the expected timescales.

We expect you to co-operate with the landlord, letting or managing agent to get the work carried out. This includes providing access to your home at all reasonable times. We also expect you to tell us of any action the landlord or agent takes.

6.3 Owner-occupiers

We expect owners to maintain the properties they occupy without any intervention from us. We will consider enforcement action if there is an imminent risk to a person's life.

6.4 Owners of empty homes

We will work with owners of empty homes to encourage and assist their empty homes are returned to use.

Where an empty property is having a detrimental impact on the neighbouring area, we will consider enforcement action where appropriate.

We will consider enforcement action like Compulsory Purchase Order, Empty Dwelling Management Order and Enforced Sale:

- if owners do not take responsibility for their properties
- if owners are not willing to engage or negotiations have failed
- where there is little prospect of a property being brought back into use voluntarily

7. Situations where a service may not be provided

In the following situations, we might withdraw a service where the tenant or tenants:

- unreasonably refuse access to the landlord, letting or managing agent or landlord's contractors, to arrange or carry out works
- in the opinion of the council, have clearly caused the damage to the property they are complaining about, and there are no other defects giving rise to hazards
- has recklessly made a false statement about their housing circumstances
- have asked for a service and then failed to keep an appointment and not responded to a follow-up letter or appointment card
- have been aggressive, threatening, verbally or physically abusive towards council officers
- have no justification for the complaint, when we visit the property
- unreasonably refuses to give the council relevant documentation

8. Our Approach to enforcement work

8.1 Advice and guidance

We will provide authoritative, accessible advice around private sector housing and tenancy related issues. The council's website provides published information, advice and guidance. This makes it easier for landlords, letting and managing agents, homeowners and others to understand their obligations. The website also offers guidance to private rented sector tenants.

The information is provided in clear, concise and accessible language. We will consult with landlords' associations and organisations who support private rented sector tenants when we develop the content and style of this guidance.

In addition to offering guidance, we can provide homeowners, landlords and letting and managing agents support on how to comply with legislation and the rights of tenants. However, we will do this where it benefits the tenants. Our guiding principle is not about education of landlords. They are expected to be aware of current statutory requirements.

The service will not act as a consultant for homeowners or landlords. We are not able to complete assessments for specific properties, such as party wall issues or fire safety risk assessments or support landlords with eviction procedures for housing tenants. Independent legal advice should be sought by landlords in this instance.

8.2 Risk assessment and triage of requests for assistance

Following the receipt of a complaint on poor housing conditions in the private rented sector or request for assistance on a tenancy related matter, an initial assessment will normally be carried out. This is to triage cases according to their severity.

Follow-up advice or action is dependent on the outcome of the initial assessment, and we may not always carry out a visit to the property or investigate every request on tenancy related matters. We also take into account safeguarding issues and any vulnerability of the occupant.

Where appropriate we expect tenants of Registered Providers to have used the social landlord's complaint process and if necessary, approached the Housing Ombudsman. The council will still visit the property where there is a clear need to do so for the purposes of meeting our statutory duties.

8.3 Inspections, investigations and information requirements

Inspections to properties or investigations of housing tenancy matters will only take place if there is a reason. They will take place in response to a reasonable complaint, request for service, threat of eviction or harassment, breach of housing legislation or where poor housing conditions have been brought to our attention. Inspections will also take place in accordance with statutory requirements, such as property licensing inspections.

The council will take a proactive approach or act unilaterally, where there is a need to do so, when inspecting properties or conducting investigations. Further investigation of a complaint from an intelligence source may also require the council to complete a property inspection or a visit to a property rental sector business.

The council will use its statutory powers for when inspecting properties and the taking of any formal action afterwards. We are not always required to pre-notify the

landlord, letting or managing agent of the inspection when using our powers under the Housing Act 2004 or the Renters' Rights Act 2025.

We will prioritise our resources on tenants whose occupation of their home is threatened or the worst and poor condition properties. The ones posing serious harm or those owned by landlords who regularly fail to comply with housing or tenancy protection legislation.

9. Enforcement, investigatory and entry to premises powers

The council has certain enforcement powers. The powers include entering a residential or business premises, used as a property rental sector business, and requiring information and using it for investigations.

9.1 Enforcement

Decisions about the most appropriate enforcement action are made in line with this policy and based on:

- professional judgement
- legal guidelines and advice
- statutory codes of practice
- priorities set by the council and/or central government

The Housing Act 1988, Housing Act 2004, Housing and Planning Act 2016, Protection from Eviction Act 1977 and the Renters' Rights Act 2025 and any associated legislation sets out the duties and powers the council has for regulating housing conditions and protecting the entitlements of tenants.

In particular, Section 3 of the Housing Act 2004 imposes a duty on the council to keep housing conditions in its district under review with a view to identifying any action that may need to be taken by us.

Section 107 of the Renters' Rights Act 2025 imposes a duty on the council to enforce the landlord legislation which consists of:

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

Section 110 of the Renters' Rights Act 2025 imposes a duty to report to the Secretary of State on the exercise of the council's functions under the landlord legislation.

Powers are also contained in the Housing Act 1985 (as amended) and other legislation, such as the Environmental Protection Act 1990, Town and Country

Planning Act 1990, Public Health Acts 1936 and 1961, Mobile Homes Act 2013, Prevention of Damage by Pests Act 1949, Building Act 1984 and Building Safety Act 2022.

This is not a complete list of the powers available.

Officers can produce their photographic identification and authorisation for inspection by a relevant person, in the course of the officer's actions, as set by this policy and legislation.

Officers who undertake criminal investigations are conversant with the provisions of all relevant criminal investigation law. This includes the Police and Criminal Evidence Act 1984 and the relevant approved codes of practice.

If officers are asked to give evidence on behalf of one of the parties in a private action they will, to prevent any implication they have taken sides, usually only attend in response to a witness summons.

9.2 Investigatory powers for entry to premises and requiring information etc

The council has various investigatory powers, powers for requiring information and powers of entry under the Renters' Rights Act 2025 which may be used for when investigating breaches of relevant legislation. The Housing Act 2004 and other related legislation also provides the council with further powers. They include powers for requiring information and powers of entry.

Further details are given in **Appendix 2 – Investigatory powers, requiring information and powers of entry**

10. Housing, Health and Safety Rating System (HHSRS)

The Housing Act 2004 introduced HHSRS. It is a statutory, evidence-based, risk assessment method, for assessing and dealing with poor housing conditions. All officers using this are trained.

HHSRS is a calculation of the effect of 29 possible hazards on health and safety. This is done by assessing the impact of the hazards on specific age groups who are deemed to be most vulnerable. For some hazards, there may be no specific age group which is vulnerable so the assessment is based on all age groups. This process ensures that all occupiers of properties are protected, even those who are most vulnerable to one of the 29 hazards.

HHSRS is a two-stage calculation, setting the likelihood of harm taking place over a 12-month period and the range of different harm outcomes that might result from that harm. This produces a numerical rating. Once scored, any works required to mitigate hazards may take into account the views of the actual occupants, as well as the levels of risk on the occupants. The scores for each hazard present are then banded from A to J.

Bands A to C (ratings of 1,000 points and over) are the most serious and are known as Category 1 hazards.

Bands D to J (rating less than 1,000 points) are less serious and known as Category 2 hazards.

HHSRS gives a score for each hazard assessed and does not provide a single score for the dwelling as a whole. The system can be applied to all residential premises, whether owner-occupied or rented.

The council has a duty to take appropriate action in response to a Category 1 hazard. When a Category 1 hazard is identified, the council must decide which of the available enforcement options it is most appropriate to use.

The council will use its discretion and consider individual cases and circumstances when deciding whether to take action in response to Category 2 hazards. There is a power to deal with category 2 hazards. This is where the risk to health and/or safety is present but not so significant.

The council will use this power where there:

- are category 1 hazard(s) present at the residential unit of accommodation
- the category 2 hazard is progressive and will likely become a category 1 hazard unless preventative action is taken
- are a number of category 2 hazards which would present a hazard to occupiers
- where in all the circumstances it is felt appropriate

10.1 Compliance and enforcement action following HHSRS inspections

If there is an imminent risk to the health and safety of the occupant or visitors to the property the council will follow requirements of the Housing Act 2004. This means that pre-notification to relevant persons, other than to the occupant or occupants, would not be required before any emergency remedial work would be taken by the council.

If there is no imminent risk to the health and safety of the occupant or visitors to the property, or there is not a high risk, the council would normally, unless there are other factors not to do so, delay any enforcement action and attempt to secure the required work within a reasonable amount of time.

The expectation is that any action related to a category 1 hazard should be dealt with promptly by the council.

Where this approach fails, the council will determine which of the specific enforcement options it will use, taking into account the facts and circumstances in each individual case.

The council will also use the [Housing Health and Safety Rating System, Enforcement Guidance for the enforcement of HHSRS](#)

When considering formal enforcement action, following an HHSRS inspection, we will, where appropriate, discuss the circumstances with those responsible for the hazard or hazards at the property and take this into account when deciding on the best approach. This will not apply:

- where immediate action is needed to prevent or respond to a serious hazard or hazards
- to deal with an imminent risk to health or safety
- where to do so is likely to defeat the purpose of the proposed enforcement action

We will make sure clear reasons for any enforcement action are given and we will explain appeals' procedures. We will provide a statement of reasons with any notice we serve, explaining why we have decided to take a particular course of action.

The decision to use enforcement action will depend on the fact that the overall impact of non-compliance will have a significant impact, as well as other factors such as the willingness and efforts of those responsible are making to seek compliance.

Factors that we will take into consideration include:

- the risk that the non-compliance poses to the safety, health or economic welfare of the public at large or to individuals
- the culpability of the responsible party
- evidence that suggests that there was premeditation in the commission of an offence
- whether the alleged offence involves a failure to comply in full or in part with the requirements of a statutory notice or order
- whether there is a history of previous warnings or the commission of similar offences
- aggravated circumstances, such as aggressive or violent behaviour

The range of action that we will consider, under the Housing Act 2004, includes:

- Hazard Awareness Notices - Section 28 & Section 29
- Improvement Notices - Section 11 & Section 12
- Prohibition Orders - Section 20 & Section 21
- Emergency Remedial Action - Section 40
- Emergency Prohibition Order - Section 43

Other action, under the Housing Act 1985, may also be considered:

- Demolition Order - Section 265
- Clearance Area Action - Section 289

Hazard awareness notice

A notice advising the person on whom it is served of category 1 and/or category 2 hazard(s) at the property. These will usually be issued where there is a less serious hazard present. There is no right to appeal for a hazard awareness notice.

Improvement notice

A notice requiring the person on whom it is served, to take the remedial action specified in the notice in relation to the hazards found, within a specified timescale.

Prohibition order

An order imposing restrictions on the use of the whole or part of the property and/or who can use the property.

Emergency remedial action

This will be considered where there is an imminent risk of serious harm and a Category 1 hazard is present. The council will take the action necessary to mitigate and/or remove this risk where the person responsible cannot be contacted and formal action will be taken to recover the full costs incurred.

Emergency prohibition order

This is the same as a prohibition order but it will take effect immediately. This is only available where a Category 1 Hazard is present.

Demolition order

An order that requires the demolition of the property. This is only available where a Category 1 Hazard is present.

Declaring a clearance area

An area which is to be cleared of all buildings. This is only available where Category 1 Hazards are present.

In determining what action to take, the council will use their judgement to take account of the current or potential occupants.

The council can also issue 'Suspended Improvement Notices' and 'Suspended Prohibition Orders'. These are usually used where the condition of a property presents a risk to health and safety, but the property is unoccupied or not occupied by a vulnerable person. Suspended Notices are reviewed at least every 12 months.

Notices will include reasonable time limits having regard to the seriousness of the defects and/or contraventions and contain a statement of reasons as to why the notice was served.

The notice or order will contain all required information as specified by the relevant act or regulation.

All appropriate people will be notified of the formal action, such as tenants or mortgagees.

Information on how the HHSRS will be applied to each tenure is set out in **Appendix 3 – Housing tenure and Housing, Health and Safety Rating System (HHSRS)**

10.2 Review of enforcement action

If there is a change in the occupation of a premises that may lead to either an increase or decrease in the apparent risk to occupiers then the current state of any outstanding enforcement action will be reviewed by the council officer. Normally, in consultation with their line manager, to ensure that it is still appropriate and proportionate to the risk posed from the identified hazard or hazards.

11. Enforcement notices and orders

11.1 Power to charge for notices and orders

The council has the power under Section 49 of the Housing Act 2004 to make a reasonable charge as a means of recovering certain administrative and other expenses. These expenses may have been incurred in:

- serving an Improvement Notice
- serving a Hazard Awareness Notice
- making a Prohibition, Emergency Prohibition or Demolition Order
- taking Emergency Remedial Action

Where a charge is made, the council can recover a reasonable amount for expenses incurred. This can be in connection with:

- determining whether to serve an improvement notice, take emergency remedial action or make a prohibition order
- identifying any action to be specified in the improvement notice
- the administration costs for the production and service of the improvement notice, emergency remedial action or prohibition order

Costs incurred carrying out work in default or remedial action will be charged separately.

When the charge demand becomes operative, the sum recoverable will be a local land charge.

Where charges can be made, these will be set in line with all relevant guidance.

Details are given in **Appendix 1 - Setting levels of charges**

11.2 Revocation and variation of notices and orders

Under the Housing Act 2004, the council must revoke an Improvement Notice or Prohibition Order once they have been complied with.

If part of the work required within an Improvement Notice or Prohibition Order is carried out, or if agreed with the council officer responsible for the Notice or Order, then the notice can be varied to allow alternative works or additional compliance time.

11.3 Failure to comply with notices and orders

If a notice is complied with, no further action will be taken. However, if the notice is not complied with, the council will consider the following options, taking into account the circumstances of each case:

- prosecution
- carrying out the works in default
- civil penalty
- rent repayment order

Failure to comply with an Improvement Notice or a Prohibition Order is an offence punishable by an unlimited fine. Following conviction, it is an offence to carry on using the premises in breach of the Prohibition Order, attracting a daily fine.

The council will take action to recover its costs in connection with works in default, including administration charges.

The council will also take action to recover the costs incurred in carrying out work associated with Emergency Remedial Action.

Where a charge is made on the property, the costs give the authority the same powers and remedies as a mortgagee under the Law of Property Act 1925 by way of Enforced Sale.

11.3.1 Prosecution

Prosecution will be considered in all cases of non-compliance and will be carried out in conjunction with Legal Services.

11.3.2 Works in default

Works in default will be considered if all other methods to try to remedy the necessary works have been unsuccessful. In determining if work in default is appropriate, officers will report to the Private Sector Housing Manager, who will consider approval based on the following information:

- the effects of not carrying out the work on the health and safety of the occupant of the property concerned
- the wishes of the tenant where the notice has been served in respect of a rented property
- the reason for the work not being carried out in the first place
- any other factors specific to the individual property

The council will normally seek to recover all of the costs associated with undertaking work in default. This includes time spent by its officers, administrative costs, contractors' costs, the cost of any specialist reports and supervisory costs, etc.

In the case of officer time, the council will calculate costs as follows:

- the actual time spent by council officers on the chargeable activities and recorded using file notes and database
- time spent will be converted into a monetary figure using the appropriate hourly rate set for the officer or officers concerned

The expenses incurred will be recovered from the person or persons who received the notice or order, known as the relevant person. Where the relevant person receives the rent on behalf of someone else, the expenses will also be recovered from that other person.

The expenses will carry interest from the date of service until payment of all sums due under the demand at a rate specified at the time. The recoverable expenses, together with interest accrued on them, are a charge on the premises.

Further details are given in **Appendix 1 - Setting levels of charges**

In addition, as a means of recovering the costs, the council may also serve recovery notices to recover, receive or give a discharge for any rent or sums in the nature of rent.

11.3.3 Civil penalties

A civil penalty is a financial penalty imposed by the council on an individual or organisation. The penalty is an alternative to prosecution for certain breaches of legislation.

The council has had regard to the [Ministry of Housing, Communities and Local Government statutory guidance 'Civil penalties under the Renters' Rights Act 2025 and other housing legislation'](#) for the exercise of the authority's functions in respect of civil penalties.

The breaches below are subject to a civil penalty with a statutory maximum of £7,000:

- failure to give a written statement of terms and any other prescribed information under Section 16D of the Housing Act 1988
- attempting to let a property for a fixed term under Section 16E of the Housing Act 1988
- attempting to end a tenancy by service of a notice to quit under section 16E of the Housing Act 1988
- attempting to end a tenancy orally, or requiring that it is ended orally, under section 16E of the Housing Act 1988
- serving an eviction notice that attempts to end a tenancy outside the prescribed Section 8 process under Section 16E of the Housing Act 1988
- relying on a ground, where the landlord does not reasonably believe that they are or will be able to obtain possession, under Section 16E of the Housing Act 1988
- failing to provide a tenant with prior notice that a ground, requiring its use, has not been made, under Section 16E of the Housing Act 1988
- failure to give an existing tenant prescribed information about changes made by the Renters' Rights Act 2025, in the prescribed form and timeframe, under paragraph 7(2) of Schedule 6 to the Renters' Rights Act 2025
- discrimination relating to children in the letting's process under Section 33 of the Renters' Rights Act 2025
- discrimination relating to benefits in the letting's process under Section 34 of the Renters' Rights Act 2025
- failure to specify proposed rent, within a written advertisement or offer, under Section 56 of the Renters' Rights Act 2025
- inviting, encouraging or accepting any offer of rent greater than the stated rate, under Section 56 of the Renters' Rights Act 2025

The breaches below are subject to a civil penalty with a statutory maximum of £40,000:

- breach of duty under Regulation 3, 3B, 3C and 3D of the Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England)

Regulations 2020 (as amended by the Electrical Safety Standards in the Private Rented Sector (England) (Amendment) (Extension to the Social Rented Sector) Regulations 2025)

- unlawful eviction and harassment of occupier under Section 1 of the Protection from Eviction Act 1977
- continuation of conduct subject to a relevant penalty, under Section 16I or Section 16K of the Housing Act 1988, after the 28-day period, or, if appealed, after conclusion of the appeal, where the final notice has not been withdrawn under Section 16J of the Housing Act 1988
- conduct giving rise to liability under Section 16I, where within the preceding five years the landlord has either (i) had a relevant penalty, under Section 6I or Section 16K of the Housing Act 1988, imposed for different conduct and the final notice has not been withdrawn or (ii) been convicted under Section 16J for different conduct under Section 16(J) of the Housing Act 1988
- relying on a ground knowing the landlord would not be able to obtain possession or being reckless as to whether they would under Section 16J of the Housing Act 1988
- breach of restrictions relating to reletting, Section 16(E)(2) of the Housing Act 1988 or remarketing Section 16(E)(3) of the Housing Act 1988 a property within restricted period after using Grounds 1 or 1A of Schedule 2 Housing Act 1988 under section 16J of the Housing Act 1988
- breach of a banning order under Section 21 of the Housing and Planning Act 2016
- failure to comply with an Improvement Notice under Section 30 of the Housing Act 2004
- contravention of an overcrowding notice under Section 139 of the Housing Act 2004
- failure to obtain a selective licence under Section 95 of the Housing Act 2004
- failure to obtain a House in Multiple Occupation (HMO) licence under Section 72 of the Housing Act 2004
- knowingly permitting over-occupation of an HMO under Section 72 of the Housing Act 2004

- failure to comply with management regulations in respect of HMOs under Section 234 of the Housing Act 2004
- failure to comply with HMO licence conditions under Section 72 of the Housing Act 2004
- failure to comply with selective licence conditions under Section 95 of the Housing Act 2004

If a landlord has committed multiple breaches or offences, a separate civil penalty can, and usually will, be imposed for each breach and offence. In each case, the level of any civil penalty imposed will be determined in accordance with this policy.

If multiple landlords have committed the same breach or 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 accordance with this policy.

This policy outlines the council's process for assessing and setting the level of a civil penalty at all stages where a penalty is under consideration, including the preparation of a notice of intent, and where a final decision has been made to impose a civil penalty.

When applying the council's civil penalties matrix, interim calculations at individual stages may result in figures that exceed the statutory maximum. Where the final amount reached following application of all relevant steps exceeds the statutory maximum, the civil penalty will be reduced to the applicable statutory maximum.

The council will use a suitable civil penalty notice generator for setting the level of a penalty.

The general objective of this part of the policy is to promote both transparency and consistency in the imposition of financial penalties so that those involved in the letting or management of accommodation:

- know how the council will generally penalise relevant breaches and offences, and
- are assured that, generally, like cases will be penalised similarly, and different cases penalised differently

The council recognises that, despite its best efforts, landlords may operate unlawfully for a significant period without detection, and that only a proportion of those committing relevant breaches and offences are identified. Accordingly, the council seeks to ensure that civil penalties are set at a level that makes it clear to the

landlord concerned, and to others, that operating unlawfully as a landlord is financially disadvantageous when compared to operating lawfully.

The council expects landlords against whom a civil penalty is being considered to provide all documents and records that would reasonably exist for accurate account keeping. Where such evidence is not provided, and no explanation that the council considers adequate is given, the council may draw a reasonable and adverse inference.

Further details on the factors used for determining the level of civil penalties, the financial matrixes and all other relevant material are given in **Appendix 4 – How the council uses civil penalties under the Renters’ Rights Act 2025 and other housing legislation**

11.3.4 Rent repayment orders

The council has the power under Part 2 of the Housing and Planning Act 2016 to apply for a Rent Repayment Order (RRO). The application is made to the First Tier Tribunal Property Chamber. The RRO requires the landlord of the property, if found guilty of a qualifying offence, to refund rent to the tenant or tenants or the council.

Where the council becomes aware a person has been convicted of an offence and there is sufficient evidence, Section 48 of the Housing and Planning Act 2016 places a duty on the council to consider applying for an RRO. Section 49 of the Housing and Planning Act 2016 enables the council to assist tenants in applying for RROs. The council will usually assist tenants by signposting them to organisations offering support for RROs such as Justice for Tenants.

An application for an RRO may be in addition to other formal action, such as prosecution proceedings or the imposition of a civil penalty notice. Where the Council has issued a penalty or pursued a prosecution, it may consider applying for an RRO where public funds have been paid to a landlord who has committed one of the qualifying offences.

The council will follow the [Ministry of Housing, Communities and Local Government statutory guidance ‘Rent repayment orders: guidance for local authorities’](#) when using RROs.

The qualifying offences for RROs are:

- unlawful eviction and harassment of occupier under Section 1 of the Protection from Eviction Act 1977
- failure to comply with an Improvement Notice under Section 30 of the Housing Act 2004
- failure to obtain an HMO licence under Section 72 of the Housing Act 2004
- failure to obtain a selective licence, in relation to licensing of houses, under Section 95 of the Housing Act 2004

- failure to comply with a Prohibition Order under Section 32 of the Housing Act 2004
- breach of a banning order under Section 21 of the Housing and Planning Act 2016
- using violence to secure entry to a property under Section 6 of the Criminal Law Act 1977
- knowingly or recklessly misusing a possession ground under Section 16J(1) of the Housing Act 1988
- breach of restriction on letting or marketing a dwelling-house under Section 16J(2) of the Housing Act 1988
- breach of tenancy reform: continuing breaches under Section 16J(3) of the Housing Act 1988

12. Banning orders

A 'Banning Order' prohibits a landlord, letting or managing agent convicted of Banning Order offences under the Housing and Planning Act 2016 from undertaking activities in connection with letting a property.

The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018 specify the criminal offences which are banning order offences for the purposes of the Housing and Planning Act 2016.

Rogue landlords who flout their legal obligations and rent out accommodation which is substandard following prosecution, will be referred to the First-tier Tribunal for application of a banning order.

A Banning Order will last a minimum of 12 months. There is no statutory maximum period for a banning order.

The council will apply for Banning Orders to be made where:

- the evidence justifies this course of action
- it is considered to be in the public interest to protect tenants against rogue landlords
- it is in line with the council's overall enforcement policy, and
- it is in line with statutory guidance by the [Ministry of Housing, Communities and Local Government 'Banning Order Offences under the Housing and Planning Act 2016'](#)

A Banning Order means that the subject of the order cannot:

- let housing in England
- engage in English letting agency work

- engage in English property management work
- hold a licence under Part 2 or Part 3 of the Housing Act 2004

13. Rogue landlord database

Under the provisions of the Housing and Planning Act 2016, the government has a nationwide database to record details of landlords and managing agents given a Banning Order or convicted of any Banning Order offences.

The council has a duty to apply for a landlord's and agent's details being entered on the database where a Banning Order has been given. The council has a power, normally where it is in public interest to do so, to apply for details being entered on the database of any person convicted of a Banning Order offence.

14. Statutory nuisance provisions

Under the Environmental Protection Act 1990, the council must take action to deal with a statutory nuisance if it exists, is likely to occur or recur. We would deal with a statutory nuisance, which could affect residential occupiers under Section 79 of this act.

There are two parts to this, as it applies to any premises in such a state as to be:

- prejudicial to health, or
- a nuisance

A general inspection of the premises would take place, to confirm the details of the complaint and to assess the situation.

The complainant will be made aware if further steps will be taken. It may be necessary to visit other premises to determine the cause of the nuisance. If access to other premises is refused, power of entry may be invoked.

If any action is taken, the complainant will be informed and sent a copy of any letter or the Abatement Notice, where possible.

The Notice is served on the person responsible for the statutory nuisance, which in this case would be the owner of the premises where the cause of the nuisance is related to the structure of the premises. If the person cannot be found, or the nuisance has not yet occurred, the Notice is served on the owner or occupier of the premises.

Enforcement of the Notice can be done by a prosecution for non-compliance in the Magistrates' Court, or by carrying out works in default, or both.

15. Overcrowding

We will investigate complaints from tenants living in privately rented properties about overcrowded living conditions. We will also investigate where overcrowded conditions are legitimately impacting on neighbours' health, safety or welfare.

Wherever possible, we will resist taking action that would lead to homelessness but will seek to reduce any serious hazard of overcrowding using suspended notices, under the Housing Act 2004, where appropriate.

It is a criminal offence to contravene an overcrowding notice served under the Housing Act 1985. We will consider taking enforcement action against those who do.

We can also take enforcement action to deal with 'crowded' conditions following a Housing, Health and Safety Rating System assessment using the Housing Act 2004.

We can also take specific enforcement action to deal with overcrowding in houses in multiple occupation, where there is no interim or final management order in force or a property licence is not required, using the Housing Act 2004.

Officers will use the most appropriate legislation on a case-by-case basis.

16. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (amended by the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022)

The regulations impose obligations on landlords to require tenanted properties have smoke and carbon monoxide alarms.

The council has a power to issue a remedial notice, followed by a penalty charge in certain circumstances, on landlords where the regulations are not complied with.

A statement of principles is used by the council for determining the amount of the penalty charge.

Further details are given in **Appendix 5 - Statement of principles to determine amount of penalty charge under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (amended by the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022)**

17. Electrical safety standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 (as amended by the Electrical Safety Standards in the Private Rented Sector (England) (Amendment) (Extension to the Social Rented Sector) Regulations 2025)

The regulations impose obligations on private and social rented landlords for electrical safety standards in tenanted properties.

The regulations came into force for the social rented sector on 1 November 2025 and will apply to social housing tenancies granted after 1 December 2025.

For social housing tenancies granted before 1 December 2025, the regulations will come into force on 1 May 2026.

The council has a power to issue a remedial notice, followed by a penalty charge in certain circumstances, on landlords where the regulations are not complied with.

Further details on how the level of civil penalty is set for when the regulations are not complied with are given in **Appendix 3 – How the council uses civil penalties under the Renters’ Rights Act 2025 and other housing legislation**

Further details on the regulations are given in **Appendix 6 – How the electrical safety standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 (as amended by the Electrical Safety Standards in the Private Rented Sector (England) (Amendment) (Extension to the Social Rented Sector) Regulations 2025) are applied**

18. Homes (Fitness for Human Habitation) Act 2018

This law requires that rented houses and flats are ‘fit for human habitation’. This means they are safe, healthy and free from things that could cause serious harm.

If rented houses and flats are not ‘fit for human habitation’, tenants can take their landlord to court. The court can make the landlord carry out repairs or remedy health and safety problems. The court can also make the landlord pay compensation to the tenant.

If tenants ask us to visit to provide a report for evidence to support their case, we will not act solely as consultants for this purpose. We will follow our usual procedures and take the appropriate action as necessary, which may involve contacting the landlord.

We may be able to provide a short, factual statement of the findings of our visit and offer limited advice, but tenants should seek their own independent legal advice.

Tenants can find guidance about the [Homes \(Fitness for Human Habitation\) Act 2018](#) and from [Shelter on fitness for habitation in rented homes](#)

19. Property licensing

The council uses three property licensing schemes. They are:

- mandatory licensing for Houses in Multiple Occupation (HMOs)
- additional licensing for HMOs
- selective licensing

19.1 House in multiple occupation (HMO) mandatory and additional licensing

It is a national legislative requirement that all HMOs with five or more unrelated occupiers, who share facilities must be licensed. This is called mandatory HMO licensing and its aim is to ensure every licensable HMO is safe for the occupants and visitors, and is properly managed. The responsibility for applying for a licence rests with the person having control of or the person managing the property.

The council has an additional licensing scheme in place for HMOs of two or more storeys with three or four unrelated occupiers which fall outside of mandatory HMO

licensing. The responsibility for applying for a licence under this scheme rests with the person having control of or the person managing the property.

The offence for failing to obtain a mandatory or additional HMO licence is set by the Housing Act 2004, Section:

- 72 – Offences in relation to licensing of HMOs

Where an unlicensed property is identified, requiring a mandatory or additional HMO licence, the council will assess whether there are good reasons why a licence application has not been received. If there are no good reasons, the council will look to take formal proceedings with a view to prosecution. We may also choose to issue a civil penalty.

It is also the landlord's responsibility to re-license a property for mandatory HMO licensing. While we will aim to remind licence holders when renewals are due, this is not always possible and the responsibility is on the landlord to apply before the licence expires. The council would normally prosecute, or issue a civil penalty, where a person fails to apply for a licence.

In addition, the council is committed to the investigation of properties requiring a mandatory or additional HMO licence where there is no licence in place. The council will investigate reports of any suspected unlicensed properties and act on intelligence, as necessary.

The Housing Act 2004 also sets other licensing related offences all of which carry an unlimited fine, including:

- operating an unlicensed HMO or allowing an HMO to be occupied by more persons than a licence allows
- breach of licence condition
- supplying incorrect information in a licence application

A breach of a property licence condition or conditions will be dealt with informally initially. However, if the breach is serious and affects the safety of the occupants or the responsible person does not carry out necessary work within an agreed timescale, the council will look to take formal proceedings with a view to prosecution. We may also choose to issue a civil penalty.

When considering the amenities required in an HMO, regard will be made to the Brighton & Hove HMO Standards. These include minimum room sizes, along with bathing facilities and cooking amenities.

Find out more about the [HMO Standards](#)

19.2 Selective licensing

The council's selective licensing scheme is currently in place for selected wards in the city. They are Kemptown, Moulsecoomb & Bevendean, Queens Park and

Whitehawk & Marina. The scheme applies to properties with one or two occupiers or a family. The scheme also applies to single-storey properties, flats or bungalows, with three or four unrelated occupiers which fall outside of additional HMO licensing.

It is a requirement that private rented properties meeting any of those criteria and located inside any of the four wards must be licensed. The aim of selective licensing is to ensure every licensable property is safe for the occupants and visitors, and is properly managed.

The responsibility for applying for a licence rests with the person having control of or the person managing the property.

The offence for failing to obtain a selective licence is set by the Housing Act 2004, Section:

- 95 – Offences in relation to licensing of houses under this Part

Where an unlicensed property is identified, requiring a selective licence, the council will assess whether there are good reasons why a licence application has not been received. If there are no good reasons, the council will look to take formal proceedings with a view to prosecution. We may also choose to issue a civil penalty.

In addition, the council is committed to the investigation of properties requiring a selective licence where there is no licence in place. The council will investigate reports of any suspected unlicensed properties and act on intelligence, as necessary.

The Housing Act 2004 also sets other licensing related offences all of which carry an unlimited fine, including:

- breach of licence condition
- supplying incorrect information in a licence application

A breach of a property licence condition or conditions may be dealt with informally initially. However, if the breach is serious and affects the safety of the occupants or the responsible person does not carry out necessary work within an agreed timescale, the council will look to take formal proceedings with a view to prosecution. We may also choose to issue a civil penalty.

[Find out more about the selective licence conditions.](#)

19.3 Fit and proper person and management arrangements

When an application for a mandatory or additional HMO or selective licence is received by the council, it must be satisfied a person (hereinafter P) is a fit and proper person to be the licence holder, and if there is a manager, the manager of the

property. The council may decide to refuse to grant a mandatory or additional HMO or selective licence where it is not satisfied P is fit and proper.

Upon refusal, the council will consult the property licence applicant and ask that another person should apply, for seeing if they are fit and proper, to be the licence holder. If no other person is available, or they are found not fit and proper, enforcement of the Housing Act 2004 will be considered for the property requiring a property licence. The applicant will be consulted during the process.

The council must also be satisfied the proposed management arrangements for the property are satisfactory.

The full provisions are in the Housing Act 2004, Sections:

- 64 - Grant or refusal of licence
 - For mandatory or additional HMO licence applications
- 88 – Grant or refusal of licence
 - For selective licence applications

The council will have regard, when deciding if P is fit and proper, to any evidence they have:

- committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 - for offences attracting notification requirements
- practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business
- contravened any provision of the law relating to housing or of landlord and tenant law
- acted otherwise than in accordance with any applicable code of practice approved under section 233 Approval of codes of practice with regard to the management of HMOs etc of the Housing Act 2004

The council may also have regard to any evidence showing that another person, associated with or formerly associated with P, has done any of the things listed above. If it appears to the council that the evidence is relevant to the question on whether P is a fit and proper person to be the licence holder or the manager, the council may use that evidence.

If P has a banning order, under the Housing and Planning Act 2016, in force against them then P is not a fit and proper person.

The council, when deciding if the proposed management arrangements for the property are satisfactory, will take into consideration:

- whether any person proposed to be involved in the management of the property has a sufficient level of competence to be so involved

- whether any person proposed to be involved in the management of the property, other than the manager, is a fit and proper person to be so involved
- whether any proposed management structures and funding arrangements are suitable

The full provisions are in the Housing Act 2004, Sections:

- 66 – Tests for fitness etc. and satisfactory management arrangement
 - For mandatory or additional HMO licence applications
- 89 - Tests for fitness etc. and satisfactory management arrangements
 - For selective licence applications

19.4 Additional control provisions – house in multiple occupation (HMO) licensing or selective licensing

Interim and final management orders

An Interim Management Order (IMO) transfers the management of a residential property to the council for a period of up to twelve months. The circumstances for when an order can be made are discussed below. In particular, the IMO allows the council possession of the property against the immediate landlord, and subject to existing rights to occupy, can:

- do anything in relation to the property which could have been done by the landlord, including repairs and collecting rents
- spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the property
- create new tenancies - with the consent of the landlord

Under an IMO, the council must pay to the relevant landlord. This is the person or persons who immediately before the order was made, were entitled to the rent for the property and any surplus of income over expenditure and any interest on such sum accrued during the period in which the IMO is in force. The council must also keep full accounts of income and expenditure in respect of the house and make such accounts available to the relevant person.

The council must take enforcement action in respect of a licensable property (which means an HMO subject to Part 2 mandatory or additional licensing under Part 2 of the Housing Act 2004) or other residential property (subject to selective licensing under Part 3 of the Housing Act 2004 Part 3) by making an IMO, if:

- the property ought to be licensed, but is not, and the council considers there is no reasonable prospect of it granting a licence in the near future
- the Private Sector Housing Team intends to revoke the licence on one or more of the grounds specified in Parts 2 or 3 of the Housing Act 2004, other than the property has ceased to be licensable, and upon revocation there will

be no reasonable prospect of the property being licensed in the near future - to another suitable person for example

- the Private Sector Housing Team is satisfied that when the licence is revoked the health and safety condition test will be met

An IMO may not, however, be made on these grounds if:

- an effective application is outstanding with the council for the grant of a licence or a temporary exemption notice or if such a notice is in force
- the council is satisfied that the health and safety condition is not met and, therefore, it would not have granted an application for a licence - as another form of action under the Housing Act 2004 can be used as an alternative to deal with matters at the residential property

Final management orders

In exceptional circumstances, the council can also apply for a Final Management Order (FMO) which can last for up to five years. Such powers will only be used in exceptional circumstances.

An FMO cannot be made unless an IMO or another FMO was already in force. An FMO transfers the management of the house to the council for the duration of the order.

In particular, the FMO allows the council:

- possession of the property against the immediate landlord, but subject to existing rights of occupation
- to do anything in relation to the property, which could have been done by the landlord, including repairs and collecting rents
- to spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the property
- to create new tenancies - without the consent of the landlord

Management order management schemes

The council must adopt a management scheme for a property subject to an FMO. The scheme must set out how the council intends to manage the house.

In particular, the management scheme must include:

- the amount of rent it will seek to obtain whilst the order is in force
- details of any works which the council intends to undertake in relation to the property
- the estimate of the costs of carrying out those works

- provision as to the payment of any surpluses of income over expenditure to the relevant landlord, from time to time
- in general terms how the council intends to address the matters that caused it to make the order

The council must also keep full accounts of income and expenditure in respect of the house and make such accounts available to the relevant landlord.

19.5 Temporary exemption notices

Where a landlord is, or will soon be taking steps to make an HMO or property requiring a selective licence non-licensable, the council may serve a Temporary Exemption Notice (TEN). A TEN can only be granted for a maximum period of three months.

In exceptional circumstances a second TEN can be served for a further three-month period. A TEN will be served where the owner of the HMO or property requiring a selective licence states in writing that steps are being taken to make the HMO or property requiring a selective licence non-licensable within three months.

19.6 Raising standards in all HMOs

Under current legislation some HMOs do not require a licence. These include houses containing self-contained flats. Many of these still pose a significant degree of risk to occupants and/or have a history of being poorly managed.

The council will continue to regulate such HMOs by enforcement of The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 and the Housing Health and Safety Rating System.

In addition, the council may also choose to regulate other types of HMOs by enforcement of The Management of Houses in Multiple Occupation (England) Regulations 2006.

19.7 Fire safety in HMOs

Statistically, HMOs have one of the highest incidents of deaths caused by fire in any type of housing. It is, therefore, essential that any HMO has an adequate means of escape, in the event of a fire, and adequate fire precautions.

The actual level of fire protection and detection required will be determined by a risk assessment. When requiring fire safety works, the council will have regard to the Local Authorities Coordinators of Regulatory Services (LACORS) Fire Safety Guidance document.

The Private Sector Housing Team is generally the lead enforcing authority for fire safety in HMOs. However, where an HMO contains common areas, a Fire Risk Assessment must be carried out in accordance with the Regulatory Reform Order, as

amended by the Fire Safety Act 2021 and Building Safety Act 2022. The Order is enforced by East Sussex Fire & Rescue Service.

In the event of a fire safety issue at an HMO within a 'high-risk residential building of at least 18 metres in height or 7 storeys high' then the council would also seek to engage the Building Safety Regulator. They have powers under the Building Safety Act 2022 to facilitate building safety in high-risk residential buildings.

For further clarification, and general fire safety guidance, please contact the Private Sector Housing Team.

19.8 Houses in multiple occupation (HMOs) and selective licensing and planning legislation

Planning and HMO licensing are separate and governed by different pieces of legislation. HMO licensing is about the safety and welfare of the tenants. If tenants are present, we must ensure the property complies, even if they are occupying without planning permission.

We will liaise with the Planning Team where this is the case and decide on the best approach on a case-by-case basis. We may grant a licence for a period of time until the situation is regularised, or not grant a licence until the situation is regularised.

Landlords may wish to seek independent advice in relation to planning and HMOs, as there are a number of variables. For instance, where an Article 4 Direction is in force under the Town & Country Planning Act 1990 (as amended), there must be planning permission for a smaller HMO.

Larger HMOs also require planning permission in all areas.

You can find more information about [planning permission for houses in multiple occupation](#)

HMO licensing or selective licensing cannot be applied to short-term holiday lets. For a property to be covered by HMO or selective licensing, the property must be the occupiers' only or main residence under licensing provisions of the Housing Act 2004. Therefore, 'party houses' or short-term holiday lets do not come in scope of the act.

You can find more information about [short-term holiday lets](#)

19.9 Noise and anti-social behaviour – house in multiple occupation (HMO) licensing or selective licensing

If we receive any complaints about noise or other anti-social behaviour from a licensed property, in the first instance we would write to the owner, managing agents and tenants about the issue, and remind them of their responsibilities under the provisions of the HMO or Selective Licence. Both types of licence require a tenancy agreement to be in place which sets conditions against the use of the property for

antisocial purposes. After this, we would ask for proof that the owners had addressed the issue with the tenants.

The name and address of the licence holder and the managing agents are detailed on the property licensing registers, available on the council's website. This is so the neighbour could approach them directly about noise issues should they wish, as well as approaching the council.

[You can find the register of property licences in Brighton & Hove.](#)

In addition, if the noise is frequent, the person complaining can [report a noise problem](#) to the Noise Team in Environmental Health.

Both the University of Sussex and University of Brighton have teams that support community liaison where issues arise with their students living in the private rented sector. We liaise with them where appropriate.

We will also liaise with the Safer Communities Team at this council as appropriate.

20. Building safety

The Building Safety Act 2022 places duties on the council for the safety of medium and high-rise residential buildings. There are provisions in the act to secure the safety of buildings, as well as the people about the buildings.

In the act, a building with:

- 5 storeys is deemed at least 11 metres high and medium rise
- 7 storeys is deemed at least 18 metres high and high rise

The council is one of three regulators with regulatory powers to control the safety of buildings, as defined by the:

- [Ministry of Housing, Communities and Local Government's Remediation enforcement: guidance for regulators](#)

The other two regulators are the Building Safety Regulator and East Sussex, Fire and Rescue and Service.

The council works with both regulators.

Where the council is not the lead regulator, for the subject building in question, the authority will support that regulator to make the building safe.

The council, and the other regulators, will act in the spirit of the Remediation enforcement: guidance for regulators. They will enforce, as necessary, each of their regulatory duties for making buildings with any remediation issues safe.

21. Empty homes

Empty homes can be a blight on our community as well as a wasted housing resource. Our approach will be to work with owners of empty homes with a solution-based approach to support and encourage voluntary action.

We are also committed to using appropriate enforcement action where owners fail to take responsibility for their properties, reasonable negotiations fail or there is little prospect of the property being bought back into use voluntarily.

We will consider a number of factors when we decide the best course of action for an empty home. For more information send an email to emptyproperties@brighton-hove.gov.uk.

The council will provide advice and assistance to the owners of empty properties to help bring the home back into use. We will, however, consider using any of the following enforcement options:

Empty dwelling management orders (EDMO)

Where a property has been left empty for over two years and is attracting anti-social behaviour, the council may seek an EDMO using Part 4 provisions of the Housing Act 2004.

An EDMO allows the council to take over full management of the property for up to seven years, reclaiming any management and refurbishment costs from the rental income.

Compulsory purchase orders (CPO)

CPOs can be made under Section 17 of the Housing Act 1985 or Section 226 of the Town & Country Planning Act 1990. They allow local authorities to purchase properties in specific circumstances without the owner's consent.

Enforced sale

The Law of Property Act 1925 allows the recovery of debt, that was secured by a registered charge, by forcing the sale of a property. Normally, in situations where the council has served notices requiring the owner to make their property safe or do other work to address negative impact on the neighbourhood. If the property owner has not complied, the council may be forced to carry out the works in default.

If the costs incurred are not paid, the council will register a charge against the property and should the owner still not pay this debt, the council can begin legal proceedings to sell the property to recover the costs.

Enforced sale of a property may also be considered by the council to recover Council Tax arrears.

Other provisions

If a property is unsafe or causing, or is likely to cause, a nuisance to the locality there are several legislative tools available to the council to ensure the condition of the property is improved.

These include:

- Town and Country Planning Act 1990, Section 215 - to tackle land or buildings adversely affecting the appearance of the neighbourhood
- Housing Act 2004, Part 1 - to make sure properties are safe for potential occupiers
- Building Act 1984 Sections 77, 78 and 79 - to deal with dangerous or dilapidated buildings or structures
- Anti-Social Behaviour Crime and Policing Act 2014, Chapter 1, Community Protection Notices - to require an owner to deal with the accumulation of rubbish or overgrown gardens
- Local Government (Miscellaneous Provisions) Act 1982, Section 29 - to secure or board up empty properties
- Environmental Protection Act 1990, Section 80 - to deal with nuisance caused by waste or rubbish or because remedial work is needed at property
- Prevention of Damage by Pests Act 1949, Section 4 - to treat or prevent rodent infestations

You can find more information on the council's approaches to [empty properties](#)

22. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

The regulations impose minimum energy efficiency standards (MEES) on landlords to control the least energy-efficient properties in England and Wales, those rated F or G on their Energy Performance Certificate (EPC).

The regulations establish a minimum standard for all rented properties.

The council has a power to issue a penalty charge on landlords where the regulations are not complied with.

A statement of principles is used by the council for determining the amount of the penalty charge.

Further details are given in **Appendix 7 - statement of principles to determine amount of penalty charge for a breach of the minimum energy efficiency standards (MEES) for privately rented properties**

23. Accountability of the service

The service is accountable for how efficient and effective its activities are, while remaining independent in the decisions that it takes.

Council officers will provide a polite, prompt and efficient service and will identify themselves by name. They will give a contact point, telephone number and email address.

23.1 Complaints about the service

If you are not happy with the service from us, we would first ask you to contact the case worker in the Housing Options, Private Sector Housing or Trading Standards Teams about the issue.

Private Sector Housing psh@brighton-hove.gov.uk

Housing Options housing.advice@brighton-hove.gov.uk

Trading Standards Trading.standards@brighton-hove.gov.uk

If this does not resolve the issue you can also raise a complaint by [contacting the council's customer feedback team](#). We will deal with complaints about our service in line with the council's corporate complaint's procedure.

The customer feedback process is without harm to any formal appeal mechanisms. Where a formal appeal mechanism exists, that mechanism must be used. The complaints procedure cannot be used as a substitution for a formal legal appeal.

23.2 Appeals

Any person served with a notice or order has the right to appeal on any grounds set out in the legislation. Appeals about enforcement action under the Housing Act 2004 or the Renters' Rights Act 2025 are made to the First Tier Tribunal (Property Chamber).

First Tier Tribunal (Property Chamber)
Residential Property
Havant Justice Centre
The Court House
Elmleigh Road
Havant, PO9 2AL

Phone number: 01243 779 394

Email address: rpsouthern@justice.gov.uk

All other appeals regarding enforcement action taken should be directed to the Magistrates' Court or as directed on the notice or order served by the council.

24. Application of the policy

All officers must take this policy, including the legislation and guidance in the policy, into account when they make enforcement decisions.

25. Monitoring and review of the policy

The council will keep its regulatory activities and interventions under review. They will consider if it is appropriate to remove or reduce any regulatory burdens they impose, where the council has direct control of these matters.

Changes will be introduced into this document where necessary to accommodate new legislation, guidance and local needs. Where housing or other related legislation is introduced, which is enforced by the council and permits the imposition of any monetary penalty or penalty charge, the council will seek to fully implement any duty or power conferred upon it.

We will review this policy annually and amend it to reflect changes in legislation, corporate policy or official guidance.

26. Related policies and strategies

We will make sure this policy aligns to our approach to enforcement across the council.

Related policies and strategies include:

- [Homes for everyone - housing strategy 2024 to 2029](#)
- [Homelessness and rough sleeping strategy 2025 to 2030](#)
- [Safer communities enforcement policy](#)
- [Brighton & Hove enforcement policy in relation to the relevant letting agency legislation](#)

[You can also find housing strategies, policies, performance and other supporting documents](#)

27. Contact and enquiries information

If you have any comments or queries on this policy, please contact:

Private Sector Housing

Brighton & Hove City Council
First Floor, Hove Town Hall
Norton Road,
Hove, BN3 3BQ

Email address: psh@brighton-hove.gov.uk

Phone number: 01273 293 156

Housing Options

Brighton & Hove City Council
First Floor, Hove Town Hall
Norton Road,
Hove, BN3 3BQ

Email address: housing.customerservices@brighton-hove.gov.uk

Phone number: 01273 293 030

Empty Properties

Brighton & Hove City Council
First Floor, Hove Town Hall
Norton Road,
Hove, BN3 3BQ

Email address: emptyproperties@brighton-hove.gov.uk

Phone number: 01273 293 297 or 01273 293 035

Trading Standards

Brighton & Hove City Council
G39, Hove Town Hall
Norton Road, Hove, BN3 3BQ

Email address: trading.standards@brighton-hove.gov.uk

Phone number: 01273 292523

28. The review of this policy

The table below shows the dates, actions taken and approval of the policy review.

Date	The action (review of the policy, addition or amendment of legislation etc)	Approved by

Appendix 1 - Setting levels of charges

1. Housing Act 2004: making a charge for the service of notices under part 1

Power to charge

Section 49 of the Housing Act 2004 gives the local authority discretion to levy a charge, currently unlimited, as a means of recovering expenses incurred in:

- determining whether to serve the notice (improvement notices, emergency remedial Action, prohibition orders)
- identifying any action to be specified in the notice (improvement notices)
- serving the notice (improvement notices, emergency remedial action, prohibition orders)
- serving copies of the notice on persons as owners of premises (prohibition orders)

Person to charge

For improvement, emergency remedial action or hazard awareness notices, the charge can be recovered from the person on whom the notice is served.

For a prohibition order, the charge can be recovered from any person on whom a copy of the order is served who is an owner of the premises.

Notice of charge - the demand

A formal demand for payment of the charge for enforcement will accompany any notice served, unless waived following discussion with the Private Sector Housing Manager.

The demand has effect 21 days after service if no appeal is made on the original notice, and is registerable as a Local Land Charge.

For the purposes of enforcing the demand, the council has a power of sale under the Law of Property Act 1925, one month from the date on which the demand takes effect.

Calculation of charge

It is essential that charges levied can be justified and it is proposed that a series of relevant costings be established to cover the standard work undertaken in enforcement.

For service of notices, the following timed items will be included:

- property inspection including travel time
- evaluation of inspection, preparation of defects schedule and specification
- administration costs in typing, serving and recording of notices

Having determined the total time taken for the tasks listed above, the cost will be calculated against our hourly chargeable fees.

Waiving of charge

Where an officer has reason to believe that the application of a full charge is not appropriate they will discuss the case with the Private Sector Housing Manager to determine whether the charge should be applied.

2. Housing Act 2004: charges for works in default of a notice

Section 31 and Schedule 3 to the act enables the council to take the action required by an improvement notice itself, with or without the agreement of the person on whom the notice was served.

Where the council takes action with the agreement of the person served with the improvement notice, the works are to be taken at the person's expense. Where the council takes action without agreement, it will recover expenses reasonably incurred. Such expenses may be registered as a local land charge on the property.

The council may make an admin charge on top of works in default costs.

Appendix 2 – Investigatory powers, requiring information and powers of entry

Requiring and using information from relevant or any persons

The council has powers to require information is provided to it, in the Renters' Rights Act 2025, under Sections:

- 114 - Power of local housing authority to require information from relevant person
- 115 – Power of local housing authority to require information from any person

The powers for requiring information from a relevant or any person are available to the council for supporting enforcement of:

- Unlawful eviction and harassment of occupier Section 1 and 1A of the Protection from Eviction Act 1977
- Chapter I Assured Tenancies, Part 1 Rented Accommodation of the Housing Act 1988
- Redress schemes: lettings agency work Section 83 or Redress schemes: property management work Section 84 of the Enterprise and Regulatory Reform Act 2013
- Offence of breach of banning order Section 21, Offences by bodies corporate Section 22 or Financial penalty for breach of banning order Section 23 of the Housing and Planning Act 2016
- Discrimination in the rental market, Chapter 3 of Part 1 and The private rented sector database, Chapter 3 of Part 2 of the Renters' Rights Act 2025

The power for requiring information from any person is also available to the council for supporting enforcement of:

- Parts 1 to 4 and 7 of the Housing Act 2004 so far as this relates to qualifying residential premises within the meaning given by Section 2B of the Housing Act 2004

For a person to be a relevant person, under Section 114(2) of the Renters' Rights Act 2025, they must, in the past twelve months, for the relevant accommodation that is subject to the reason for why the council intends to enter the premises, have:

- had an estate or interest in the premises for the relevant accommodation – unless they are a mortgage lender who is not in possession of the premises
- been a licensor of premises for the relevant accommodation
- acted for or purported to act for someone with an estate or interest in the premises or a licensor for the relevant accommodation
- marketed the relevant accommodation for the purpose of creating a residential tenancy – Section 99(2) of the Renters' Rights Act 2025 gives the meaning of a residential tenancy

The council must give notice to the relevant or any person for when requiring information. The notice must be in writing, specify if it is given under Section 114 or Section 115 of the Renters' Rights Act 2025 and explain the possible consequences of not giving the information which are:

- if the relevant person does not provide the information requested they may have committed an offence punishable by a fine not exceeding level 3 on the standard scale - the offence is set out, and all other offences, in Section 131 the Renters' Rights Act 2025
- if that any person does not provide the information requested, the council can apply for a court order to require action is taken by the person to provide the information – Section 116 of the Renters' Rights Act 2025 provides this provision in full

If seeking communications data, there are additional obligations for when using powers to require information from a relevant person Section 114 or any person Section 115 of the Renters' Rights Act 2025. The obligations are set out in the Investigatory Powers Act 2016 and Investigatory Powers (Amendment) Act 2024. The council will ensure the obligations, where applicable, are followed.

If the council is in receipt of information by using the Section 114 any person power, there are limitations to the use of that information in Section 117 of the Renters' Rights' Act 2025. The information cannot be used against the person who provided it, or questions cannot be asked about it, during any criminal proceedings by the council.

Requiring and using information from other sources

Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 permits the council to issue a notice to an occupier, manager, or individual with an interest in the land. The notice requires those persons to provide the council with information on the nature of their interest and the names and addresses of current occupiers.

The council also has powers under Section 235 of the Housing Act 2004, amended by the Renters' Rights Act 2025, to ask for documentation in connection with:

- any purpose for the exercise of its functions under Parts 1 to 4 of the Housing Act 2004 in relation to residential premises within the meaning given by Section 1(4) of the act
- investigating whether any offence was committed under any of those parts in relation to residential premises within the meaning given by Section 1(4) of the act
- any purpose for the exercise of its functions under Part 7 of the Housing Act 2004 in relation to qualifying residential premises within the meaning given by Section 2B of the act

- investigating whether any offence was committed under that part in relation to qualifying residential premises within the meaning given by Section 2B of the act

The council has powers under Section 237 of the Housing Act 2004 to use information obtained from Housing Benefit or Council Tax for any purpose connected with the exercise of the authority's functions or investigating if any offence was committed under Parts 1 to 4 of the Housing Act 2004, in relation to residential premises within the meaning given by Section 1(4) of the act.

The Renters' Rights Act 2025 gives further powers to the council to use that same information for enforcement of:

- Part 7 of the Housing Act 2004 in relation to qualifying residential premises within the meaning given by Section 2B of the act
- Unlawful eviction and harassment of occupier Section 1 and 1A of the Protection from Eviction Act 1977
- Chapter I Assured Tenancies, Part 1 Rented Accommodation of the Housing Act 1988
- Redress schemes: lettings agency work Section 83 or Redress schemes: property management work Section 84 of the Enterprise and Regulatory Reform Act 2013
- Offence of breach of banning order Section 21, Offences by bodies corporate Section 22 or Financial penalty for breach of banning order Section 23 of the Housing and Planning Act 2016
- Discrimination in the rental market, Chapter 3 of Part 1 and The private rented sector database, Chapter 3 of Part 2 of the Renters' Rights Act 2025

The Housing and Planning Act 2016 amends the Housing Act 2004 to enable the sharing of certain data held by the Tenancy Deposit Protection (TDP) schemes. This is on private rented sector properties, landlords and managing agents within local housing authorities in England.

From 6 April 2017, TDP schemes are required to provide specific information they hold on tenancies in England to local housing authorities who request the information.

The council must only use the information for:

- a purpose connected with the exercise of their functions under Parts 1 to 4 of the Housing Act 2004 in relation to residential premises within the meaning given by Section 1(4) of the act
- the purpose of investigating whether an offence was committed under any of those parts in relation to residential premises within the meaning given by Section 1(4) of the act

The Renters' Rights Act 2025 gives further powers to the council to use that same information for enforcement of:

- Part 7 of the Housing Act 2004 in relation to qualifying residential premises within the meaning given by Section 2B of the act
- Unlawful eviction and harassment of occupier Section 1 and 1A of the Protection from Eviction Act 1977
- Chapter I Assured Tenancies, Part 1 Rented Accommodation of the Housing Act 1988
- Redress schemes: lettings agency work Section 83 or Redress schemes: property management work Section 84 of the Enterprise and Regulatory Reform Act 2013
- Offence of breach of banning order Section 21, Offences by bodies corporate Section 22 or Financial penalty for breach of banning order Section 23 of the Housing and Planning Act 2016
- Discrimination in the rental market, Chapter 3 of Part 1 and The private rented sector database, Chapter 3 of Part 2 of the Renters' Rights Act 2025

Entering a business premises

The council has powers, in the Renters' Rights Act 2025, to enter a rental sector business premises, without or under a warrant, under Sections:

- 118 – Business premises: entry without warrant
- 121 – Business premises: entry under warrant

A rental sector business is defined in Section 118(9) of the act as connected with the letting of residential accommodation in England, the creation of licences to occupy that accommodation, the marketing of the accommodation to create a tenancy or licence to occupy or the management of the accommodation when occupied under a tenancy or licence to occupy.

The powers allow the council to enter the business premises at a reasonable time for the request of documents and/or to seize evidence. When premises are entered, the council can take equipment with them, take photographs or make recordings. The council may use the powers if they reasonably believe a relevant person runs a rental sector business at the premises.

The powers of entry are available if the council is satisfied that relevant information, documents etc, are on the premises. The documents would be required to investigate any contraventions of the rented accommodation legislation in Section 115(3) of the Renters' Rights Act 2025:

- Part 7 of the Housing Act 2004 in relation to qualifying residential premises within the meaning given by Section 2B of the act

- Unlawful eviction and harassment of occupier Section 1 and 1A of the Protection from Eviction Act 1977
- Chapter I Assured Tenancies, Part 1 Rented Accommodation of the Housing Act 1988
- Redress schemes: lettings agency work Section 83 or Redress schemes: property management work Section 84 of the Enterprise and Regulatory Reform Act 2013
- Offence of breach of banning order Section 21, Offences by bodies corporate Section 22 or Financial penalty for breach of banning order Section 23 of the Housing and Planning Act 2016
- Discrimination in the rental market, Chapter 3 of Part 1 and The private rented sector database, Chapter 3 of Part 2 of the Renters' Rights Act 2025

Giving notice to enter the premises

If the council uses its power to enter a business premises without a warrant, and the purpose of entry is for a routine inspection, then at least 24 hours' written notice must be provided to the premises' occupier. A routine inspection means to investigate any matter for enforcement of the rented accommodation legislation.

If the purpose of entry is for a non-routine inspection, where it is not reasonably practical to give notice or it is reasonable to believe that giving notice defeats the purpose of entry, the council is not required to give 24 hours' notice. If the council enters the premises without such notice then the officer's identity and authority must be made available to at least one person on the premises.

The council must also provide documentation, explaining why entry is necessary and what offences could be committed by not allowing entry, to at least one person on the premises. There is no requirement to provide the documentation in the event of any safety concerns faced by the council during entry.

Where the council gives 24 hours' notice, but cannot complete a routine inspection to the premises, an application for a warrant to enter can be made to a Justice of the Peace using s120 of the Renters' Rights Act 2025. If the warrant is granted, the council may use, if necessary, reasonable force to enter the premises. If they are occupied, the warrant must be shown to at least one of the occupiers. If the premises are not occupied a notice, upon leaving, must be left by the council explaining a warrant under Section 120 was used for entry.

The production and taking of documents after entering the premises

Where the council uses its powers to enter business premises, without a warrant or by using a warrant, documents can be requested from a relevant person occupying the premises or someone acting on their behalf. The reason for producing the documents would be to see if there is compliance, where it is reasonably believed there is none, with the rented accommodation legislation.

The council may request copies of documents as evidence, as they relate to the business of managing/letting properties. The person who is asked to produce the documents must be able to have access to them. A request can be made for hard copies of any electronic documents. The council cannot require the production of any documents with legal professional privilege. For example, communications between a lawyer and client.

The council also has the power to seize and detain documents. If there is a reasonable suspicion they may be required as evidence for any contravention of the rented accommodation legislation. Before the documents are seized, and if people are on the premises and it is reasonably practicable, the council officer's identity and authority must be shown to at least one person.

The council must also tell the person who the documents are taken from that they are being seized. A written record of the seized documents taken must be given to that person. The council would also have regard to the rules, for seizing property, in code of practice B of the Police and Criminal Evidence Act 1984. Any documents with legal professional privilege cannot be seized by the council.

If the council suspects there is information, they wish to seize, on any electronic devices at the premises then access to the information can be required. It is made on the person who has approval to access the information. If the person does not provide access, after the council's request, the council officer may then access the device.

If taking copies of documents or seizing them the council may also have regard to additional statutory powers, in line with the [guidance, investigatory powers guidance for the Renters' Rights Act 2025](#).

Accessing seized documents and appealing against detention

A person, or their representative, who had possession or control of a document, immediately before it was seized by the council can request access, a copy or photograph of the document. The request is made under Section 124 of the Renters' Rights Act 2025. The request must be made to the council and it, unless there are reasons that to honour the request would harm the purpose of why the document was seized, must allow access.

A person, so long as they have an interest in the documents, can also apply to a Magistrates' Court for the release of documents.

Powers of entry to premises with a suspected residential tenancy

The council has powers, in the Renters' Rights Act 2025, to enter a property with a suspected residential tenancy, without or under a warrant, under Sections:

- 126 – Suspected residential tenancy: entry without warrant
- 128 – Suspected residential tenancy: entry under warrant

The meaning of residential tenancy is set out in Section 63 Meaning of residential landlord of the Renters' Rights Act 2025. There must be a residential landlord with a relevant tenancy of a dwelling, that is not social housing, and a residential tenant. A relevant tenancy means a tenancy that is assured, by the meaning given in the Housing Act 1988, or a regulated tenancy, by the meaning given in the Rent Act 1977.

The council may use the power to enter a residential property, at a reasonable time and without a warrant, to investigate if there has been an offence under Section 1 Unlawful eviction and harassment of occupier of the Protection from Eviction Act 1977. The council officer using this power must have written authority from an appropriate officer, authorised Head of Service or above, stating the particular purpose for which entry, and associated powers, are authorised. This power should also be exercised with extreme caution.

When the property is entered, the officer can take equipment with them, take photographs or make recordings.

Before the council enters the property at least 24 hours' written notice must be given to the occupier or occupiers or to any other person who has an interest in the property, like the owner. But, only if their forwarding address was given to the council. Prior notice of entry is not required for:

- a mortgage lender, who is not in possession of the property
- any occupiers if they have waived their right to receive notice
- a residential landlord

The meaning of residential landlord is set out in Section 63 Meaning of residential landlord of the Renters' Rights Act 2025. There must be a relevant tenancy and a residential tenant. The council must give notice to the residential landlord, within a reasonable period, after the property was entered. This would normally be within 7 days or where any reasonable delays may arise may extend to 14 days. The notice must confirm the property's address, the date and purpose of entry.

The council may also make an application for a warrant to a Justice of the Peace to enter the property with a suspected residential tenancy. The purpose being to investigate if there has been an offence under Section 1 Unlawful eviction and harassment of occupier of the Protection from Eviction Act 1977 and that:

- admission to the property was sought, using Section 126 Suspected residential tenancy: entry without warrant of the Renters' Rights Act 2025, and that admission was refused
- the property is not occupied and it might defeat the purpose of entry to await for the occupants' return
- making the application for admission to the property, using Section 126 Suspected residential tenancy: entry without warrant of the act, would defeat the purpose of the entry

If the warrant is granted, the council may use, if necessary, reasonable force to enter the property. The council can take equipment with them, take photographs or make recordings.

If the property is occupied, the warrant must be shown to at least one of the occupiers. If the property is not occupied a notice, upon leaving, must be left by the council explaining a warrant under Section 128 of the Renters' Rights Act 2025 was used to enter the property.

Further powers of entry to residential premises

The council has the power of entry to properties at any reasonable time to carry out its duties under Section 239 of the Housing Act 2004 provided that the officer has:

- written authority from an appropriate officer, authorised Head of Service or above, stating the particular purpose for which entry, and associated powers, are authorised
- given 24 hours' notice to the owner, if known, and the occupier, if any, of the premises they intend to enter

When the property is entered, the officer can take equipment with them, photographs, samples, measurements or make recordings.

If the property satisfies the meaning of qualifying residential premises, set by Section 2B of the Housing Act 2004, 24 hours' notice is not required to the owner or any occupier. Provided that the occupier, and any other occupiers, have waived their right to receive the notice.

If notice of entry was not given to the owner, the council must give notice to them, within a reasonable period, after the property was entered. This would normally be within 7 days or where any reasonable delays may arise may extend to 14 days. The notice must confirm the property's address, the date and purpose of entry.

Prior notice is not needed where entry is to determine if an offence was committed under the Housing Act 2004, Sections:

- 72 - offences in relation to licensing of HMOs
- 95 - offences in relation to licensing of houses

- 234(3) - offences in relation to Houses in Multiple Occupation Management Regulations

If admission is refused, premises are unoccupied or prior warning of entry is likely to defeat the purpose of the entry then a warrant may be granted by a Justice of the Peace on written application. A warrant under this section includes power to enter by force, if necessary.

In addition, for Emergency Remedial Action under Section 40 of the Housing Act 2004, the right of entry, for when taking the remedial action, is at any time. Provided that notice before entering the property is served on any or all occupiers or instead by fixing the notice to some conspicuous part of the property, by attaching the notice to the front door.

Within a period of 7 days, starting from the date of when the emergency remedial action was taken by the council, an Emergency Remedial Action Notice under Section 41 of the Housing Act 2004 must be served on the property licence holder, the person having control, the person managing or the property owner. Copies must also be served on any freeholder, mortgagee, lessee or occupier.

For the making of an Emergency Prohibition Order under Section 43 of the Housing Act 2004, it is expected there should be at least 24 hours' prior notice given to the owner of the property and the occupier or occupiers. However, if there is a serious risk of harm which cannot reasonably incur any more delay the council may decide to provide a lesser period of 24 hours' notice. In so doing, for the protection of the occupant or occupants' health and safety.

Appendix 3 - Housing tenure and Housing, Health and Safety Rating System (HHSRS)

Application of HHSRS to each tenure and tenants

The HHSRS applies all tenures of housing. Furthermore, it does not specify that particular approaches or solutions should be used on the basis of ownership or the occupier's status.

All enforcement options are available to the council regardless of whether the premises in question are owner-occupied, privately rented or belong to a social housing provider.

Generally, the council considers that owner-occupiers are usually able to take informed decisions on maintenance and improvement issues that might affect their welfare and are then able to set their financial priorities accordingly. However, tenants are not usually able to do so.

For this reason, the council proposes that it is appropriate for its powers to be used according to tenure, as below.

Owner-occupiers

The council anticipates that hazard awareness notices will frequently be the appropriate course of action. However, the use of improvement notices, prohibition notices and their emergency equivalents will be considered in cases involving:

- vulnerable elderly people who are judged incapable of making informed decisions about their own welfare
- vulnerable individuals who require the intervention of the council to ensure their welfare is best protected
- hazards that might reasonably affect persons other than the occupants
- serious risk of life-threatening harm such as electrocution or fire

Unless an identified hazard is judged to pose an imminent risk of serious harm, the council will contact the owner to confirm its involvement, explain the nature of the hazard and confirm the action it is intending to take.

The council will take account of any proposals or representations made by, or on behalf of the owner. The council will solicit and take account of the opinion of the relevant welfare authority in considering the vulnerability and capability of such persons, as well as in determining what action it will then take.

Social landlords

Registered Housing providers need to ensure they provide safe, quality and affordable homes for their tenants. They are managed by boards, which typically

include tenant representatives, and they are regulated by the Regulator of Social Housing.

Housing providers must manage and maintain their properties and will have written arrangements for reporting problems, setting out the response times they aim to achieve, and also for registering any complaints about service failure.

On this basis, the council will not normally take formal action against a housing provider unless there is a statutory duty placed on the council to take action.

If the council determines that it is appropriate to take action, it will normally notify the housing provider that a complaint has been received and/or a hazard identified and seek the housing provider's comments and proposals. However, this does not mean the council would not take action where there is a duty to do so.

Private landlords

The council will have regard to the principles of statutory and relevant guidance and will initially seek to proceed informally.

Formal action will be initiated immediately if a hazard in question is judged by the council to:

- pose an imminent risk of serious harm to any person, whether or not immediate action is required, and whether the hazard or hazards in question are likely to affect a tenant, an employee or a member of the public, or
- the landlord in question is known to have failed, on a previous occasion, to take appropriate action in response to an informal approach

Council officers may visit the tenants at the property in an informal capacity. If arranging a formal inspection, the council will write to the landlord or their letting or managing agent to confirm their involvement and the time and date of the visit. However, there may be circumstances where no prior notice is required to be given by the council.

Following the inspection, the council will explain the nature of any hazard or hazards identified in writing and seek the landlord or agent's proposals for remedying the problem. Unless the council already holds the required information, a requisition for information notice may also be served at this point.

Following the inspection, the council will not normally need to take any further action to discharge its duties as long as:

- satisfactory proposals and timescales for the work to be carried out are received and agreed within approximately 14 days, and
- the work is carried out to a satisfactory conclusion within agreed timescales

Landlords are expected to:

- provide any letting or managing agent acting for them with sufficient authority to act on their behalf, in the event that they are contacted by the council, and
- to ensure that they maintain appropriate communication with their agent in order that appropriate decisions and responses can be provided to the council

The failure of an agent to respond to communication from the council or any failure to take appropriate action may be treated as a failure by the landlord.

The council will proceed with formal action by taking the most appropriate enforcement action in accordance with this policy if it receives:

- no response from the landlord or letting or managing agent, or
- a response it judges inadequate, or
- proposals that were judged acceptable but which are not then followed through, for example if works fail to start when agreed, fail to make proper progress or are completed to an inadequate standard

What is expected of tenants

Before considering taking any action in respect of a tenanted property, the tenant or tenants will normally be required to contact their landlord about the problems, preferably in writing or by email, allowing a reasonable period for the landlord to respond.

Where the matter appears to present an imminent risk to the health and safety of the occupants, and the tenants cannot reach their landlord or letting or managing agent, it is expected that they will continue to try to contact their landlord, even if this is after they have contacted the Private Sector Housing Team or the Housing Options Team.

Copies of correspondence between the landlord and tenant should be provided for council officers.

Tenants are responsible for keeping council officers informed of any contact they have had with their landlord, or the landlord's agent or builder, etc, which may affect the action the council is taking or considering taking. Tenants should also consider seeking independent legal advice about their own individual powers to resolve any dispute with their landlord.

Registered social housing tenants have standard procedures to follow if their landlord does not carry out repairs in a satisfactory manner and can also refer their complaints to the Housing Ombudsman Service. However, if the housing provider has not taken appropriate action to deal with problems at the property, the council may investigate and take appropriate action.

Appendix 4 – How the council uses civil penalties under the Renters’ Rights Act 2025 and other housing legislation

The council has had regard to the [Ministry of Housing, Communities and Local Government statutory guidance ‘Civil penalties under the Renters’ Rights Act 2025 and other housing legislation’](#) for the exercise of the authority’s functions in respect of civil penalties.

Factors

The council has considered the factors below in developing this policy to help ensure that a civil penalty is set at an appropriate level.

Severity of the breach or offence. The more serious the breach or offence, the higher the penalty should be.

Culpability and track record of the offender. A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities.

The harm caused to the tenant. This is a very important factor when determining the level of penalty. The greater the actual harm or the potential for harm, principally to the tenant but also potentially the local community, the higher the penalty should be.

Punishment of the offender. The penalty should, in a way that is fair, both punish the offender and demonstrate the consequences of not complying with their responsibilities.

Deter the offender from repeating breaches or offences. The ultimate goal is to prevent any further offending and help ensure that the offender fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a level that it is likely to have a very significant deterrent effect.

Deter others from committing similar breaches or offences. While the fact that someone has received a civil penalty may not be in the public domain, the civil penalty policy itself will be and local authorities should consider how their formal enforcement activity can be effectively publicised.

An important part of deterrence is the realisation on the part of landlords that the local housing authority is proactive in levying civil penalties where the need to do so exists and the civil penalty will be set at a high enough level such that operating lawfully will be the sensible financial choice.

Remove any financial benefit the offender may have obtained, as a result of committing the breach or offence. The principle here is that it should not be in the offender’s financial interest to commit a breach or offence

rather than comply, for example that the penalty for breaching licensing conditions in respect of occupancy of a property is less than the additional rent received, as a result of the over-crowding. The absence of any financial benefit to the landlord does not mean though that the penalty should be reduced.

Civil penalties matrix

In determining the level of a civil penalty, officers will have regard to the matrix set out below. The matrix consists of the following sequential steps:

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

1. Determining the starting point based on the seriousness of the breach or offence

The Ministry of Housing, Communities & Local Government statutory guidance prescribes the starting points for all breaches and offences based on the seriousness of the breach or offence. The exception to this prescription is for breaches of licensing conditions under Sections 72(3) and 95(2) of the Housing Act 2004, where the council has determined its own starting levels based on the seriousness of the specific licence condition or type of licence condition that has not been complied with.

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

While all landlords are expected to comply fully with their legal obligations, the council considers that a higher standard of professionalism and regulatory awareness is reasonably expected of landlords who operate at greater scale, who have greater experience, or who are involved in more complex forms of letting. Where such landlords fail to comply with their obligations, this will ordinarily justify a higher civil penalty.

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

- control, own, or manage a significant portfolio of properties
- have significant experience in the letting or management of property
- are or have been involved in the letting or management of Houses in Multiple Occupation (HMOs)

- are corporate landlords, or
- are or have been directors of corporate landlords

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

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

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

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

3. Mitigating and aggravating factors the council deems significant including, but not limited to, factors relating to the track record and culpability of the landlord and the actual or potential harm to the occupants

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

General approach

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

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

Mitigating factors

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

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

Within the framework of this policy, the council has not sought to provide an exhaustive list of mitigating factors, recognising that a wide range of circumstances may potentially give rise to mitigation.

However, the generic mitigating factors below will be considered in respect of each breach or offence.

Steps taken to remedy the basis of the breach or offence

Non-exhaustive examples include:

- promptly remedying all elements of the breach or offence after receiving communication from the council
- promptly remedying all the significant elements of the breach or offence leaving only less significant elements of the breach or offence

A high level of co-operation

Non-exhaustive examples include:

- proactive provision of significant information the council reasonably considers relevant beyond that required by statutory notice

Acceptance of liability

Non-exhaustive examples include:

- accepting liability before or within the period for representations

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

Health circumstances

Non-exhaustive examples include:

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

Diminished culpability (limited responsibility)

Non-exhaustive examples include:

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

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

Aggravating factors

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

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

The generic aggravating factors below will be considered in respect of each breach or offence.

Previous history of non-compliance

Non-exhaustive examples include:

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

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

Non-cooperation with the council

Non-exhaustive examples include:

- failure to comply with notices issued under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, Section 235 of the Housing Act 2004 or Section 114 of the Renters' Rights Act 2025
- failing to provide a substantive response to a letter of alleged offence

- failing to attend previously agreed meetings

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

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

Deliberate intent or negligence when committing the offence

Non-exhaustive examples include:

- knowledge that the breach or offence was occurring
- continuation of offending after communication from the council
- premeditation or planning, including steps taken to prevent detection or effective investigation
- providing false or misleading information to the council
- applying pressure to occupants to deter cooperation with the council

The number of occupants affected

Non-exhaustive examples include:

- 3 to 5 occupants affected

Duration of non-compliance

Non-exhaustive examples include:

- the offence or breach occurred over a 3 to 6 month period

Vulnerability of occupants

Non-exhaustive examples include:

- children and young adults
- persons vulnerable by reason of age, disability or sensory impairment
- persons with drug or alcohol dependency
- victims of domestic abuse
- children in care
- persons with complex health needs
- persons who do not speak English as a first language

- victims of trafficking or sexual exploitation
- refugees
- asylum seekers
- pregnant women

4. Financial considerations

The council will review the quantum of the civil penalty and consider if it is sufficient to act as an effective deterrent to future non-compliance. Where the council has evidence which is sufficiently reliable of the landlord's rental income and/or asset value, the council may determine that an increase in the level of the penalty is appropriate for achieving an effective deterrence.

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

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

Where a landlord seeks to rely on a strained or limited financial position as a basis for reducing the level of a civil penalty, that position must be supported by appropriate and verifiable evidence. It should also be sufficient to enable the council to assess the landlord's financial position consistently, objectively and transparently. Unsupported assertions, partial disclosure or selective provision of information will not be given weight.

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

- the last three full tax years' full self-assessment tax returns, filed with His Majesty's Revenue and Customs (HMRC) including all additional and supplemental pages
- the last three full tax years' Self-Assessment 302 (SA302) documents and tax year overviews
- the last three months' payslips
- the last three years P60 certificates (end of year certificates)
- the last twelve months' Universal Credit payment statements
- a list of all property assets owned or jointly owned, not limited to rental properties, together with corresponding Land Registry title documents
- a list of all property assets owned, or held on a long lease, by any corporate entity in which the landlord has a beneficial interest, together with corresponding Land Registry documentation

- the most recent annual mortgage statement for each property, or the last twelve months' mortgage statements where the mortgage has been in place less than twelve months
- valuation statements for all individual savings accounts (ISAs) held
- statements from any crypto asset exchange accounts showing balances and valuations
- a list of all shareholdings
- recent bank statements for any account holding a balance in excess of £5,000
- recent statements for all secured and unsecured loans
- any bankruptcy orders and official notifications of bankruptcy

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

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

5. The totality principle

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

In general, however, the application of the totality principle will form the final step in the council's decision-making process. This will be undertaken after any written representations have been considered and before final notices are issued, once the level of each individual civil penalty has been assessed in accordance with this policy.

During a last step before issuing final notices, the council will consider that, where there are multiple civil penalties being imposed, under this policy, against the same landlord at the same time, it should result in an aggregate amount that is just and proportionate. If the council concludes that the aggregate amount would not be just and proportionate, the council will consider whether a proportionate reduction of the penalties is appropriate.

The totality principle does not operate across different legal persons, who are separately liable in law, or across civil penalties imposed at different times. In

general, the principle applies only to multiple civil penalties imposed under this policy on the same person at the same time.

However, if legislation provides that an officer of a body corporate, or a person concerned in the corporate's management, may be separately liable in relation to the same conduct as the corporate, and that officer also holds a shareholding interest in the corporate. The council will, in those circumstances, and where civil penalties are imposed at the same time on both the corporate and the officer arising from that same conduct, consider if the combined outcome results in punitive duplication. In doing so, would, therefore, not be just and proportionate action to take.

Where a reduction is applied under the totality principle, the council will ordinarily do so by applying a uniform percentage reduction across all relevant civil penalties being issued at the same time. Applicable to those civil penalties that form part of the same totality assessment. If, however, the application of the totality principle is required to address punitive duplication arising from a shared economic interest between a body corporate and an officer. The council, may in those circumstances, apply a different adjustment to ensure that the overall outcome is just and proportionate.

The approaches outlined above reflect the statutory guidance on the application of the totality principle. This is intended to promote consistency, transparency and proportionality for the avoidance of arbitrary or selective adjustment of individual penalties.

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

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

Protection from Eviction Act 1977 offences

Unlawful eviction and harassment of occupier – Section 1 of the Protection from Eviction Act 1977

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£35,000	£40,000	£28,000	£35,000	£42,000

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- violence or threats of violence
- disposal of possessions or threats to dispose of possessions
- breach or evasion of an injunction or undertaking

- loss of home

Housing Act 1988 breaches and offences

Failure to give a written statement of terms and any other prescribed information – Section 16D of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£4,000	£7,000	£3,200	£4,000	£4,800

Offence-specific mitigating factors:

- provision of some of the required terms and prescribed information within the required period

Offence-specific aggravating factors:

- none

Attempting to let a property for a fixed term – Section 16E(1)(a) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£4,000	£7,000	£3,200	£4,000	£4,800

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

Attempting to end a tenancy by service of a notice to quit – Section 16E(1)(b) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£6,000	£7,000	£4,800	£6,000	£7,200

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- tenant vacates property within four months of the date of vacation or equivalent specified in the notice to quit

Attempting to end a tenancy orally or requiring that it is ended orally – Section 16E(1)(c) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£6,000	£7,000	£4,800	£6,000	£7,200

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- tenant vacates property within four months of the date of vacation or equivalent specified in the notice to quit

Serving a possession notice that attempts to end a tenancy outside the prescribed Section 8 process – Section 16E(1)(d) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£6,000	£7,000	£4,800	£6,000	£7,200

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- tenant vacates property within four months of the date of vacation or equivalent specified in the notice to quit

Relying on a ground where the person does not reasonably believe that the landlord is, will, or may be able to obtain possession on that ground and the tenant or tenants surrendered the tenancy within the period of four months beginning with the date of the contravention, without an order for possession of the dwelling-house being made – Section 16E(1)(e) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£6,000	£7,000	£4,800	£6,000	£7,200

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

Failing to provide a tenant with prior notice that a ground which requires it may be used – Section 16E(1)(f) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£3,000	£7,000	£2,400	£3,000	£3,600

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

Failure to give an existing tenant prescribed information about changes made by the Renters' Rights Act 2025 in the prescribed form and timeframe – paragraph 7(2) of Schedule 6 to the Renters' Rights Act 2025

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£4,000	£7,000	£3,200	£4,000	£4,800

Offence-specific mitigating factors:

- provision of some of the required prescribed information within the required period
- provision of prescribed information but not in the prescribed form

Offence-specific aggravating factors:

- none

Continuation of conduct subject to a relevant penalty, under Section 16I or Section 16K of the Housing Act 1988, after the 28 day period or, if appealed, after conclusion of the appeal, where the final notice has not been withdrawn – Section 16J(3) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Double the starting level for the two constituent breaches added together	£40,000	Dependent on the constituent breaches	Dependent on the constituent breaches	Dependent on the constituent breaches

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

Conduct giving rise to liability under Section 16I, where within the preceding five years the person has either (i) had a relevant penalty, under Section 16I or Section 16K of the Housing Act 1988, imposed for different conduct and the final notice has not been withdrawn or (ii) been convicted under Section 16J for different conduct – Section 16(J)(4) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Double the starting level for the two constituent breaches added together	£40,000	Dependent on the constituent breaches	Dependent on the constituent breaches	Dependent on the constituent breaches

Offence-specific mitigating factors:

- dependent on the most recent conduct giving rise to liability to a civil penalty under Section 16I of the Housing Act 1988

Offence-specific aggravating factors:

- dependent on the most recent conduct giving rise to liability to a civil penalty under Section 16I of the Housing Act 1988

Relying on a ground where the person knows that the landlord would not be able to obtain an order for possession on that ground, or being reckless as to whether the landlord would be able to do so and the tenant or tenants surrendered the tenancy within the period of four months beginning with the date the ground was relied on, without an order for possession of the dwelling-house being made – Section 16J(1) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£30,000	£40,000	£24,000	£30,000	£36,000

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

Breach of restrictions relating to reletting, Section 16(E)(2) of the Housing Act 1988, or remarketing, Section 16(E)(3) of the Housing Act 1988, a property within restricted period after using Grounds 1 or 1A of Schedule 2 of the Housing Act 1988 – Section 16J(2) of the Housing Act 1988

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£25,000	£40,000	£20,000	£25,000	£30,000

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

Housing and Planning Act 2016 offences

Breach of a banning order – Section 21(1) of the Housing and Planning Act 2016

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£35,000	£40,000	£28,000	£35,000	£42,000

Offence-specific mitigating factors:

- a single, isolated incident

Offence-specific aggravating factors:

- concealment or evasion

Renters' Rights Act 2025 breaches

Discrimination relating to children in the lettings process – Section 33(1) of the Renters' Rights Act 2025

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£6,000	£7,000	£4,800	£6,000	£7,200

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

Discrimination relating to benefits in the lettings process – Section 34(1) of the Renters’ Rights Act 2025

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£6,000	£7,000	£4,800	£6,000	£7,200

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

Failure to specify proposed rent within a written advertisement or offer – Section 56(2) of the Renters’ Rights Act 2025

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£3,000	£7,000	£2,400	£3,000	£3,600

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

Inviting, encouraging or accepting any offer of rent greater than the stated rate – Section 56(3) of the Renters’ Rights Act 2025

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£4,000	£7,000	£3,200	£4,000	£4,800

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- none

The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 breach of duties

Failure to comply with the Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020, Regulation 3: (3)(b), (3)(d) or (3)(e), Regulation 3D: (a), (b), (c) or (f)

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£5,000	£40,000	£4,000	£5,000	£6,000

Offence-specific mitigating factors:

- the report or record provides evidence that the electrical installations were compliant at all points

Offence-specific aggravating factors:

- the number or nature or severity of the issues observed on the report or record

Failure to comply with the Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020, Regulation 3: (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (3)(ca), (5)(b) or (5)(c), Regulation 3B: (1)(a), (1)(b) or (1)(c), Regulation 3C: (1) or (2)(a), Regulation 3D: (d) or (e)

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£12,500	£40,000	£10,000	£12,500	£15,000

Offence-specific mitigating factors:

- the report or record provides evidence that the electrical installations were compliant at all points.

Offence-specific aggravating factors:

- the number or nature or severity of the issues observed on the report or record

Failure to comply with the Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020, Regulation 3: (4), (5a) or (6), Regulation 3C: (2)(b) or (4)

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£20,000	£40,000	£16,000	£20,000	£24,000

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- the number or nature or severity of the issues observed on the report or record

Housing Act 2004 offences

Failure to comply with an improvement notice – Section 30(1) of the Housing Act 2004

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£25,000	£40,000	£20,000	£25,000	£30,000

Offence-specific mitigating factors:

- the nature and extent of the hazard or hazards that are present once the deadline for compliance has passed
- whether the property is unoccupied, since after the time of when the property was occupied at the time of service of the improvement notice, once the deadline for compliance has passed
- access to the property was prevented by the actions or refusal of the occupant or occupants and a landlord can evidence that they took steps to obtain access to the property for the purpose of carrying out the required works, but those steps fell short of establishing a reasonable excuse for non-compliance

Offence-specific aggravating factors:

- the nature and extent of the hazard or hazards that are present once the deadline for compliance has passed

Failure to comply with an overcrowding notice – Section 139(7) of the Housing Act 2004

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£20,000	£40,000	£16,000	£20,000	£24,000

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- the level of overcrowding present

Failure to obtain a selective licence – Section 95(1) of the Housing Act 2004

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£12,000	£40,000	£9,600	£12,000	£14,400

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- the landlord has knowledge or experience of licensing requirements
- the condition of the unlicensed property

Failure to obtain an HMO licence – Section 72(1) of the Housing Act 2004

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£17,000	£40,000	£13,600	£17,000	£20,400

Offence-specific mitigating factors:

- none

Offence-specific aggravating factors:

- the landlord has knowledge or experience of licensing requirements
- the condition of the unlicensed property

Knowingly permitting over-occupation of an HMO – Section 72(2) of the Housing Act 2004

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£20,000	£40,000	£16,000	£20,000	£24,000

Offence-specific mitigating factors:

- there are suitable amenity and space provisions in the HMO

Offence-specific aggravating factors:

- the level of over-occupation present

Failure to comply with the Management of Houses in Multiple Occupation (England) Regulations 2006 and the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 – Section 234(3) of the Housing Act 2004

The Management of Houses in Multiple Occupation (England) Regulations 2006 impose duties on the persons managing houses in multiple occupation 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 houses in multiple occupation, as defined by Section 257 of the 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]

Where there are multiple breaches of a single Management Regulation at a single house in multiple occupation, a single civil penalty will be imposed which will cover all the breaches of that Management Regulation.

Where multiple Management Regulations have been breached at a single HMO, a separate civil penalty will be imposed for each Management Regulation that has been breached.

Name of Management Regulation	Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Duty of manager to provide information to occupier	£3,000	£40,000	£2,400	£3,000	£3,600

Offence-specific mitigating factors:

- the nature and extent of offences within the specific regulation

Offence-specific aggravating factors:

- the nature and extent of offences within the specific regulation
- the landlord has refused to provide any outstanding contact information more than 48 hours after it has been requested by an occupant or on behalf of an occupant

Name of Management Regulation	Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Duty of manager to take safety measures	£20,000	£40,000	£16,000	£20,000	£24,000

Offence-specific mitigating factors:

- the number, nature and extent of offences within the specific regulation

Offence-specific aggravating factors:

- the number, nature and extent of offences within the specific regulation

Name of Management Regulation	Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Duty of manager to maintain water supply and drainage	£10,000	£40,000	£8,000	£10,000	£12,000

Offence-specific mitigating factors:

- the number, nature and extent of offences within the specific regulation

Offence-specific aggravating factors:

- the number, nature and extent of offences within the specific regulation

Name of Management Regulation	Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Duty of manager to supply and maintain gas and electricity	£12,000	£40,000	£9,600	£12,000	£14,400

Offence-specific mitigating factors:

- the number, nature and extent of offences within the specific regulation

Offence-specific aggravating factors:

- the number, nature and extent of offences within the specific regulation

Name of Management Regulation	Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Duty of manager to maintain common parts, fixtures, fittings and appliances	£7,000	£40,000	£5,600	£7,000	£8,400

Offence-specific mitigating factors:

- the number, nature and extent of offences within the specific regulation

Offence-specific aggravating factors:

- the number, nature and extent of offences within the specific regulation

Name of Management Regulation	Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Duty of manager to maintain living accommodation	£7,000	£40,000	£5,600	£7,000	£8,400

Offence-specific mitigating factors:

- the number, nature and extent of offences within the specific regulation

Offence-specific aggravating factors:

- the number, nature and extent of offences within the specific regulation

Name of Management Regulation	Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Duty to provide waste disposal facilities	£7,000	£40,000	£5,600	£7,000	£8,400

Offence-specific mitigating factors:

- the nature and extent of offences within the specific regulation

Offence-specific aggravating factors:

- the nature and extent of offences within the specific regulation
- the lack of sufficient refuse and/or litter containers either inside and/or outside the property which has been previously reported
- The refuse and/or litter that requires disposal includes hazardous materials

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

All granted house in multiple occupation licences impose a set of conditions on the licence holder. It is important that the licence holder of a licensed property complies with all the imposed conditions. However, 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 other conditions.

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

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

Failure to comply with licence conditions related to:

- Obtaining references for occupants – where it is possible to obtain references
- Tenancy management – providing tenancy agreements, with required particulars, and provide a copy of the agreement upon demand by the council, by a reasonable number of days specified, and give copies of the property licence to the tenant or tenants
- Notification of changes – failure to notify the council of relevant changes, such as change in ownership or management of the property
- Licence limitations – transferring the licence to another person, organisation or a different property is not permitted

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£4,000	£40,000	£3,200	£4,000	£4,800

Offence-specific mitigating factors:

- the nature and extent of the licence condition breach

Offence-specific aggravating factors:

- the nature and extent of the licence condition breach

Failure to comply with licence conditions related to:

- Utility supplies – unreasonable interruption of the supply of gas, electricity or water is not permitted and all utilities must be accessible for taking readings etc and information on the location and how to access the utilities must be provided to the tenant or tenants
- Furniture and furnishings – furniture and furnishings made available, as part of the property tenancy, must be in a safe condition and comply with current fire safety legislation, and a declaration must be provided, by a reasonable number of days specified, upon demand by the council
- Property management - reasonable steps must be taken for responding to or completing repairs at the property and at the start of the tenancy the accommodation must be clean and in good repair, the common parts should continue to be kept clean and in good repair, and where it is the licence holder's responsibility the external areas outside the property must be kept neat and tidy, and within 24 hours of a notification, any necessary emergency

work required at the property must be carried out

- Property inspections – inspections to the property must be completed no less than every six months which identify any issues on the management or condition of the premises and records must be kept of inspections for the duration of the property licence, and where requested, a copy of the inspection records must be provided within 28 days of demand by the council
- Waste and recycling – the council's collection scheme for household waste must be complied with, this includes the provision of suitable, and lidded, refuse and recycling containers which are kept in the grounds of the property and new tenants must be provided with information on the safe collection of all forms of waste and recycling materials, and any unwanted rubbish etc left behind from previous tenants must be removed from inside or outside the property and any works to the premises must be completed in compliance with Health and Safety legislation and there should be no builder's debris left behind at the property, it should be in a clean and tidy condition

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£7,000	£40,000	£5,600	£7,000	£8,400

Offence-specific mitigating factors:

- the nature and extent of the licence condition breach

Offence-specific aggravating factors:

- the nature and extent of the licence condition breach

Failure to comply with licence conditions related to:

- Gas, carbon monoxide and fire detection - if gas is supplied to the property, an annual gas safety check must be completed by a Gas Safe registered engineer and a copy of the current gas safety certificate must be provided at the time of the licence application and yearly thereafter, and copies of the certificate must be provided within 28 days of demand by the council; carbon monoxide alarms must be installed in any room which is used wholly or partly as living accommodation and contains a fixed combustion appliance other than a gas cooker, and a declaration on the condition and position of the alarms must be provided within 28 days of demand by the council; and smoke alarms must be installed on each storey of the house, where there is a room used wholly or partly as living accommodation, and a declaration on the condition and position of the alarms must be provided within 28 days of demand by the council

- Electrical installations and portable appliances – all electrical installations and appliances must be safe for use, a valid Electrical Installation Condition Report must be provided to the council within 3 months of the date the property licence was issued, and upon 28 days of demand by the council, a declaration on the safety of the installations must be provided and in addition, by a reasonable time period specified, a declaration on the safety of the appliances, provided as part of the property tenancy, must be provided to the council
- Heating – each unit of living accommodation at the property must have adequate means of space heating so that temperatures of 21 degrees C in living rooms and bedrooms, 22 degrees C in bathrooms and 18 degrees C elsewhere can be reached and maintained within one hour of the heating being turned on, when the external temperature is minus 1 degree C
- Energy efficiency – a valid energy performance certificate, where required for the property, is needed and a copy of the certificate, upon 28 days of demand by the council, must be provided

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£12,500	£40,000	£10,000	£12,500	£15,000

Offence-specific mitigating factors:

- the nature and extent of the licence condition breach

Offence-specific aggravating factors:

- the nature and extent of the licence condition breach

Failure to comply with licence conditions related to:

- Overcrowding or over-occupation of permitted numbers of occupants, set by the property licence – overcrowding or permitted numbers of occupants which are exceeded are prohibited, and tenants must be informed about not allowing guests to sleep in their homes, except on an occasional short term basis, deemed as no more than a 2-week period, for when visiting friends or family, and upon 28 days of written notice by the council information must be provided on persons and households in occupation at the property
- Amenities – suitable and sufficient numbers of amenities must be provided at the property to meet the council's house in multiple occupation licensing standards

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£20,000	£40,000	£16,000	£20,000	£24,000

Offence-specific mitigating factors:

- the nature and extent of the licence condition breach

Offence-specific aggravating factors:

- the nature and extent of the licence condition breach

Failure to comply with licence conditions related to:

- Gas, carbon monoxide and fire detection - if gas is supplied to the property, an annual gas safety check must be completed by a Gas Safe registered engineer and a copy of the current gas safety certificate must be provided at the time of the licence application and yearly thereafter, and copies of the certificate must be provided within 28 days of demand by the council; carbon monoxide alarms must be installed in any room which is used wholly or partly as living accommodation and contains a fixed combustion appliance other than a gas cooker, and a declaration on the condition and position of the alarms must be provided within 28 days of demand by the council; and smoke alarms must be installed on each storey of the house, where there is a room used wholly or partly as living accommodation, and a declaration on the condition and position of the alarms must be provided within 28 days of demand by the council, and
- Other fire precautions – a house in multiple occupation (HMO) often requires a fire detection and alarm system (normally Grade D interlinked or Grade A system) installed in accordance with recommendations of the current British Standard (BS) 5839 Part 6 for domestic premises, and for new installations a design, installation and commissioning certificate must be provided to the council, on-demand, within 28 days, and the alarm system must be kept in proper working order, maintained and tested in accordance with BS 5839 Part 6 and a declaration on the condition and position of the system, with appropriate documentation, must be provided to the council, on-demand, within 28 days and all common parts of the HMO or property used as a means of escape from fire must be kept free from obstruction and maintained in good order and repair

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£25,000	£40,000	£20,000	£25,000	£30,000

Offence-specific mitigating factors:

- the nature and extent of the licence condition breach

Offence-specific aggravating factors:

- the nature and extent of the licence condition breach

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

All granted selective licences impose a set of conditions on the licence holder. It is important that the licence holder of a licensed property complies with all the imposed conditions. However, 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 other conditions.

The starting levels for each different type of licence condition breach is set out below, based on the seriousness of the offence.

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

Failure to comply with licence conditions related to:

- Obtaining references for occupants – where it is possible to obtain references
- Tenancy management – providing tenancy agreements, with required particulars, and provide a copy of the agreement within 28 days of demand by the council, and give copies of the property licence to the tenant or tenants
- Notification of changes – failure to notify the council of relevant changes, such as change in ownership or management of the property
- Licence limitations – transferring the licence to another person, organisation or a different property is not permitted

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£3,000	£40,000	£2,400	£3,000	£3,600

Offence-specific mitigating factors:

- the nature and extent of the licence condition breach

Offence-specific aggravating factors:

- the nature and extent of the licence condition breach

Failure to comply with licence conditions related to:

- Utility supplies – unreasonable interruption of the supply of gas, electricity or water is not permitted and all utilities must be accessible for taking readings

etc and written information on the location and how to access the utilities must be provided to the tenant or tenants

- Furniture and furnishings – furniture and furnishings made available, as part of the property tenancy, must be in a safe condition and comply with current fire safety legislation, and a declaration must be provided within 28 days of demand by the council
- Property management - reasonable steps must be taken for responding to or completing repairs at the property, the internal and external areas outside the property must be kept neat and tidy and within 24 hours of a notification, any necessary emergency work required at the property must be carried out
- Property inspections – inspections to the property must be completed no less than every six months which identify any issues on the management or condition of the premises and records must be kept of inspections for the duration of the property licence, and where requested, a copy of the inspection records must be provided within 28 days of demand by the council
- Waste and recycling – suitable provision must be made available at the start of the tenancy for storage of refuse produced at the house and recycling which includes information on waste collection days, and any unwanted rubbish etc left behind from previous tenants must be removed from inside or outside the property and any works to the premises must be completed in compliance with Health and Safety legislation and there should be no builder's debris left behind at the property, it should be in a clean and tidy condition

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£5,250	£40,000	£4,200	£5,250	£6,300

Offence-specific mitigating factors:

- the nature and extent of the licence condition breach

Offence-specific aggravating factors:

- the nature and extent of the licence condition breach

Failure to comply with licence conditions related to:

- Gas and carbon monoxide detection - if gas is supplied to the property, an annual gas safety check must be completed by a Gas Safe registered engineer and a copy of the current gas safety certificate must be provided at the time of the licence application and yearly thereafter, and copies of the

certificate must be provided within 7 days of demand by the council, and carbon monoxide alarms must be installed in any room which is used wholly or partly as living accommodation and contains a fixed combustion appliance other than a gas cooker and a declaration on the condition and position of the alarms must be provided within 28 days of demand by the council

- Electrical installations and portable appliances – all electrical installations and appliances must be safe for use, a valid Electrical Installation Condition Report must be provided to the council within 3 months of the date the property licence was issued, and upon 7 days of demand by the council, a declaration on the safety of the installations must be provided and in addition, upon 7 days of demand, a declaration on the safety of the appliances must be provided to the council
- Energy efficiency – a valid energy performance certificate, where required for the property, is needed and a copy of the certificate, upon 28 days of demand by the council, must be provided

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£9,375	£40,000	£7,500	£9,375	£11,250

Offence-specific mitigating factors:

- the nature and extent of the licence condition breach

Offence-specific aggravating factors:

- the nature and extent of the licence condition breach

Failure to comply with licence conditions related to:

- Fire detection - smoke alarms must be installed on each storey of the house, where there is a room used wholly or partly as living accommodation, and a declaration on the condition and position of the alarms must be provided within 28 days of demand by the council, and
- Gas and carbon monoxide detection - if gas is supplied to the property, an annual gas safety check must be completed by a Gas Safe registered engineer and a copy of the current gas safety certificate must be provided at the time of the licence application and yearly thereafter, and copies of the certificate must be provided within 7 days of demand by the council, and carbon monoxide alarms must be installed in any room which is used wholly or partly as living accommodation and contains a fixed combustion appliance

other than a gas cooker and a declaration on the condition and position of the alarms must be provided within 28 days of demand by the council, and

- Electrical installations and portable appliances – all electrical installations and appliances must be safe for use, a valid Electrical Installation Condition Report must be provided to the council within 3 months of the date the property licence was issued, and upon 7 days of demand by the council, a declaration on the safety of the installations must be provided and in addition, upon 7 days of demand, a declaration on the safety of the appliances must be provided to the council

Starting point	Statutory maximum civil penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
£15,000	£40,000	£12,000	£15,000	£18,000

Offence-specific mitigating factors:

- the nature and extent of the licence condition breach

Offence-specific aggravating factors:

- the nature and extent of the licence condition breach

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

Notice of intent

Before imposing a civil penalty on a landlord, the council will give the landlord a notice of intent. The notice of intent will set out:

- the amount of the proposed civil penalty
- the reasons for proposing to impose the civil penalty
- information about the landlord's right to make written representations

Right to make written representations

A landlord who is given a notice of intent may make written representations to the council about the proposal to impose a civil penalty. Any representations must be made within a period of 28 days beginning with the day after the date on which the notice of intent was given.

Decision after the representations period

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

- decide whether to impose a civil penalty on the landlord, and
- if the council decides to impose a civil penalty, decide the amount of the penalty - this amount can be higher or lower than the amount stated in the notice of intent

A landlord's rectification of the identified breach or offence, during the representations period, will rarely, of itself, lead the council to conclude that the imposition of a civil penalty is inappropriate. However, compliance at that stage will usually be relevant to the assessment of mitigating factors that may reduce the level of any civil penalty imposed.

Similarly, an admission of liability will rarely, of itself, lead the council to conclude that the imposition of a civil penalty is inappropriate. An admission of liability will, however, usually be relevant to the assessment of mitigating factors that may reduce the level of any civil penalty imposed.

Final notice

If, following the receipt of written representations and/or the expiry of the period of time to make written representations, the council decides to impose a civil penalty on the landlord, it will give the landlord a final notice imposing that penalty.

The final notice will set out:

- the amount of the civil penalty
- the reasons for imposing the penalty
- information about how to pay the penalty
- the period for payment of the penalty
- information about the rights of appeal, and
- the consequences of failure to comply with the final notice

Discount for prompt payment

Where a civil penalty imposed by a final notice is paid in full within the period specified in that notice, normally 28 days beginning with the day after the final notice is given, the council will apply a discount of 15 percent to the amount of the civil penalty.

The availability of the discount is conditional upon full payment being received within the specified period. The discount period will not be extended or suspended by the bringing of an appeal. A landlord who chooses to appeal may still benefit from the discount by paying the civil penalty in full within the specified period. However, where payment is not made within that period, the discount will not apply.

Illustrative example of the application of the discount

The landlord of a house in multiple occupation property, that falls inside the licensing criteria, fails to obtain a licence. They only operate two house in multiple occupation properties, both fall inside the licensing criteria, and there are no other relevant factors or aggravating features. The starting point for the offence under the council's civil penalties matrix is £17,000.

Following the issue of a notice of intent proposing a civil penalty of £17,000, the landlord makes written representations. Having considered those representations, the council determines to impose a civil penalty of £16,000, as set out in the final notice.

If the landlord pays the civil penalty in full within the payment period specified in the final notice, a 15 percent prompt payment discount is applied. This results in a discounted payment of £13,600.

Appeals

A landlord who is given a final notice may appeal to the First-tier Tribunal (Property Chamber) against the decision to impose a civil penalty and/or the amount of the penalty:

First Tier Tribunal (Property Chamber)
Residential Property
Havant Justice Centre
The Court House
Elmleigh Road
Havant, PO9 2AL

Phone number: 01243 779 394

Email address: rpsouthern@justice.gov.uk

Any appeal must be made within 28 days beginning with the day after the date on which the final notice was given.

Where an appeal is brought, the final notice is suspended until the appeal is finally determined or withdrawn.

An appeal to the First-tier Tribunal is by way of a re-hearing of the council's decision. In determining an appeal, the Tribunal may have regard to matters of which the council was unaware at the time the decision to impose the civil penalty was made.

The Tribunal may dismiss an appeal if it is satisfied that the appeal is frivolous, vexatious, an abuse of process or has no reasonable prospect of success.

The First-tier Tribunal may invite the parties to consider mediation or another form of alternative dispute resolution. The council will not generally agree to mediation in relation to the level of a civil penalty, as the penalties are determined by reference to this policy which promotes fair, consistent and proportionate outcomes. Agreeing reductions outside the policy framework would risk undermining consistency and the council's enforcement objectives.

On determination of an appeal, the Tribunal may:

- confirm the civil penalty

- vary the amount of the civil penalty, whether by increase or reduction
- cancel the civil penalty

Where the Tribunal varies a civil penalty by increasing its amount, it may do so only up to the applicable statutory maximum for the relevant breach or offence. This is £7,000 or £40,000, as applicable.

A party to the appeal may apply for permission to appeal the decision of the First-tier Tribunal to the Upper Tribunal (Lands Chamber).

Appendix 5 - Statement of principles to determine amount of penalty charge under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (amended by the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022))

Section 13 of the Regulations 2015 and 2022 requires the council to prepare and publish a statement of principles which they propose to follow in determining the amount of a penalty charge.

The regulations set duties on relevant landlords to:

1. Equip a smoke alarm on each storey of the property on which there is a room used wholly or partly as living accommodation
2. During any period when the property is occupied under a rental tenancy, to ensure a carbon monoxide alarm is equipped in any room which is used wholly or partly as living accommodation and that 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 1 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, the alarm must be repaired or replaced

For the purposes of the regulations, living accommodation includes a bathroom or lavatory and a prescribed alarm is a smoke or carbon monoxide alarm.

Where the council finds that a landlord is in breach of one or more of the duties, 1. to 4. above, the council must serve a remedial notice on the landlord. The remedial notice is a notice served under regulation 5 of the Regulations 2015 and 2022.

If the landlord fails to take the action specified in the notice within the specified timescale, the council can require a landlord to pay a penalty charge and arrange for remedial action to be taken under certain circumstances. The power to charge a penalty is set by regulation 8 of the Regulations 2015 and 2022. Failure to comply with a notice can lead to a fine of up to £5,000. Fines are applied per breach and not per landlord or property.

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.

A landlord will not be considered in breach of their duty to comply with the remedial notice if they demonstrate all reasonable steps to comply were taken. At the minimum, a landlord will be expected to have:

- communicated the risk of harm, in writing on more than one occasion, about the lack of functioning alarms posed to all occupants
- requested access to the property, in writing, for compliance with the remedial notice on at least three occasions where access to the property was prevented

The methods used by the council for determining when to issue a remedial notice include, but are not limited to:

- information gathered from a property inspection
- any relevant information from the letting, managing agent or property occupant or occupants
- evidence provided by the landlord showing compliance with the Regulations 2015 and 2022 by dated photographs of smoke or carbon monoxide alarms, alarm installation documents and proof alarms have not passed their expiration or replacement dates

The landlord will need to take steps, showing they have met the testing requirement for smoke and carbon monoxide alarms, at the start of the rental tenancy. A way to show compliance with the testing requirement is, but not limited to:

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

Determining the amount of penalty charge, first breach

When the council determines the amount of penalty charge, for not complying with a remedial notice, regard will be had to whether this is a first breach under the Regulations 2015 and 2022.

The starting level of a penalty charge for a first breach of the regulations is £3,000.

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

The council will use aggravating and mitigating factors, but is not limited to the factors, when deciding on the level of penalty charge. The factors are below.

Aggravating factors:

- the number of smoke alarms not working or missing - the regulations state there should be one alarm per storey
- other fire safety concerns or defects in the property which increase the health and safety risk to occupants
- the length of time the offence has been in place
- the amount of complaints by the occupant or occupants to the landlord about smoke or carbon monoxide alarms not working

- the costs of any remedial work the council has completed in response to a breach of the regulations
- any attempts to obstruct the council's investigation for assessing compliance with the regulations

Mitigating factors:

- proof that all required smoke and carbon monoxide alarms were checked and in working order at the start of the rental tenancy
- written evidence that efforts were made to comply with the remedial notice, where access to the property was prevented by the occupant or occupants
- a small property with moderate 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

Determining the amount of penalty charge, subsequent breach

The penalty for subsequent breaches of a remedial notice, by the same landlord, will be £5,000.

Appendix 6 – How the Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 (as amended by the Electrical Safety Standards in the Private Rented Sector (England) (Amendment) (Extension to the Social Rented Sector) Regulations 2025) are applied

The regulations require all landlords to have the electrical installations in their properties inspected and tested by a qualified person at least every 5 years. They must obtain a report, an Electrical Installation Condition Report (EICR) from the qualified person and provide a copy of this to their tenants and to the council if requested to do so.

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

All landlords must:

- ensure electrical safety standards are met, set by the [18th Edition of the Wiring Regulations](#) British Standard 7671
- supply a copy of the report to the existing tenant within 28 days of the inspection and test
- supply a copy of the report to a new tenant before they occupy the property
- supply a copy of the report to any prospective tenant within 28 days of receiving a request for it
- supply a copy of the report within 7 days of receiving a request for it by the council
- where the report shows that remedial or further investigative work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report
- within 28 days of completion of the remedial work, or further investigative works, supply the tenant and the council with a copy of the report along with written confirmation from the qualified person who carried out the works – acceptable forms of confirmation include a satisfactory EICR, an Electrical Installation Certificate (EIC), a Minor Electrical Installation Works Certificate (MEIWC) or other appropriate electrical certification

Inspectors are expected to use the classification codes below which show where a landlord must undertake remedial work:

- **Code 1 (C1) danger present, risk of injury** - the electrical inspector may also make any C1 hazards safe before leaving the property
- **Code 2 (C2) potentially dangerous** - a fault exists that could become an immediate danger if a further, foreseeable event occurs
- **Code 3 (C3) improvement recommended** - further remedial work is not required for the report to be deemed satisfactory
- **Further Investigation (FI)** - further investigation required without delay

The electrical installation should be safe for continued use. Normally, if the report does not require investigative or remedial work, the landlord will not be required to carry out any further work.

If codes C1 or C2 are identified in the report, then remedial work will be required. The report will state the installation is unsatisfactory for continued use.

If an inspector identifies that further investigative work is required (FI) - the landlord must also ensure this is carried out.

The C3 code does not indicate remedial work is required, but only that improvement is recommended. Landlords do not have to make the improvement, but by acting on the recommendations it would improve the safety of the installation. The [Electrical installation condition reporting - Best Practice Guide 4](#) produced by Electrical Safety First has further practical guidance on classification codes.

Where a landlord does not do the remedial work, specified for electrical installations or equipment, and the council is reasonably satisfied the landlord is in breach of the regulations, the council must serve a remedial notice on the landlord requiring remedial action.

If a landlord fails to comply with the notice, the council may arrange for remedial action to be taken themselves and can recover the costs of taking that action from the landlord. The landlord has the right of appeal against a demand for costs.

If the electrical report indicates that urgent remedial action is required, and the landlord has not carried this out within the period specified in the report, the council may, with the consent of the tenant, arrange to carry out remedial work.

The council must authorise a person in writing to undertake the urgent remedial action and give at least 48 hours' notice to the tenant. The costs for carrying out the remedial work can be recovered from the landlord who has the right of appeal against a demand for costs.

The council may impose a financial penalty of up to £40,000 on landlords who are in breach of specified duties under the regulations.

Further details on how the level of civil penalty is set for when the regulations are not complied with are given in **Appendix 4 – How the council uses civil penalties under the Renters’ Rights Act 2025 and other housing legislation**

Appendix 7 - Statement of principles to determine amount of penalty charge for a breach of the Minimum Energy Efficiency Standards (MEES) for privately rented properties

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 make it unlawful, unless a valid exemption has been registered on the private rented sector exemptions' register, to rent out a domestic property if it has an Energy Performance Certificate (EPC) rating of F or G.

The MEES regulations make it unlawful to fail to comply with a compliance notice issued by the council.

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

The EPC gives the property an energy efficiency rating - 'A' rated properties are the most energy efficient and 'G' rated are the least efficient.

The EPC contains information about the type of heating system, typical energy costs and recommendations about how the energy use can be reduced.

The EPC is valid for 10 years and must be provided by the owner of a property, when it is rented or sold.

All private landlords must:

- ensure their rented properties have an EPC with a minimum 'E' rating, or
- register a valid exemption on the private rented sector exemptions' register

If any of the two requirements above are not met there is a breach of the MEES regulations.

If the council believes a landlord has failed to meet their obligations under the MEES Regulations, the council can issue the landlord with a compliance notice. It will request information so that the council can decide if a breach of the regulations has occurred.

The notice may request information on:

- the EPC that was valid for the time when the property was let
- the tenancy agreement used for letting the property
- information on any energy efficiency improvements made to the property
- any energy advice report for the property
- any other relevant document

If the council finds that a property is, or has been, let in breach of the MEES Regulations, the council may issue a penalty notice with a financial penalty,

on the landlord, for up to 18 months after the breach. 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, if it is in the public interest to do so, on the private rented sector exemptions' register. The information published will normally consist of:

- where the landlord is not an individual, the landlord's name
- details of the breach of the MEES Regulations for which the penalty notice was issued
- the address of the property for which the breach has occurred
- the amount of any financial penalty imposed

The council will impose the financial penalties below when issuing a penalty notice:

- (a) £2,000 for letting a property with an 'F' or 'G' rating for less than 3 months
- (b) £4,000 for letting a property with an 'F' or 'G' rating for more than 3 months
- (c) £1,000 for registering false or misleading information on the private rented sector exemptions' register
- (d) £2,000 for failing to provide information to the council required by a compliance notice

The council may not impose a financial penalty under both subsections (a) and (b) above in relation to the same breach of the MEES Regulations. But, 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 must not exceed £5,000.

END OF THE POLICY