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# Housing Enforcement Policy

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1 May 2026



**Elmbridge**  
Borough Council

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## 1.0 Introduction

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- 1.1 Elmbridge Borough Council is committed to improving standards in the housing stock with the borough, bringing empty properties back into use and ensuring that all privately rented accommodation is well managed, properly maintained, safe and habitable.
- 1.2 Although Elmbridge has some excellent landlords and letting agents, the Council has a vital role to play in tackling criminal, rogue and irresponsible landlords and preventing them from profiting from their non-compliance.
- 1.3 This policy sets out the council's principles for enforcing and executing its duties as a Housing Authority under the relevant statute.

S3 Housing Act 2004 imposes a duty on councils to keep housing conditions in their district under review with a view to identifying any action that may need to be taken by them.

S107 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.

- 1.4 S110 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 council will request information, carry out inspections, process licence applications, bring empty properties back into use, encourage and promote good practice, provide owners and landlords with advice and information, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders.

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## 2.0 Aims and principles of the enforcement policy

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2.1 The overall aim of the council is to raise standards in the private sector housing stock. This benefits the health and wellbeing of Elmbridge residents and helps maintain the housing stock for future generations.

2.2 The principles of the Private Sector Housing Enforcement Policy are to ensure that:

- Tenants of private landlords and registered providers of social housing live in homes that are free of unacceptable hazards and risks to their health and safety;
- All Houses in Multiple Occupation are safe, well managed and all relevant Management Regulations are adhered to.
- All licensable Houses in Multiple Occupation are licensed, and all licensing conditions are met.
- Private housing is not left empty for an unreasonable amount of time and/or becomes an eyesore, unsafe or a nuisance to neighbouring properties.
- Privately owned property and land do not present a statutory nuisance to other landowners, is not detrimental to the amenity of the area, does not directly or indirectly present an unacceptable risk to public health, safety or the environment; and the council meets its statutory obligations in relation to private housing.

2.3 This Enforcement Policy provides an overview of the broad principles and processes with which the council will seek to comply when acting to ensure that all private sector housing in the borough is healthy, well managed and safe. It should be read in conjunction with other strategies and policies.

2.4 When discharging its duties in relation to private sector housing, the council will follow the principles of good enforcement set out in the following:

- Regulators Compliance Code
- The Police and Criminal Evidence Act 1984 (as amended)
- Criminal Procedures and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Civil (financial) penalties under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities
- Legislation and Regulatory Reform (Regulatory Functions) Order 2027

2.5 The council will enforce the law efficiently and effectively without imposing unnecessary burdens on responsible owners and occupiers. In doing so, it will have regard to the local economy, the role of inspections, compliance visits and advice and guidance, and the principles underpinning enforcement activity.

## Property inspections and compliance visits

2.6 The council will undertake proactive property inspections, based on risk and intelligence, and ensure that its resources are targeted at the worst properties first including, for example, licensable Houses in Multiple Occupation that are avoiding Mandatory HMO licensing.

2.7 Officers will target 'eyesore' empty properties and land to end the blight, improve neighbourhoods and increase the supply of housing.

2.8 The council will respond to residents' complaints about substandard, unsafe and problematic private housing and adopt a proportionate, escalating regulatory approach to enforcement.

## Principles underpinning enforcement action

2.9 The Private Sector Housing Team's enforcement activity will be:

- **Targeted:** Focus resources on the highest risk properties, including unlicensed HMOs and empty, derelict properties.
- **Proportionate:** Enforcement reflects the scale and seriousness of non-compliance.
- **Fair and objective:** Investigations consider all facts and circumstances.
- **Transparent:** Actions follow clear policies and procedures; communications are clear.
- **Consistent:** Enforcement is monitored to ensure uniform application.
- **Accountable:** Decisions are responsible and justified, engaging stakeholders where appropriate.

The council aims to support responsible landlords while taking firm action against those who fail to comply with the law.

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## 3.0 Legislative and Regulatory Framework

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The council's enforcement functions are governed by a wide range of legislation, including:

- Housing Act 1985, 1996, 2004 (Parts 1–10)
- Renters' Rights Act 2025 (Chapters 3 & 6 of Part 1, Part 2)
- Protection from Eviction Act 1977 (Sections 1 and 1A)
- Housing and Planning Act 2016
- Electrical Safety Standards in the Private Rented Sector (England) Regulations 202

The council operates in accordance with statutory Codes of Practice, official guidance, and principles of good regulation, including:

- The Regulators Compliance Code
- The Legislative and Regulatory Reform (Regulatory Functions) Order 2007
- Human Rights Act 1998

Statutory duties include:

- S3 Housing Act 2004: Duty to keep housing conditions under review.
- S5 & S7 Housing Act 2004: Duty/discretionary duty to take action on Category 1 and 2 hazards.
- S107 & S110 Renters' Rights Act 2025: Duty to enforce landlord legislation and report to the Secretary of State.

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## 4.0 Inspection

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- 4.1 Dwellings are inspected both reactively (in response to a request or complaint) and proactively based on risk and intelligence. Where there is reason to believe a hazard may exist, but access is denied, or prior warning would defeat the purpose of the inspection, the council can apply to the Magistrates Court to obtain a warrant to enter a property without prior notice and using force if necessary.
- 4.2 The inspection may be limited to that part of the property where the officer has reason to believe there may be a problem but may extend to the whole of the property, common parts and any gardens, garages and yards.
- 4.3 Once a property has been inspected and assessed, officers will calculate the level of likely harm from the hazards found and consider what action to take. The actions can be broken down into 'informal' and 'formal' action

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## 5.0 The Housing Health and Safety Rating System (HHSRS)

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- 5.1 The HHSRS is set out in Part 1 of the Housing Act 2004. It is a method of assessing how likely it is that the condition of a property will cause a hazard to the health of the occupants. There are two categories of possible hazards:
- 5.2 **Category 1 hazards** represent a serious danger to health and the council has a duty to take appropriate action to eliminate the risk of harm from a hazard or reduce the risk to an acceptable level.
- 5.3 **Category 2 hazards** represent a lesser danger and, although it has no duty to take action, the Council has power to reduce category 2 hazards through appropriate action.
- 5.4 Much of this enforcement policy relates to our enforcement work under the Housing Act 2004. The council uses other legislation as appropriate and most of these are listed later in this document.
- 5.5 Charges will be made for any formal enforcement action that the council takes (see Appendix 1 of this Policy).

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## 6.0 Investigatory powers

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- 6.1 The Renters' Rights Act 2025 (RRA 2025) and the Housing Act 2004 provide the Council with investigatory powers to regulate the private rented sector, including the ability to obtain information and enter residential and business premises.

Renters' Rights Act 2025 permits the Council when it reasonably suspects a breach of the Rented Accommodation Legislation to issue a notice to any person requiring them to provide the information specified. This may only be done to investigate whether a breach has occurred under the Rented Accommodation Legislation, or to determine the amount of a penalty. For the purposes of this section, the Rented Accommodation Legislation means:

- Sections 1 and 1A of the Protection from Eviction Act 1977;
- Chapter 1 of Part 1 of the Housing Act 1988;
- Parts 1 to 4 and 7 of the Housing Act 2004 ;
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013;
- Sections 21 to 23 of the Housing and Planning Act 2016;
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

## 6.2 Require information from landlords or agents

The council can require landlords, agents, or other relevant persons to provide information necessary to investigate potential breaches of landlord obligations under the RRA 2025. This can include details about tenancy agreements, property management, or other documentation relevant to compliance. Failure to provide this information, or providing false or misleading information, constitutes an offence. These powers help the council gather evidence efficiently and ensure landlords meet their legal duties.

S235 Housing Act 2004 allows the council to issue a notice to relevant individuals, including occupiers, directing them to provide specified documents under their control for the purpose of investigating whether an offence has been committed under Parts 1 to 4 of the Housing Act 2004 or exercising the Council's functions under Parts 1 to 4 of the Housing Act 2004.

S16 Local Government (Miscellaneous Provisions) Act 1976 also permits the Council to issue a notice to an occupier, manager, or individual with an interest in the land to compel them to provide the council with information on the nature of their interest and the names and addresses of current occupiers.

## 6.3 Entry to business premises to inspect or seize documents

The Renters' Right Act 2025 allows council officers to enter business premises of landlords, agents, or marketers where it is necessary to inspect or seize documents related to property management and tenancy compliance. These powers can be exercised without a warrant under or with a warrant under if access is likely to be denied or documents may be concealed. Officers must act proportionately and provide evidence of identity when entering premises.

## 6.4 Entry to residential premises for surveys or investigations

Section 125 of the Renters' Rights Act 2025 and section 239 of the Housing Act 2004 allow officers to enter residential properties to carry out inspections, surveys, or investigations. Entry is usually permitted with reasonable notice unless there is an imminent risk to tenant safety or the property is temporarily empty. Officers use these powers to identify hazards, verify compliance with tenancy law, or investigate complaints such as overcrowding or poor management. Where necessary, warrants can be obtained to ensure access and the safety of both officers and tenants.

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## 7.0 Tenanted dwellings

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- 7.1 Before considering any action in respect of a tenanted property, the tenant/s will normally be expected to have first contacted their landlord or managing agent about the problem in writing. This applies to both private and social housing tenants. Legislation covering landlord and tenant issues requires that tenants notify their landlords of any problems with the property.

This is because landlords can only carry out their obligations under the legislation once they have been made aware of a problem. Copies of correspondence between landlord and tenant, unless confidential, may be required by the council before any action is taken.

- 7.2 There are some circumstances in which this prior contact may not be appropriate, for example:

- Where the matter appears to present an imminent risk to the health and safety of the occupants.

Registered Providers (RPs) are regulated by the Regulator of Social Housing (RSH). RPs have their own procedures for reporting problems and making complaints, with clear response times for addressing any issues. Therefore, the council will expect social tenants to have exhausted the complaints process with their RP before contacting the council. If the council receives a housing disrepair complaint and determines that action is necessary, we will notify the relevant RP and request the RP's comments and proposals.

The council will use all available informal and formal actions under this policy to resolve issues within an RP property. Where a housing disrepair is identified and the RP has a program to improve or ensure their properties meet decent home standards, the officer will consider this program when deciding the most appropriate course of action.

- Where there is a history of harassment, threatened eviction or poor management.
- Where the tenant is old and frail or otherwise vulnerable.
- Where the tenant's first language is not English, and this is likely to cause difficulty in communicating with the landlord.
- Where the tenant could not for some other reason be expected to contact their landlord/managing agent.

- 7.3 In these (or other similar) situations, council officers may proceed directly with enforcement action.

7.4 Registered Providers (RPs) are regulated by the Regulator of Social Housing (RSH) and have established procedures for reporting problems and filing complaints, with clear response times for addressing these issues. Therefore, the council expects social tenants to contact their landlord first and allow the specified response times to lapse before reaching out to the council. If the council receives a housing disrepair complaint, it will notify the relevant RP and request their comments and proposals. The council will use all available informal and formal actions under this policy to resolve issues within an RP property. However, if the complaint indicates an imminent risk to the tenant or the public, the council will take immediate action.

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## 8.0 Shared enforcement responsibilities

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8.1 In circumstances where enforcement responsibility is shared between or rests fully with external organisations, officers will have regard to protocols agreed with other enforcement agencies. Where appropriate, officers will ensure that referrals are passed to the appropriate enforcing authority promptly and in accordance with any agreed procedure.

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## 9.0 Informal action

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9.1 Where the council is made aware that hazards exist at a premises, the team will attempt to resolve this informally where possible. Informal action will include verbal advice and advisory letters given by Officers.

9.2 The council will usually attempt to contact the person(s) responsible for remedying actionable defects before taking formal action. The extent and significance of a defect will be explained, as will the remedy the council considers appropriate. If suitable alternative remedies are proposed, they will be considered. Every effort will be made to mutually agree a way forward.

9.3 The council will aim to write to the owner, managing agent or landlord within 10 days of the inspection outlining the nature of the problem/s identified and requesting confirmation of the remedial action to be taken to remedy the hazard or defect and when this will happen.

9.4 Action taken by the owner or landlord will be monitored and if necessary, follow up letters, emails and telephone calls will be used in an effort to ensure the remedial works are carried out informally.

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## 10.0 Formal action

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- 10.1 It is not always possible to adopt an informal approach, especially where legislation requires formal action to be taken straight away or the owner, agent or other person/s responsible are not co-operating with the council informally. There will be times when officers consider that the risk to the occupant is high enough to warrant formal action without an informal stage. Factors include whether the current occupants are vulnerable or where the property poses an imminent risk to health or safety.

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## 11.0 Emergency measures

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- 11.1 Where the council is satisfied that a category one hazard poses an imminent risk of serious harm to the health or safety of occupants or visitors of a premises, emergency measures can be taken. Emergency measures include serving a Notice of Emergency Remedial Action or an Emergency Prohibition Order.

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## 12.0 Sanctions for non-compliance with notices

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- 12.1 If a notice or order is complied with or amendments are required to the notice as a result of new information, a 'Revocation Notice' will be served confirming that the original notice or order has been withdrawn. However, if the notice is not complied with, the following sanctions will usually be considered:

- issuing a financial penalty
- Rent Repayment Order
- prosecution
- injunctions
- formal caution
- carrying out the works in default;
- carry out works in default *and* issue a civil penalty, prosecution or formal caution

A Sanctions Panel will usually be convened at the request of the Private Sector Housing Manager to decide on the most appropriate action. The Panel will include the investigating officer/s for the case, the Private Sector Housing Manager, the Head of Housing Services and a representative of the Council's Legal Services Team.

## Financial Penalties

12.2 Under the Renters' Rights Act 2025, the civil penalty framework is expanded and strengthened. For serious, persistent, or repeat non-compliance, the maximum civil penalty is increased from £30,000 to £40,000. This higher penalty level applies to the most serious breaches, including continued or repeated failures to comply with statutory requirements.

For less serious breaches of new statutory duties introduced by the Act—such as failure to register on the Private Rented Sector Database or non-compliance with prescribed tenancy requirements—local housing authorities may impose civil penalties of up to £7,000.

In practice:

- Civil penalties of up to £7,000 may be imposed for initial or lower-level breaches.
- Civil penalties of up to £40,000 may be imposed for serious, repeated, or continuous breaches.

The Act does not prescribe a statutory minimum penalty. Local housing authorities are expected to apply penalties in a manner that is proportionate, consistent, and sufficient to deter non-compliance.

12.3 The Government recommends that the actual amount of financial penalty imposed should reflect the severity of the offence and consider the landlord's previous record of offending. Fundamentally, civil penalties will be set such that it costs less to comply with the legislation and standards than the cost of not complying.

12.4 The Government recommends that, in order to ensure that the civil penalty is set at an appropriate level, local housing authorities should consider the following factors:

- a. The severity of the offence
- b. The culpability and track record of the offender
- c. The harm caused to the tenant
- d. The punishment of the offender
- e. Whether it will deter the offender from repeating the offence
- f. Whether it will deter others from committing the offence
- g. Whether it will remove any financial benefit the offender may have obtained as a result of committing the offence

12.5 The Housing and Planning Act 2016 section 126 and Schedule 9 enables the council to impose a civil penalty as an alternative to prosecution for certain housing offences. under the Housing Act 2004:

- Failure to comply with an Improvement Notice [s30 Housing Act 2004]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) [s72 Housing Act 2004]
- Offences in relation to the Selective Licensing of 'houses' [s95 Housing Act 2004]
- Failure to comply with an Overcrowding Notice [s139 Housing Act 2004]
- Failure to comply with a management regulation in respect of an HMO [s234 Housing Act 2004]
- Breaches of Regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 [Regulation 11 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020]
- Failure to comply with a banning order [s23 Housing and Planning Act 2016]
- The breaches detailed under section 16 of the Housing Act 1988 as amended by the Renters' Rights Act 2025:
  - Where a landlord or agent relies on a Schedule 2 eviction ground knowing that the landlord would not be able to obtain an order for possession, and the tenant subsequently surrenders the tenancy within four months without a court order having been made;
  - Attempting to let the property for a fixed term;
  - Failure to give a written statement of terms and any other information required by regulations made by the Secretary of State;
  - attempting to end the tenancy orally or by service of a notice to quit;
  - serving an eviction notice that attempts to end a tenancy outside the prescribed section 8 process;
  - failing to provide a tenant with prior notice that a ground which requires it may be used;
  - reletting or remarketing a property within the 12-month no-let period after using the moving and selling grounds.
- Inviting or encouraging any person to offer to pay an amount of rent under the proposed letting that exceeds the stated rent or accepting an offer from any person to pay an
- Abusing the new no-fault eviction grounds (s16 Renters' Rights Act 2025)
- Continuing breaches of the tenancy reform changes (s16 Renters' Rights Act 2025)

Civil Financial Penalties (CPNs) in respect of these offences operate in accordance with the council's CPN framework, as set out in Appendix 2.

12.6 A civil penalty notice may be served as an alternative to prosecution for the offences listed in section see section 12.5 above. However, the council cannot use both enforcement actions simultaneously for the same offence.

- 12.7 Where the council is able to prosecute a letting agent and landlord for failing to obtain a licence for a licensable HMO, it has the option of imposing a (civil) financial penalty on the letting agent and the landlord as an alternative to prosecution. Where the letting/managing agent and landlord have committed the same offence, the council can impose a civil penalty on both at different levels, depending on the circumstances of the case. Appendix 2 shows how the level of a penalty is determined.
- 12.8 If the council believes that it has a reasonable prospect of a conviction in a particular case, it will always consider a civil penalty in the first instance and only by exception will it seek alternative measures such as prosecution or formal cautions.
- 12.9 Where a civil penalty is imposed, and an appeal is subsequently made to the First-tier Tribunal, the council will need to be able to demonstrate beyond reasonable doubt that the offence had been committed.
- 12.10 As the council can retain the income it receives from civil penalties. This course of action will also provide the council with the opportunity to increase its housing enforcement activity within the borough.

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## 13.0 Rent repayment orders

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- 13.1 Part 2 of the Housing and Planning Act 2016 permits the council to seek a Rent Repayment Order at the First Tier Tribunal Property Chamber to require the landlord of the property where the offence(s) has been committed to refund rent to the tenants or the Council. S48 of the Housing and Planning Act 2016 places a duty on the Council to consider applying for Rent Repayment Orders.
- 13.2 Where a landlord has been convicted or received a Civil Financial Penalty in respect of the offence, the Tribunal must award the maximum applicable amount, except in exceptional circumstances. This power will be considered in response to all qualifying offences and where there is sufficient evidence for a successful application to the First Tier Tribunal.

The qualifying offences are:

- Failure to comply with an Improvement Notice (Housing Act 2004, s30)
- Failure to comply with a Prohibition Order (Housing Act 2004, s32)
- Breach of a Banning Order (Housing and Planning Act 2016, s21)
- Control or management of an unlicensed HMO (Housing Act 2004, s72)
- Control or management of an unlicensed house under selective licensing (Housing Act 2004, s95)

- Violent entry (Criminal Law Act 1977, s6)
- Illegal eviction or harassment (Protection from Eviction Act 1977, s1)
- Landlord's failure to become a member of a landlord redress scheme (Renters' Rights Act 2025, s68)
- Where an offence has been committed under s16J of the Housing Act 1988 (under the powers given in s16K of the Housing Act 1988 as inserted by s17 Renters' Rights Act 2025)
- Landlord's breach of non-discrimination requirements under ss35, 36, or 41 Renters' Rights Act 2025
- Landlord's acceptance of rent in advance from prospective tenants (Part 1, Chapter 1 Renters' Rights Act 2025)
- Landlord's advertisement or offering of the property without specifying the proposed rent, or encouraging any person to offer to pay more than the stated rent (Part 1, Chapter 6 Renters' Rights Act 2025)
- Landlord's failure to join a PRS database (s93 Renters' Rights Act 2025)
- Landlord's failure to comply with the requirements of a PRS database, or in providing false or misleading information to the database operator (s93 Renters' Rights Act 2025)
- Offences in relation to the landlord ombudsman (s67 Renters' Rights Act 2025)
- Knowingly or recklessly using a possession ground (s16 Renters' Rights Act 2025)
- Abusing the new no-fault eviction grounds (s16 Renters' Rights Act 2025)
- Continuing breaches of the tenancy reform changes (s16 Renters' Rights Act 2025)
- Breach of the decent homes standard (Part 3, s101 Renters' Rights Act 2025)

An application for an RRO may be in addition to other formal action, such as prosecution proceedings or the imposition of a Civil Penalty, in order to reimburse public funds.

- 13.2 Where the Council has issued a Civil Financial Penalty or pursued prosecution, it will usually apply for a Rent Repayment Order to recover taxpayer funds and to assist the funding of PRS enforcement work where public funds have been paid to a criminal landlord.
- 13.3 S49 of the Housing and Planning Act 2016 enables the Council to assist tenants in applying for Rent Repayment Orders. The Council will usually assist tenants by referring them to a reputable support service.

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## 14.0 Homes (fitness for habitation) Act 2018

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- 14.1 The council recognises that there are alternative enforcement actions which can be taken by tenants under the Homes (Fitness for Human Habitation) Act 2018, to improve their rented accommodation. The purpose of the act is to improve standards in the private and social rented sectors by putting an obligation on landlords to keep their property in good condition.

The legislation provides an implied covenant in the lease that all landlords must ensure that their property is fit for human habitation at the beginning of the tenancy and throughout. They should do this by ensuring that the property is free from hazards from which a risk of harm may arise to the health of the tenant or another occupier of the property during the tenancy of the property.

Where their landlord fails to do so the tenant has a right to take to legal action for breach of contract (covenant) on the grounds that the property is unfit for human habitation.

The remedies available to the tenant includes;

- a court order requiring the landlord to act to reduce or remove the harm caused allowing the property to be not being fit for human habitation.
- and/or damages to compensate them for the harm caused due to the property to be not being fit for human habitation

### Prosecution

- 14.2 The decision to take a prosecution is one that is not taken lightly. Officers recognise that their decision is significant and could have far reaching consequences on the alleged offender and others.
- 14.3 Each case that the council deals with is unique and must be considered on its own facts. However, there are general principles that apply to the way in which officers decide whether prosecution should be applied. The decision will be made in consultation with the Private Sector Housing Manager, Head of Housing Services and council's Legal Services.
- 14.4 In deciding to proceed with a prosecution, regard is given to the Code for Crown Prosecutors. There are two overarching tests used in determining whether to prosecute. These are the evidential test and the public interest test.

## The Evidential Test

- 14.5 PSH officers in consultation with the council's Legal Services must be satisfied that there is enough evidence to provide a realistic prospect of conviction. This is an objective test and means that a court is more likely than not to convict the offender to the charge alleged.
- 14.6 In deciding whether there is a realistic prospect of conviction, consideration is given to matters such as:
- Is the evidence admissible in court? There are certain legal rules that might mean that evidence that seems relevant might not be used at a hearing;
  - Is the evidence reliable? Officers must consider whether there is evidence that may detract or support any admission by the offender. Equally, Officers must consider the witness they may use and whether there are any concerns about their accuracy or credibility.

## The Public Interest Test

- 14.7 If the evidential requirements are met, Officers must then consider whether the public interest requires a prosecution. It is not the case that Officers will simply prosecute because an offence has been committed. There should generally be a public interest in bringing such an offence to Court.
- 14.8 The following are examples of factors considered when determining public interest. The list is not exhaustive:
- The seriousness of the offence. In housing terms, this will mean Officers looking at the effect of not complying with the Notice for example;
  - Whether there was violence used in the commission of the offence;
  - The vulnerability of the victim of the offence.
  - Whether the offence was motivated by discrimination.
  - The history of the offender. In particular, officers will have regard to whether Notices have been served in the past, the response to those Notices and any previous housing-based convictions;
  - The likely penalty. Consideration will be given to whether the offence is such that it would only attract a nominal penalty from the Courts;
  - Reason for the offence occurring. Although there may be, on the fact of it, a breach of the law, there may be a statutory defence available in housing offences.

## Injunctive Actions

- 14.9 In certain circumstances, injunctive actions may be used to deal with repeat offenders and dangerous situations, or to prevent harassment or illegal evictions.

## Formal Actions

- 14.10 Where someone has committed an offence or offences and fully accepts responsibility for the offence/s, officers may offer a formal caution where the circumstances suit a Formal caution rather than a Court case.
- 14.11 Formal Cautions may be considered where:
- The defendant has admitted their guilt;
  - The defendant is aged 18 or over;
  - The defendant must understand the significance of the caution and agrees to be given a Formal Caution, and
  - Civil penalties are not appropriate or cannot be applied.
- 14.12 In deciding to proceed with a caution regard is given to Home Office Circular 18/1994 – Cautioning of Offenders.
- 14.13 If the defendant agrees to receive a formal caution, the council will seek to recover the costs of the investigation as part of the formal caution process. If they do not agree to receive a formal caution, they will usually be alternative sanction.

## Works in Default

- 14.14 The council has been given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to do works by formal Notice or Order but has failed to either start works or make adequate progress.
- 14.15 In determining if work in default is appropriate, officers will consider the following:
- the effects of not carrying out the work on the health, safety and wellbeing of the occupant/s of the property concerned;
  - the wishes of the occupier/s
  - the reason/s for the work not being carried out in the first place
  - the costs and complexity of carrying out the works in default.

- 14.16 The decision to execute works in default up to the value of £30,000 will be made by the Head of Housing Services following recommendation by the Private Sector Housing Manager. In most circumstances, a person will be given notice of the council's intention to carry out works in default. As soon as the council has commenced the works, it is an offence for any person to obstruct the council or any of its contractors or agents employed to carry out the works.
- 14.17 Approval to proceed with works in default over £30,000 will be required by the cabinet or a director depending on the estimated costs of the necessary works expenditure and the likelihood of full recovery of the council's costs.
- 14.18 Works in Default costs will be fully recoverable, including the council's full administrative costs. Interest may be chargeable until the amount is repaid.
- 14.19 The charges levied for the works and the associated costs will become a legal charge on the property until it is paid in full. In some cases, interest is also charged on the unpaid charges. The debt will be pursued. An enforced sale of the property may be considered should this be deemed appropriate.
- 14.20 In some cases, it may be appropriate to impose two sanctions for example, carrying out work in default and issuing a civil penalty or prosecuting the offender.

## **Proceeds of Crime**

- 14.21 Powers under the Proceeds of Crime Act 2002 will be considered in appropriate cases in consultation with the Council's Legal Services team.

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## **15.0 Charges for enforcement action**

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- 15.1 Local authorities have the power to make a reasonable charge as a means of recovering expenses incurred in serving of Statutory Notices under the Housing Act 2004.
- 15.2 It is the council's policy to charge for the time spent by officers where a Notice or Order is to be served. The cost will be based on the Officer-hours spent in investigating, consulting, drafting and serving the Notice or Order. This is intended to cover the reasonable expenses of the council in visiting the premises, assessing the hazards, drafting and issuing the formal Notice or Order.

15.3 The fees and charges levied by Elmbridge Borough Council for enforcement action are shown in Appendix 1 to this Policy.

15.4 In exceptional cases, this charge can be varied or withdrawn at the discretion of the Private Sector Housing Manager where the circumstances of the recipient would result in the payment of the charge causing exceptional hardship.

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## 16.0 Empty dwellings

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- 16.1 Empty and derelict properties can blight an area, encourage crime, drug use, vermin and vandalism and may cause a nuisance. Such properties are unacceptable in an area of high housing demand such as Elmbridge.
- 16.2 Council officers regularly review and monitor dwellings in the Borough which have been empty for a long period of time (usually more than 6 months). Officers will seek to identify the owner of the empty property and will attempt to contact the owner to establish plans to bring the property back into use and where necessary, to encourage the owner to take such action. Wherever possible and practicable, assistance and encouragement will be provided to assist an owner to return the property back to use.
- 16.3 In cases where a long-term empty property is not being brought back into use despite informal action, formal enforcement action may be considered including;
- Service of a section 11 or section 12 Housing Act 2004 Improvement Notice
  - Service of Empty Dwelling Management Orders allowing the council to take over Management of the Property to facilitate it being brought back into use
  - Service of a section 215 Town and Country Planning Act 1990 notice to require proper maintenance of land.
  - Service of section 79 Building Act 1984 notice to remedy a building or structure which is seriously detrimental to the amenities of the neighbourhood.
  - Service of a section 77 or section 78 notice under the Building Act 1984 where a building is dangerous, dilapidated or emergency works are required (section 78).
  - Service of a section 29 notice under the Local Government (Miscellaneous Provisions) Act 1982 to require works to prevent unauthorised entry.
  - Service of a section 80 notice under the Environmental Protection Act 1990 to abate or prevent a statutory nuisance.
  - Declaration of a Demolition Order under section 265 of the Housing Act 1985 or declaration of a Clearance Area under section 289 of the same Act.
  - In some cases, other action can be considered including Compulsory Purchase Orders (CPO) and enforced sale to recover charges owed to the council.

- 16.4 CPOs are considered the final sanction available to the council to improve substandard private sector housing where persuasion or statutory notices have failed. CPOs can be used to return long-term empty properties, often causing blight on the environment, to residential use.
- 16.5 Where we use our housing powers to compulsorily purchase empty properties, we will ensure that the stock of affordable housing in the borough will increase by entering into longer-term lease arrangements with the partners who subsequently purchase the property. Registered (housing) Providers and 'preferred landlords' will assist the council with the provision of additional affordable housing units through this process.
- 16.6 Decisions on taking formal enforcement in relation to empty dwellings will be considered by Sanctions Panel initially.

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## 17.0 Houses in Multiple Occupation

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- 17.1 As HMOs are higher risk than single family homes, the conditions, facilities and management are more closely regulated. Some HMOs are subject to mandatory HMO licensing.
- 17.2 Under the Housing and Planning Act 2016, HMO licences are required for all HMOs that are occupied by 5 or more persons forming more than one household who are sharing facilities from October 2018. Until this date, mandatory licences have only been required for HMOs meeting the above criteria *and* being of three or more storeys.
- 17.3 Inspections are usually undertaken as part of the application process but may happen at any time during the lifetime of the licence. Licences are issued by the local authority, and conditions may be attached to the licence (including the maximum permitted number of occupants and households that can occupy the property). Works may be required to meet minimum standards prior to the licence being issued. Licences are issued for a five-year period, and a new licence must be applied for before the end of that period.
- 17.4 The HMO licensing regime includes arrangements for assessing the suitability of the premises for the number of occupants, including the adequacy of the amenities. It also provides for the assessment of the fitness of a person to be the licence holder and the potential management arrangements of the premises.

- 17.5 The council charges for HMO Licences are set out in Appendix 1. The council does not consider an application “duly made” until fees are paid, otherwise the license will not be issued.
- 17.6 It is a criminal offence if a person controlling or managing an HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence under section 72 of the Housing Act 2004. In cases where a licensable HMO property is found to be operating without a licence or licence conditions are not met, sanctions will be considered by the Sanctions Panel.
- 17.7 Where a non-licensable HMO is being badly managed and/or is in a poor state of repair, the Council will prioritise it for action, based on an assessment of risk.
- 17.8 The Council aims to identify all types of HMO dwellings in the Borough and to record information on these dwellings on its property database. Officers routinely assess and prioritise these dwellings according to levels of health and safety based on information available, in order to establish a programme of regular inspections.
- 17.9 The council aims to actively enforce the guidelines in the Housing Act 2004 relating to HMO dwellings (and relevant associated Management Guidelines for HMO dwellings) in conjunction with Surrey Fire and Rescue who may be consulted should enforcement action be considered.

## **Management Regulations**

- 17.10 All identified hazards and breaches of the relevant HMO Management Regulations in any HMO, whether licensable or not, will be dealt with in accordance with the enforcement approach set out in the main body of this policy.

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## **18.0 The redress scheme**

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- 18.1 The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to belong to a Scheme etc) (England) Order 2014 introduced a requirement for letting agents and property managers to belong to an approved redress scheme. The redress scheme must be approved by Government or designated as a government administered redress scheme.

- 18.2 Where the council is aware of an offence, it is required to take enforcement action relating to activities undertaken within the borough and may serve a notice on the perpetrator requiring the payment of a monetary penalty of an amount determined by the council.
- 18.3 The expectation in government guidance is that a monetary penalty of £5,000 should be considered the norm and the penalty must not exceed this amount. A lower penalty should only be charged if the council is satisfied there are extenuating circumstances.
- 18.4 Where a notice is served requiring a monetary penalty, there is a right to appeal at the First-tier Tribunal, and the notice is suspended until the appeal is determined or withdrawn.

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## 19.0 Other legislation enforced by Private Sector Housing

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### **Environmental Protection Act 1990**

- 19.1 The Environmental Protection Act 1990 defines statutory nuisance and gives the council power to serve an Abatement Notice requiring the owner to remedy a building that is so far defective as to be prejudicial to the health of its occupier or a nuisance. Examples of such nuisances could include rainwater penetration through defective roof or windows, rising or penetrating dampness and condensation, defective (rotten) timber flooring, elements exhibiting structural failure e.g. ceilings, and dangerous fixtures and fittings.

### **Public Health Act 1936**

- 19.2 Though much of this Act has been repealed or its provisions resurrected in other legislation, it still provides the council with power to require by notice the repair of defective sanitary facilities and the clearance, cleansing and, if necessary, fumigation of premises that are filthy and verminous. It also extends statutory nuisance provisions, (now in the Environmental Protection Act) to tents, vans, sheds (agricultural/migrant worker type accommodation) or canal boats used as dwellings.

### **Public Health Act 1961**

- 19.3 This Act still provides the council with power to require by notice the unblocking of stopped-up drains or minor repairs to private drains. At the request of an

owner, the council may undertake the repair of a private drain and recover its costs from the owner.

### **Local Government (Miscellaneous Provisions) Act 1976**

- 19.4 This Act gives the council powers to require details of the ownership of buildings and land, to intervene to bring about the restoration of disconnected services (electricity, gas, or water) and secure the unblocking of stopped up private drains in shared use.

### **Local Government (Miscellaneous Provisions) Act 1982**

- 19.5 This act gives the council power to require the making secure, by boarding up or otherwise, of empty buildings (including houses) to prevent unauthorised entry and/or where the building is likely to become a danger to the public.

### **Local Government (Miscellaneous Provisions) Act 1982**

- 19.6 Although primarily concerned with ensuring the safety of new buildings through the application of Building Regulations, the Building Act 1984 includes powers for the Council to adopt an accelerated procedure for dealing with defects in buildings that amount to statutory nuisances (see EPA 1990 above), to require major repairs to drainage systems and to deal with ruinous or dilapidated buildings including empty homes.

### **Town and Country Planning Act 1990**

- 19.7 This Act enables the council to require the parts of a property visible to the public to be in good condition and not 'detrimental to the amenity of the area'. As with many of the other powers used by PSH, there are powers to arrange the works if the owner does not complete them themselves and for the council to charge for the works and their time.

### **Prevention of Damage by Pests Act 1949**

- 19.8 The council can serve Notice where steps should be taken for the destruction of rats or mice on the land or to keep the land free from rats and mice. The team may serve notice on the owner or occupier of the land or property requiring works to clear, proof or treat the land from existing or likely pest infestations.

### **Protection from Eviction Act 1977**

- 19.9 Under S1 (2) Protection from Eviction Act 1977 it is an offence for any person to unlawfully deprive a residential occupier of the premises (or any part of it) that they occupy. The law makes it an offence to:
- Do acts likely to interfere with the peace or comfort of a tenant or anyone living with him or her, or
  - Persistently withdraw or withhold services for which the tenant has a reasonable need to live in the premises as a home.
- 19.10 It is an offence to do either of the things described above, intending, knowing, or having reasonable cause to believe, that they would cause the tenant to leave their home, or stop using part of it, or stop doing the things a tenant should normally expect to be able to do. It is also an offence to take someone's home away from them unlawfully.

### **Protection from Harassment Act 1997**

- 19.11 This Act creates four criminal offences, harassment, putting another person in fear of violence, breach of restraining order and breach of an injunction. The council will enforce the provisions of the Act alongside the Housing Options team and Legal Services.

### **Caravan Sites and Control of Development Act 1960**

- 19.12 This Act enables the council to prevent land being used as a caravan site without a license and to ensure the conditions and amenities on any site are provided and maintained in good condition.

### **Mobile Homes Act 2013**

- 19.13 This Act enables the council to set and enforce site license conditions and take action to protect tenants against eviction and harassment.

### **Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 Part 3 (minimum level of energy efficiency, MEES)**

- 19.14 These regulations place obligations on landlords to improve the energy efficiency of certain private rented properties. It prescribes a minimum level of energy efficiency for private rented properties: that is, is an energy performance indicator (evidenced on the energy performance certificate for the property) of band E. The council has powers to take enforcement action to ensure compliance.

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## 20.0 Complaints

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- 20.1 Statutory appeal rights exist where notices are served, or charges levied and these are set out in the legislation. In addition to this owners, landlords and tenants who may be dissatisfied with any aspect of the service provided by the Council including enforcement activities can lodge a complaint directly with the Private Sector Housing Manager. A full copy of the Council 's Complaints Policy is available on request.

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## 21.0 Monitoring

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- 21.1 The Enforcement Activities of the council are monitored by the Private Sector Housing Manager and the Head of Housing Services.
- 21.2 We will not depart from this policy unless there are exceptional circumstances, and only then with the written authority of the Head of Housing, Private Sector Housing Manager or nominated cover.

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## Appendix 1 – Fees and Charges

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### **Service of Housing Act 2004 Notices:**

Hourly rate of Officers including on-costs, in arranging and carrying out the property inspection, calculating hazards using the HHSRS, drafting and serving the formal Notice/ Order.

### **Works In Default charges:**

The cost of works and associated fees, including VAT as applicable, will be charged to the recipient/s of the original Notice together with the Council 's costs in administering the works. These administrative costs will include Officers' time to specify and tender for the works, managing and signing off works on site charged at the respective Officer's hourly rate including on-costs.

### **Mandatory Houses in Multiple Occupation (HMO) licenses:**

HMO licensing fees are now split into two stages. Stage one is payable on application and covers the costs of administering the application process. Stage two is payable on award of the license and covers the costs of running the scheme.

Stage one new license application: £300

Stage two new license application: £300

Total fee: £600

Stage one License renewal application: £400

Stage two license renewal: £150

Discount if Landlord is a member of a relevant organisation or recognised accreditation scheme: £50

A late or incomplete License application may be liable to a civil penalty.

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## Appendix 2: Civil Penalties framework under the Renters' Rights Act 2025 and other housing legislation

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This policy applies once the Council has made a decision to commence civil penalty proceedings.

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

In this policy, the term 'corporate landlord' should be read as referring to a body corporate that meets the definition of 'landlord' above.

In this policy, the terms 'House in Multiple Occupation (HMO)' are defined by the Housing Act 2004.

The following breaches 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 on 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 the landlord is/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 which requires it may be used under section 16E of the Housing Act 1988.
- Failure to give an existing tenant prescribed information on 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 lettings process under section 33 of the Renters' Rights Act 2025.
- Discrimination relating to benefits in the lettings 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 following breaches 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.

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

- 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 s.16I or s.16K 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 s.16I, where within the preceding five years the landlord has either
  - (i) had a relevant penalty (under s.16I or s.16K Housing Act 1988) imposed for different conduct and the final notice has not been withdrawn, or
  - (ii) been convicted under s.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 (s16(E)(2) Housing Act 1988) or remarketing (s16(E)(3) 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 an 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 methodology and mechanism for assessing and setting the level of a civil penalty at all stages where a civil 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 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 considers the need for transparency and consistency to be of primary importance to ensure fairness in the discharge of its functions. The general objective of this policy is, therefore, to promote both transparency and consistency in the imposition of financial penalties so that those involved in the letting or management of accommodation (a) know how the Council will generally penalise relevant breaches and offences and (b) 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 will be 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 has a duty to act fairly, transparently and consistently when assessing civil penalties. To maintain fairness between all landlords, the Council will not give weight to claims advanced as factors that might reduce the amount of a civil penalty unless those claims are supported by evidence that the Council reasonably considers to be relevant, reliable, credible, and sufficient in scope and detail to enable proper assessment of the claim, having regard to the nature of the claim, the information ordinarily available to the landlord, and the need for consistent and fair decision-making. Allowing inadequately evidenced assertions to influence outcomes would risk rewarding those who provide incomplete or misleading information and would create an unfair advantage over landlords who provide a full and properly evidenced account. Accordingly, the Council expects landlords against whom a civil penalty is being considered to provide all documents and records that would ordinarily exist if their account were accurate. Where such evidence is not provided, and no explanation that the Council considers adequate is given, the Council may draw an adverse inference.

Where claims are advanced without sufficient supporting evidence, the Council may request specified supporting material before determining whether to issue a final notice or whether any mitigation has been sufficiently evidenced so as to justify a lower civil penalty.

The further objectives of using financial penalties in particular as a means of enforcing the above breaches and offences are explained below.

## **Statutory Guidance**

The Government has issued statutory guidance entitled “Civil penalties under the Renters' Rights Act 2025 and other housing legislation”. The Council has regard to this guidance in the exercise of their functions in respect of civil penalties.

The Council has considered the following factors in developing this civil penalty policy to help ensure that the 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.

## **Starting point based of seriousness of the breach or offence**

The Ministry of Housing, Communities & Local Government has provided statutory guidance that prescribes 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 be complied with.

## **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 le ng. 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 le ng 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% of the applicable starting point will be applied where the landlord meets any one or more of the following criteria:

- The landlord has, at any point in me, controlled, owned, or managed six or more proper es. These proper es need not have been held concurrently or at the me civil penalty proceedings are brought.
- The landlord has, at any point in me, controlled, owned, or managed three or more proper es 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% of the applicable starting point will be applied only where all of the following criteria 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.

### **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% 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%. 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 following generic mitigating factors 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 cooperation**

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% 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%. Exceptional circumstances are rare and unusual and are not established merely by the presence of multiple aggravating factors.

The following generic aggravating factors 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 will not also be treated as an aggravating factor for the purposes of setting the civil penalty, in order to avoid double counting.

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:

- 3-5 occupants affected.

### **Duration of non-compliance.**

Non-exhaustive examples include:

- The offence or breach occurred over a 3–6 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, and pregnant women.

## **Financial considerations**

The Council will review the quantum of the civil penalty and consider whether it is sufficient to act as an effective deterrent to future non-compliance. Where the Council

has evidence that it considers to be sufficiently reliable regarding rental income and/or asset value from the landlord's, it may determine that an increase in the level of the penalty is appropriate in order to achieve 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 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 following should be provided as part of any written representations:

- The last three full tax years full self-assessment tax returns filed with HMRC, including all additional and supplemental pages;
- The last three full tax years' SA302 documents & tax year overviews;
- The last three months' payslips;
- The last three years P60 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 documents;
- The most recent annual mortgage statement for each property, or the last twelve months' mortgage statements where the mortgage has been in place for less than twelve months;
- Valuation statements for all 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;
- Bankruptcy orders and official Notifications of bankruptcy.

Where the Council is not satisfied that 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 as imposed.

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

## **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, 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.

As a final step before issuing final notices, the Council will consider whether multiple civil penalties being imposed under this policy against the same landlord at the same time result in an aggregate amount that is just and proportionate. Where the Council concludes that the aggregate amount would not be just and proportionate, it 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, nor does it operate across civil penalties imposed at different times. In general, it applies only to

Multiple civil penalties imposed under this policy on the same person at the same time. Where, however, legislation provides that an officer of a body corporate, or a person concerned in its management, may be separately liable in relation to the same conduct as the body corporate, and that officer also holds a shareholding interest in the body corporate, the Council will, where civil penalties are imposed at the same time on both the body corporate and the officer arising from that same conduct, consider whether the combined outcome results in punitive duplication and is therefore not just and proportionate.

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, being those civil penalties that form part of the same totality assessment. Where, 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 apply a differential adjustment to ensure that the overall outcome is just and proportionate.

This approach reflects the statutory guidance on the application of the totality principle and is intended to promote consistency, transparency, and proportionality, while avoiding 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 framework.

## 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(s) 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 s.16I or s.16K 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 s.16I, where within the preceding five years the person has either (i) had a relevant penalty (under s.16I or s.16K Housing Act 1988) imposed for different conduct and the final notice has not been withdrawn, or (ii) been convicted under s.16J for different conduct – section16(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 section16I of the Housing Act 1988.

Offence-specific aggravating factors:

- Dependent on the most recent conduct giving rise to liability to a civil penalty under section16I 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(s) 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 – section16J(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(s16(E)(2) Housing Act 1988) or remarketing (s16(E)(3)

Housing Act 1988) a property within restricted period after using Grounds 1 or 1A of Schedule 2

Housing Act 1988 - section16J(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 - section21(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 – section33(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.

## 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), (3)(e). Regulation 3D: (a), (b), (c), (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 evidences 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), (5)(c). Regulation 3B: (1)(a), (1)(b), (1)(c). Regulation 3C: (1), (2)(a). Regulation 3D: (d), (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 evidences 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), (6). Regulation 3C: (2)(b), (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 hazard(s) that are present once the deadline for compliance has passed.
- Whether the property is unoccupied once the deadline for compliance has passed.
- Access to the property was prevented by the actions or refusal of the occupant(s) 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 hazard(s) 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 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 HMOs in respect of:

- Providing information to occupiers [Regulation 3]
- Taking safety measures, including fire safety measures [Regulation 4]
- Maintaining the water supply and drainage [Regulation 5]
- Supplying and maintaining gas and electricity, including having these services/appliances regularly inspected [Regulation 6]
- Maintaining common parts [Regulation 7]
- Maintaining living accommodation [Regulation 8]
- Providing sufficient waste disposal facilities [Regulation 9]

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

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

Where there are multiple breaches of a single Management Regulation at a single HMO, 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

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	£12,000	£40,000	£9,600	£12,000	£14,400

maintain gas and electricity					
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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 li er containers either inside and/or outside the property has been previously reported
- The refuse and/or li er that requires disposal includes hazardous materials

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

All granted HMO licences impose a set of conditions on the licence holder. It is important that the licence holder of a licensed property complies with all imposed conditions, but the Council recognises that a failure to comply with certain licence conditions is likely to have a much bigger impact on the safety and comfort of residents than others.

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:

- Signage or the provision of information for tenants
- Provision of written terms of occupancy for tenants
- Procedures regarding complaints
- Procedures regarding vetting of incoming tenants
- Compliance with deposit protection legislation
- The recording and provision of information regarding rent payments
- Procedures relating to rent collection

- The provision of information regarding occupancy of the property
- The provision of information regarding change of managers or licence holder details
- The provision of information related to changes in the property
- Requirements relating to the sale of the property
- Attending training courses
- Requirements to hold insurance
- The provision of insurance documents
- The provision of or obtaining of suitable references
- The provision of keys and alarm codes
- Security provisions for access to the property
- The provision of suitable means for occupiers to regulate temperature
- Carrying out items on a schedule of works not otherwise mentioned in the HMO licence conditions section of this policy, relating to non-compliance with items on a schedule of works

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:

- Procedures and actions regarding Inspections
- Procedures regarding Repair issues
- Maintenance and use of common parts (including gardens, outbuildings and property exterior) and living areas
- Safeguarding occupiers and minimising disruption during works
- The provision of information regarding alterations and construction works
- Procedures regarding emergency issues
- Waste and waste receptacles, pests, minor repairs, alterations or decorations.
- Giving written notice prior to entry
- Allowing access for inspections
- Minimising risk of water contamination
- The compliance of furnishings or furniture with fire safety regulations
- Carrying out items on a schedule of works in relation to provision of mechanical extraction or electrical sockets

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:

- The provision of documents on regarding energy performance certificates, fire detection and prevention, emergency lighting, carbon monoxide detection, fire risk assessments, gas installations, electric installations and appliances
- Notification of legal proceedings, contraventions and other relevant information that may affect a fit and proper person status
- Procedures and actions regarding ASB
- Carrying out items on a schedule of works in relation to the provision of personal hygiene facilities, kitchen facilities or heating

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:

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

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:

- The condition or existence of smoke alarms, carbon monoxide alarms, emergency lighting, gas installations, electric installations and appliances, fire detection or other fire safety features or requirements
- The provision and maintenance of safe means of escape, including requirements to keep escape routes and exits free from obstruction
- Carrying out items on a schedule of works in relation to fire safety or the provision of a Carbon Monoxide detector

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

## 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 their 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 it 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 time period 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 rights of appeal
- The consequences of failure to comply with the 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% 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 an HMO property fails to obtain a licence. They only operate two HMO properties 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% prompt payment discount is applied, resulting 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 civil penalty. 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 civil penalties are determined by reference to this Policy to promote 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 (£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).