



Housing & Growth Committee 17th January 2023

Title	Implementation of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
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 Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
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Summary

Local housing authorities now have the power to issue civil penalties of up to £5,000 on landlords with new and existing tenancies for failure to comply with The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. 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 Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, 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 Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

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 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 Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 are designed to tackle the least energy-efficient properties in England and Wales, those rated F or G on their Energy Performance Certificate (EPC).
- 1.6 Landlords must not let or continue to let a relevant property which has an EPC rating of F or G unless that property has a valid exemption registered on the government's PRS Exemptions Register.
- 1.7 The council wrote to all Band E, F and G properties within the borough in Autumn 2022 inviting them to apply for a Green Homes Grant to help with the costs of

improving the property, including reference to up to £5,000 grant funding being available for landlords provided they also contributed towards the costs of improving the energy efficiency of the properties.

- 1.8 The Regulations require landlords of sub-standard properties, unless they have a valid exemption, to make energy efficiency improvements which raise the EPC rating to a minimum of an E.
- 1.9 Following failure to comply with the Regulations, a local housing authority can impose a financial penalty of up to £5,000 on a landlord.
- 1.10 Local housing authorities should develop and document their own policy on how they determine appropriate financial penalty levels. The maximum amount is expected to be reserved for the very worst offenders.

2. Reasons for recommendations

- 2.1 This report sets out the enforcement powers introduced under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. 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 pushes up rents for tenants but acknowledges that a small number of landlords knowingly rent out unsafe and substandard accommodation.
- 2.2 Adoption of these powers will compliment 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:** Compliance with these regulations will improve the energy efficiency of non-compliant private rented housing.

5.3 Legal and Constitutional References

5.3.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 detail the duties on private landlords of residential premises and local housing authorities in relation to energy efficiency. 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 Based on a basic review of the Green Homes Grant data about EPC ratings across Barnet it is indicative that there are 2,900 properties within the borough falling below the EPC E standard, with approximately 840 homes that may be affected by the new enforcement policy. A further cross reference of our datasets will be completed to ensure that resources can be appropriately targeted and enforcement action take where necessary.

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 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 Compliance with these regulations will improve the energy efficiency of non-compliant private rented housing and supports the council's sustainability strategy.

6. Background papers

6.1 [The Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

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

6.3 [Guidance on PRS exemptions and Exemptions Register evidence requirements - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

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	4/1/23	Stephen McDonald
HB Public Law	9/1/23	Paresh Mehta
Finance	29/12/23	Nicholas Stylianou
Governance	6/1/23	Allan Witherick
Head of Service	5/1/22 5/1/22	Chris James Susan Curran

Appendix 1

Amendments to the Development and Regulatory Services Enforcement Policy introduced through The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 came into force in April 2020. Through Regulation 34 and 35 of this legislation, the government has provided more powers for local authorities to act against non-compliant landlords.

In the first instance, in line with the Corporate Enforcement Policy, the Council will engage informally with landlords who rent properties with F and G EPC ratings to advise them of the regulations and that their rented properties do not meet the Minimum Energy Efficiency Standards and therefore should not be rented out. The Council will offer advice on how the standards can be met and how to register an exemption, on the national PRS Exemptions Register if appropriate. [Choose where to start - PRS exemptions register \(beis.gov.uk\)](https://www.beis.gov.uk/prs-exemptions-register)

London Borough of Barnet Financial Penalty Fee Matrix

Where the Council decides to impose a financial penalty, they have discretion to decide the amount of penalty up to maximum limits set by the regulations.

All financial penalties may have a publication penalty which means publication on the private rented sector, (PRS) Exemptions Register for a period of at least 12 months in line with the information detailed within the regulations.

When determining a financial penalty, the council will use the following fee matrix as a guide to determine appropriate and proportionate penalties (amounts as a percentage of the maximum fine levels):

The amount levied in any case should reflect the severity of the offence, as well as considering the landlords previous record of offending. Several 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.** The penalty details may be published (see below) and even if they aren't 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 Barnet's Civil Penalty Matrix. This will be used for breaches under the regulations as a guide when assessing the appropriate civil penalty to be levied. Fines will be set on a case-by-case basis, but officers must be clear of the factors informing each civil penalty.

The tables below show the financial penalty amounts for each type of offence:

a) Breach of less than 3 months (Max penalty £2,000)

	Moderate Culpability	Substantial Culpability
Moderate Harm	£ 500	£1,000
Substantial Harm	£1,000	£2,000

b) Breach of more than 3 months (Max penalty £4,000)

	Moderate Culpability	Substantial Culpability
Moderate Harm	£ 1,000	£2,000
Substantial Harm	£2,000	£4,000

c) Providing false or misleading information (Max penalty £1,000)

	Moderate Culpability	Substantial Culpability
Moderate Harm	£ 250	£500

Substantial Harm	£500	£1,000

d) Failure to comply with a Compliance Notice (Max penalty £2,000)

	Moderate Culpability	Substantial Culpability
Moderate Harm	£ 500	£1,000
Substantial Harm	£1,000	£2,000

Please Note - If two or more penalty notices apply the combined maximum per property, per breach is £5,000.

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 to be assessed against the degree of potential or actual harm caused, for example:

- EPC rating of F or G.
- Vulnerability of tenants e.g., pregnant, over 65 or children under 5, low-income household, health conditions exacerbated by the cold, someone with language issues etc.
- Evidence of discrimination/action against the tenants

Step 2: Culpability

Objective: to determine the offender's culpability as deliberate and/or 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/reckless: offender intended to cause harm or ignored legal responsibilities and/or offender was reckless as to whether harm was caused, or duties were not complied with or
- 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 offenders track record and issues that may influence the civil penalty.

- First offence or has committed similar offences before
- Has knowingly or recklessly provided incorrect information in relation to these regulations
- 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
- Offender is a letting agent
- Landlord with a generally well managed portfolio
- Issues partially out of the control of the landlord has led to non-compliance
- High level of profit/sought profit from the offence

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 adjust within band or change band 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 Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

This assessment table is to demonstrate how the civil penalty assessment will be completed under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. 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"> • EPC rating of F or G. • Vulnerability of tenants e.g., pregnant, over 65 or children under 5, low-income household, health conditions exacerbated by the cold, someone with language issues etc. • Evidence of discrimination/action against the tenants 	
Considerations	

Banding based on severity of offence considerations				
Moderate		Substantial		
Culpability consideration <ul style="list-style-type: none"> ▪ First offence or has committed similar offences before ▪ Has knowingly or recklessly provided incorrect information in relation to these regulations ▪ 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 ▪ Offender is a letting agent ▪ Landlord with a generally well managed portfolio ▪ Issues partially out of the control of the landlord has led to non-compliance ▪ High level of profit/sought profit from the offence 				
Considerations				
Banding based on culpability considerations				
Moderate		Substantial		
Initial assessment of civil penalty (appropriate to the breach) <ul style="list-style-type: none"> • non-compliant property for less than 3 months • non-compliant property for 3 months or more • providing false or misleading information on the PRS Exemptions Register • for failure to comply with a compliance notice 	Severity of Offence	Moderate		
		Culpability	Substantial	
	Initial civil penalty assessment		Moderate	
		Substantial		
			£	
	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				

Considerations		
Decrease Penalty?		
Considerations		
No considerations		
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 Not to exceed £5,000	£	

Issuing a Compliance Notice

Local Authorities are responsible for enforcing against non-compliance with the Minimum Energy Efficiency Standards; in accordance with regulations 34 and 35 of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015. Landlords will be given an appropriate amount of time to make the necessary changes following which formal enforcement action may be taken if they fail to do so. The Council may issue a compliance notice under regulation 37 where it believes that a landlord may be letting a sub-standard property. A Compliance Notice requires information from that landlord to help to inform the council's decision of whether that landlord has in fact breached the regulations.

A compliance notice may request landlord to produce for inspection originals, or copies, of the following:

- (a) the energy performance certificate for the property which was valid at the time the property was let,
 - (b) any other energy performance certificate for the property in landlord's possession,
 - (c) any current tenancy agreement under which the property is let,
 - (d) any qualifying assessment in relation to the property,
 - (e) any other document which the enforcement authority considers necessary to enable it to carry out its functions under this Part,
- and may request landlord to register copies of any of them on the PRS Exemptions Register
- (3) A compliance notice must specify—

- (a) the name and address of the person to whom the documents or other information required must be provided, and
- (b) the date by which they must be provided which must be no less than one month from the date on which the compliance notice is served.
- (4) Landlord must—
 - (a) comply with the compliance notice, and
 - (b) allow the enforcement authority to take copies of any original document produced.
- (5) A compliance notice may be varied or revoked in writing at any time by the enforcement authority that issued it.
- (6) An enforcement authority may take into account any information held by it, whether or not provided to it in accordance with this regulation, in determining whether landlord has complied with this Part.

Issuing a Penalty Notice

Where the Council is satisfied that a landlord is in breach of the regulations it may then serve a Penalty Notice on them imposing a financial penalty.

A penalty notice must:

- specify the part of the Regulations breached
- provide details of the breach
- specify the action required to remedy the breach and the timescale for this action (minimum 1 month)
- the amount of any financial penalty imposed and, where applicable, how it has been calculated,
- whether the publication penalty has been imposed (regulation 39)
- require the landlord to pay any financial penalty within 28 days and provide details of how to pay the penalty will be provided on the final notice
- specify the name and address of the person to whom any financial penalty must be paid and the method by which payment may be made
- state the effect of regulations 42 to 45, and
- the name and address of the person to whom a notice requesting a review in accordance with regulation 42 may be sent (and to whom any representations relating to the review must be addressed), and the period within which such a notice may be sent
- Provide appeal provisions

Where the landlord fails to take the action required by a penalty notice within the period specified in that penalty notice the enforcement authority may issue a further penalty notice.

Publication Penalty

The Council may also publish details of the breach(es) on the PRS Exemptions Register, also known as a Publication Penalty (regulation 39). Consideration to issue a penalty notice and/or a publication penalty should be given If an authorised officer determines that satisfactory action has not been taken and there is a breach of these regulations in respect of:

- Regulation 23 – A sub-standard domestic privately rented property has been let.
- Regulation 37(4)(a) – Failure to comply with a compliance notice.
- Where the landlord has registered false or misleading information on the PRS Exemptions Register

A penalty notice may include a financial penalty, a publication penalty or both.

Representations

The relevant person on whom the notice is issued may ask for the Penalty Notice to be reviewed by the Council in the first instance. On review (regulation 42) the council may:

- (a) waive a penalty
- (b) allow additional time to pay any financial penalty
- (c) substitute a lower financial penalty where one has already been imposed, or
- (d) modify the application of a publication penalty

If the penalty is upheld on review the landlord may appeal to the First-tier Tribunal (Property Chamber) on specific grounds (regulation 43, 'Appeals').

Withdrawing or Amending Notices

A compliance notice may be varied or revoked in writing at any time (regulation 37(5))

The relevant person on whom the Penalty Notice is issued, may ask for the Penalty Notice to be reviewed by the Council. Regulation 42(1)

Appeals to the Tribunal

If, after a review, a penalty notice is confirmed by the local authority, the landlord may appeal to the First-tier Tribunal ("the Tribunal"). Appeals must be made within 28 days of the date the final notice was issued. The bringing of an appeal suspends the penalty notice being appealed taking effect, pending determination or withdrawal of the appeal.

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 the Council from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person's involvement in the property will be considered.

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 as appropriate.

Exemptions

Exemptions are detailed in the exemptions register in the [Regulations](#)