



Housing & Growth Committee 17th January 2023

Title	Implementation of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
Report of	Chair of Housing and Growth Committee
Wards	All
Status	Public
Urgent	No
Key	Key
Enclosures	Appendix 1 – Assessment for civil penalties issued under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
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Summary

From April 2021, local housing authorities have the power to issue civil penalties of up to £30,000 on landlords for failure to comply with the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. This report sets out the powers and obligations introduced by these regulations aimed at targeting the worst performing landlords and improving the private rental sector. The report also sets out how the Council will implement them.

Officers Recommendations

This report seeks agreement that:

1. The Housing and Growth Committee endorses the approach detailed in Appendix 1 to determine the amount of the (civil) penalty charge under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, and for this addition to be made to the Regulatory Enforcement Policy.

2. The Housing and Growth Committee delegate authority to the Deputy Chief Executive to implement any minor amendments needed to the Council's Regulatory Enforcement Policy in respect of the imposition of these civil penalties.
3. The Housing and Growth Committee note that the current schemes of delegation will be updated as appropriate to include the powers under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

1. Why this report is needed

- 1.1 Barnet Council recognises the important role that the private rented sector plays in providing housing in the borough. The Private Sector Housing Team (PSH) is reactive and proactive in enforcing property and management standards and also responds to complaints of poor and/or dangerous housing conditions.
- 1.2 A full range of housing activities are currently in place to drive up standards in the borough. This includes:
 - Advice and support for landlords
 - Additional and Mandatory Licensing Schemes for Houses in Multiple Occupation (HMOs) including pre licensing inspections and compliance visits
 - Partnership working with the London Landlord Accreditation Scheme and associated discounts for accredited landlords
 - Service of enforcement notices and associated prosecutions, penalty notices and works in default of the notice in line with the Regulatory Services Enforcement Policy
 - Service of Prohibition Orders where accommodation is too unsafe for the tenant to remain or to prohibit the use of part or all of the premises for some or all purposes, or occupation by particular numbers or descriptions of people vulnerable to the hazard and associated prosecutions in line with the Regulatory Services Enforcement Policy where the order is not complied with.
- 1.3 Work is undertaken in partnership with other relevant Council departments including CAFT, Council Tax, the Planning Enforcement Team, the Community Safety Team and Social Services. Also enforcement work is undertaken with external partners including the London Fire Brigade, Police and Immigration services.
- 1.4 On a regular basis however poor accommodation is still encountered.
- 1.5 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 are designed to ensure electrical safety within the private rented sector in England by requiring landlords to have the fixed electrical installation within rented properties inspected at least every five years.
- 1.6 Existing legislation already requires landlords to keep their properties free from electrical hazards. It has previously been best practice for landlords to organise periodic inspection and testing and to provide an electrical safety report to the tenant. These Regulations put best practice on a statutory footing.

- 1.7 All landlords in the private rented sector must now make sure the electrical installations in their rented properties are safe.
- 1.8 The Regulations require landlords to have the electrical installations in their properties inspected and tested by a person who is qualified and competent, at least every 5 years. Landlords must provide a copy of the electrical safety report to their tenants, and if requested to their local authority.
- 1.9 Following failure to comply with the Regulations, a local housing authority can impose a financial penalty of up to £30,000 on a landlord.
- 1.10 Local housing authorities should develop and document their own policy on how they determine appropriate financial penalty levels under these regulations. The maximum amount is expected to be reserved for the very worst offenders.
- 1.11 In line with government guidance consideration has been given the statutory guidance note *Statutory guidance for local housing authorities on civil penalties- Civil penalties under the Housing and Planning Act 2016* and to the [policy previously developed by Barnet for civil penalties under the Housing and Planning Act 2016](#).
- 1.12 In relation to the condition of houses in multiple occupation existing provisions in Regulation 6(3) of the Management of Houses in Multiple Occupation (England) Regulations 2006 have been repealed, ensuring all properties are in scope of the new Regulations.
- 1.13 Schedule 4 of the Housing Act 2004 has been amended by the new Regulations to require a new mandatory licence condition for licences granted under Parts 2 and 3 of the Housing Act 2004.

2. Reasons for recommendations

- 2.1 This report sets out the new enforcement powers introduced under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. These were introduced from April 2021. The Government wants to support good landlords who provide decent well maintained homes and avoid unnecessary regulation which increases costs and red tape for landlords and also pushes up rents for tenants, but acknowledges that a small number of landlords knowingly rent out unsafe and substandard accommodation.
- 2.2 Use of these regulations will complement the housing enforcement work already being undertaken by the London Borough of Barnet.

3. Alternative options considered and not recommended

- 3.1 Doing nothing is not considered acceptable. Local Housing Authorities are expected to make full use of this legislation which is considered to supplement and enhance the existing powers.

4. Post decision implementation

- 4.1 If the Committee is minded to support the recommendation then the relevant scheme of delegation will be updated, the policy posted on the Council's website and the new method of enforcement implemented.

5. Implications of decision

Corporate Priorities and Performance

- 5.1 A new Corporate Plan is in development, with an approach being built around a council that cares for people, our places, and the planet, as discussed at the Policy and Resources Committee meeting on 29 September 2022. Under the People priority, it aims to be family friendly, tackle inequality, and support health and independence. Under the Place priority, it aims to ensure safe, attractive neighbourhoods, quality homes, sustainable growth, and thriving town centres and make Barnet a fun place to visit. Under the Planet priority, it aims to focus on the council's journey to net zero, local environment, and green spaces.
- 5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**
- 5.2.1 **Finance & Value for Money:** The fines levied through Civil Penalties can be retained by the Local Authority if the income is used to further the Local Authority's statutory functions in relation to enforcement activities in the private rented sector. Penalties will be set on a case-by-case basis in line with the proposed amendments to the Regulatory Services Enforcement policy in Appendix 1, and as such it is not possible to estimate the level of income from these penalties. It is anticipated that these provisions will encourage landlords to be more compliant and as such the issuing of fines and the associated administrative work should be kept to a minimum.
- 5.2.2 **Procurement:** Currently there are no procurement implications.
- 5.2.3 **Staffing:** Currently there are no staffing implications.
- 5.2.4 **IT:** Civil Penalties will be recorded and monitored using the Regulatory Services existing data management system and associated document management system.
- 5.2.5 **Property:** Currently there are no property implications.
- 5.2.6 **Sustainability:** Currently there are no negative sustainability implications in improving private rented housing.

5.3 Legal and Constitutional References

- 5.3.1 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 detail the duties on private landlords of residential premises in relation to electrical safety, as well as the duties on local housing authorities to intervene in certain circumstances including serving notices and carrying out remedial work. In addition local housing authorities are given the power to impose financial penalties on private landlords who breach their duty under the regulations.
- 5.3.2 The council's Constitution, Article 7.5 Committees, Forums, Working Groups and Partnerships, sets out the functions of the Housing & Growth Committee including:

(1) *Responsibility for:*

- *Housing (including housing strategy; homelessness; social housing and housing grants; private sector housing and leasing; housing licensing and enforcement; HRA Revenue Account and Capital Programme)*
- *Regeneration Strategy and Overseeing Major Regeneration Schemes*
- *Asset Management*
- *Development of Council Land*
- *Fire Safety*
- *Economic Development including Employment Strategy; Business Support and Engagement; and Town Centres*

(2) *To submit to the Policy and Resources Committee proposals relating to the Committee's budget (including fees and charges) for the following year in accordance with the budget timetable.*

(3) *To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.*

5.4 Insight

5.4.1 There is no insight relevant to this report.

5.5 Social Value

5.5.1 The new powers will support and expand the Council's current housing enforcement activities delivering improvements to accommodation and will target the worst performing landlords and deliver social benefits for residents in relation to improvement in standards of the private rented sector.

5.6 Risk Management

5.6.1 The proposed amendment to the policy with this approach for the offences in these Regs will ensure that penalties are transparent and proportionate to the offence.

5.6.2 The administration associated with implementing civil penalties is complex. Care will need to be taken to ensure that any income from these courses of action, at a minimum, cover the administration cost of the action taken. This will need to be closely monitored and regularly reviewed.

5.7 Equalities and Diversity

5.7.1 This report is in accordance with the current Council's Corporate Plan 2021-2025 which is based on four priorities: Clean, safe, and well run; Family Friendly; Healthy and Thriving. Delivered using a preventive approach and considering equalities in all that we do.

5.7.2 The Equality Act 2010 sets out the Public Sector Equality Duty which requires public bodies to have due regard to the need to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
- foster good relations between persons who share a relevant protected characteristic and persons who do not. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5.7.3 Implementation of this legislation has been reviewed against the protective characteristics and it is considered that there will not be any specific adverse impact on any of the groups.

5.7.4 Any enforcement action taken will need to be in line with the Enforcement Policy.

5.7.5 It is considered that housing enforcement action requiring the improvement of accommodation has an overall positive impact for landlords, tenants, residents and businesses by virtue of the potential improvement to the quality and management of accommodation in the borough.

5.7.6 In addition, there are potential benefits arising from the increased choice of high quality, well-managed affordable housing.

5.8 Corporate Parenting

5.8.1 In line with Children and Social Work Act 2017, the council has a duty to consider Corporate Parenting Principles in decision-making across the council. There are no implications for Corporate Parenting in relation to this report.

5.9 Consultation and Engagement

5.9.1 There has been no specific consultation on the approach.

5.9.2 If the approach detailed is supported this will be actively communicated through:

- Social media
- The Council's website
- Communication to landlords
- Communication to tenants

5.10 Environmental Impact

5.10.1 There are no direct environmental implications in relation to this report.

6. Background papers

6.1 [The Electrical Safety Standards in the Private Rented Sector \(England\) Regulations 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

6.2 [Enforcement policy \(revised HAG February 2022\) \(1\).odt \(live.com\)](#)

6.3 [Statutory guidance for local housing authorities on civil penalties- Civil penalties under the Housing and Planning Act 2016](#)

Report Clearance Checklist

(Removed prior to publication and retained by Governance Service)

Note: All reports must be cleared by the appropriate Committee Chair, Chief Officer, Legal, Finance and Governance as a minimum. Report authors should also engage with subject matter experts from other service areas where this is required (e.g. procurement, equalities, risk, etc.). The name and date that the chair or officer has cleared the report must be included in the table below or the report will not be accepted.

Legal, Finance and Governance require a minimum of 5 working days to provide report clearance. Clearance cannot be guaranteed for reports submitted outside of this time and your report is likely to be withdrawn from the agenda and deferred to the next scheduled meeting.

Author to complete table below:

Who	Clearance Date	Name
Committee Chair	5/1/23	Cllr Houston
Chief Officer	6/1/23	Cath Shaw Stephen McDonald
HB Public Law	9/1/23	Paresh Mehta
Finance	29/12/22	Nicholas Stylianou
Governance	5/1/23	Allan Witherick
Head of Service	5/1/23	Chris James Susan Curran

Appendix 1

Amendments to the Development and Regulatory Services Enforcement Policy introduced through the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 came into force in April 2021. Through section 3 and Schedule 2 of this legislation the government has provided more powers for local authorities to act against non-compliant landlords. This includes:

- Ensuring that national standards for electrical safety are met.
- Ensuring that all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years
- Obtaining a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test
- Supplying a copy of this report to the existing tenant within 28 days of the inspection and test.
- Supplying a copy of this report to a new tenant before they occupy the premises.
- Supplying a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supplying the local housing authority with a copy of this report within 7 days of receiving a written request
- Retaining a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
- Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.

The level of civil penalty imposed must be in line with the this policy.

The amount levied in any case should reflect the severity of the offence, as well as account for the landlords previous record of offending. The factors that should be considered to ensure that the civil penalty is set at an appropriate level in each case are as follows:

a) **Severity of the offence.** The more serious the offence, the higher the penalty should be.

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

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

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

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

f) **Deter others from committing similar offences.** While the fact that someone has received a civil penalty may not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending. The Council will publicise any civil penalties that have been issued whilst the details will remain confidential.

g) **Remove any financial benefit the offender may have obtained because of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit because of committing an offence, i.e., it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

Civil Penalty Matrix

Officers setting civil penalties will have regard to the Barnet's Civil Penalty Matrix. This will be used for breaches under the regulations as a guide assessing the appropriate civil penalty to be levied. Fines must be set on a case-by-case basis, but officers must be clear of the factors informing each civil penalty.

Harm	Culpability	Starting assessment baseline
Moderate	Moderate	£750
Moderate	Substantial	£5,000
Moderate	Extreme	£10,000
Substantial	Moderate	£10,000
Substantial	Substantial	£15,000
Substantial	Extreme	£20,000
Extreme	Moderate	£15,000
Extreme	Substantial	£20,000
Extreme	Extreme	£25,000

A seven-step process will be used for setting civil penalty levels.

Step 1: Severity of the offence

Objective: to determine the level of harm that was or could have been caused by the offence

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

- Nature/extent of hazards present.
- Vulnerability of tenants e.g. age, illness, disability, someone with language issues etc.
- Evidence of discrimination/action against the tenants
- Number of persons and/or households affected e.g. single family or HMO
- Level of risk to occupiers or third parties

Step 2: Culpability

Objective: to determine the offender's culpability as deliberate, reckless, or negligent. Renting out or managing residential property is a business and it is the responsibility of a landlord or letting agent to ensure that they are fully aware of their legal responsibilities. Ignorance of the law is not an excuse and generally, therefore, the presumption should be that any offence was deliberately committed, unless the landlord or letting agent can demonstrate otherwise.

The offender to be assessed against three levels of culpability:

- Deliberate: offender intended to cause harm or ignored legal responsibilities.
- Reckless: offender was reckless as to whether harm was caused, or duties were not complied with.
- Negligent: failure to ensure awareness of legal responsibilities.

Step 3: Initial assessment of civil penalty

Objective: to reach an *initial assessment* of the civil penalty based on severity of the offence and culpability.

Step 4: Track record of landlord

Objective: to consider the offender's track record and issues that may influence the civil penalty.

- Has committed similar offences before
- Offence was planned
- Experienced landlord who should know responsibilities
- Owns several properties so should be aware of the legislation (i.e., not a single property landlord)
- Period over which offence(s) committed
- High level of profit/sought profit from the offence
- Offender is a letting agent
- Attempt to cover up evidence of offence
- Landlord with a generally well managed portfolio

Step 5: Any mitigating factors

Objective: to consider any mitigating factors and whether they are relevant to the offence e.g., ill health of landlord, obstructive behaviour of third parties etc

Step 6: Revised assessment

Objective: to reach a *provisional* overall assessment of a civil penalty appropriate to the offence based on following the above steps. The civil penalty imposed should never be less than what it would have cost the landlord to comply in the first place, to incentivise compliance.

Step 7: Check

Check that the provisional civil penalty assessment meets the aims of the sentencing principles:

- Punishment of offender
- Reduction of/stopping crime
- Deterrent for other potential offenders
- Reform of offender
- Protection of public
- Reparation by offender to victim(s)
- Reparation by offender to community

Check that the provisional assessment is proportionate and will have an appropriate impact.

- This step should take account of the offender's income and assets and adjusted within band or band changed accordingly. The general presumption should be that a civil penalty should not be revised downwards simply because an offender has (or claims to have) a low income. The Crown and Courts Act 2013 expressly permits the value of an offender's assets, e.g., their rental portfolio, to be considered when determining an appropriate penalty.
- For example, if a landlord with a large portfolio was assessed to warrant a low civil penalty, the civil penalty might require adjustment to have sufficient impact, and to conform to sentencing principles above.

Assessment Table for civil penalties issued under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

This assessment table is to demonstrate how the civil penalty assessment will be completed under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. This may be revised and updated in line with the guidance contained in the committee report.

Details of offence	
Legal Contravention	
Condition of premises	
Number of tenants	
Number of households	
Any vulnerability of the tenants	

Had the landlord received any previous communication regarding the offence (add dates and detail of communication)					
Were any other properties affected by the offence?					
Is there evidence that the landlord has tried to avoid his legal responsibilities e.g., threatened the tenants or acted in a discriminatory way in relation to the tenants					
Severity of offence <ul style="list-style-type: none"> • Nature/extent of hazards present. • Vulnerability of tenants e.g., age, illness, disability, someone with language issues etc. • Evidence of discrimination/action against the tenants • Number of persons and/or households affected e.g., single family or HMO • Level of risk to occupiers or third parties 					
Considerations					
Banding based on severity of offence considerations					
Extreme		Substantial		Moderate	
Culpability consideration The offender to be assessed against three levels of culpability: <ul style="list-style-type: none"> ▪ Deliberate: offender intended to cause harm or ignored legal responsibilities. ▪ Reckless: offender was reckless as to whether harm was caused, or duties were not complied with. ▪ Negligent: failure to ensure awareness of legal responsibilities. 					
Considerations					
Banding based on culpability considerations					
Extreme		Substantial		Moderate	

Initial assessment of civil penalty	Severity of Offence			Moderate			
				Substantial			
				Extreme			
	Culpability			Moderate			
				Substantial			
				Extreme			
				Initial civil penalty assessment			£
Track record of landlord							
<ul style="list-style-type: none"> ▪ Has committed similar offences before ▪ Experienced landlord who should know responsibilities ▪ Owns several properties (i.e., not a single property landlord) ▪ Period over which offence(s) committed ▪ High level of profit from the offence/sought profit in committing ▪ Offender is a letting agent ▪ Attempt to cover up evidence of offence <p>(Penalty to be increased by a minimum of £1k for each aggravating factor)</p>							
Considerations		No considerations					
		Penalty increase					
Number of considerations		£					
No considerations		£0					
Mitigating Factors							
Any mitigating factors and whether they are relevant to the offence e.g., ill health of landlord, obstructive behaviour of third parties etc							
Penalty to be decreased by a minimum of £1k for each mitigating factor							
Considerations							
		Penalty decrease					
Number of considerations		£					

No considerations	£0	
Check		
<p>Check that the provisional civil penalty assessment meets the aims of the sentencing principles:</p> <ul style="list-style-type: none"> ▪ Punishment of offender ▪ Reduction of/stopping crime ▪ Deterrent for other potential offenders ▪ Reform of offender ▪ Protection of public ▪ Reparation by offender to victim(s) ▪ Reparation by offender to community <p>Check that the provisional assessment is proportionate and will have an appropriate impact.</p> <ul style="list-style-type: none"> • This step should take account of the offender’s income and assets and make final adjustments to the penalty calculation even where this results in a penalty point within another band. The general presumption should be that a civil penalty should not be revised downwards simply because an offender has (or claims to have) a low income. The Crown and Courts Act 2013 expressly permits the value of an offender’s assets, e.g., their rental portfolio, to be considered when determining an appropriate penalty • For example, if a landlord with a large portfolio was assessed to warrant a low civil penalty, the civil penalty might require adjustment to have sufficient impact, and to conform to sentencing principles above. 		
Considerations		
Civil penalty assessment before discounts		
Discounts:	Details	Total Amount of Discount (£)
(a) Works of compliance within the representation period? (discount of 20% to be applied)		
(b) Accreditation course with the London Landlord Accreditation scheme booked within the representation period. (discount of 10% to be applied)		

(c) Total discounts (maximum 30%)		
Outcome of totality consideration (see appendix A) Revised civil penalty assessment where appropriate to ensure the penalty is proportionate and reasonable	£	
Final assessment of civil penalty	£	

Appendix A – Totality Assessment for Civil Penalties under the Housing Act 2004 (as amended)		
	Contravention	Penalty
1		
2		
3		
4		
5		
	Total penalty	
	Is penalty proportionate and reasonable taking into consideration the severity of the offences and culpability	Yes/no
	Explain the answer above	
	Final assessment	

Imposing a civil penalty

Schedule 2 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sets out the process which must be followed when imposing a civil penalty.

Notice of Intent

Before imposing a civil penalty on a landlord or agent, the Council must serve a 'notice of intent' on the landlord or agent in question. This notice must be served within 6 months of the last day on which the Council has evidence of the offence occurring. This notice must contain the following information:

- The amount of the proposed civil penalty.
- The reasons for proposing to impose a civil penalty, and.
- Information about the Landlord's right to make representations to the Council.

In addition, a copy of the Assessment Form will be issued at this stage for each penalty plus any documented totality considerations.

Representations

Any landlord who is in receipt of a notice of intent has the right to make representations against that notice within 28 days beginning the day after the date on which the notice was given.

Representations can be against any part of the proposed course of action. All representations from landlords will be considered by an appropriate senior colleague.

Where a landlord challenges the amount of the civil penalty, it will be for the landlord to provide documentary evidence (e.g., information on financial means, hardship, commentary to counter the content of the notice or intention, accreditation, tenancy agreements etc.) to challenge the assessment of the penalty. Where no such supporting evidence is provided, the representation against the amount generally will not be accepted.

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

Final Notice

Once the representation period has ended, the Council must decide, taking into consideration any representations that were made, whether to impose a civil penalty and the final amount of the civil penalty. The final amount of a civil penalty can be a lower amount than was proposed in the Notice of Intent, but it cannot be a greater amount.

The imposing of a civil penalty involves serving a Final Notice and this notice must contain the following information:

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

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

Withdrawing or Amending Notices

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

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

Appeals to the Tribunal

If a civil penalty is imposed on a landlord/agent, that Landlord can appeal to the First-tier Tribunal (“the Tribunal”) against the decision to impose a penalty or the amount of the penalty. Appeals must be made within 28 days of the date the final notice was issued. The Tribunal has the power to confirm, vary (increase or reduce) the size of the civil penalty imposed by the Council, or to cancel the civil penalty. Where an appeal has been made, this suspends the civil penalty until the appeal is determined or withdrawn.

Payment of a civil penalty

A civil penalty must be paid within 28 days, beginning with the day after that on which the final notice was given (“the 28 day payment period”), unless that notice is suspended due to an appeal. Details of how to pay the penalty will be provided on the final notice.

Other consequences of having a civil penalty imposed

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

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

Recovering an unpaid civil penalty

It is the policy of the Council to consider all legal options available for the collection of unpaid civil penalties and to pursue unpaid penalties in all cases through the county courts. Some of the orders available to the Council through the county courts are as follows:

- A Warrant of Control.
- A Third Party Debt Order.
- A Charging Order, and.
- Bankruptcy or insolvency.

A certificate, signed by the Chief Finance Officer for the Council and stating that the amount due has not been received by the date of the certificate, will be accepted by the courts as conclusive evidence of the payment due.

Where a Charging Order has been made, the Council can consider applying for an Order for Sale against the property or asset in question. When considering which properties to apply for a Charging Order against, the Council can consider all properties owned by the Landlord and not just the property to which the offence relates.

Where the civil penalty was appealed and the Council has a tribunal decision, confirming or varying the penalty, the decision will be automatically registered on the Register of Judgments, Orders and Fines, once accepted by the county court. Inclusion on this Register may make it more difficult for the Landlord to get financial credit.

Income from civil penalties

Any income from Civil Penalties is retained by the Local Housing Council which imposed the penalty. The Council may spend any income from Civil Penalties on its enforcement functions in relation to the private rented sector.