



# Housing Standards CPN Policy

Version 1.0: August 2024

## **Document version control**

**Version:** 1.0

**Date:** August 2024

**Notes:** Setting out the process for determining fines relating to offences in the Private Rented Sector

Adopted by Council [EXE24-078] 26 Sept 2024

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## 1.0 Definitions

1.1 In this document, the term “landlord” will be used to refer to the “owner”, “person having control”, “person managing” or “licence holder”, as defined under the Housing Act 2004 (“the 2004 Act”). The term “the Council” will be used to refer to Woking Borough Council in its capacity as a Local Housing Authority.

## 2.0 Introduction

2.1 Civil penalty is an alternative to prosecution under the Housing Act 2004, and this document sets out the Council’s policy on deciding when to impose a civil penalty notice and how we will determine the penalty amount.

2.2 The legislation is set out in section 249A of the Housing Act 2004 (as implemented by section 126 and Schedule 9 of the Housing and Planning Act 2016) and section 23 of the Housing and Planning Act 2016. It allows financial penalties, up to a maximum of £30,000, to be imposed as an alternative to prosecution for the following housing offences:

- a) failure to comply with an improvement notice (section 30 Housing Act 2004)
- b) offences in relation to licensing of houses in multiple occupation, commonly referred to as HMOs (section 72 Housing Act 2004)
- c) offences in relation to licensing of houses under Part 3 of the Act (section 95 Housing Act 2004)
- d) offences of contravention of an overcrowding notice (section 139 Housing Act 2004)
- e) failure to comply with Management Regulations in respect of houses in multiple occupation (section 234 Housing Act 2004)
- f) breach of a banning order (section 21 of the Housing and Planning Act 2016)

2.3 Where a landlord and letting agent have committed the same offence, a civil penalty can be imposed on both as an alternative to prosecution.

2.4 The Council is required to have a policy in place to determine when to prosecute and when to issue a civil penalty. To do this, we have followed statutory guidance issued by the Ministry of Housing, Communities and Local Government. This sets out the factors that we must take into account as part of the financial

penalty setting process. It places particular emphasis upon the severity of the offence and the landlord's previous record of offending.

2.5 Any income received from civil penalties will be retained and used, in accordance with regulations, to further our enforcement activities in the private rented sector.

### 3.0 Aims and Objectives

3.1 The aim of the policy is to ensure that all enforcement actions comply with the following principles:

- a) **Consistency:** taking a similar approach in similar circumstances to achieve similar ends. It does not mean uniformity, as officers will take into account many factors such as the level of risk, the history of compliance and the attitude and actions of those involved.
- b) **Proportionality:** relating enforcement action to the risks and severity of the breach of the law involved. This will ensure that the most serious risks are targeted first.
- c) **Openness:** explaining our actions clearly in plain language and discussing compliance failures or problems with anyone experiencing difficulties. A clear distinction will be made between legal requirements (what must be done) and advice or guidance (what is desirable).

3.2 This policy also provides information relating to the process of issuing a Civil Penalty and the ability to appeal against it.

3.3 Unfortunately, many landlords may operate unlawfully for a significant period of time without detection, and only a proportion of landlords committing relevant offences will be discovered. We aim to ensure that landlords operating unlawfully do not benefit financially compared with landlords operating lawfully.

### 4.0 Initial Considerations

4.1 Each case will be assessed individually to apply the appropriate sanction. The severity of the offence and any other relevant circumstances will be considered prior to the decision to issue a civil penalty notice.

4.2 The same criminal standard of proof is required for a civil penalty as for a criminal prosecution. This means that before a civil penalty can be imposed, the Council must be satisfied beyond reasonable doubt that the landlord committed the

offence(s) and that if the matter were to be prosecuted in the magistrates' court, there would be a realistic prospect of conviction.

4.3 To assist us to do this, we will refer to the Code for Crown Prosecutors. The Code has two stages:

a) the evidential stage – is there enough evidence against the defendant?

The following questions should be considered:

4.3.a.i) Can the evidence be used in court?

4.3.a.ii) Is the evidence reliable?

4.3.a.iii) Is the evidence credible?

4.3.a.iv) Is there any other material that might affect the sufficiency of evidence?

b) the public interest stage – is it in the public interest to bring the case to court? The following questions should be considered:

4.3.b.i) How serious is the offence committed?

4.3.b.ii) What is the level of culpability of the suspect?

4.3.b.iii) What are the circumstances of and the harm caused to the victim?

4.3.b.iv) Was the suspect under the age of 18 at the time of the offence?

4.3.b.v) What is the impact on the community?

4.3.b.vi) Is prosecution a proportionate response?

4.3.b.vii) Do sources of information require protecting?

4.4 The evidence will be reviewed by the appropriate senior colleague in the Housing Standards team, and the Council's legal services. They will consider whether there are any reasons why a prosecution may be more appropriate than a civil penalty, for example, if the offence is particularly serious and the landlord has committed similar offences in the past and/or a banning order should be considered.

4.5 Statutory guidance under Schedule 9 of the Housing & Planning Act 2016 entitled "Civil penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities" states that 'The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the

landlord's previous record of offending'. The following factors will be taken into account to ensure that the civil penalty is set at an appropriate level in each case:

- a) Severity of the offence. The more serious the offence, the higher the penalty should be.
- b) Culpability and experience of the offender. A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations. However, account is taken where the landlord has a single property as their experience is likely to be lower.
- c) The harm caused to the tenant. This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
- d) Punishment of the offender. A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities. i.e. Deter the offender from repeating the offence. The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- e) Deter others from committing similar offences. While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.

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

## 5.0 Determining the Civil Penalty Amount

5.1 There are five stages in deciding what level of penalty to impose:

- a) The seriousness of the offence in order to identify the starting level of the penalty,
- b) An assessment of the number of rental properties owned and managed by the landlord, and their level of experience in letting properties, linked to their culpability for committing the offence,
- c) The harm that may be caused to the occupants through committing the offence,
- d) The track record of the landlord in terms of previous housing related offences,
- e) Consideration of any financial benefit that the landlord may have obtained from committing the offence.
- f) reasons for each score must be accompanied by a full justification and production of relevant evidence

5.2 The starting point for a financial penalty is based on the seriousness of the offence and potential harm to occupants.

5.3 After the starting point has been determined for the relevant offence(s), relevant premiums are added to the starting amount to determine the full financial penalty to be imposed. More than one premium can be added, where relevant.

5.4 No single financial penalty may be over £30,000. Where the addition of all relevant premiums would put the penalty above the maximum, it shall be capped at £30,000

5.5 The seriousness of the offence will dictate the starting point for all CPN calculations. These are based on the potential harm that could occur to occupants in a property where this offence is being or has been committed. There are 5 levels of seriousness each with a separate starting level.



<b>Penalty Level</b>	<b>Seriousness of Offence</b>	<b>CPN Starting Point</b>
1	Mild	£1000
2	Moderate	£2500
3	Serious	£7000
4	Very Serious	£15000
5	Severe	£20000

The following table gives the severity of each potential offence, and thus the starting point for the CPN:

<b>Offence</b>	<b>Penalty Level</b>	<b>Justification</b>
Failure to comply with an Improvement Notice (including Cat 1 hazards)	4	Failure to carry out works exposes the tenants to one or more significant hazards
Failure to comply with an Improvement Notice (not including Cat 1 hazards)	3	Failure to carry out works exposes the tenants to one or more hazards
Failure to licence a Mandatory HMO	3	Licensing enables the property to be monitored in terms of conditions, standards and safety in relation to the highest risk tenants. Not having a licence means the property is not being monitored to ensure the conditions are appropriate.
Failure to licence a property within a Selective Licence Designated area	2	Not licensing a property means the tenants and wider community are not protected by the additional regulatory controls contained in the licence scheme.
Failure to comply with an Overcrowding Notice	3	This would expose tenants to unsuitable conditions which can lead to psychological and physical issues.
Failure to comply with a Banning Order	5	Banning orders are reserved for the most serious housing related offences. Breaches of a Banning Order are considered the highest level of seriousness.

Failure to comply with Management of Houses in Multiple Occupation Regulations attract different levels of penalty as shown in the following table (note that Cat 1 and Cat 2 relate to the level of hazards at the property as per the HHSRS with Category 1 being the more serious hazards):

<b>Offence</b>	<b>Penalty Level</b>	<b>Justification</b>
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Providing Information to the Occupiers	1	This is a lack of administration on the part of the landlord.
Duty to take safety measures	3 (if Cat 2) 4 (if Cat 1)	The safety of all occupiers should be the priority and they are at risk of harm where appropriate safety measures are not taken.
Duty to maintain water supply and drainage	3 (if Cat 2) 4 (if Cat 1)	The lack of provision of a decent water supply and drainage system is likely to lead to health issues for the occupants.
Duty to supply and maintain gas and electricity	3 (if Cat 2) 4 (if Cat 1)	Lack of regular maintenance and checks of gas and electricity may lead to hazards and harm to occupants.
Duty to maintain common parts, fixtures, fittings and appliances	2 (if Cat 2) 3 (if Cat 1)	A lack of maintenance of the common parts in an HMO may lead to health issues and psychological issues
Duty to maintain living accommodation	2 (if Cat 2) 3 (if Cat 1)	A lack of maintenance of the living accommodation in an HMO may lead to health issues and psychological issues
Duty to provide waste disposal facilities	2 (if Cat 2) 3 (if Cat 1)	The lack of suitable waste disposal facilities can lead to health issues and harm to the occupants.

Similarly, breaches of licence conditions attract different levels of penalty as shown in the following table:

Offence	Penalty Level
<ul style="list-style-type: none"> <li>Provision of documentation to the Council in respect of gas installation, electrical appliances, and furniture, electrical installation, carbon monoxide alarm, fire detection and other fire safety provisions.</li> <li>Provision of written tenancy agreement to occupiers.</li> <li>Displaying information on noticeboard including licence, contact details, gas safety certificate, EICR, waste disposal information, ASB.</li> <li>Provision of information to the Council re changes in circumstances, fire at property, tenancy agreements and details of occupation (when requested), changes to property, information relating to each tenancy (when requested).</li> <li>Information to tenants regarding maintenance procedures.</li> </ul>	1
<ul style="list-style-type: none"> <li>Waste disposal and storage.</li> <li>Unlawful access (without notice).</li> <li>Maintenance of common parts – inside and outside.</li> <li>Procedures regarding maintenance.</li> <li>Preventing smoking in property.</li> </ul>	2 (if Cat 2) 3 (if Cat 1)
<ul style="list-style-type: none"> <li>Double room occupation by non-cohabiting couple (with exception of parent and child under 18).</li> <li>Procedure and actions regarding ASB.</li> <li>Provision of Amenities as per the Amenity Standards Guide.</li> <li>Heating.</li> </ul>	2 (if Cat 2) 3 (if Cat 1)

<ul style="list-style-type: none"> <li>• Minimum floor areas.</li> <li>• Occupancy levels above permitted number.</li> </ul>	
<ul style="list-style-type: none"> <li>• Condition and provision of gas installation, electrical installation, carbon monoxide alarm, appliances, furniture, fire detection and other fire safety provisions.</li> <li>• Obstruction of escape routes.</li> </ul>	3 (if Cat 2) 4 (if Cat 1)

5.6 Once the seriousness and starting level of penalty is decided, the number of properties owned by the landlord and the culpability of the landlord is taken into account. When assessing the culpability, any aggravating and mitigating factors are considered which may be relevant. The following table describes behaviours that could constitute the particular level of culpability shown. The appropriate level is chosen based on the factors identified in each case.

<b>Level of Culpability</b>	<b>Example behaviours</b>
<b>Very High</b>	Deliberate breach of or flagrant disregard for the law
<b>High</b>	Offender fell far short of their legal duties, for example, by: <ul style="list-style-type: none"> <li>- failing to put in place measures that are recognised legal requirements or regulations;</li> <li>- ignoring warnings raised by the local Council, tenants or others;</li> <li>- failing to make appropriate changes after being made aware of risks, breaches or offences;</li> <li>- allowing risks, breaches or offences to continue over a long period of time.</li> </ul> Serious and/or systemic failure by the person or organisation to comply with legal duties.
<b>Medium</b>	Offender fell short of their legal duties in a manner that falls between descriptions in 'high' and 'low' culpability categories. Systems were in place to manage risk or comply with legal duties but these were not sufficiently adhered to or implemented.
<b>Low</b>	Offender did not fall far short of their legal duties, for example, because: <ul style="list-style-type: none"> <li>- significant efforts were made to address the risk, breaches or offences, although they were inadequate on this occasion;</li> <li>- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.</li> </ul> Failings were minor and occurred as an isolated incident

The adjustment to be applied is further affected by the number of properties owned or managed by the individual and / or company. Where the landlord has only 1 rental property, there is an understanding that property management is unlikely to be their full time occupation and they may not be completely up to date with latest legislation. Thus, a discount is applied. However, where a landlord owns and / or manages multiple properties, they are seen as professionals who should have a greater

awareness of their responsibilities. This includes property management companies and agents. In these cases there will be an increase applied to the penalty.

The following table shows the % change that will be applied, where the % is based on the initial penalty amount shown in Section 5.2 above.

Change in penalty based on Culpability v Number of Properties owned / managed	1 property	2 – 4 properties	5 or more properties
Very High	+15%	+20%	+25%
High	+5%	+10%	+20%
Medium	0%	+5%	+10%
Low	-25%	-15%	-5%

5.7 The harm that the tenant may suffer as a result of the offence is the next consideration. With the majority of offences, a current Housing Health and Safety Rating System inspection will have been carried out and provided to the landlord. This will state hazards that are present at the property, and the calculated band (which determine the seriousness) for each hazard. The hazard bands range from A to J with A being the most serious and J the least serious. Bands A, B, and C are classed as Category 1 hazards and the remaining bands are classed as Category 2 hazards.

For more information about the Housing Health and Safety Rating System (HHSRS), the following link provides a landlord's guide:

[HousingHealthSafety.qxd \(publishing.service.gov.uk\)](#)

If the landlord has carried out some works to reduce the level of hazards from a previous Housing Health and Safety Rating System inspection at the property, they will benefit from a lower penalty provided it is proven that works have taken place. If a landlord would like this to be taken into account, they should request that an officer visit the property to confirm what works have been undertaken. The harm may then be calculated based on an assessment at this most recent inspection rather than the initial HHSRS depending on when the offence took place.

Offence	Specific Factor	Weight (related to the band of the existing hazard)

<p>Failure to comply with an Improvement Notice</p>	<p>An Improvement Notice will include a copy of the HHSRS report for the property and all hazards present at the time of the notice will have been scored, placing them each into one of the 10 bands, A - J. This will form the basis of the harm factor. Each band is allocated a weight factor as shown on the right. The weight factors are added together and the resultant % change applied as per the table below.</p>	<p>Category 1 hazards A: 30 B: 20 C: 10 Category 2 hazards D: 5 E: 4 F: 3 G: 2 H, I, J: 1</p>
<p>Failure to licence a Mandatory HMO</p>	<p>Where a property has been found to be unlicensed, an HHSRS will be undertaken to establish what hazards are present. The hazards present will be scored and place into one of the 10 bands, A - J. This will form the basis of the harm factor. Each band is allocated a weight factor as shown on the right. The weight factors are added together and the resultant % change applied as per the table below.</p>	<p>Category 1 hazards A: 30 B: 20 C: 10 Category 2 hazards D: 5 E: 4 F: 3 G: 2 H, I, J: 1</p>
<p>Failure to licence a property within a Selective Licence Designated area</p>	<p>We do not currently have a selective licence area. If we do have a designation in the future, the same process as for failure to licence a Mandatory HMO will apply as described above.</p>	<p>Category 1 hazards A: 30 B: 20 C: 10 Category 2 hazards D: 5 E: 4 F: 3 G: 2 H, I, J: 1</p>
<p>Failure to comply with an Overcrowding Notice</p>	<p>Where an overcrowding notice has been issued, there will be an HHSRS assessment which will have calculated the hazard band for this hazard which will be in one of the 10 bands, A - J. This will form the basis of the harm factor. The band is allocated a weight factor as shown on the right. The resultant % change will be applied as per the table below.</p>	<p>A: 30 B: 20 C: 10  D: 5 E: 4 F: 3 G: 2 H, I, J: 1</p>
<p>Failure to comply with a Banning Order</p>	<p>The extent of the activities that the person with the banning order has undertaken whilst under the order.</p>	<p>To be considered separately depending on reasons for banning order and extent of activities.</p>

Management Regulations Offences	Where a property has been found to be committing offences under the Management Regulations, an HHSRS will be undertaken to establish what hazards are present. The hazards present will be scored and placed into one of the 10 bands, A - J. This will form the basis of the harm factor. Each band is allocated a weight factor as shown on the right. The weight factors are added together and the resultant % change applied as per the table below.	A: 30 B: 20 C: 10  D: 5 E: 4 F: 3 G: 2 H, I, J: 1
Breach of Licence Conditions	Where a property has been found to be breaching licence conditions, an HHSRS will be undertaken to establish what hazards are present. The hazards present will be scored and placed into one of the 10 bands, A - J. This will form the basis of the harm factor. Each band is allocated a weight factor as shown on the right. The weight factors are added together and the resultant % change applied as per the table below.	A: 30 B: 20 C: 10  D: 5 E: 4 F: 3 G: 2 H, I, J: 1

Once the weighting has been calculated, a percentage of the starting point is added to the penalty based on the following table.

Total Weight	% increase (increase will be a % of the starting point of the penalty level that applies)
0 – 9	0%
10 – 19	3
20 – 29	6
30 – 39	9
40 – 49	12
50 – 59	15
60 – 69	18
70 – 79	22
80 – 89	26
90 – 99	30
100+	50

**Example:** Consider an Improvement Notice with the following hazards and related scores:

Hazard	Score	Band	Category
1. Damp and Mould Growth	49	H	2
2. Excess Cold	81	G	2
23. Electrical Hazards	917	D	2
24. Fire	11996	A	1

This property has band A, D, G and H banded hazards. The weights for these are 30, 5, 2 and 1. Adding these together gives a total weight of 38. The table above is used to find the % increase which, in this case, would result in an increase which is 9% of the starting point.

5.8 The track record of the landlord will also need to be taken into account.

Where a landlord's track record has previously been good, or this is a first offence, there will be a reduction in the penalty imposed. Where a landlord has had previous prosecutions and / or CPNs, an increase of penalty will be applied. The table below states the changes that will be applied.

<b>Track record (relating to number of times CPN's issued or successful prosecutions).</b>	<b>% change (change will be a % of the starting point of the penalty level that applies)</b>
First offence and no previous Notices or Orders having been issued to the landlord at any time (eg. Management Regulations Offences)	-20%
First offence where previous Notices or Orders have been issued (eg. and Improvement Notice has been issued but it has been breached, however, this is the landlord's first offence)	-10%
Subsequent offence	+ Number of offences x 20%

Mitigation factors also include actions the landlord has taken since he was informed about the offence. For example if he has now applied for a licence with a complete application and payment, or if he has carried out all the works required to make the property safe.

<b>Mitigation Factors</b>	
Full Licence application has been received including all documents and application fee.	Application fee will be taken off the penalty amount.  An additional 10% reduction in the final penalty will be applied.
All required works have been carried out to the property to make it safe.	The property will be revisited to check the works have been carried out. If this

	<p>is the case, the weighting due to the harms will no longer apply, thus reducing the penalty.</p> <p>An additional 10% reduction in the final penalty will be applied.</p>
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5.9 Finally, any financial benefit that the landlord may have obtained from committing the offence is considered.

<b>Offence</b>	<b>Financial benefit considerations include</b>
Failure to comply with an Improvement Notice (section 30)	An estimate of the cost of any works that were required to comply with the improvement notice. The rental income received by the landlord during the offence period less costs including the mortgage or rent for the lease where applicable.
Offences in relation to licensing of HMOs (section 72)	The rental income received by the landlord during the offence period less costs including the mortgage or rent for the lease where applicable. The cost of the licence application fee where this has not been paid.
Offences in relation to licensing of houses under Part 3 of the Act (section 95)	The rental income received by the landlord during the offence period less costs including the mortgage or rent for the lease where applicable. The cost of the licence application fee where this has not been paid.
Offence of contravention of an overcrowding notice (section 139)	The rental income received by the landlord during the offence period less costs including the mortgage or rent for the lease where applicable.
Failure to comply with management regulations in respect of HMOs (section 234)	An estimate of the cost of any works that are required to avoid breaching the regulations. The rental income received by the landlord during the offence period less costs including the mortgage or rent for the lease where applicable.
Breaches of licence conditions	An estimate of the cost of any works that are required to avoid breaching the conditions. The rental income received by the landlord during the offence period less costs including the mortgage or rent for the lease where applicable.

The maximum timescale for considering the rental income as a financial benefit is 12 months.

The final penalty must be higher than the financial benefit that the landlord has obtained. If it is not, the penalty should be increased to the amount of the financial benefit plus 10% of the financial benefit.



## 6.0 Worked Examples

### 6.1 Unlicensed HMO with no hazards

Consider a property where a landlord has not applied for an HMO Licence, despite being sent a letter indicating that the application needed to be in and complete, and payment made by a given date. 5 months later the application is still not completed (missing documents and no payment), despite several reminders. A decision is made to issue a Civil Penalty Notice. This property is the landlord's only property, there are 5 tenants, each paying £600 per month. The mortgage for the property is £500 per month. The landlord has no previous offences and the property is in good condition with no hazards according to the HHSRS assessment. The landlord finally completes his application after he realises that there will be financial consequences.

Description	Amount	Change to penalty
Unlicensed HMO has a starting penalty of level 3 - Severe	£7000	£7000
This offender is considered to have high culpability as he has been reminded several times of the need to get the licence in. He only owns/manages 1 property.	% change applied to starting point is +5% 5% of £7000 is £350	£7350
Property has no hazards so there is no weighting from harm to tenant factors	No change	£7350
This is the landlord's first offence and he has not been issued notices previously.	-20% of starting point -20% x £7000 = -£1400	£5950
Financial benefit – the landlord has been paid approximately 5 x £600 x 5 during the time of the offence (£15000). His monthly mortgage is £500 per month.	Additional rent due to committing offence is £3000 x 5 months = £15000 Mortgage payments 5 x £500 = £2500	£13750

	Total benefit is £12500 £12500 + 10% = £13750 which is higher than proposed penalty.	
The landlord has completed an application now so mitigation.	Mitigation for licence application -10% of £13750	£12375
Final amount of penalty		£12375

## 6.2 Failure to comply with an Improvement Notice

Consider a property where a landlord has been issued with an Improvement Notice for a Category 1 hazard for Fire in his single let property. The band of the hazard was B and no works have been carried out since the hazard was assessed. The landlord owns 3 rental properties. He is aware that there is an issue with the property having received the Improvement Notice. The cost of the works to put the issues right would be in the region of £2500. This is the first offence for this landlord.

<b>Description</b>	<b>Amount</b>	<b>Change to penalty</b>
Failure to comply with an Improvement Notice with Category 1 hazards is penalty level 4	£15000	£15000
This offender is considered to have high culpability as he has been reminded several times of the need to get the works carried out. He was also sent a reminder before the final date that the works had to be completed. He owns 3 rental properties and is aware of his responsibilities. This gives a 10% uplift on the initial penalty.	% change applied to starting point is +10% 10% of £15000 is £1500	£16500

Property has the band B hazard giving a weighting of 30. The percentage increase with this weighting is 9%	9% of £15000 is £1350	£17850
This is the landlord's first offence but he has been issued notices giving him time to comply.	-10% of starting point -10% x £15000 = -£1500	£16350
Financial benefit – the landlord would need to pay about £2500 to get the works done so we need to ensure the penalty is at least 10% more than the works would cost.	Total benefit is £2500 £2500 + 10% = £2750 which is lower than proposed penalty.	No change
The landlord has not carried out any of the required works to make the property safe so no mitigation factor for this is applied.		
Final amount of penalty		£16350

### 6.3 Failure to display information in HMO

Consider an HMO property that is managed by an agent. The agent has failed to display the required information and contact details on the noticeboard in the property. This is an oversight as they usually check all the information regularly and they have systems in place. They have not had any warnings or notices before regarding their properties. They charge £400 per month to manage the property (10% of the income).

Description	Amount	Change to penalty
Failure to comply display information in an HMO – Level 1	£1000	£1000
This offender is considered to have medium culpability as they have procedures in place	% change applied to starting point is +10% 10% of £1000 is £100	£1100

but there was an oversight at this property. The company manage multiple properties		
Property is in good condition with no hazards	No change	£1100
The agents track record is good	No change	£1100
Financial benefit – there is limited financial benefit for this type of offence as it takes staff time rather than specific charges.	Total benefit is 0	£1100
The agent has since put the required information into the property so a mitigation factor or -10% is applied to the final penalty.	-10% £1100-110 =	£990
Final amount of penalty		£990

## 7.0 Imposing a Civil Penalty

### 7.1 Notice of Intent

- a) The landlord must be provided with a notice of the proposal to issue a civil penalty notice within 6 months of the last date on which the Council has evidence of the offence occurring, or at any time when the offence is still continuing.
- b) The notice of intent must specify:
  - 7.1.b.i) The amount of any proposed financial penalty
  - 7.1.b.ii) The reasons for imposing the financial penalty
  - 7.1.b.iii) Information on the right to make representations to the Council

### 7.2 Representations

- a) The landlord has the right to make written representations within the period of 28 days beginning with the day after that on which the notice was given. Representations can be against any part of the proposed course of action.

- b) Written representations from the landlord will receive a response.
- c) If the representations are related to the amount of financial penalty imposed, the landlord will need to provide evidence that they believe demonstrates that the calculation of the penalty is incorrect such as tenancy agreements, budget statements etc. Where evidence is not provided, the representation against the amount will not be accepted.
- d) No other party has a right to make representations, but, if they are received, the Council will consider whether to take account of them. A response will be provided where the Council considers it necessary.
- e) Following a review of any representations at the end of the representation period, the Council will decide whether to impose a financial penalty and the amount of any such penalty.

### 7.3 Final Notice

If the decision is to issue a financial penalty, a Final Notice will be issued to the landlord. This requires that the penalty is paid within 28 days beginning with the day after that on which the notice was given and will specify:

- a) The amount of the financial penalty (which may be different to the amount on the Notice of Intention),
- b) The reasons for imposing the penalty,
- c) Information about how to pay the penalty,
- d) The period for payment of the penalty ,
- e) Information about the right of appeal to the First-Tier Tribunal,
- f) The consequences of failure to comply with the notice.

### 7.4 Withdrawing or Amending Notices

- a) At any time, the Council may withdraw the Notice of Intention or Final Penalty Notice, or reduce the amount of the civil penalty. The landlord will be notified in writing.
- b) Where a civil penalty has been withdrawn, the Council is able to pursue prosecution proceedings against the landlord where there is public interest in doing so.

### 7.5 Appeals to the Tribunal

- a) The landlord in receipt of a civil penalty notice has the right to appeal to the First-Tier Tribunal. This must be done within 28 days from the date the Final Notice was served.
- b) The Final Notice is suspended until the appeal is determined or withdrawn.
- c) The First-Tier Tribunal has the power to uphold, vary (increase or decrease the amount of the penalty), or cancel the notice.

#### 7.6 Other Consequences of having a Civil Penalty Imposed

- a) The imposition of a Civil Penalty on a landlord will be taken into account when considering licence applications from the landlord. Whilst a civil penalty will not automatically preclude us from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person's involvement in the property will be considered.
- b) Where a landlord has two civil penalties imposed on them within a 12 month period, each for a banning order offence, the Council will include their details on the Database of Rogue Landlords and Property Agents.
- c) Banning offences include:
  - 7.6.c.i) Failing to comply with an improvement notice;
  - 7.6.c.ii) Failing to comply with a prohibition order;
  - 7.6.c.iii) Offences in relation to licensing of houses under Part 2 (HMOs);
  - 7.6.c.iv) Offences in relation to licensing of houses under Part 3 (selective licensing);
  - 7.6.c.v) Failure to comply with management regulations in respect of HMOs;
  - 7.6.c.vi) False or misleading information.

#### 7.7 Recovering an Unpaid Civil Penalty

Where a landlord or property agent fails to pay a civil penalty the council may refer the case to a local county court for an Order of that court. The Council may then enforce that Order.

- a) The Council will consider all legal options available for the collection of unpaid civil penalties. This may include:
  - 7.7.a.i) A Warrant of Control for amounts up to £5000;
  - 7.7.a.ii) A Third Party Debt Order;
  - 7.7.a.iii) A Charging Order, and;
  - 7.7.a.iv) Bankruptcy or insolvency
- b) When considering which properties to apply for a Charging Order against, the Council can consider all properties owned by the landlord and not just the property to which the offence relates.