Sevenoaks
DISTRICT COUNCIL

DRAFT
Private Sector Housing Enforcement Policy 2026-2031

Contents

Introduction

Sevenoaks District Council seeks to ensure all properties let as residential homes throughout the Sevenoaks District, including those in private ownership, are of good quality, safe and well managed.

The Policy sets out the way in which the Council intends to secure effective compliance with the relevant legislation whilst minimizing the burden to the Council, individuals, organisations, and business, including:

- Housing conditions in Private Sector properties (rented and owner occupied)
- Housing conditions in Registered Provider owned properties
- Landlord's obligations in the Private Rented Sector
- Houses in Multiple Occupation
- Mobile Home Sites
- Empty Homes

The aim of this Policy is to govern the way in which enforcement is undertaken to achieve the following objectives

- Good quality, healthy housing for households renting in the Private Sector and to prioritise action to those which present the greatest risks to the Health and Safety of the occupants or their visitors
- Private Sector housing is not left empty for an unreasonable amount of time and does not become an eyesore and nuisance to neighbouring homes
- Houses in Multiple Occupation are safe and well managed, and all relevant Management Regulations are adhered to
- All Mobile Homes sites are safe and well managed, and all relevant Management Regulations are adhered to

The Policy sets out the Council's principles for enforcing and executing its duties as a Local Housing Authority under the relevant statutes, including but not limited to:

- Housing conditions and hazards
- Property management and licensing
- Tenant protections and rights
- Unlawful practices by Landlords and agents
- Environmental conditions affecting residential premises.

Section 3 of the 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.

This Policy incorporates the enforcement powers and duties introduced by the Renters' Rights Act 2025 while continuing to apply all other relevant Housing and Environmental legislation which is enforced by the Council's Private Sector Housing Team.

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

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

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

The Private Sector Housing Enforcement Policy is to provide guidance for Council Officers to ensure enforcement action is taken in line with the provisions of the Renters' Rights Act 2025 and mandatory guidance to Local Authorities.

This Policy document sets out what owners, Landlords, their agents or any other person involved in the letting or management of privately rented accommodation, and Tenants of Private Rented Sector properties, can expect from officers when dealing with noncompliance.

All enquiries relating to this Policy should be directed to the Private Sector Housing Manager or the Head of Strategic and Private Sector Housing on 01732 227000 or email to psh@sevenoaks.gov.uk.

Enforcement Principles

The Council recognises that each case is unique and will be considered on its own merits. When deciding on the appropriate action, Officers will consider the Law, Government Guidance, Council Policies and the sufficiency and reliability of the evidence.

The Council supports 5 Principles of Good Regulations, as specified under Part 2 of the Legislative and Regulatory Reform Act 2006, and where enforcement falls within a regulatory function the Council will exercise enforcement activities in a way which reflects these, as outlined below:

Proportionate

Any enforcement action taken will be proportionate to the risks and the seriousness of the breach. This will ensure that the most serious risks are targeted first.

Accountable

Enforcement activities will be open to public scrutiny, with clear and accessible policies and a fair and efficient complaints procedure.

Consistent

Enforcement duties will be carried out in a fair and consistent manner. Officers will need to exercise their professional judgement and discretion according to the circumstances of each individual case. However, the Council will have regards to current procedures, best practice and advice provided by Regulatory Delivery, other Agencies (such as Leicestershire Fire and Rescue, Police, Trading Standards and the Health and Safety Executive) and other relevant professional bodies.

Transparent

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.

Targeted

Enforcement will be primarily directed towards those activities that are likely to give rise to the greatest risks and most serious breaches of legislation, reflecting local need, and national and corporate priorities.

Where specific statutory guidance directs a different approach, the Council will record the reasons for departing from any particular Code provision. The Regulators' Code can be found at www.gov.uk/government/publications/regulators-code.

The purpose of this Private Sector Housing Enforcement Policy is to provide a clear and transparent framework for how the Council exercises its private sector housing enforcement functions. It sets out what owners, Landlords, their agents or other persons involved in the letting or management of private rented accommodation, and Tenants, can expect from the Council when noncompliance is identified.

It provides guidance for officers within the Council's Private Sector Housing Team to ensure enforcement action is taken in line with the Regulators' Code and the principles of good regulation where required by The Legislative and Regulatory Reform (Regulatory Functions) Order 2007. It provides guidance to the Private Sector Housing Team to ensure enforcement action is taken in line with the provisions of the Renters' Rights Act 2025 and mandatory guidance to Local Authorities as the Section 107 Renters' Rights Act 2025 duty to enforce Landlord legislation sits outside of the Regulators' Code, and its provisions do not apply. Part 1 of the Housing Act 2004 is outside of the Code's scope.

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

Human Rights and Equality Duties

The Council will apply the principles of the Human Rights Act 1998, the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms and will have due regard to the Public Sector Equality Duty when exercising functions under this Policy. Decisions will be necessary, proportionate and non-discriminatory.

Regulatory Framework

Certain private sector housing enforcement functions are "regulatory functions" for the purpose of the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 and are therefore subject to the Regulators' Code.

The following pieces of legislation are subject to the Regulators' Code and the principles of good Regulation:

- Parts 8, 9 and 10 of the Housing Act 1985
- Part 8 of the Housing Act 1996
- Parts 2 to 5 of the Housing Act 2004
- Caravan Sites and Control of Development Act 1960, Caravan Sites Act 1968 and Mobile Homes Act 2013

Key Legislation

The Council will predominately use the following relevant legislation to meet the aims of the Policy:

The Housing Act 2004

Part 1 of The Act deals with housing conditions. Parts 2 and 3 of the Act deals with Licensing. Part 4 includes provisions for dealing with Empty Homes.

Renters' Rights Act 2025

The Act is intended to make renting in the Private Sector fairer and safer. It aims to give renters greater security while ensuring Landlords meet clear legal obligations. The Act introduces new enforcement duties and powers for the Council, focusing on improved housing standards and strengthening Tenant rights. The Act requires the Council to take formal enforcement action in the event of any breach.

Prevention of Damage by Pests Act 1949

Allow the Council to serve a Notice requiring an owner to clear any land of vermin, remove waste, deposits, and accumulations likely to attract vermin.

Local Government Miscellaneous Provisions Act 1982

Allow the Council to undertake any work necessary to prevent unauthorised entry or to prevent a building from becoming a danger to public health.

Building Act 1984

Sections 77 and 79 may be used to require the Owner to make a ruinous or dilapidated property safe or to enable the Council to board the property up. Section 59 enables the Council to serve Notice on the Owner to make satisfactory provisions for drainage where not currently in place.

Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968

Allows the Council to deal with breaches of Licence Conditions for Caravan Parks, Mobile Home sites and Residential Park Home sites and gives basic protection from eviction to mobile home occupiers with residential contracts, other than by the obtaining of a Court Order.

Environmental Protection Act 1990

Used where a property defect is considered prejudicial to health or causing a nuisance.

Protection from Eviction Act 1977

Illegal eviction and harassment are a criminal offence, and the Council may prosecute offending Landlords under this legislation. Tenants can pursue damages through the civil Courts for breaches of this Act.

Other Relevant Legislation

The legislation detailed below is not exclusive but gives a list of the main pieces of legislation used:

- Anti social Behaviour Crime and Policing Act 2014
- Deregulation Act 2015
- Energy Act 2011 and 2013
- Enterprise and Regulatory Reform Act 2013
- Local Government Miscellaneous Provisions Act 1976
- Mobile Homes Act 1983
- Housing Act 1983 and 1996
- Housing and Planning Act
- Public Health Acts 1875, 1932, 1936, 1961 and 1984

Tenure Groups

The Council has investigation and enforcement powers relating to all Private Sector housing matters regardless of tenure, however, the approach taken will vary depending on the tenure of the household.

Private Tenants

Tenants within rented accommodation are reliant on their Landlord, or their Landlord's Agent, to maintain their homes in accordance with legal requirements.

Where Landlords or Landlord's Agents are putting the Health or Safety of their Tenants or those occupying a neighbouring property at risk, or are failing to meet their statutory obligations, the Council will take formal action as required.

Owner Occupiers

Owner occupiers are responsible for the maintenance and safety issues of their own home. Therefore, formal enforcement action against Owner Occupiers will be limited, except for situations where neighbouring properties are being affected in some way, for example a defect leading to water penetration into a neighbouring property or where there is an 'Imminent Risk' to the Occupier or any visitors to their property.

Registered Providers (formerly known as Housing Associations)

Registered Providers are regulated by the Regulator of Social Housing. Registered Providers have their own procedures in place for reporting problems and making complaints and usually have clear response times for addressing any issues.

The Private Sector Housing Team will not normally act against a Registered Providers unless the problem in question has been properly reported to the Registered Provider who then fails to take appropriate action. The Council will consider enforcement action against a Registered Providers where there are significant risks to the Health and Safety of Tenants and or the wider Public.

Working Relationships

The Council operates the Sevenoaks Landlord Hub. The Sevenoaks Landlord Hub supports Landlords who want to rent their property without expensive letting fees and advertising costs. Landlords are matched with suitable Tenants on our waiting lists and have access to other benefits, including free Energy Performance Certificates, gas and electric safety checks, financial assistance and support through the HERO Service for Tenants.

Under Phase 2 of the Renters' Rights Act 2025, the Ministry for Housing, Communities and Local Government is establishing a database of all privately rented properties. It will be mandatory for Landlords to register each privately rented property in their ownership to the Ministry for Housing, Communities and Local Government's chosen database administrator and to upload required information on said property.

Registration will be subject to a fee payable by the Landlord. The database will be used by the Private Sector Housing Team to carry out their enforcement duties.

Under Phase 2 of the Renters' Rights Act 2025, the Ministry for Housing, Communities and Local Government is establishing a Private Rented Sector Ombudsman service.

The Private Rented Sector Ombudsman will determine disputes between Landlords and Tenants. It will be mandatory for Landlords to join the Ombudsman service.

Joining the service will be subject to a fee payable by the Landlord. The Private Sector Housing Team will refer to the Ombudsman as required in the carrying out of their enforcement duties.

Types of Action Available

The Private Sector Housing Team will respond to enquiries about substandard, unsafe, and problematic housing and adopt a graduated approach to enforcement.

Before considering any action in respect of a tenanted property, where it is appropriate, the Tenant(s) will be encouraged to contact their Landlord about the problems to give the Landlord an opportunity to respond.

In some cases where the Tenant is considered vulnerable or the nature of the concern requires immediate investigation, this will not be appropriate.

Deciding on the Course of Action

The course of action will be decided having regard to the circumstances of each case, including:

- Amount and nature of disrepair
- Vulnerability of the occupant, if any (eg elderly occupants, young children)
- Effect the problem has on the occupants, neighbours, or the surrounding area
- Relevant legislation
- Relevant history of the owners, neighbours or Tenant, particularly the owner's history of carrying out repairs at a pre-formal stage or following service of notice
- Being proportionate to the nature of the offence and the harm caused.
- Changing the behaviour of the offender
- Eliminating any financial gain or benefit from noncompliance.
- Addressing the harm caused by regulatory noncompliance, where appropriate
- Detering future noncompliance
- Being responsive and considering what is appropriate for the offender and the regulatory issue
- Ensuring we follow statutory guidance

When considering enforcement action, we will, when appropriate, discuss the circumstances with those suspected of a breach. We will take any comments made into account when deciding on the best approach, unless immediate action is required to prevent or respond to a serious breach, or when to do so would be likely to defeat the purpose of the proposed enforcement action.

We will ensure that clear reasons for any enforcement action are given at the time the action is taken and confirmed in writing at the earliest opportunity. Complaints and relevant appeals procedures will be explained at the same time.

No Action

In the case of occupied homes, in some circumstances, it may be appropriate to take no action, for example:

- When the Health and Safety risk is sufficiently low, or when action would be disproportionate, or inappropriate in the circumstances of the case
- Having taken the Tenant's views into account and the Council is not under a statutory duty to do so
- The allegations or complaints are unsubstantiated

In such cases, occupiers may be directed to other sources of advice and support, for example Citizens Advice. In some cases, the Council will cease providing a service, for example, where the Tenant unreasonably refuses access to the property owner or a contractor to carry out works, or where a Tenant continually fails to engage with the Council.

Advice and Guidance

Private Sector Housing Officers will offer the following:

- Advice as to how the complainant can request repairs or improvements without the need for intervention from the Council
- A letter or telephone call to the property owner (without a visit), advising them of the information that the Council has received and allowing them a reasonable period to address the issues

Pre-formal Action

Pre-formal action involves:

- A visit to the property to further investigate the complaint
- Once completed, the Council will write to the property owner identifying the Hazards and advise on the repair or improvements that are required with timescales for completion of the works given
- In the case of an Empty Homes complaint, the Council will write to the property owner requesting information about their intentions for the property and offering advice and assistance on returning the home to use

When taking pre formal action of any nature, Officers will clearly differentiate between what is legally required and what is recommended as Good Practice.

Where it is deemed appropriate to deal with issues through pre formal action, the Council will work with the property owner to help them comply with their regulatory requirements. Clear and concise information will be provided along with the Council's contact details.

In cases where the property owner refuses or fails to carry out satisfactory works during the pre-formal stage, the case will usually progress to formal action.

For breaches and offences covered by Section 107 Enforcement Duty under the Renters' Rights Act 2025, there is no expectation that we will issue informal advice or warnings before taking formal action (Civil Penalties or Prosecution), in line with Government guidance.

Formal Action

Here are some examples of circumstances when formal action would be taken:

- Pre formal action has had no effect
- There is a lack of confidence, due to a history of noncompliance from the property owner
- The risk to Health, Safety and Wellbeing is such that immediate formal action is necessary
- There is a blatant or deliberate contravention of the law
- There has been noncompliance with previous formal or informal action
- Offences that relate to the licensing of Houses in Multiple Occupation Management regulations
- Unlawful eviction or harassment is suspected
- Breaches or offences of the Landlord legislation covered by the enforcement duty under the Renters' Rights Act 2025

See Appendix 1 for information on the Charges and Fees the Council may impose when taking formal action.

Notice of Entry

Where a complaint of housing disrepair has been received and an inspection is required, a Notice of Entry is to be served under Section 239 of the Housing Act 2004. This informs all relevant parties of the Councils intended inspection.

Complaints of an urgent nature and or the Council exercising its emergency powers negate the need for the service of a Section 239 Notice.

Where the Council are unable to gain access using a Notice of Entry or where such Notice will defeat the object of entry, the Council are able to make an application to the Magistrates Court for a Warrant to enter.

Under the Renters' Rights Act 2025, the Council has investigatory powers relating to the collection of information and relating to the entry of premises. See Appendix 2 for more information.

Deciding what enforcement action to take

In assessing what enforcement action is necessary and proportionate, consideration will be given to the:

- Seriousness of the failure to comply
- Harm and risk of the failure to comply
- Past performance of the Landlord and current practice, for example other similar offences
- For new Landlords, an assessment of the willingness to undertake the work required
- Where evidence suggests there was premeditation in the committing of an offence
- Risks that noncompliance poses to the safety, health, and welfare of the public or individuals
- Legal, official, or statutory guidance
- Acting in the interests of public health
- Any other relevant matters

Serving a Statutory Notice

A Statutory Notice will clearly set out actions which must be taken and the timescale within which they must be taken. Where a Statutory Notice is issued, an explanation of the appeals process will be provided to the recipient.

Such Statutory Notices are likely to require repairs or improvements to be completed within a specified timescale or requiring a specific action. These include notices served under the Housing Act 2004

Improvement Notices

Where the Council determines that an Improvement Notice should be served in respect of a Category 1 Hazard, work will be required to either remove the hazard entirely or reduce its effect so that it ceases to be a Category 1 Hazard.

Where the Council determines that an Improvement Notice should be served in respect of a Category 2 Hazard, it will require works considered sufficient either to remove the hazard or reduce it to an appropriate degree.

Suspended Improvement Notices will be considered where it is reasonable, for example when the deferring of the work required is of benefit to the personal circumstances of the occupants.

Prohibition Orders

Prohibition Orders can be used in respect of both Category 1 and Category 2 Hazards for all or part of a dwelling and are likely to be used if repair or improvement appear inappropriate, due to practicality or excessive cost.

This option may be employed to prevent occupation by a particular description of people, for example premises with steep staircases or uneven floors which make them particularly hazardous to elderly occupants, or premises with open staircase risers that make them particularly unsuitable for infants.

Hazard Awareness Notices

May be served to notify owner occupiers of the existence of hazards, where the risk from the hazard is mitigated by the longstanding nature of the occupancy, or where it is judged appropriate to draw a Landlord's attention to the desirability of remedial action as part of a measured enforcement response.

Failure to comply with the Notice or Order may result in work being carried out in default, a Civil Penalty or Prosecution.

Details of the Hazard Awareness Notice will be recorded on the Local Land Register against the property to which it relates until the Notice is withdrawn or complied with.

This Register is available to the public and anyone may search for entries upon payment of a fee (details can be found on the Council's website). Potential purchasers of a property will normally search this Register.

Emergency Remedial Action and Emergency Prohibition Orders

Where a Category 1 Hazard exists, which poses an imminent risk of serious harm to the occupiers or others and immediate action is required to mitigate or remove the risk, appropriate emergency action will be taken. Examples may include risk of electrocution, fire, noxious gases, explosion, or structural collapse.

Where there is a Category 1 Hazard present, Section 43 Housing Act 2004 permits the Council to issue an Emergency Prohibition Order. This immediately prohibits the use of all or part of a dwelling if there is an imminent risk of serious harm to the health or safety of the occupants or others.

Section 40 Housing Act 2004 allows the Council to undertake Emergency Remedial Action on the Category 1 Hazard without prior notice. The Council may then seek reimbursement of costs incurred on the work and the administration of the scheme.

Suspended Enforcement Action

The Council has the power to suspend action taken under Part 1 Housing Act 2004 in situations where it has the power or duty to take enforcement action through the service of an Improvement Notice or Prohibition Order. This will be at the Council's discretion and will normally be considered for the purpose of minimizing inconvenience to the current occupiers.

Works in Default

Where the Property Owner has failed to undertake legally required works within the permitted time, the Council may carry out the Works in Default. This will only be considered to remove serious Hazards.

Once the Council has started works, it is an offence to obstruct Council Officers, or any Contractors to carry out the Works.

The cost of the Works and all other associated relevant costs will be recovered in accordance with the relevant Statutory Provisions. All outstanding debts will be registered as a Local Land Charge against the property and where interest can be charged, this will be added to the debt. The Council may consider using the Enforced Sale Procedures to recover the charges owed, where appropriate.

Carrying out Works in Default is a Discretionary Power, and the Council reserves the right not to do so where the costs of the Works is likely to be high, or there may be difficulties recovering the costs.

A Simple Caution

The Council has the power to issue informal cautions as an alternative to prosecution where a person admits an offence and consents to the informal caution. Where an informal caution is offered and decline, the Council is likely to consider prosecution.

An informal caution will be kept on the Council's Register of Cautions. It is likely to influence how the Council deal with any similar breaches in the future and may be cited in court if the offender is subsequently prosecuted for a similar offence.

Prosecution

The Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance.

Prosecution will only be considered where the Council is satisfied that it has enough evidence to provide a realistic prospect of conviction against the defendant(s). Before deciding that prosecution is appropriate, the Council will consider all relevant circumstances carefully and will have regard to the following public interest questions

- How serious is the offence committed
- What is the level of culpability of the suspect
- What are the circumstances of, or harm caused to any victim
- Was the suspect under 18 at the time of the offence
- What is the impact on the community
- Is prosecution a proportionate response
- Do sources of information require protecting

The questions above are not exhaustive and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will vary according to the facts and merits of each case.

Once the Private Sector Housing Officer has completed their investigations, the next step will be for the Private Sector Housing Manager to present the case report to the Head of Strategic and Private Sector Housing.

This officer is independent of the investigation and will approve the commencement of legal proceedings, subject to advice from the Council's Legal Services. The decision to prosecute will be determined by the evidential strength of the Council's case and the relevant public interest factors set down by The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

In many circumstances, where an offence is committed by a body corporate, legislation enables Local Authorities to pursue persons involved with the body corporate in addition to, or instead of, the body corporate. These include company officers and, where applicable, company members.

A successful prosecution will result in a criminal record. The Court may impose a fine and in respect of particularly serious breaches a prison sentence.

Civil Penalties

The power to impose a Civil Penalty as an alternative to prosecution was introduced under the Housing and Planning Act 2016. See Appendix 3 Civil Penalties for further details.

Prior to serving a Civil Penalty Notice, the Council will issue a letter of intent (to serve a Civil Penalty Notice) to the Landlord which gives the Landlord 28 days to provide written details of any mitigating circumstances.

The Council has the power to impose a Civil Financial Penalty for the following:

- Unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997
- Failure to comply with an Improvement Notice [Section 30 Housing Act 2004]
- Offences in relation to licensing of Houses in Multiple Occupation [Section 72 Housing Act 2004]
- Failure to comply with an Overcrowding Notice [Section 139 Housing Act 2004]
- Failure to comply with a management regulation in respect of a Houses in Multiple Occupation [Section 234 Housing Act 2004]
- Offences in relation to Regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- Failure to comply with a Banning Order [Section 21 Housing and Planning Act 2016]

- Failure to give a written statement of terms under Section 16D of the Housing Act 1988
- Failure to give an existing Tenant information about changes made by the Renters' Rights Act under paragraph 7(2) of schedule 6 to the Renters' Rights Act 2025
- Attempting to let a property for a fixed term under Section 16E of the Housing Act 1988
- Attempting to end a tenancy orally or by service of a notice to quit 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 person does not reasonably believe that the Landlord is or will be able to obtain possession under Section 16E 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
- 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
- Reletting or remarketing a property before expiry of the 12 month no let period after using the moving and selling grounds under Sections 16E and 16J of the Housing Act 1988
- Discriminating against prospective Tenants during the letting process on the grounds that those Tenants are in receipt of benefits or have children under Sections 33 and 34 of the Renters' Rights Act 2025
- Marketing a letting without stating the proposed rent under Section 56 of the Renters' Rights Act 2025
- Inviting or encouraging any person to offer to pay an amount of rent under the proposed letting that exceeds the stated rent under Section 56 of the Renters' Rights Act 2025
- Accepting an offer from any person to pay an amount of rent under the proposed letting that exceeds the stated rent under Section 56 of the Renters' Rights Act 2025

Banning Orders

Where a property owner has been successfully prosecuted for certain offences, the Council can apply for a Banning Order.

In certain circumstances, the Council may apply for a Banning Order. Banning Order offences include:

- Illegally evicting or harassing a residential occupier in contravention of the Protection from Eviction Act 1977 or the Criminal Law Act 1977 from Eviction Act 1977 or the Criminal Law Act 1977
- Failure to comply with overcrowding notices or fire safety regulations (Houses in Multiple Occupation only), under Section 139 Housing Act 2004

and Art.32 Regulatory Reform (Fire Safety) Order 2005

- Breach of Gas Safety Regulations under Section 33 Health and Safety at work etc. Act 1974
- Breach of Right to Rent Provisions (criminal Prosecutions Only), under Section 33a and Section 33b Immigration Act 2014 (amended by Section 39 Immigration Act 2016)
- Requiring a "relevant person" to make a prohibited payment (criminal offence only), under Section 12 Tenant Fees Act 2019
- Any of the following offences under the Housing Act 2004
    - Failure to comply with an Improvement Notice
    - Offences in relation to Selective, Additional or Mandatory Licensing
    - Allowing a Houses in Multiple Occupation that is not subject to Licensing to become overcrowded
    - Failure to comply with Management Regulations in respect of Houses in Multiple Occupation
    - Failure to comply with a Prohibition or Emergency Prohibition Order
- Some criminal offences which are not directly related to housing such as fraud, stalking, sexual assault, misuse of drugs act and theft, if carried out in collusion with a Tenant or Licensee, and at a time when the offender was a Landlord or property agent of that property, and by an offender who was sentenced at the Crown Court.

When someone is convicted of such an offence, a Banning Order would have the effect of banning a person from

- Letting housing in England
- Engaging in Letting Agency work that relates to housing in England
- Engaging in Property Management work that relates to housing England
- Holding a licence under Part 2 or 3 of the Housing Act 2004

Rent Repayment Orders

Where Housing Benefit has been paid to a Landlord and the Council are satisfied that the Landlord has committed 1 or more specific offences, the Council, or in some cases the Tenant, can apply for a Rent Repayment Order. See Appendix 4 for more information.

Who Decides What Enforcement Action is Taken

For less serious infringements of the law, decisions about the most appropriate course of action is usually determined by the Private Sector Housing Officer. Decisions are based upon professional judgement, legal and statutory guidelines and priorities set by the Council and or Central Government.

For more serious offences, where the nature of the offence points towards prosecution, any decision will be considered by the Private Sector Housing Manager and Head of Strategic and Private Sector Housing in consultation with a representative from Legal Services.

Publicity

Where appropriate, publicity will be actively sought for any enforcement action taken which could draw attention to the need to comply with the law or deter anyone else from non-compliance.

Information about enforcement actions will be made available on request subject to the restrictions placed on the authority by the Data Protection Act 2018, Freedom of information Act 2000, and General Data Protection Regulations (GDPR).

Housing Standards

The Housing Act 2004 places a duty on the Council to keep housing conditions in the area under review and to take appropriate action where necessary.

The Housing, Health and Safety Rating System

Part 1 of the Act contains a system for assessing housing conditions, known as the Housing Health and Safety Rating System, which is used in enforcement of housing standards in all types of residential accommodation. Although a national review of Housing Health and Safety Rating System has been undertaken by the Government, changes are to be introduced from 23 June 2026 until then the Housing Health and Safety Rating System framework, operating guidance, and enforcement guidance continue to apply in full.

Where a Private Sector Housing Officer has reason to enter a home, they will inspect the whole property (including associated paths, yards, gardens, and outbuildings etc.) using the Housing Health and Safety Rating System. The current Housing Health and Safety Rating System assesses 29 housing hazards and the effect each may have on the health and safety of current or future occupants. Appendix 5 provides further details.

The Housing Health and Safety Rating System contains 2 categories of possible Hazards:

- Category 1 Hazards represent a danger to health or safety
- Category 2 Hazards represent a lesser danger

Enforcement decisions follow a 3-stage process:

1. Hazard Rating – Each Hazard is assessed under Housing Health and Safety Rating System in accordance with statutory operating guidance and worked examples. A Hazard is defined as any risk of harm to the Health or Safety of an actual or potential occupier, or visitor to the property, that arises from a deficiency such as the failure of an element; for example, the heating system or the roof does not meet the ideal. The failure could be because of the original design or because of disrepair or deterioration.
2. Duty or Power to Act – Category 1 Hazards (Bands A, B and C) require the Council to take action. Category 2 Hazards (Band D onwards) give the Council discretionary powers.
3. Most Appropriate Course of Action – Officers must determine the most appropriate enforcement response, having regard to statutory enforcement guidance, the circumstances of the dwelling and occupiers, and the Council's wider enforcement principles.

In addition to the duty to act where a Category 1 Hazard exists, the Council will normally consider the most appropriate course of action for Category 2 Hazards in the following circumstances:

1. Band D Hazards – General presumption that action under the Housing Act 2004 will be considered unless another course of action is more appropriate.
2. Band D and E damp and mould Hazards – In line with national direction and good practice, where high scoring Band D or E damp and mould hazards are present, we consider action under the Housing Act 2004.
3. Multiple hazards – Where several hazards at Band D or below combine to create a more serious situation or indicate significant disrepair, the officer will decide upon the most appropriate course of action to be taken.

Exceptional circumstances – where justified, the Private Sector Housing Manager and the Head of Strategic and Private Sector Housing may authorise action for Category 2 hazards outside the above criteria for example:
Excess Cold Rated as a Category 2 Hazard
A rented flat has inadequate heating, but the Housing Health and Safety Rating System assessment places it just below the threshold for a Category 1 Hazard. Normally, this would not trigger mandatory enforcement. However:

- The sole occupant is an 89-year-old Tenant with chronic respiratory illness, making them highly vulnerable to cold related harm
- Weather forecasts indicate an imminent severe cold spell, increasing the likelihood of serious health impacts
- The Landlord has repeatedly failed to respond to informal requests to repair the heating

Although "excess cold" is technically a Category 2 Hazard in this case, the heightened vulnerability of the occupant and the increased likelihood of harm justify the Manager authorising formal action for example, serving an Improvement Notice under the discretionary powers for Category 2 Hazards. This aligns with the statutory guidance that enforcement decisions must consider both the Hazard score and the vulnerability of actual or potential occupants.
Formal actions (where there is no Interim Management Order in force) that can be considered under Part 1 of the Act are

- Improvement Notice (Housing Act 2004, Section 11 and 12)
- Emergency Remedial Action (Housing Act 2004, Section 40 Category 1 Hazards only)
- Prohibition Order (Housing Act 2004, Section 20 and 21)
- Emergency Prohibition Order (Housing Act 2004, Section 43, Category 1 Hazards only)
- Hazard Awareness Notice (Housing Act 2004, Section 28 and 29)
- Demolition Order (only available where there is a Category 1 Hazard)
- Clearance area (all properties must have a Category 1 Hazard)

When taking formal action under Part 1 of the Housing Act 2004, the Council will prepare a statement of reasons, under Section 8, which will indicate why that course of action has been taken. The statement of reasons will accompany all Notices and Orders served, including copies.

The recipient of a Notice or Order may appeal against it (other than a Hazard Awareness Notice) to the Property Chamber of the First tier Tribunal. Details of how to appeal will be provided with the Notice or Order where applicable.

Under Section 49 of the Housing Act 2004, the Council will make a reasonable charge for taking enforcement action. See Appendix 1 for more information.

Other Regulations

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 require Landlords to have electrical installations inspected at least every 5 years, provide Tenants with the inspection report and carry out any remedial work promptly. See Appendix 8 for more information.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 require Private Rented Sector Landlords to install smoke alarms on every storey and carbon monoxide alarm in rooms with solid fuel appliances. See Appendices 11 and 12 for more information.

Environmental Protection Act 1990

Under the Environmental Protection Act 1990, property in such a state as to be prejudicial to Health or a nuisance constitutes a 'Statutory Nuisance'.

The Council has a duty to serve an Abatement Notice, where it is satisfied that a Statutory Nuisance:

- Exist
- Is likely to occur
- Is likely to recur.

The Abatement Notice will:

- Require the abatement of the nuisance or prohibit or restricting its occurrence
- Require the execution of such work or steps (where necessary) for these purposes
- Specify the time or times within which the Notice is to be complied within
- Indicate the rights of the recipient and time limits for appeal

Damp and Mould

Landlords are responsible for ensuring that accommodation that they provide is free from serious hazards including damp and mould.

Government Guidance clearly states that prompt action should be taken to address damp and mould in the home and that this issue should not be considered to be the result of Tenants' lifestyle choices.

The Council is committed to addressing issues of damp and mould in privately rented homes and complaints of such will always result in a visit and inspection by a Private Sector Housing Officer. Where necessary, enforcement action will be taken to ensure that relevant works are undertaken to address the issue.

Guidance for Landlords on understanding and addressing the health risks of damp and mould in the home was issued by the Government in September 2023 and can be found at: Understanding and addressing the health risks of damp and mould in the home - GOV.UK (www.gov.uk).

View further about damp and mould on the Council's website.

Minimum Energy Efficiency Standard (MEES)

Properties which have an EPC below Band E are classed as 'substandard' by regulations unless the property is exempt, a Landlord should not

- Grant a tenancy or renew an existing tenancy for a property that has an EPC rating below Band 'E'. Renewal in this context means when the tenancy is replaced by a new tenancy or becomes statutory periodic.
- Continue to a let a property that has an EPC rating below Band 'E'.
- The EPC must be no more than ten years old.
- A breach of the regulations does not affect the validity of any tenancy granted.

Enforcement is by the Council. The Landlord can be fined if they breach the regulations. The Penalty Notice cannot be issued more than 18 months after the date of the breach. See Appendix 6 for more information.

Exemptions from Energy Performance requirements

The regulations governing the minimum level of energy efficiency are limited to Tenants of properties let under

- An assured or assured periodic tenancy
- A regulated tenancy
- An assured agricultural occupancy or occupancy granted under the Rent (Agriculture) Act 1976

The Secretary of State has the power to extend the scope of the regulations further.

The minimum energy efficiency requirements do not apply to tenancies let by Private Registered Providers in their role as social Landlords in cases where the Tenant refuses consent to allow the energy efficiency improvement to be carried out. This applies if consent has been refused at any time in the last 5 years unless, from 1 April 2019, that Tenant's lease comes to an end if the required improvements would result in a reduction of more than 5% in the market value of the property for 6 months (temporary exemption) from the date a Landlord becomes the Landlord of the property in question in certain circumstances.

Cost exemption

Landlords are not required to make improvements where the cost exceeds £3,500 (including VAT). If it is not possible to improve the property to EPC E for £3,500 or less, all the improvements which can be made up to that amount should be made, then all improvements made' exemption should be registered.

Exemption Register

Landlords who are relying on an exemption must register on the National Private Rented Sector Exemptions Register and give certain prescribed information including a copy of the energy performance certificate and details of recommended improvements as well as the exemption which applies.

More information is available at:

Domestic private rented property: minimum energy efficiency standard – Landlord guidance – GOV.UK (www.gov.uk)

Tenant requests for energy efficiency improvement

A Private Rnted Sector Tenant can request their Landlord's consent for a relevant energy efficiency improvement in their home.

A relevant energy efficiency improvement includes draught proofing, cavity wall insulation, the installation of heating and hot water controls such as timers and thermostats, and replacement glazing.

To be a relevant energy efficiency improvement it must be wholly financed by:

- Means of funding provided by central Government, a Local Authority or any other person
- The Tenant
- A combination of the above 2 arrangements

As such, a request is only relevant if there is no cost to the Landlord. The Tenant's request must:

- Be in writing (it can be posted)
- Specify the improvements for which consent is being sought

The power to request a relevant energy efficiency improvement is limited to Private Rented Sector Tenants of properties let under:

- An assured periodic tenancy
- A regulated tenancy

The Secretary of State can extend the power to request improvement to other types of Tenants. To date, the power has been extended to specified tenancies granted to agricultural occupiers.

Tenancies let by Registered Providers are excluded.

When can a Landlord refuse an energy efficiency improvement

A Landlord can only refuse consent to a relevant energy efficiency improvement or limited grounds. This includes when the request was made after the:

- Tenant had served a Notice to Quit
- Landlord had served a Notice to end the tenancy, and possession proceedings may be brought

A Landlord can refuse consent if the improvements would result in a reduction of more than 5% in the market value of the property. See Appendix 6 for more information.

The new Decent Homes Standard

Under Phase 3 of the Renters' Rights Act 2025, a new Decent Homes Standard will be introduced for all rented homes in England. The Decent Homes Standard has been designed to ensure all rented homes in England are decent, safe and warm. The Decent Homes Standard will apply to the Private Rented Sector from 2035, except in the case of Minimum Energy Efficiency Standards which will apply from 2030. See Appendix 7 for more information.

Other Regulations

For information on other Regulations and Standards applying in the Private Rented Sector, please see:

- Appendix 8 - Electrical Safety Standard Regulations
- Appendix 11 – The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- Appendix 12 – Statement of Principles to determine the Civil Penalty under The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Renters' Rights Act 2025

The Renters' Rights Act 2025 introduces new enforcement duties and enhanced powers for Local Authorities, focusing on improved housing standards and strengthening Tenant rights. The new tenancy reforms and enforcement responsibilities are aided by new investigatory powers that came into effect on 27 December 2025. See Appendix 2 for more information.

The Act is being introduced in 3 phases:

- Phase 1 of the Act came into force 1 May 2026 and implemented the Landlord Legislation
- Phase 2 of the Act is due to be implemented in late 2026, introducing the mandatory Private Rented Sector Database and Private Rented Sector Ombudsman
- Phase 3 the Act is due to be implemented in 2035, requiring Private Rented Sector housing to comply with the new Decent Homes Standard. Minimum Energy Efficiency requirements are due to be introduced in 2030. See Appendix 7 for more information

Within Phase 1, Section 107 of the Act places a duty on the Council to enforce the Landlord Legislation. The Landlord Legislation comprises:

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

Within the Council, responsibility for ensuring compliance with these statutory duties' rests with the Head of Strategic and Private Sector Housing and the Deputy Chief Executive and Corporate Director for People, Communities and Economy.

Operational responsibility for enforcing the Landlord Legislation is delegated to Council officers within the Private Sector Housing Team who are authorised under the Council's scheme of delegation and to officers of Kent County Council Trading Standards.

Duty to Report

Under Section 110 of the Act the Council is required to report to the Ministry for Housing, Communities and Local Government on the exercise of enforcement functions under a Duty to Report.

Houses in Multiple Occupation

The Council is responsible for ensuring that all Houses in Multiple Occupation comply with necessary Management Regulations and Mandatory Licensing Scheme.

House in Multiple Occupation – Definition

The definition of Houses in Multiple Occupation is given in the Housing Act 2004. Premises classed as Houses in Multiple Occupations are a:

- Building or flat in which 3 or more Tenants make up 2 or more households and share basic amenities such as bathroom, toilet or cooking facilities
- Building that has been converted and does not entirely comprise of self contained flats
- Building that is declared a Houses in Multiple Occupation by the Council
- Converted blocks of flats where the standard of the conversion does not meet the relevant building standards and fewer than two thirds of the flats are owner occupied - this is known as Section 257 Houses in Multiple Occupation

A household is generally taken to mean a single person, cohabiting partners, or people living together who are members of the same family. There are circumstances where people will be regarded as a single family where they are not related, for example where accommodation is provided for a carer, au pair, or nanny etc.

To be classed as a House in Multiple Occupation the property must be used as the Tenants' only or main residence. Properties let to students and migrant workers will be treated as being their only or main residence, as would properties used as domestic refuges and hostels.

Schedule 14 of the Housing Act 2004 exempts certain buildings from the Houses in Multiple Occupation definition.

Mandatory Houses in Multiple Occupation Licensing

The Housing Act 2004 requires mandatory licensing of certain Houses in Multiple Occupation. Mandatory licensing is required where the House in Multiple Occupation is occupied by 5 or more persons living in 2 or more separate households. Children of any age contribute to the number of occupants.

Mandatory licensing includes Houses in Multiple Occupation where 5 or more occupiers form 2 or more households.

The Council charges a fee for new Houses in Multiple Occupation licences and Houses in Multiple Occupation licence renewal. Case law established that Houses in Multiple Occupation licence fees must only cover the actual administrative costs of the licensing scheme, not enforcement costs against unlicensed Landlords in accordance with case law R (on the application of Gaskin) v Richmond upon Thames LBC [2018] EWHC 1996.

Fees must be split into 2 payments:

- Part A (application and processing)
- Part B (administration and enforcement of the scheme)

The level of the Council's fee is set annually. View the fees on the Council's website.

Licensing Offences

Where the Council considers that a property needs to be entered to ascertain whether an offence has been committed, an authorised Officer from the Private Sector Housing Team may enter the property at any reasonable time without giving prior Notice. For example, if the Council receives a report of a property being used as an unlicensed Houses in Multiple Occupation, a visit may be arranged without giving prior notice.

It is an offence to be a person having control of or managing a licensable Houses in Multiple Occupation without a licence.

Such a person may have a defence if they have applied for temporary exemption from the requirement to have a licence. No offence will have been committed once an application for a licence or for a temporary exemption notice has been submitted.

Licence holders or persons in control may have committed an offence if they:

- Knowingly permit another person to occupy and this results in more persons or households occupying than authorised by a license, or
- Breach any condition of a license.

Defences

There is a general defence of 'reasonable excuse'. The Court of Appeal has held that a Landlord could not rely on a defence of reasonable excuse on the basis that it had been told by a Council officer that it did not need to apply for a license until a planning issue was resolved.

Where a House in Multiple Occupation becomes licensed for the first time but there are more people in occupation (and were in occupation previously) than the licence permits, it is a defence to any action that the licence holder is taking reasonable steps to reduce the numbers to comply with the licence.

Where a House in Multiple Occupation that should be licensed is registered under a registration scheme with control provisions when the licensing provisions commence, it will be deemed to be licensed, and the licence will last until such time as the registration would be due for renewal.

The Council will investigate all cases of Houses in Multiple Occupation that are found to be operating without a licence. This is a criminal offence, and if the Council is satisfied that it has enough evidence to provide a realistic prospect of conviction, consideration will be given to the issuing of a financial penalty of up to £40,000, or to prosecution, which could lead to an unlimited fine. The same approach will be taken in instances of Houses in Multiple Occupation being occupied by more persons than a licence allows. See Appendix 3 for more information.

In the case of breaches of Houses in Multiple Occupation licence conditions, the same approach will be taken, and consideration will be given to issuing a financial penalty or to prosecution, which could lead to a fine of up to £5,000 per offence. See Appendix 3 for more information.

In addition to the above actions for licensing related offences, the Council will consider seeking a Rent Repayment Ofer after a person the subject of a successful Civil Penalty or Prosecution. See Appendix 4 for more information.

Refusal of a Licence

A Houses in Multiple Occupation licence will generally run for 5 years, but we may issue a licence for a shorter period in some circumstances. For example, if:

- We have concerns over the management arrangements
- There has been the need for previous intervention by the Council
- There has been a history of noncompliance, or
- Planning permission is needed for the building but has not been obtained, a shorter licence period can be issued.

In more serious cases, or where we consider the applicant is not a 'fit and proper person' to hold a licence the Council may refuse to grant a licence. This will normally only be the case if the Council are of the view that there are serious difficulties with the management of the property, the fitness of the applicant to be involved in its management, or if the applicant is subject to a Banning Order. In such cases alternative licensing and management arrangements will need to be put in place. If arrangements for the satisfactory management of Houses in Multiple Occupation cannot be put in place and there is no prospect of the Houses in Multiple Occupation being licensed within a reasonable time the Council may make an Interim Management Order.

The order can last for up to a year until suitable permanent arrangements can be put in place. If the order expires and the issue has not been resolved the Council can then make a Final Management Order which can last for up to 5 years and can be renewed.

Licence Conditions

Conditions listed on a licence cover the provision of amenities and property management standards and include the number of persons and households that are permitted to occupy a property. Failure to comply with the Conditions of Houses in Multiple Occupation licence without reasonable excuse, will lead to the Council considering formal action. This is a criminal offence, and if the Council is satisfied that it has enough evidence to provide a realistic prospect of conviction, consideration will be given the issuing of a financial penalty, or to prosecution, which could lead to a fine of up to £5,000 per offence. See Appendix 3 for more information.

In addition to the above, the Council will consider seeking a Rent Repayment Order after a person is the subject of a successful Civil Penalty or Prosecution. See Appendix 4 for more information.

The Council will consider the revocation of a licence where a serious breach of a condition of the licence or repeated breaches of such a condition occurs.

The Management of Houses in Multiple Occupation (England) Regulations 2006

The Regulations apply to all Houses in Multiple Occupation, except for section 257 Houses in Multiple Occupation that have their own broadly similar, management regulations, which impose duties on a person managing Houses in Multiple Occupation as per the following

Duties	Requirements
Providing and clearly displaying information to all occupiers	The Manager should provide his or her name, address, and teleph1 contact number to all occupiers
Taking safety measure	Maintain means of escape and ensure that they are free from obstruction. Ensure fire safety measures including fire equipment, alarms and signage are correctly positioned and in good working order (the requirement to display appropriate signage, indicating the location of the means of escape from fire does not apply where the Houses in Multiple Occupation has 4 or fewer occupiers). The Manager must make all reasonable efforts to protect occupiers from injury having regard to design, structural condition, and occupancy numbers, paying particular attention to roof and balcony safety and protection from low sill heights
Maintaining the water supply and drainage	Ensuring supply is in good, clean, and working condition whilst avoiding unreasonable interruption including all tanks, and drainage cisterns, and water fittings (pipes, baths, water closets etc.)

Duties	Requirements
Supplying and maintaining gas and electricity	Having it regularly inspected and not causing it to be unreasonably interrupted. The Manager must supply the Council with the annual Gas Certificate or 5 yearly fixed electrical installation reports within 7 days of such a request being made by the Council and issued by recognized Gas (an engineer approved under Regulation 3 of the Gas Safety (installation and Use) Regulations 1998) and electrical engineers respectively
Maintaining common parts in good repair, safe working condition and kept free from obstruction	This includes handrails and banisters, stair carpeting, window openings and communal area light fittings; the duty extends to outbuildings, gardens, boundary walls and fences in addition to shared communal areas, fixtures, fittings, and appliances
Maintaining living accommodation and any furniture	Ensure the living accommodation and furniture is in a clean condition at the beginning of a person's occupation of it. The Manager's duty does not extend to maintenance of fixtures, fittings or appliances that require repair due to irresponsible Tenant behaviour, or to furniture outside the control of the Manager
Providing suitable and sufficient waste storage facilities	Ensure compliance with the Council's household waste storage and disposal scheme at the Houses in Multiple Occupation pending collection

Where compliance with the Management Regulations has not been achieved, then enforcement will be considered based on the impact of the breaches, thereby providing Tenants and neighbours confidence that the Council are addressing any issues relating to all Houses in Multiple Occupation.

The enforcement options that will be considered by the Council are a financial penalty of up to £40,000 or prosecution, which could result in an unlimited fine. See Appendix 3 for more information.

See Appendix 9 for more information on the Council's Houses in Multiple Occupation Amenity Standards and Houses in Multiple Occupation Fit and Proper Person assessment.

Harassment and Unlawful Eviction

Unlawful eviction and harassment are criminal offences under the Protection from Eviction Act 1977. The offence can be tried in a Magistrates Court or a Crown Court. The maximum penalty in the Magistrates Court is 6 months in prison and or a fine of not more than £5,000. In the Crown Court the maximum Penalty is 2 years in Prison and/or an unlimited fine.

What is Harassment

It is an offence for a Landlord to interfere with the peace or comfort of a Tenant or anyone living with them or to persistently withhold services for which the Tenant has a reasonable need to live in the premises as a home.

Examples of harassment include:

- Threats, abuse or physical violence
- Cutting off services such as water, gas or electricity
- Entering the home without permission
- Unreasonable numbers of messages or phone calls
- Withholding keys
- Throwing away belongings or opening mail

What is Unlawful Eviction

To end a tenancy, a Landlord must follow a formal legal procedure. A Tenant cannot be forcibly evicted without a warrant from court. Even if a Tenant has been served with the correct Notice and the Landlord has a possession order from court, a warrant is required before a possession order can be enforced.

Examples of unlawful eviction include:

- Changing the locks while the Tenant is out
- Removing the Tenant using force or violence
- Blocking access to part of a property which the Tenant has the right to occupy

The Council has powers to investigate and prosecute offenders of illegal evictions. The Council has a duty to enforce the Landlord Legislations introduced under the Renters' Rights Act 2025. The enforcement options that will be considered by the Council are a financial penalty of up to £40,000 or prosecution, which could result in an unlimited fine. See Appendix 3 for more information.

Empty Homes

Long term empty homes (defined as homes which have been empty for 6 months or more) are a waste of a valuable housing resource and can sometimes be a source of nuisance to those who live nearby. The Council aims to return long term empty homes to use to endeavour to meet the growing housing demand.

The Private Sector Housing Team will focus on long term empty homes and will work with the property owner to identify their plans to bring the home back into use. The Council's initial approach will be to offer support, advice, and assistance with regards to selling, renovating, or finding Tenants to make use of the Empty Home.

The Council works in partnership with the Kent "No Use Empty" project which provides advice, guidance and loans. For further information visit www.no-use-empty.org.uk. The Council's Private Sector Housing Grants Policy 2026-2031 provides discretionary Empty Homes Grants of up to £15,000 per property.

Where Owners do not engage and homes remain empty despite the Council's efforts, formal action will be considered to secure that the home is bought back into use.

Empty Dwelling Management Order

Part 4 of the Housing Act 2004 introduced 2 types of Empty Dwelling Management Order, an interim Empty Dwelling Management Order and a final Empty Dwelling Management Order. An interim Empty Dwelling Management Order allows the Council to take steps to secure occupation of an Empty Home. A final Empty Dwelling Management Order is made in succession to an interim Empty Dwelling Management Order for the purpose of securing that a home becomes and remains occupied.

The Council will seek partner arrangements with Registered Providers or Private Sector Managing Agents to facilitate a Leasing Scheme for the management of properties under Empty Dwelling Management Order.

An Empty Dwelling Management Order may be used where:

- An Owner leaves a home empty for at least 2 years and has no intention of bringing it back into use and
- Empty Home is causing a nuisance and blighting the local community and
- The property does not fall within any exempt categories as defined by: Housing (Empty Dwelling Management Orders) (Prescribed Exceptions and Requirements) (England) Order 2006

The Council will consider the rights of the Owner under Article 8 of the Humans Rights Act 1998 as well as the interests of the wider neighbourhood.

Where appropriate, the Council will conduct surveys consulting with residents on the Council's intention to bring the property back into use to gauge support. Responses will be gathered to support the potential application for authorization to the First Tier Tribunal (Property Chamber). The Council will give the Owner at least 3 months' warning before an application for an Interim Empty Dwelling Management Order is made.

The Council will give at least 24 hours' Notice to the Owner of their intention to entry. If entry to the property cannot be made, a warrant to enter the property will be sought. The interim Empty Dwelling Management Order becomes operative when it is made, and a copy of the Order and Notice will be served on every person having an estate or interest in the property concerned within 7 days of the commencement of the Order. Interim Empty Dwelling Management Order's will be registered as a Local Land Charge. Details of how to appeal the Order and the appeal period for doing so will be included.

An Interim Empty Dwelling Management Order will expire after a maximum of 12 months. At this point the Council can make a final Empty Dwelling Management Order to continue to manage the property if it remains unoccupied or is likely to become unoccupied again.

The final Empty Dwelling Management Order process and the making of an Order do not require the consent of an Owner. Once authorised, the Council has the right to possession of the property and can do anything an Owner can do other than dispose of the property.

Under the Housing Act 2004, the Council is under a duty to keep a Public Register of the Interim or Final Empty Property Management Orders.

Compulsory Purchase Orders

Compulsory Purchase Orders can be made under several pieces of legislation for several reasons including the clearance of unfit housing or the acquisition of individual Empty Homes for continued housing use under the provisions of the Housing Act 1985, Development or Regeneration under the Town and Country Planning Act 1990 and for local road schemes under the Highways Act 1980.

Compulsory Purchase Orders will be considered where the Council is able to make a compelling case for a home to be compulsorily purchased to facilitate the renovation and reoccupation of an empty home. The purchase would have to be in the interest of the public and where pre formal attempts to work with the Owner to bring the home into use have been unsuccessful.

The Council will have to show that all other options have been exhausted before a Compulsory Purchase Orders can be granted.

Enforced Sale

Enforced sale allows the Council to sell properties to release money tied up in the value to recover a debt owed to them. In addition, this can serve indirectly as a way of bringing an empty home back into use.

This action entails the service of Section 103 Law of Property Act 1925 Notice on the Owner, the property sold at Auction and the cost of the statutory works, administration and the Land Registry fees recovered from the sale.

This option may be used if a charge has been placed against a property, for example because of Works in Default by the Council, such as boarding up or clearance of rubbish or even for the non-payment of Council Tax. See Appendix 14 for more information.

Mobile Homes

Local Authorities are responsible for safeguarding the interests of Mobile Home Residents living on Residential Mobile Home sites through the Licensing regime under the Caravan Sites and Control of Development Act 1960 as amended by the Mobile Homes Act 2013.

Caravan Sites and Control of Development Act 1960 as amended by the Mobile Homes Act 2013

All site Owners are required to obtain a Site Licence before any land may be used as a Caravan Site (also known as Mobile Home or Park Home Sites). Any licensable Caravan Site will be a "relevant protected site" unless it is specifically exempted by the Act from being so. All necessary planning consents must be obtained prior to use of the land as a Caravan Site. A Site Licence is not required for sites used only for holiday lets, however planning consent may still be required.

The Council has powers to attach Licence Conditions to a Site Licence that are necessary or desirable for the interests of people living on the site or the Public at large, for example the number of units, the size of the units, the positioning of the units, sanitary provisions etc.

In formulating Site Licence Conditions, the Council must have regard to the Model Standards 2008 for Caravan Sites in England: Caravan Sites and Control of Development Act1960, Section 5.

Section 8 of the 1960 Act allows the Council to change Licence Conditions at any time following consultation with the site owner.

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 ("the Regulations) requires the manager of a relevant protected site to be a Fit and Proper Person. See Appendix 10 for more information.

The occupier of a relevant protected site under the Regulations must apply to the Council for the relevant person (themselves or their appointed manager) to be added to the register of fit and proper persons ("the register").

The occupier may only apply to be added to the register if they hold, or have applied for, a Site Licence for the site. This provision applies where the occupier or site manager is a registered company.

Existing occupiers were required to submit a completed application before 1 October 2021. New occupiers will be required to make an application within the relevant period in accordance with the Regulations.

The Council must be satisfied that the site owner "is a Fit and Proper Person to manage the site" or, if the owner does not manage the site, "that a person appointed" to do so by the site owner "is a Fit and Proper Person to do so" or has, with the site owner's consent, "appointed a person to manage the site."

Where a site owner or their manager fails the Fit and Proper Person test, and they are unable to identify and appoint a suitable alternative manager, who must pass the Fit and Proper Person assessment, the Council can instead appoint a person to manage the site, but only with the consent of the site owner.

If the Council must appoint a person to manage a site, with the occupier's consent, the costs incurred by the Council will be recovered from the occupier in accordance with the Regulations. See Appendix 10 for more information on the Council's determination Policy in respect of the Fit and Proper Person test for entry onto the register of fit and proper persons under the Caravan Sites and Control of Development Act 1960 (as amended). The Council maintains a record of Fit and Proper Persons which is available on the website. Inclusion on the Fit and Proper Persons register must be renewed every 5 years.

An annual Site Licence fee is payable in respect of all relevant protected sites. Details of the fee payable can be found on the Council's website.

The Private Sector Housing Team will carry out an annual inspection of all such sites.

Enforcement

Section 9A of the Caravan Sites and Control of Development Act 1960 allows the Council to serve Compliance Notices on the Site Owner, where a Breach of a Site Licence Condition has occurred or where a Site Licence has not been obtained.

Where possible, an informal approach will be taken in the first instance, for example applying for a Site Licence within a given period of time or the site owner to working to an agreed Schedule of Works provided to the site owner in writing.

A Compliance Notice can only be used in relation to Breaches of the Site Licence Conditions and will:

- Set out the Condition which has been breached and the details of the failure
- Detail the steps the Site Owner must take to remedy the Breach of the Site Licence
- Set further Condition(s)
- Specify a timescale for completion
- Include the Right of Appeal against the Notice to the First-tier Tribunal

Failure to comply with a Compliance Notice within the given timescale is an offence which on conviction carries a fine. Where the Site Owner is convicted of an offence the Council may carry out Works in Default. Where the Licence Holder has been convicted on 2 or more previous occasions for failing to comply with a Compliance Notice, the Council may apply to the Court for revocation of the Site Licence.

The Council will take emergency action where the Site Owner has failed or is failing to comply with a Site Licence Condition and where, because of such failure, there is an imminent risk of serious harm to the Health or Safety of any person who is or may be on the land.

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Licensing of Supported Exempt Accommodation

The Supported Housing (Regulatory Oversight) Act 2023 aims to tackle issues around the quality of the accommodation, care and support being provided in supported exempt accommodation.

Supported exempt accommodation is housing where vulnerable adults are supported to live independently and includes the following

- Care leavers
- Survivors of domestic abuse
- People with substance dependencies
- People with mental health illness
- Refugees
- People recently released from prison

Supported accommodation which meets the definition of being Supported Exempt Accommodation are exempt from the usual caps on housing benefit levels, meaning that residents can receive a higher amount of housing benefit than usual. This additional housing benefit usually assists with the costs of providing care and support.

Section 3 of the Act - National Supported Housing Standards will allow the Secretary of State to create National Supported Housing Standards, which will set out minimum standards for supported exempt accommodation. The standards will address the type and condition of accommodation, as well as the care and or support provided. It is not currently known what the standards will specify and there is no set date for these standards to be introduced.

Sections 4 and 5 of the Act provide the Secretary of State with the authority to make regulations requiring individuals with control of or managing supported exempt accommodation to obtain and comply with a licence issued by the relevant local housing authority. Regulations adopted under Section 4 will aim to ensure compliance with National Supported Housing Standards. Section 5 of the Act outlines the scope of issues that licensing regulations may include, such as enforcement, consequences of non-compliance, exemptions, and fees. Existing Local Authority enforcement powers for housing offences, including Banning Orders and Rent Repayment Orders, may be applicable.

The licensing function will be undertaken by the Private Sector Housing Team. The team will receive and process applications, carry out property inspections, issue licences, carry out monitoring during the licensed period, and enforce where required. The function should be cost neutral and therefore it is anticipated that a fee setting exercise will be necessary to ensure that the fees paid by applicants and licence holders fully meet the Council's costs in running the service.

This Policy will be updated when the regulations are published.

Resources and Monitoring

In order to deliver the Private Sector Housing Enforcement Policy, the Council will utilise all available resources across its own services and its external partners. The Policy will be monitored and reviewed on an annual basis or more frequently as changes in legislation occur.

Resources

The key resources required to deliver this Policy include:

- The Private Sector Housing Team
- A close working relationship with Kent Fire and Rescue, Kent Trading Standards, Kent Police, the Council's Development Control, Environmental Protection, Community Safety, Electoral Registration and Finance teams, Councillors and Private Sector Landlords
- A close working relationship with the Council's Legal team. It is imperative and essential that legal action is taken promptly and in accordance with the law in problematic cases
- Funds to resource the team and implement enforcement action were required.
- All Civil Penalties will be used to finance further enforcement of standards in the Private Rented Sector in line with the Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017

Monitoring and Review

The Policy will be monitored and reviewed on an annual basis or more frequently as changes in legislation occur. Minor changes which make no significant difference to service provision will be made to the document under delegated authority by the Head of Strategic and Private Sector Housing in consultation with the Lead Member for Housing and Health. Should the Policy be impacted by significant changes or financial implications, it will be taken to Cabinet for consideration.

Appendix 1 - Charges and Fees for Formal Action

Housing Act 2004

Under Section 49 of the Housing Act 2004, the Council will make a reasonable charge for taking enforcement action in the following circumstances:

- Serving an Improvement Notice under Section 11 or 12
- Making a Prohibition Order under Section 20 or 21
- Taking emergency remedial action under Section 40
- Making an Emergency Prohibition Order under Section 43 or
- Making a Demolition Order under Section 265 of the Housing Act 1985
- Carrying out a review under Section 17 (review of Suspended Improvement Notices) or Section 26 (review of Suspended Prohibition Orders) or
- Serving copies of the Council's decision on such a review.

Where expenses are to be charged, they will be made relating to all stages of enforcement as detailed in Section 49 of the Housing Act 2004 and will be charged at the current hourly Officer rate (with oncosts).

In exceptional circumstances, the Council may exercise its discretion and decide not to charge for the cost of enforcement. An example may be in the case of a Landlord wishing to complete the necessary works at the pre formal stage, but the Tenant requesting that the works be completed after they have moved out, leading to the service of a Suspended Improvement Notice. Such decisions will be made by the Private Sector Housing Manager and Head of Strategic and Private Sector Housing.

Caravan Sites and Control of Development Act 1960

Charges will be made for the serving of a Compliance Notice under Section 9A of the Caravan Sites and Control of Development 1960, relating to all stages of enforcement at the current Officer hourly rate (with oncosts). A demand for expenses which is served in conjunction with a Compliance Notice will be registered as a Local Land Charge, which will be removed once the full amount has been recovered.

Works in Default

Where the Council undertakes Work in Default, or exercises its power to take emergency remedial action, it will seek to recover expenses reasonably incurred in doing so, in line with relevant statutory provisions, from the relevant person ie the full cost of the works carried out and the full cost of the Officer time taken (current Officer hourly rate including oncosts). Expenses will be recovered via a demand for payment of the charge. As from the time that the demand becomes operative, the sum recoverable will be registered as a Local Land Charge on the property concerned until recovered and the debt will be pursued. If interest can be charged while the debt remains unpaid, this will be added to the debt.

Appendix 2 - Powers of entry and Investigatory

Powers

In addition to the Council's informal and formal powers of enforcement, there are investigatory powers relating to the collection of information and relating to the entry of premises. Authorised Officers may exercise the following powers:

Power to Investigate

Section 114 Renters' Rights Act 2025 gives the Council power to issue a Notice to a relevant person to require the person to provide specified information to the Council.

This Notice may be given to any person with an estate or interest in the land; the licensor; their agents; or a marketer of a property. It may be given in regard to any offence under the following Legislation:

- Sections 1 and 1A of the Protection from Eviction Act 1977
- Chapter 1 of Part 1 of the Housing Act 1988
- 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

Failure to comply with a Section 114 Notice is an offence under Section 131 Renters' Rights Act 2025, as is being obstructive and intentionally or recklessly making false or misleading statements in response to a Section 113 Notice.

Section 115 Renters' Rights Act 2025 permits the Council when it reasonably suspects a breach of the Landlord 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 Landlord legislation, or to determine the amount of a penalty.

For the purposes of this section, the Landlord 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

Where an individual has not complied with a Section 115 Notice, Section 116 Renters' Rights Act 2025 enables the Council to make an application to the Court to enforce the provisions of the Notice and seek reimbursement for the costs of the application.
Section 131 Renters' Rights Act provides that, in addition to the offence of noncompliance with a Section 114 Notice, it is an offence for an individual to

obstruct a Council Officer seeking to exercise their powers without reasonable excuse. It is an offence to fail to give an Officer any additional assistance or information which they reasonably require without reasonable excuse.

Section 235 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.

Section 16 Local Government (Miscellaneous Provisions) Act 1976 permits the Council to issue a Notice to an occupier, manager, or individual with an interest in the land to compel them to provide the Council with information on the nature of their interest and the names and addresses of current occupiers and of any others with an interest in the land.

Entry and seizure

In circumstances where access to premises or records is necessary to carry out an investigation, the Council may use statutory powers of entry and, where permitted, seize relevant documents or materials.

The Renters' Rights Act 2025 introduces enhanced investigatory powers enabling authorised Officers to obtain documents, access premises, and secure evidence for enforcement purposes. These powers support the Council in determining whether Landlord legislation has been breached and allow officers to act swiftly where documentation or access is obstructed or at risk of destruction. These are:

- Entry to business premises for documents (without warrant) (Section 18)

Permits Council Officers to enter business premises of relevant people (including Landlords, Letting Agents, and Marketers) if it is necessary for the production or seizure of documents under Section 122 - 123 Renters' Rights Act 2025. This power will be exercised without a warrant.

- Entry to other non-residential premises under warrant (Section 121)

Section 121 Renters' Rights Act 2025 allows a Council Officer named in a warrant to enter premises used for a rental sector business which is not mainly accommodation if there are documents on the premises which the Officer could require under Section 122 or seize under Section 123. In addition, for this power to be exercised, 1 of the following conditions must be met:

- That access to the premises has been or is likely to be refused, and the Council has provided notice of their intention to apply for a warrant to the occupier
- Those documents on the premises would likely be concealed or interfered with if notice of entry were to be given

  - That no occupier is present, and waiting for their return might defeat the purpose of the entry

- Power to require production of documents (Section 122)

Following a Section 118 or Section 121 Renters' Rights Act 2025 entry, Section 122 allows an Officer at any reasonable time to require a relevant person on the premises to produce any documents relating to the business and to take copies of them. This may only be exercised to ascertain whether there has been a breach of the Rented Accommodation Legislation where an Officer reasonably suspects there has been a breach or an offence; or to ascertain whether the documents may be required in evidence for proceedings regarding a breach or offence.

- Power to seize documents (Section 123)

Following a Section 118 or Section 121 Renters' Rights Act 2025 entry, Section 123 authorises Council Officers to seize and detain documents that the officer reasonably suspects may be required as evidence in proceedings relating to a breach of, or an offence under, the Rented Accommodation Legislation. When doing so, the officer will provide evidence of the officer's identity and authority if reasonably practicable. The Officer will take reasonable steps to inform the person from whom documents have been seized that they have been seized and will provide that person with a written record of what has been taken.

- Entry to residential premises as part of an investigation (normally with 24 hours' notice) unless an exception applies (Section 126)

Permits the Council to enter residential premises used for a tenancy at a reasonable time if the officer considers it necessary as part of an investigation into potential offences specified in subsection 1(b). Where required, the Council will give at least 24 hours' notice of this to the occupier and individuals with an interest in the property as per subsection 1(c), detailing in writing why the entry is necessary and the suspected offences. Where there are occupiers found on the premises, the officer will provide evidence of the officer's identity and authority to at least 1 of the occupiers if reasonably practicable.

Additionally, the Council retains long established rights of entry under the Housing Act 2004. These provisions enable officers to undertake housing surveys, inspections and assessments where hazards or management concerns may be present. Where access is refused or advance notice would undermine the investigation, the Act provides for warrants to secure lawful entry:

- Entry for survey or examination with Section 239 Notice permits Council Officers to enter, if necessary and at a reasonable time, a property in order to carry out a survey or examination. This may be done if any 1 of the following is met:

  - To determine if any Part 1-4 enforcement functions should be exercised

- The premises are part of an Improvement Notice or Prohibition Order
- A Management Order is in force under Chapter 1 or 2 of Part 4 on the premises

No Notice is needed if the property is entered for the purpose of ascertaining whether an offence has been committed under Section 72 (relating to licensing of Houses in Multiple Occupation), Section 95 (relating to Selective Licensing), or Section 234 (relating to Houses in Multiple Occupation Management Regulations); or where the person having control or managing the premises has waived the requirement to give notice in relation to qualifying residential premises.

- Warrants authorising entry where access is refused or where giving notice would defeat the purpose (Section 240)
- In certain circumstances, such as where entry under Section 239 is refused or the property is temporarily empty, the Council may obtain a warrant to enter, by force, if necessary, under Section 240 Housing Act 2004

The Police will accompany Officers where that is appropriate. It is an offence to obstruct an Officer in the course of their duty. Officers exercising their power of entry will carry identification which includes the details of their authorisation.

The Council may supplement statutory inspection powers with remote inspection methods where appropriate, although these do not replace statutory inspection requirements.

Remote inspections may be used in appropriate circumstances to supplement statutory powers but will not replace statutory inspection requirements. Any covert surveillance will only be undertaken where lawful and in accordance with the Council's Covert Surveillance and Access to Communications Data Policy and Guidance and approvals.

Appendix 3 - Civil Penalties

Civil penalties under the Renters' Rights Act 2025 and other housing legislation

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 term 'House in Multiple Occupation' 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 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 or will be able to obtain possession under Section 16E of the Housing Act 1988
- Failing to provide a Tenant with prior notice that a ground which requires it may be used under Section 16E of the Housing Act 1988
- Failure to give an existing Tenant prescribed information about changes made by the Renters' Rights Act 2025 in the prescribed form and timeframe under paragraph 7(2) of Schedule 6 to the Renters' Rights Act 2025
- Discrimination relating to children in the 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 Section 16I or Section 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 Section 16I, where within the preceding 5 years the Landlord has either (i) had a relevant penalty (under Section 16I or Section 16K Housing Act 1988) imposed for different conduct and the Final Notice has not been withdrawn, or (ii) been convicted under Section 16J for different conduct under Section 16(J) of the Housing Act 1988
- Relying on a ground knowing the Landlord would not be able to obtain possession or being reckless as to whether they would under section 16J of the Housing Act 1988
- Breach of restrictions relating to reletting (Section 16(E)(2) Housing Act 1988) or remarketing (Section 16(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 Houses in Multiple Occupation licence under Section 72 of the Housing Act 2004
- Knowingly permitting over occupation of a Houses in Multiple Occupation under Section 72 of the Housing Act 2004
- Failure to comply with management regulations in respect of Houses in Multiple Occupation under Section 234 of the Housing Act 2004
- Failure to comply with Houses in Multiple Occupation licence conditions under Section 72 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 know how the Council will generally penalise relevant breaches and offences and are assured that, generally, like cases will be penalised similarly, and different cases penalised differently.

The Council recognises that, despite its best efforts, Landlords may operate unlawfully for a significant period without detection, and that only a proportion of those committing relevant breaches and offences 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 overcrowding. 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 and 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 been 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 letting. Where such Landlords fail to comply with their obligations, this will ordinarily justify a higher Civil Penalty.

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

- Control, own, or manage a significant portfolio of properties
- Have significant experience in the letting or management of property
- Are or have been involved in the letting or management of Houses in Multiple Occupation
- 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 1 or more of the following criteria:

- The Landlord has, at any point in time, controlled, owned, or managed 6 or more properties. These properties need not have been held concurrently or at the time Civil Penalty proceedings are brought

- The Landlord has, at any point in time, controlled, owned, or managed 3 or more properties that operated as Houses in Multiple Occupation, 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 2 properties
- The Landlord has controlled, owned, or managed no more than 1 property that has operated as a Houses in Multiple Occupation, 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 noncompliance.

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 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 months 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 noncompliance. 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 3 full tax years full self-assessment tax returns filed with HMRC, including all additional and supplemental pages
- The last 3 full tax years' SA302 documents and tax year overviews
- The last 3 months' payslips
- The last 3 years P60 certificates
- The last 12 months' Universal Credit payment statements
- A list of all property assets owned or jointly owned (not limited to rental properties), together with corresponding Land Registry title documents
- A list of all property assets owned, or held on a long lease, by any Corporate entity in which the Landlord has a beneficial interest, together with corresponding Land Registry documentation
- The most recent annual mortgage statement for each property, or the last 12 months' mortgage statements where the mortgage has been in place for less than 12 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 were 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 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 Policy.

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

Protection from Eviction Act 1977 offences

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

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

Offence specific mitigating factors
- None

Offence specific aggravating factors
- Violence or threats of violence
- Disposal of possessions or threats to dispose of possessions
- Breach or evasion of an injunction or undertaking
- Loss of home

Housing Act 1988 breaches and offences

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

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

Offence specific mitigating factors
- Provision of some of the required terms and prescribed information within the required period

Offence specific aggravating factors
- None

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

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

Offence specific mitigating factors
- None

Offence specific aggravating factors

- None

Attempting to end a tenancy by service of a Notice to Quit - Section 16E(1)(b) of the Housing Act 1988

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

Offence specific mitigating factors

- None

Offence specific aggravating factors

- Tenant vacates property within four months of the date of vacation or equivalent specified in the Notice to Quit

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

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

Offence specific mitigating factors

- None

Offence specific aggravating factors

- Tenant vacates property within 4 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 4 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 4 months beginning with the date of the contravention, without an order for possession of the dwelling house being made - Section 16E(1)(e) of the Housing Act 1988

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

Offence specific mitigating factors

- None

Offence specific aggravating factors

- None

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

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

Offence specific mitigating factors

- None

Offence specific aggravating factors

- None

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

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

Offence specific mitigating factors

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

Offence specific aggravating factors

- None

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

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

Offence specific mitigating factors

- None

Offence specific aggravating factors

- None

Conduct giving rise to liability under Section 16I, where within the preceding 5 years the person has either (i) had a relevant penalty (under Section 16I or Section 16K Housing Act 1988) imposed for different conduct and the Final Notice has not been withdrawn, or (ii) been convicted under Section 16J for different conduct – Section 16(J)(4) of the Housing Act 1988

Starting point	Statutory maximum Civil Penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Double the starting level for the 2 constituent breaches added together	£40,000	Dependent on the constituent breaches	Dependent on the constituent breaches	Dependent on the constituent breaches

Offence specific mitigating factors

- Dependent on the most recent conduct giving rise to liability to a Civil Penalty under Section 16I of the Housing Act 1988

Offence specific aggravating factors

- Dependent on the most recent conduct giving rise to liability to a Civil Penalty under Section 16I of the Housing Act 1988

Relying on a ground where the person knows that the Landlord would not be able to obtain an order for possession on that ground, or being reckless as to whether the Landlord would be able to do so and the Tenant(s) surrendered the tenancy within the period of 4 months beginning with the date the ground was relied on, without an order for possession of the dwelling-house being made – Section 16J(1) of the Housing Act 1988

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

Offence specific mitigating factors:
- None

Offence specific aggravating factors
- None

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

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

Offence specific mitigating factors
- None

Offence specific aggravating factors
- None

Housing and Planning Act 2016 offences

Breach of a Banning Order - Section 21(1) of the Housing and Planning Act 2016

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

Offence specific mitigating factors
- A single, isolated incident

Offence specific aggravating factors
- Concealment or evasion.

Renters' Rights Act 2025 breaches

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

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

Offence specific mitigating factors
- None

Offence specific aggravating factors
- None

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

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

Offence specific mitigating factors
- None

Offence specific aggravating factors
- None

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

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

Offence specific mitigating factors
- None

Offence specific aggravating factors:
- None

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

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

Offence specific mitigating factors

- None

Offence specific aggravating factors:

- None

The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 breach of duties. Failure to comply with The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 Regulation 3: (3)(b), (3)(d), (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 evidence that the electrical installations were compliant at all points

Offence specific aggravating factors

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

Failure to comply with The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 Regulation 3: (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (3)(ca), (5)(b), (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 evidence that the electrical installations were compliant at all points.

Offence-specific aggravating factors

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

Failure to comply with The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 Regulation 3: (4), (5a), (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 a Houses in Multiple Occupation 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 Houses in Multiple Occupation - 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 House in Multiple Occupation

Offence specific aggravating factors

- The level of over-occupation present

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

The Management of Houses in Multiple Occupation (England) Regulations 2006 impose duties on the persons managing Houses in Multiple Occupation in respect of:

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

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

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

Where there are multiple breaches of a single Management Regulation at a single House in Multiple Occupation, a single Civil Penalty will be imposed which will cover all the breaches of that Management Regulation.

Where multiple Management Regulations have been breached at a single House in Multiple Occupation, a separate Civil Penalty will be imposed for each Management Regulation that has been breached.

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

Offence specific mitigating factors

- The nature and extent of offences within the specific regulation

Offence specific aggravating factors

- The nature and extent of offences within the specific regulation

The Landlord has refused to provide any outstanding contact information more than 48 hours after it has been requested by an occupant or on behalf of an occupant.

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

Offence specific mitigating factors

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

Offence specific aggravating factors

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

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

Offence specific mitigating factors

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

Offence specific aggravating factors

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

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

Offence specific mitigating factors

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

Offence specific aggravating factors

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

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

Offence specific mitigating factors

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

Offence specific aggravating factors

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

Name of Management Regulation	Starting point	Statutory maximum Civil Penalty amount	Landlord Type downward adjustment	No Landlord Type adjustment	Landlord Type upward adjustment
Duty of Manager to maintain living accommodati on	£7,000	£40,000	£5,600	£7,000	£8,400

Offence specific mitigating factors

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

Offence specific aggravating factors

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

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

Offence specific mitigating factors

- The nature and extent of offences within the specific regulation

Offence specific aggravating factors

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

Breach of Houses in Multiple Occupation licence conditions – Section 72(3) Housing Act 2004

All granted Houses in Multiple Occupation licences impose a set of conditions on the licence holder. It is important that the licence holder of a licensed property complies with all 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 2 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 Houses in Multiple Occupation 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
- Recording and provision of information regarding rent payments
- Procedures relating to rent collection
- Provision of information regarding occupancy of the property
- Provision of information regarding change of managers or licence holder details
- Provision of information related to changes in the property
- Requirements relating to the sale of the property
- Attending training courses
- Requirements to hold insurance
- Provision of insurance documentation
- Provision of or obtaining of suitable references
- Provision of keys and alarm codes
- Security provisions for access to the property
- Provision of suitable means for occupiers to regulate temperature

- Carrying out items on a Schedule of Works not otherwise mentioned in the Houses in Multiple Occupation licence conditions section of this Policy, relating to noncompliance 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 Houses in Multiple Occupation 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
- Provision of information regarding alterations and construction works
- Procedures regarding emergency issues
- Waste and waste receptacles, pests, minor repairs, alterations or decoration.
- Giving written notice prior to entry
- Allowing access for inspections
- Minimising risk of water contamination
- 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 Houses in Multiple Occupation licence conditions related to:

- The provision of documentation 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 anti social behaviour
- 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 Houses in Multiple Occupation 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 Houses in Multiple Occupation 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

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 rehearing 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).

Appendix 4 - Rent Repayment Orders

A Rent Repayment Order is an Order made by the First tier Tribunal requiring a Landlord to repay a specified amount of rent.

Rent Repayment Orders cover a wide range of offences, as detailed below:

- Failure to comply with an Improvement Notice - Section 30 of the Housing Act 2004
- Failure to comply with a Prohibition Order – Section 32 of the Housing Act 2004
- Breach of a Banning Order - Section 21 of the Housing and Planning Act 2016
- Using violence to secure entry to a property – Section 6 of the Criminal Law Act 1977
- Illegal Eviction or Harassment of the Occupiers of a property – Section 1 of the Protection from Eviction Act 1977
- Offences in relation to Licensing of Houses in Multiple Occupation - Section 72 of the Housing Act 2004
- Offences in relation to unlicensed Houses in Multiple Occupation - Section 95 of the Housing Act 2004
- Knowingly or recklessly misusing a possession ground - Section 16J of the Housing Act 1988
- Letting or marketing of a property within 12 months of using the 'moving in' or 'selling' ground of eviction - Section 16J of the Housing Act 1988
- Continuous breach of certain tenancy reform requirements - Section 16J of the Housing Act 1988

Rent Repayment Orders require repayment of rent, or Housing Benefit, or of the housing costs element of Universal Credit paid in respect of a tenancy or licence, by a Landlord or Agent who has committed 1 of the offences listed.

The Rent Repayment Orders can be granted to either the Tenant or the Council. If the Tenant paid their rent themselves (or a proportion) then the rent (or equivalent proportion) must be repaid to the Tenant. If the rent (or a proportion) was paid through Housing Benefit or through the housing element of Universal Credit, then the rent (or equivalent proportion) must be repaid to the Council. The maximum amount of rent that can be recovered is capped at 24 months.

A Rent Repayment Order can be applied for by the Tenant, or the Council, when the Landlord has committed an offence, whether a Landlord has been convicted. Where an application for Rent Repayment Order is made and the Landlord has not been convicted of the offence for which the Rent Repayment Order application is being made, the First tier Tribunal will need to be satisfied beyond reasonable doubt that the Landlord has committed the offence.

The Council will consider applying for a Rent Repayment Order after a person is the subject of a successful Prosecution, or Civil Penalty for all of the offences listed above.

In most cases the Council will make an application for a Rent Repayment Order to recover monies paid through Housing Benefit, or through the housing element of Universal Credit and will offer advice and guidance to assist Tenants to apply for a Rent Repayment Order in cases where the Tenant paid the rent themselves.

Appendix 5 - Housing Health and Safety Rating System Hazards and Enforcement Framework

Hazards

The Housing Health and Safety Rating System assesses 29 housing hazards and the effect they may have on the health and safety of current or future occupants.

The 29 hazards are as follows:

1. damp and mould growth
2. excess cold
3. excess heat
4. asbestos and MMF
5. biocides
6. carbon monoxide and fuel combustion products
7. lead
8. radiation
9. un-combusted fuel gas
10. volatile organic compounds
11. crowding and space
12. entry by intruders
13. lighting
14. noise
15. domestic hygiene, pests, and refuse
16. food safety
17. personal hygiene, sanitation, and drainage
18. water supply
19. falls associated with baths
20. falls on level surfaces
21. falls associated with steps and stairs
22. falls between levels
23. electrical hazards
24. fire
25. flames, hot surfaces, and materials
26. collision and entrapment
27. explosions
28. ergonomics
29. structural collapse and falling elements

Enforcement framework

We have a duty to act when Category 1 hazards (Band A, B and C) are found where there is a serious and immediate risk to a person's health and safety. We have a discretionary power to act in respect of a Category 2 hazards (Band D onwards) where the hazard is less serious or urgent.

The types of action available for Category 1 and Category 2 hazards are:

- Improvement Notice requiring remedial works
- Prohibition Order, which prohibits the use of the whole or part of a dwelling, or restricts the number or class of permitted occupants, or restricts its use
- Suspension of either of the above, until a date or time specified
- Hazard Awareness Notice

The following actions can also be taken only where there is a Category 1 hazard:

- Emergency Remedial action
- Emergency Prohibition Order
- Demolition Order
- Declaring a clearance area

The action we take will be the most appropriate course of action in relation to the hazard. Each of the notices and orders are declared on the Local Land Charges register with the exception of a Hazard Awareness Notice, and notices that have not been complied with may affect the sale or value of a property.

Most appropriate course of action

The "Housing, Health and Safety Rating System Enforcement Guidance" is statutory guidance which provides advice on how councils decide on the appropriate enforcement action, as well as how they should use their discretionary powers. In deciding the most appropriate course of action, the guidance states that there should be regard to a number of factors. We must give a formal statement of reasons for the action we intend to take.

For the purposes of assessing the hazard, it is assumed that the dwelling is occupied by the most vulnerable household (irrespective of what household is in occupation or if it is empty). However, for the purposes of deciding the most appropriate course of action, the actual household in occupation is considered.

We have to take account of several factors including:

- Extent, severity, and location of hazard
- Proportionality – cost and practicability of remedial works
- Multiple hazards
- Extent of control an occupier has over works to the dwelling
- Vulnerability of current occupiers
- If there are any social exclusion issues to consider
- Views of the current occupiers.
- History of compliance

In some cases, we are required to consult with other bodies when taking enforcement action, for example where we take action to improve fire safety and consult with the Kent Fire and Rescue.

Category 2 Hazards

In addition to the duty to take action where a Category 1 hazard exists, we will generally exercise discretion to take the most appropriate course of action where a Category 2 hazard exists in the following situations:

- Band D hazards - there will be a general presumption that where a Band D hazard exists, officers will consider action under the Housing Act 2004 unless that would not be the most appropriate course of action (with regard to high scoring Band D and E damp and mould hazards, we will consider action under the Housing Act 2004)
- Multiple hazards - where a number of hazards at Band D or below considered together appear to create a more serious situation, or where a property appears to be in a dilapidated condition, the officer will decide upon the most appropriate course of action to be taken.
- Exceptional circumstances - in exceptional circumstances where the above 2 points are not applicable, the Private Sector Housing Manager may authorise the most appropriate course of action to be taken

Level to which hazards are to be improved

The Housing Act 2004 requires that the works specified reduce a Category 1 hazard (Bands A, B and C) to a Category 2 hazard. We will generally seek to specify works which, whilst not necessarily achieving the ideal, will achieve a significant reduction in the hazard level and in particular will be to a standard that should ensure that no further intervention should be required for a minimum period of 12 months given normal levels of maintenance and repair.

Appendix 6 - Minimum Energy Efficiency Standards and the amount of penalty charge for any breach

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 are designed to improve the least energy efficient properties, ie those with Energy Efficiency Performance Certificates (EPC) rated F or G.

An EPC contains information about the type of heating system and typical energy costs. It also gives recommendations about how energy use could be reduced, lowering running costs. Recommended energy efficiency improvements are included in the EPC. Unless an exemption applies, a domestic Private Rented Sector property must not be let unless it has a minimum EPC rating of E.

The Regulations cover all relevant properties, even where there has been no change of tenancy. An EPC is valid for 10 years and must be provided by the owner of a property, when it is rented or sold. If you are a Landlord and you fail, when requested, to provide an EPC for the start of a tenancy, you will be in breach of the Regulations.

Exclusions and exemptions are detailed in Regulations and the Domestic Private Rented Property Minimum Standard Guidance (or any subsequent Government Guidance), and include:

- Where all 'relevant Energy Efficiency Improvements'* for the property have been made (or there are None that can be made) and the property remains substandard
- Where a recommended measure is not a 'relevant Energy Efficiency Improvement' because the cost of purchasing and installing it cannot be wholly financed at no cost to the Landlord
- The relevant Energy Efficiency Improvement is wall insulation, and it cannot or should not be installed on the property in question, where the Landlord has obtained written expert advice which indicates that the measure is not appropriate for the property due to its potential negative impact
- The relevant Energy Efficiency Improvements require third party consent, eg planning permission and consent has not been given
- The relevant Energy Efficiency Improvements would devalue the market value of the property by more than 5%
- Where the Landlord is exempt due to recently becoming a Landlord.

*Relevant Energy Efficiency Improvements are improvements for which funding is available from third party finance to cover the full cost of purchasing and installing the improvements, for example a Green Deal Plan, Energy Company Obligation, or a central Government Grant.

All exclusions and exemptions must be registered by the Landlord on the National Private Rented Sector Exemptions Register and will last for 5 years.

Landlords of a domestic property for which an EPC is not a legal requirement (for example a property which has Listed Building status) are not bound by the prohibition on letting sub-standard property.

The Council will check for different forms of noncompliance with the Regulations including:

- For any property that is substandard (rated F or G); and does not have a registered exemption
- Where the Landlord has registered any false or misleading information on the Private
- Rented Sector Exemptions Register or has failed to comply with a Compliance Notice

Buildings that are not legally required to have an EPC are not required to provide an entry on the Exemptions Register.

The Council will serve a Compliance Notice requiring information from the Landlord to help them decide whether the Landlord has breached the Regulations, this may be served up to 12 months after the suspected Breach. The information requested can include:

- The EPC that was valid for the time when the property was let
- The current tenancy agreement used for letting the property
- Information on energy efficiency improvements made
- Any Energy Advice Report in relation to the property
- Any other relevant document that the enforcement authority requires to carry out its compliance and enforcement functions.

The Regulations make it unlawful to fail to comply with a Compliance Notice served by the Council.

The Council will investigate any potential breaches of the regulations. If the Council is satisfied that you are or have, at any time in the 18 months preceding the date of service of the Penalty Notice, breached the Regulations, you may be subject to a Penalty Notice imposing a financial penalty. The Council may also impose a publication penalty.

The “Publication Penalty” means publication, for a minimum period of 12 months, or such longer period as the Council may decide, on the Private Rented Sector Exemptions Register of such of the following information in relation to a Penalty Notice as the Council decides:

- Where the Landlord is not an individual, the Landlord’s name
- Details of the breach of these Regulations in respect of which the Penalty Notice has been issued
- The address of the property in relation to which the breach has occurred, and
- The amount of any financial penalty imposed.

The Council will impose the following financial penalties:

(a) Letting a property with an F or G rating for less than 3 months - £2,000
(b) Letting a property with an F or G rating for more than 3 months - £4,000
(c) Registering false or misleading information on the Private Rented Sector exemptions register - £1,000
(d) Failing to provide information to the Council demanded by a Compliance Notice - £2,000

The Council may not impose a financial penalty under both subsections (a) and (b) above in relation to the same breach of the Regulations. But they may impose a financial penalty under either paragraph (a) or paragraph (b), together with financial penalties under paragraphs (c) and (d), in relation to the same breach. Where penalties are imposed under more than 1 of these paragraphs, the total amount of the financial penalty may not be more than £5,000. The financial penalty amounts will be applied per property and per infringement, up to a maximum of £5,000.

Right of Appeal

A Landlord has the right to ask the Council to review its decision to serve a Penalty Notice. This request must be in writing, and the Council will consider everything detailed in the request in deciding whether to withdraw the Penalty Notice. Details of the right to make a request and the associated timescales will be included with the Notice.

A Landlord has 28 days to submit an appeal in respect of a Penalty Notice to the General Regulatory Chamber (GRC) of the First tier Tribunal. A Landlord may appeal if a request to review the Council's decision results in the Penalty Notice being upheld.

Appendix 7- Renters’ Rights Act 2025 Phase 3 - the new Decent Homes Standard

The new Decent Homes Standard has been designed to ensure that all rented homes in England are decent, safe and warm. The Decent Homes Standard will apply to the Private Rented Sector from 2035, except in the case of Minimum Energy Efficiency Standards which will apply from 2030. Landlords have to continue to meet their existing legal obligations to keep their properties in repair and fit for habitation. The Council will enforce housing standards under Part 1 of the Housing Act 2004 and the fitness standard under the Homes (Fitness for Human Habitation) Act 2018.

Meeting the new Decent Homes Standard

To meet the Decent Homes Standard a home must meet the following 5 criteria:

- Criterion A – A home must be free of the most dangerous hazards

  To meet this criterion, homes must be free of health and safety hazards at the most dangerous ‘category 1’ level, assessed using the Housing Health and Safety Rating System

- Criterion B – A home must be in a reasonable state of repair

To meet this criterion, homes must be in a reasonable state of repair. Homes will fail this criterion if:

- 1 or more key building components are not in a reasonable state of repair, or
- 2 or more other building components are not in a reasonable state of repair

Building components are the structural parts of a home (e.g. roof structure, wall structure), and other external elements (e.g. roof covering, chimneys) and internal services and amenities (e.g. kitchens, heating systems).

Key building components such as wall structures, roofs, external doors and windows and heating systems are those which, if in poor condition, could have an immediate impact on the integrity of the home and cause further negative outcomes for Tenants such as damp and mould.

If any of these ‘key’ components need replacing or require immediate major repair, then the dwelling is not in a reasonable state of repair and action may be taken by the Council

Other building components such as rainwater goods are those that have a less immediate impact on the integrity of the home. Their combined effect is therefore considered, with a home judged not to be in a reasonable state of repair if 2 or more components need replacing or require immediate major repair.

- Criterion C – A home must provide core facilities and services

Core facilities

There are a set of facilities and services that are core to what makes a home decent.

To meet this criterion, flats must provide at least 3 of the following core facilities:

- A kitchen with adequate space and layout
- An appropriately located bathroom and WC
- Adequate external noise insulation
- Adequate size and layout of common entrance areas for blocks of flats

To meet this criterion, houses must provide at least 2 of the following core facilities:

- A kitchen with adequate space and layout
- An appropriately located bathroom and WC
- Adequate external noise insulation

More specifically, in line with the English Housing Survey definitions, this means:

- A kitchen failing on adequate space and layout would be one that is too small to contain all the required items (sink, cupboards, cooker space, worktops, etc.) appropriate to the size of the dwelling. The kitchen is not required to be a separate room, as long as it has adequate space and layout to function.
- An inappropriately located bathroom and WC is one where the main bathroom or WC is located in a bedroom or accessed through a bedroom (unless the bedroom is not used or the dwelling is for a single person or "household"). A dwelling would also fail if the main WC were external or located on a different floor to the nearest wash hand basin, or if a WC without a wash hand basin opens on to a kitchen in an inappropriate area, for example next to the food preparation area
- Inadequate insulation from external airborne noise would be where there are problems with, for example, traffic (rail, road and aeroplanes) or factory noise. Landlords should ensure reasonable insulation from these problems through installation of appropriate acoustic glazing in line with the current Building Regulations. This requirement does not cover insulation to address noise from internal sources, such as insulation between flats. This will only apply to homes that require noise insulation due to their immediate environment
- Inadequate size and layout of common entrance areas for blocks of flats would mean insufficient room to manoeuvre easily, for example where there are narrow access ways with awkward corners and turnings, steep staircases, inadequate landings, absence of handrails, low headroom, etc.

Kitchens and bathrooms must be kept in good repair. They are now considered 'key' components under Criterion B of the new Decent Homes Standard. This means that if the kitchen and or bathrooms are in disrepair, the property would fail the new Decent Homes Standard.

Homes must be equipped with child resistant window restrictors, which can be overridden by an adult, on all windows which present a fall risk for children which means those windows meeting all of the below criteria:

- Where the change in floor level between the inside and outside is more than 600mm
- The window can be opened over 100mm
- The guard height is less than 1100mm above internal floor level
- It does not have a functioning window restrictor in place

- Criterion D – A home must provide thermal comfort

Homes must provide a reasonable degree of thermal comfort, ensuring residents can maintain adequate warmth in a cost effective and energy efficient way.

There are 2 main strands to Criterion D:

- Minimum requirements that the primary heating system must meet
- Minimum Energy Efficiency Standard (MEES), that guarantees a minimum level of energy performance for properties in both the social and Private Rented Sectors

Requirements for a primary heating system

Landlords are expected to ensure that the primary heating system heats the whole home, and the heating system must be programmable by Tenants.

Requirements for Minimum Energy Efficiency Standards

Privately rented homes must meet a minimum standard of energy efficiency.

To comply with MEES in the Private Rented Sector, Landlords must ensure all new and existing Private Rented Sector properties must be at an EPC C or equivalent by 1 October 2030, or for a valid exemption to have been registered. Landlords must invest up to £10,000 per property (cost cap) to meet the standard including third party funding (except Boiler Upgrade Scheme). If the property still falls short after reaching the £10,000 cost cap, Landlords can register a 10 year exemption via the Private Rented Sector MEES Exemptions Register. This exemption covers any improvement costs incurred from now until October 2030 and allows the property to continue being let until the exemption expires. Other exemptions will remain available for cases where improvements cannot be installed; these allow continued letting until expiry. Once the exemption expires, the Landlord must again try to make improvements to the property to bring it up to standard.
Homes with a valid EPC certificate on current Energy Efficiency Rating C or higher before 1 October 2029 are considered compliant with Private Rented Sector MEES

until their EPC expires from issue date. This provision will mean that Landlords of properties which already have an EER of Band C or better will have longer to meet the new standards, potentially to 2039 given the 10 year validity period of EPCs.

- Criterion E – A home should be free of damp and mould

Criterion E will ensure that Landlords who meet the new criterion will not just be remedying damp and mould problems, but ensuring issues are addressed before they become more serious. Landlords should address damp and mould when it is reported to them by their Tenants as well as taking a proactive approach to prevention.

To do this, they should follow government guidance, which sets out actions that can be taken to address and reduce the risk of damp and mould in their properties. The Council will take this into account when assessing if a Private Rented Sector property meets the Decent Homes Standard.

This new criterion is in addition to Awaab's Law. By meeting Criterion E, Landlords can prevent issues from escalating to the stage where action is required under

Awaab's Law

The Government is committed to extending Awaab's Law to the Private Rented Sector as allowed for under the Renters' Rights Act 2025 and a future Government consultation is expected on this matter.

This section of the Policy will be updated when further Government guidance is published.

Appendix 8 - Electrical Safety Standard Regulations

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 require Landlords of privately rented accommodation to:

- Ensure national standards for electrical safety are met. These are set out in the appropriate 'wiring regulations', which are published as British Standard 7671
- Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test
- Supply a copy of this report to the existing Tenant within 28 days of the inspection and test
- Supply a copy of this report to a new Tenant before they occupy the premises
- Supply a copy of this report to any prospective Tenant within 28 days of receiving a request for the report
- Supply the Council with a copy of this report within 7 days of receiving a written request for a copy
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test
- Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report
- Supply written confirmation of the completion, of further investigative or remedial works from the electrician to the Tenant and the Council within 28 days of completion of the works

Landlords must obtain a report giving the results of the test and setting a date for the next inspection. Landlords must comply within 7 days with a written request from the Council for a copy of the report and must supply the Council with confirmation of any remedial or further investigative works required by a report.

The Council may wish to request reports following inspections of properties to ascertain the condition of the electrical installation and confirm the Landlord is complying with the Regulations. Inspectors will use the following classification codes to indicate where a Landlord must undertake remedial work.

More information can be found in the relevant edition of the Wiring Regulations:

- Code 1 (C1) - Danger present. Risk of injury.
- Code 2 (C2) - Potentially dangerous.
- Further Investigation (FI) - Further investigation required without delay.
- Code 3 (C3) - Improvement recommended. Further remedial work is not required for the report to be deemed satisfactory.

If the report contains a code C1, C2 or F1, then the Landlord must ensure that further investigative or remedial work is carried out by a qualified person within 28 days, or less if specified in the report.

The C3 classification code does not indicate remedial work is required, only that improvement is recommended.

A Remedial Notice must be served where the Council is satisfied on the balance of probabilities that a Landlord has not complied with 1 or more of their duties under the Regulations. The Notice must be served within 21 days of the decision that the Landlord has not complied with their duties.

If the Council has reasonable grounds to believe a Landlord is in breach of 1 or more of the duties in the Regulations and the report indicates urgent remedial action is required, it may, with the consent of the Tenant or Tenants, arrange for a qualified person to take the urgent remedial action and recover their costs.

Otherwise, a Remedial Notice will be served requiring the Landlord to take remedial action within 28 days. Should a Landlord not comply with the Notice, the Council may, with the Tenant's consent, arrange for any remedial action to be taken themselves.

Landlords have the rights to make written representation and appeal against remedial action. The Council can recover the costs of taking the action from the Landlord.

Under Regulation 11 where the Council is satisfied, beyond a reasonable doubt, that a Private Rented Sector Landlord has breached a duty under Regulation 3, the Council may impose a financial penalty (or more than 1 penalty in the event of a continuing failure) in respect of the breach.

Regulation 3 states that:

(1) A Private Rented Sector Landlord who grants or intends to grant a specified tenancy must:

  a. Ensure that the electrical safety standards are met during any period when the residential premises are occupied under a specified tenancy
  b. Ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; and
  c. Ensure the first inspection and testing is carried out:
     i. before the tenancy commences in relation to a new specified tenancy; or
     ii. by 1 April 2021 in relation to an existing specified tenancy

(2) For the purposes of sub paragraph (1)(b) "at regular intervals" means:

  a. At intervals of no more than 5 years; or
  b. Where the most recent report under sub paragraph (3)(a) requires such inspection and testing to be at intervals of less than 5 years, at the intervals specified in that report.

(3) Following the inspection and testing required under sub paragraphs (1)(b) and (c) a Private Rented Sector Landlord must:

a. Obtain a report from the person conducting that inspection and test, which gives the results of the inspection and test and the date of the next inspection and test
b. Supply a copy of that report to each existing Tenant of the residential premises within 28 days of the inspection and test
c. Supply a copy of that report to the Council within 7 days of receiving a request in writing for it from that authority
d. Retain a copy of that report until the next inspection and test is due and supply a copy to the person carrying out the next inspection and test; and
e. Supply a copy of the most recent report to:
    i. any new Tenant of the specified tenancy to which the report relates before that Tenant occupies those premises; and
    ii. any prospective Tenant within 28 days of receiving a request in writing for it from that prospective Tenant

(4) Where a report under subparagraph (3)(a) indicates that a Private Rented Sector Landlord is or is potentially in breach of the duty under subparagraph (1)(a) and the report requires the Private Rented Sector Landlord to undertake further investigative or remedial work, the Private Rented Sector Landlord must ensure that further investigative or remedial work is carried out by a qualified person within:

a. 28 days; or
b. The period specified in the report if less than 28 days, starting with the date of the inspection and testing

(5) Where paragraph (4) applies, a Private Rented Sector Landlord must:

a. Obtain written confirmation from a qualified person that further investigative or remedial work has been carried out and that:
    i. The electrical safety standards are met; or
    ii. Further investigative or remedial work is required.
b. Supply that written confirmation, together with a copy of the report under subparagraph (3)(a) which required the further investigative or remedial work to each existing Tenant of the residential premises within 28 days of completion of the further investigative or remedial work: and
c. Supply that written confirmation, together with a copy of the report under subparagraph (3)(a) which required further investigative or remedial work to the Council within 28 days of completion of the further investigative or remedial work

(6) Where further investigative work is carried out in accordance with paragraph (4) and the outcome of that further investigative work is that further investigative or remedial work is required, the Private Rented Sector Landlord must repeat the steps in paragraphs (4) and (5) in respect of that further investigative or remedial

work.

(7) For the purposes of sub paragraph (3)(e)(ii) a person is a prospective Tenant in relation to residential premises if that person:

a. Requests any information about the premises from the prospective Landlord for the purpose of deciding whether to rent those premises
b. Makes a request to view the premises for the purpose of deciding whether to rent those premises; or
c. Makes an offer, whether oral or written, to rent those premises

A financial penalty may be of such amount as the authority imposing it determines but must not exceed £40,000.

In determining the Civil Penalty amount, the Council will have regard to the statutory guidance issued under Schedule 9 of the Housing and Planning Act 2016 and to the developed Civil Penalty Matrix (see Appendix 3).

The approach to issuing a Civil Penalty is fundamentally made up of 2 stages, firstly determining the appropriate sanction and secondly (if appropriate) the level of Civil Penalty charged.

When determining the appropriate sanction, the Council should satisfy itself that if the case were to be prosecuted there would be a ‘realistic prospect of a conviction’. This is currently determined by consulting the Crown Prosecution Service “Code for Crown Prosecutors” which provides 2 tests: (i) the evidential test and (ii) the public interest test.

The Council currently consults this code when determining whether to seek prosecution for offences committed and will continue to do so on a case by case basis in line with this Policy.

Only 1 penalty can be imposed in respect of the same offence.

Appendix 9 - Houses in Multiple Occupation - Amenity Standards and Fit and Proper Person Assessment

Houses in Multiple Occupation Amenity Standards

Properties are required to meet basic standards. Please see our Guidance to HMO amenity standards leaflet.

Houses in Multiple Occupation Fit and Proper Person assessment

The application form for a new Houses in Multiple Occupation licence or renewal of a Houses in Multiple Occupation licence requires information to be provided for the Council to determine whether the Fit and Proper Person assessment is met.

Appendix 10 - Mobile Home Site Manager – Fit and Proper Person Determination

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, require the manager of a site to be a Fit and Proper Person ("the Regulations"). The Council is accordingly required to introduce a Fit and Proper Person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations.

The Regulations, made on 23 September 2020, allow Local Authorities to receive applications from site owners, or the person appointed to manage the site, from 1 July 2021 up to and including 30 September 2021.

The Council must be satisfied that the site owner "is a Fit and Proper Person to manage the site" or, if the owner does not manage the site, "that a person appointed" to do so by the site owner "is a Fit and Proper Person to do so" or has, with the site owner's consent, "appointed a person to manage the site."

Where a site owner or their manager fails the Fit and Proper Person test, and they are unable to identify and appoint a suitable alternative manager (who must pass the Fit and Proper Person assessment) the Council can appoint a person to manage the site, but only with the consent of the site owner.

Principally, the Fit and Proper Person test applies to relevant protected sites. A relevant protected site is a site which requires a licence, which is not solely for holiday purposes, or is otherwise not capable of being used all year round. The Fit and Proper Person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of people occupying mobile homes on the site.

The Evidence

When conducting the Fit and Proper Person assessment, the Council must consider the following points relevant to the application

1 Is the individual able to conduct effective management of the site

This includes, but is not limited to, securing compliance with the site licence and the long term maintenance of the site. The Council must have regard to:

i. Whether the person has a sufficient level of competence to manage the site, ie it is a noncommercial, family occupied site under Regulation
ii. The management structure and funding arrangements for the site, or the proposed management structure and funding arrangements

Competence in managing the site

This includes reviewing the competency of the appointed individual. The individual must have sufficient experience in site management, or have received sufficient training, and be fully aware of the relevant law as well as health and safety requirements.

The management structure and funding arrangements for the site

The Council must consider whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. The applicant is expected to have a robust management plan, which should address following

- Pitch fee payment
- Proximity of the manager to the site
- Manager's contact details for residents (including out of office and emergency contact details)
- The complaints procedure
- Maintenance, refuse and recycling removal
- Staffing

It is advisable that the site is managed by an applicant based in the UK and that a management structure would be unlikely to be considered suitable if the applicant is an individual, or a company (including its Directors), which does not reside or have a permanent UK address. This is because there may complex issues because of this, such as needing the Court's permission to serve a claim in a foreign country.

The applicant's interest in the land will have an important impact, as would their financial standing, management structures and competence, all of which could contribute to the overall assessment of their suitability to manage to effectively manage the site.

Personal information relating to the applicant concerned

This would include a criminal record check and should include evidence that the applicant:

- Has not committed any offence involving fraud or other dish1sty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (Offences attracting notification requirements)
- Has not contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning, or environmental health or of Landlord and Tenant law
- Has not contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business
- Has not harassed any person in, or in connection with, the carrying on of any business

- Is not or has not been within the past 10 years, personally insolvent
- Is not or has not been within the past 10 years, disqualified from acting as a Company Director
- Has the right to work in the UK
- Is a member of any Redress Scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place)

The Council has a duty to investigate any conduct which could amount to harassment and any evidence obtained will be reviewed to determine whether it is sufficient to be used to prosecute a site owner. Local Authorities may rely on convictions by the Courts as evidence of harassing behaviour.

The Council may have records of previous harassment complaints made against a site owner, or their manager, and even if no action was taken on these complaints, they will still be taken into consideration in the Fit and Proper Person determination. These complaints may identify further potential risks and can provide an indication of potential underlying problems with the management of the site, or the site owner's lack of experience and skills in dealing with customers.

The Council may address any underlying issues by attaching conditions to the individual's entry on the register.

1 Rejection of an application by other local authorities

Upon rejection of a person's application by any other Local Authority this should be centrally recorded and include the details of the person involved and the reasons for the rejection.

2 Other Considerations

1. The "applicant" is defined at paragraph 2 of the Regulations as "the person who makes an application under Regulation 6".

2. The "relevant person" is defined at paragraph 2 of the Regulations to mean "the subject of the Fit and Proper Person assessment under Regulation 7".

3. The conduct of any person associated or formerly associated with the relevant person (whether on a personal, work, or other basis) is an important factor to be considered in the Fit and Proper Person assessment.

4. Site owners may be required to provide details of any current or former associates of the relevant person in the application form. Those associates will not include other current joint owners as that information would have already been required in their own application forms.

5. It is not routinely required to provide information of all current or past associates of the site owner. However, prior to making any final decisions, the Council will consider the conduct of past and current associates relevant to that individual's

application. The site owner can be asked to provide additional information during the application process.

6. The Council is required to establish whether an individual is an associate of the relevant person and then whether their conduct is relevant to the application. A relevant associate could be defined as any individual who may have played a part, directly or indirectly, in a decision or action, which has had an impact on residents' rights, or the quiet enjoyment of their homes.

7. The Regulations are drafted widely giving the opportunity for local authorities to take into consideration other relevant matters. The Council is mindful that poor management practices do not necessarily affect a person's conduct unless they are a breach of criminal or civil law. A person cannot be deemed unfit due to conduct, simply because of poor management, although this is highly relevant to determining any question of suitability or competence. All conduct is relevant in relation to the person's fitness to hold a licence and or manage the mobile home site.

8. The Council can decide the specific matters they deem relevant to the Fit and Proper Person application. These matters could be in relation to current or previous issues, or events, that have occurred in relation to the mobile home site, or any other mobile home site owned or managed by the site owner, or site manager, in another Local Authority area. Additionally, the site owner's conduct regarding other business, outside of the mobile homes sector, can have implications on the financial and management arrangements of the site in question. Any matters which the Council believe to be of relevance to the application should primarily focus on the relevant person's conduct, competence, and their suitability to manage the site.

9. The Council aim to obtain evidence to support any additional matters that they require to be taken into consideration for each application. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions. It is not anticipated that allegations which have not been investigated or documented will be used as evidence to support a decision.

Applications

The Regulations use various terms in the application process, and these are outlined below.

"Relevant Person" is defined in paragraph 2 of the Regulations and is "the subject of the Fit and Proper Person assessment under Regulation 7". Please note that this could be the site owner or person appointed to manage the site by the site owner.

"Relevant Officer" is defined in paragraph 1 of Schedule 2 of the Regulations, where the applicant is a company, a relevant officer will be a Director or other officer of the Company; or, where the applicant is a partnership, a partner; or, where the applicant is a body corporate, a member of the management committee of that body.

“Required Information” is defined in paragraph 14 of Schedule 2 of the Regulations (NB The Regulations incorrectly state that this information is contained in paragraph 13) as:

- The person’s name and business contact details
- Details of the person’s role or proposed role in relation to the management of the site; where the person has not yet been appointed, the address, teleph1 number and email address (if any) at which the person may be contacted in respect of the application
- Details of each relevant protected site (other than that to which the registration application relates) for which the person holds a licence issued under Section 3 of the Caravan Sites and Control of Development Act 1960, or in which the person has a legal estate or equitable interest, or which the person manages.

The application for inclusion in the Fit and Proper Person Register must therefore include the following:

Details of the site and the applicant

Information provided must include:

The applicant’s name and business contact details.

- Where the applicant is not an individual, the following information in relation to the individual completing the application on behalf of the applicant and each relevant officer:
    - Person’s name
    - Details of the person’s role (if any) in relation to the management of the site
    - The name and address of the site
    - Evidence of the applicant’s legal estate or equitable interest in the site
    - Confirmation that the applicant is the occupier within the meaning of Section 1 of the Caravan Sites and Control of Development Act 1960
    - The name and business contact details of any other person that has a legal estate or equitable interest in the site

The name and address of each other relevant protected sites

Information provided must include the name(s) and address(es) of any other relevant protected site(s):

- For which the applicant holds a licence issued under Section 3 of the Caravan Sites and Control of Development Act 1960
- In which the applicant has a legal estate or equitable interest; or
- That the applicant manages

The applicant must clearly specify whether their application is made in respect of either the applicant, or site owner, or the person that the applicant or site owner has appointed to manage the site.

Information relating to the site manager

In circumstances where a site manager has been appointed to manage a site, more information is needed. The person who is applying for the site manager to be registered as a Fit and Proper Person (the relevant person) must provide the following information: the site manager's name and details of that person's role (if any) in relation to the management of the site.

If the site manager has appointed or intends to appoint a further individual ("A"), Required Information would be needed from A. Where A is not a relevant officer of the site manager, the relevant officer to whom A is accountable. for the day to day management of the site, should be the 1 to provide the Required Information.

Additional information when the applicant is the relevant person and an individual

When the applicant is the relevant person, and is an individual, and the applicant has appointed, or intends to appoint, someone else ("B") to be responsible for the day-to-day management of the site, Required Information would be needed from B. If B is not an individual but is, instead, for example, a Company, and B has appointed an individual ("C") to do the day-to-day management, Required Information would be needed from C. Where C is not a Relevant Officer of a Company, the Relevant Officer to whom C is accountable for the day-to-day management of the site would need to provide the Required Information.

Additional information where the applicant is the relevant person and not an individual

When the applicant is the relevant person but is not an individual and the applicant has appointed or intends to appoint someone else ("B") to be responsible for the day-to-day management of the site, required information would be needed from this person. If B is not a Relevant officer of the applicant, the person to whom B is accountable for the day-to-day management of the site ("C") would need to provide the Required Information. Where B itself is not an individual, the individual ("D") that B has appointed or intends to appoint to be responsible for the day-to-day management of the site would need to provide the Required Information. Where D is not a Relevant officer of B, the relevant Officer to whom D is accountable for the day-to-day management of the site would need to provide the Required Information.

It can be seen from the above that the Regulations prohibit the operation of a relevant protected site unless the site owner or its site manager (whatever the management structure might be) has been assessed by the Council as a Fit and Proper Person to do so. This shas been included to ensure that consistent standards are applied to companies and other organizations that are not individuals.

Criminal Record Certificate/s

Criminal Records Certificates must be issued under Section 113A (1) of the Police Act 1997 and will be required where: (a) the Relevant Person is an individual and (b) for everyone in relation to whom the applicant is required to provide information for example, a site manager or individuals A, B, C or D as outlined above.

The Council has the discretion to require the criminal record check to be either basic or enhanced.

The certificate must have been issued no more than 6 months before the date of the application. It is incumbent upon the site owner to ensure that any certificates provided meet this requirement.

Declaration

A declaration made and signed by the "appropriate person", which means where the applicant is:

a. Company, a Director or other officer of the Company
b. Partnership, one of the partners
c. Body Corporate and the conduct of the management of the body is vested in its members, a member
d. Not a body falling within (a) to (c) above, a member of the Management Committee
e. An individual, that individual

Where the applicant is not the relevant person, the declaration must confirm that the applicant has made all reasonable enquiries into the matters mentioned in paragraph 9 of the Regulations and considerations relevant to the Fit and Proper Person assessment as set out below.

The declaration should state that the information provided in the application is correct and complete to the best of the applicant's knowledge and belief.

Considerations relevant to Fit and Proper Person Assessment

Proper management of the site includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site.

To be able to secure the proper management of the site, the Council must (amongst other things) have regard to whether the relevant person has a sufficient level of competence to manage the site and the management structure, or proposed management structure and funding arrangements for the site in question.

Decisions, Notifications and Rights of Appeal

The Council must decide on the application in a timely and practicable manner.

Where the decision is to grant the application unconditionally and include the relevant person on the register for 5 years, the Council will serve a Final Decision Notice on the applicant. Where this is not the case, the Council will serve a Preliminary Decision Notice on the applicant.

On receipt of an application the Council may

- grant the application unconditionally
- grant the application subject to conditions; or
- reject the application

Grant the Application Unconditionally

Where the Council is satisfied that the applicant meets the Fit and Proper Person test unconditionally, the applicant will be included on the register for a maximum 5 years. The Council will issue a Final Decision Notice to the applicant to inform them of its decision. The Final Decision Notice will clearly state:

a. The date the Final Decision Notice is served
b. The final decision
c. The reason(s) for the decision
d. When the decision is to take effect
e. Information about:
    i. the right of appeal to the First Tier Tribunal; and
    ii. the period within which an appeal may be made

To Include the Application on the Register Subject to Certain Conditions

In some circumstances, the Council can specify that the individual for the Fit and Proper Person test will only be successful if certain conditions are met. If these conditions are satisfied, an application can be granted subject to those condition(s). An entry on the register can be granted for less than 5 years.

The Council may decide to include the person on a register subject to condition(s), if it would only be satisfied that the person would meet the fit and proper requirement if the condition(s) were complied with. An applicant will be able to appeal against the decision to attach (or vary) any condition to an entry on the register. It is therefore imperative for the Council to have clear and justifiable reasons for attaching any condition(s) and that any conditions imposed can be enforced.

Conditions will need to be clearly stated for the applicant's understanding and this will allow the Council to ensure that the condition(s) are enforceable.

An example of the requirements is included in the table below:

Specific	The specific condition(s) a site owner is being requested to address
Measurable	The condition(s) required, and the outcome(s) expected
Achievable	The applicant should be reasonably expected to be able to achieve the condition. For example, it may not be reasonable to expect a site owner of 1 small site to have the same resources to introduce the same procedures as a medium sized company.
Realistic	The applicant should have a clear understanding of how the required outcome can be reached and that there are no circumstances or factors which would make the achievement of the outcome impossible or unlikely.
Timebound	A clear timescale in which the task/action must be completed.

Matters to Which Conditions Can Relate

The Fit and Proper Person test is aimed at ensuring that the person managing the site is competent and the conditions should relate directly to the person's ability to secure the proper management of the site.

Where a person has contravened legislation, or committed offences set out above, it is not recommended that conditions are set in relation to those matters. This is because such a condition would be unlikely to meet the tests set out above; for example, if a person has committed fraud or violence, that specific incident cannot be reversed by requiring the person to perform a specific task.

In cases where the person has committed those listed offences or contravened legislation, the Council will consider these breaches, together with all the other information available, to reach a preliminary decision.

Conditions can relate to any factors which are relevant to the persons competence to manage the site, the management structure, or funding arrangements for the site, an associated person's influence, or any other relevant factor.

Example 1 – The Council has evidence of a site owner's failure over a certain period to address resident's complaints. This is an example of poor management which could be resolved by the site owner implementing an adequate complaints procedure. A condition could be attached requiring the site owner to:

“Implement an effective and accessible 3 stage complaints process for residents by agreed date and provide the Council with quarterly reports of complaints and outcomes, from that date and for the first year”.

If the condition is met within the specified time frame, the Council can record this in the register. If, at a future date, it is found that the site owner failed to implement a complaints procedure, a further opportunity to comply may be given and this could include a new condition of the site owner providing quarterly reports of complaints and outcomes for each year.

The site owner could be expected to complete a relevant “CPD Customer Service - Dealing with complaints” course by a certain period. However, should the Council consider the actions as unlikely to achieve the desire outcome, the site owner could be removed from the register.

Example 2 – If, when considering an application, certain documents or information are unavailable to the applicant, because of delays from third parties, the Council may wish to attach a condition to the entry on the register that the site owner “is to provide the Council by registered post, with the original xx document by xx date”.

Example 3 - An associated person has been visiting the mobile home site and, through their action ‘X’, has caused distress to the residents impacting their wellbeing and security. A condition could be attached to the register requiring the site owner to put measure(s) in place by xxx date preventing the associated person, or any other person, from carrying out action X on the site.

Decision not to Include the Applicant on the Register

Should the Council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, a refusal to grant the application can be issued.

Where the Council decides to include the applicant on the register, subject to conditions, or not to include the applicant on the register, a Preliminary Decision Notice to the applicant must be issued.

The Preliminary Decision Notice must clearly state:

a. The date the Preliminary Decision Notice is served
b. The preliminary decision
c. The reason(s) for it
d. The date it is proposed that the final decision will have effect
e. Information about the right to make written representations
f. Where the preliminary decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in

contravention of the Regulations; and

g. where the preliminary decision is to grant the application subject to condition(s), the consequences of failing to comply with any condition(s)

Right to Make Representation

An applicant who receives a Preliminary Decision Notice will have 28 days in which to make representations to the Council. The 28-day period begins with the day after the day on which the Notice was served. The Council is obliged to consider any representations before making a final decision.

Final Decision Notice

Following the end of the 28-day representation period, the Council must, as soon as reasonably practicable, make a final decision and serve the decision notice on the applicant. The Final Decision Notice must set out:

a. Date the Final Decision Notice is served
b. Final decision
c. Reason(s) for it
d. When the decision is to take effect
e. Information about the right of appeal and the period within which an appeal may be made
f. Where the decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the Regulations; and
g. Where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition

Appeals

The applicant can decide to appeal the decision by making an application to the First tier Tribunal (Property Chamber) ("the tribunal") within specific timeframes set by the tribunal. The applicant is permitted to appeal against any decisions served by the Council. These could include:

a. Including the relevant person on the register for an effective period of less than 5 years
b. Including the relevant person on the register subject to conditions; and
c. Rejecting the application

Where an applicant accepts the Council's decision not to include the person originally stated in the application on the register, they will be required to seek alternative management arrangements to comply with the Fit and Proper Person requirement. If they fail to do so they will be committing an offence.

An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal.

Withdrawal or Amendment of Notice

There may be circumstances where the Council may decide not to continue, or to withdraw, a previously agreed action, such as after serving a:

a. Preliminary Decision Notice, but before service of the Final Decision Notice
b. Final Decision Notice, but before the decision to which it relates takes effect; or
c. Notice of proposed action, but before the proposed action is taken

To withdraw or amend a notice, the Council must serve Notice to the person on whom the original notice was served.

There are no requirements for Notices to contain specific information, however, it is recommended that a withdrawal or amendment notice should state:

a. That the original notice (a copy of the original notice should be attached for reference) is being withdrawn/amended
b. The reason(s)
c. The date it takes effect; and,
d. The implications of the decisions in relation to the person's entry on the register

Removal from the Register

If, after a person is included in the register, and new evidence relevant to the person's inclusion becomes available, the Council may decide to:

a. Remove the person from the register
b. Impose a condition on the inclusion of the person in the register (whether there are conditions already imposed)
c. Vary a condition; or
d. Remove a condition

The Council must use its judgement when determining whether to review an entry and consider any subsequent actions are required. It is recommended that any such decision should be related to the person being a Fit and Proper Person rather than, for example, site licensing issues which are governed separately. If the Council decides to take any of the actions listed a) to c) in the above paragraph, a notice of proposed action will be served on the occupier.

The notice of proposed action must clearly state the:

a. Date the notice of proposed action is served
b. Action that the Council proposes to take:
c. Reason(s) for it
d. Date it is proposed that the Council will take the action
e. Information about the right to make written representations

f. Where the proposed action requires the removal of a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the Regulations; and
g. Where the proposed action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with said condition(s)

A Notice of proposed action is not required if the Council decides to remove a condition attached to an entry. A removal of a condition is viewed widely as being a positive step, which is unlikely to be opposed. It is for that reason that a Notice of proposed action is not required. As good practice though, it is recommended that the Council makes the site owner or their manager aware of the decision in writing and ensure the register is updated.

Notice of Action Taken

Where a Notice of proposed action is given, the occupier will have 28 days, starting from the day after the Notice is served, in which to make representations.

The Council must, as soon as reasonably practicable after the end of the 28 day period, decide whether to carry out the proposed action.

Where the Council decides to take the action, a further notice will be served on the occupier, indicating the action that has been taken, within the period of 5 working days beginning with the day after the day on which the action was taken.

The Notice of action must set out the:

a. Date the notice of action is served
b. Fact that they have taken the action
c. Reason(s) for doing so
d. Date the action was taken
e. Information about the right of appeal and the period within which an appeal may be made where the action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of Regulations: and where the action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition

Offences

There are 3 offences which can occur within the Regulations, details below

- Operating a site in contravention of the Fit and Proper Person Regulations - The site owner will have certain defences under the Regulations in any proceedings brought against them

- Withholding information or including false or misleading information in the registration application the site owner will not have any defences under the Regulations in any proceedings brought against them for this offence

- Failing to comply with a specified condition - the site owner will have certain defences under the Regulations in any proceedings brought against them

A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (currently unlimited) fine.

Defences

One defence is available to a site owner who has inherited a site and would be found to have a reasonable excuse for failing to make an application within the relevant periods as set out below.

Relevant Periods in Specific Circumstances

The table below outlines limited circumstances where a site owner may have a defence:

Circumstance	Relevant period for making an application in the circumstance
The occupier held a site licence immediately before the day on which Regulation 4 (operating a site without being a fit and proper person) came into force, on 1 October 2021.	From 1 July 2021 and before 1 October 2021, the day on which Regulation 4 came into force
The period of a person's inclusion in the register in relation to the site has come to an end other than because of action by the Local Authority under Regulation 8(1) (a) (removal from the Fit and Proper Register after new relevant evidence becomes available).	Not less than 2 months before the end of the period of the person's inclusion in the register
At the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant Local Authority of its intention to make an application under Regulation 6 (application for inclusion in the register)	Within the period of 3 months beginning with the day after the day on which the person became the occupier of the land
At the time that the occupier became entitled to possession of the land it was in use as a relevant protected site: and the occupier does not give the notification referred to in row 3 above	Within the period of 28 days beginning with the day after the day on which the person became the occupier of the land
A person appointed to manage the site no longer does so; and within the period of 28 days	Within the period of 3 months beginning with the day after the

Circumstance	Relevant period for making an application in the circumstance
beginning with the day after the relevant day the occupier notifies the relevant Local Authority that the person no longer does so	relevant day
A person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row 5 above	Within the period of 28 days beginning with the day after the relevant day
The breach of Regulation 4(1) (operating a site without being a fit and proper person) arises because the Local Authority has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the Local Authority's decision the occupier notifies the relevant Local Authority of its intention to make a new application under Regulation 6 (application for inclusion in the register) in relation to the site	Within the period of 3 months beginning with the relevant day
The breach of Regulation 4(1) arises because the Local Authority has removed a person from the register; and the occupier does not give the notification referred to in row 7 above	Within the period of 28 days beginning with the relevant day
The breach of Regulation 4(1) (operating a site without being a fit and proper person) arises because the Local Authority has rejected an in time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the occupier notifies the relevant Local Authority of its intention to make a new application under Regulation 6	Within the period of 3 months beginning with the relevant day
The breach of Regulation 4(1) (operating a site without being a fit and proper person) arises because the Local Authority has rejected an in-time application; and the occupier does not give the notification referred to in row 9 above	Within the period of 28 days beginning with the relevant day

The Fit and Proper Persons Register

The Council maintains a register of persons who they are satisfied, are Fit and Proper Persons to manage a site in their area. This register is open to inspection by the public during normal office hours and is published online.

The register provides a record of the outcome of the Fit and Proper Person tests carried out and will include the following:

a. Name and business contact details of the person
b. Name and address of the relevant protected site to which the application relates c) the status of the person (site owner or manager of the site)
c. Dates of the first and last day of the period for which the person's inclusion in the register has effect
d. Whether any condition is attached to the person's inclusion in the register and
e. Where any condition is attached to the person's inclusion in the register:
    i. the number of any such conditions
    ii. the dates of the first and last day of the period for which any such condition applies (if applicable); and
    iii. the date any condition is varied or satisfied (if applicable)

A person's inclusion on the register will be for such period as the Council decide but will not exceed 5 years.

To comply with the Fit and Proper Person requirement, a site owner must submit a new application for the person (or alternative) to be included in the register at least 2 months before the existing inclusion in the register comes to an end.

Where there are refused applications, the following information must be included in the register

a. Name and address of the site to which the application relates
b. that an application in respect of the site has been refused and the date on which the application was refused

Details of the refused application will remain on the register until a successful Fit and Proper Person application is made in respect of the owner or manager of the site. The name of the refused applicant will not be included on the register however, the Council will be able to consider requests for further information about the entry on the register; for example, the details of the specific conditions attached and any additional information, on a case-by-case basis and in accordance with data protection legislation.

Where the Council has, with the site owner's consent, appointed a person to manage the site, the Council must include the following information:

a. Name and business contact details of the person
b. Name and address of the site which the person has been appointed to manage
c. Status of the person
d. Dates of the first and last day of the period for which the person's inclusion in the register has effect
e. Whether any condition is attached to the person's inclusion in the register and
f. Where any condition is attached to the person's inclusion in the register:
    i. the number of any such conditions
    ii. the dates of the first and last day of the period for which any such

condition applies (if applicable); and

iii. the date any condition is varied or satisfied (if applicable)

Appendix 11 - The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The Smoke and Carbon Monoxide Alarm (amendment) Regulations came into force on 1 October 2015 followed by the Smoke and Carbon Monoxide Alarm (amendment) Regulations 2022 which came into force on 1 October 2022.

The regulations require Private Rented Sector Landlords to:

- Ensure at least 1 smoke alarm is installed on every storey of their properties where there is a room used for living accommodation
- Ensure a carbon monoxide alarm is installed in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers)
- Make sure the alarms are in working order at the start of each new tenancy, and that they are repaired or replaced once informed and found to be faulty

Where it is found that a rented home does not comply with these regulations, the Council has a duty to serve a Remedial Notice.

Landlords who fail to comply with a Remedial Notice can face a fine of up to £5,000.

Appendix 12 - Statement of principles to determine the amount of a penalty charge under Part 4 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 ("the Regulations")

Section 13 of the Regulations requires Local Housing Authorities to prepare and publish a statement of principles which they propose to follow in determining the amount of a penalty charge.

The Regulations introduced legal requirements on relevant Landlords to:

1. Provide a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation
2. During any period when the premises were occupied under the tenancy, to ensure that a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and which contains fixed combustion appliance other than a gas cooker
3. Carry out checks by or on behalf of the Landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy
4. Where, following a report made on or after 1 October 2022 by a Tenant or by their nominated representative to the Landlord, a prescribed alarm is found not to be in proper working order, the alarm is repaired or replaced

For the purposes of the legislation, living accommodation includes a bathroom or WC.

Where the Council believe that a Landlord is in breach of 1 or more of the above duties, the Council must serve a Remedial Notice on the Landlord. The Remedial Notice is a notice served under Regulation 5 of the Regulations.

If the Landlord then fails to take the remedial action specified in the notice within the specified timescale, the Council can require a Landlord to pay a penalty charge and can arrange for remedial action to be taken under certain circumstances. The power to charge a penalty arises from Regulation 8 of the Regulations. Failure to comply with each Remedial Notice can lead to a fine of up to £5,000. Fines will be applied per breach, rather than per Landlord or property.

The Council <u>will</u> impose a penalty charge where it is satisfied, on the balance of probabilities, that the Landlord has not complied with the action specified in the Remedial Notice within the required timescale.

A Landlord will not be considered to be in breach of their duty to comply with the Remedial Notice if they can demonstrate they have taken all reasonable steps to comply. Where there is evidence, including written correspondence, of repeated and consistent efforts to obtain access to the property, with access repeatedly being prevented by the occupant(s) of the property, a Landlord will not be considered to be in breach of their duty to comply with the Remedial Notice. A Landlord will be expected to have

- Communicated the risk of harm that the lack of functioning alarms posed to all occupants in writing on multiple occasions
- Requested access to comply with the Remedial Notice on a regular basis of no longer than every 7 days in writing

In considering the imposition of a penalty, the Council may look at the evidence concerning the breach of the requirement of the Notice. A non exhaustive list of methods that may be used to obtain relevant evidence includes, but is not limited to

- Evidence obtained from a property inspection
- Evidence provided by the Tenant or Letting Agent or Property Manager
- Evidence provided by the Landlord demonstrating compliance with the Regulations by supplying dated photographs of alarms, together with installation records
- That all detector heads have not passed their expiration or replacement date

Landlords need to take steps to demonstrate that they have met the testing requirements at the start of the tenancy requirements. A non exhaustive list of methods that may be used to evidence compliance with these testing requirements includes, but is not limited to

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

Where a Landlord is in breach, the Council may serve a Remedial Notice. Failure to comply with each Remedial Notice can lead to a fine of up to £5,000. Fines will be applied per breach, rather than per Landlord or property. When determining the amount of the penalty charge, regard will be had to whether this is a first breach under the Regulations.

Determining the amount of the penalty charge for a first breach

The minimum amount of a penalty charge for a first breach of the Regulations will be £2,500. Only in exceptional circumstances may the Council depart from the application of this statement of principles and issue a penalty charge for less than £2,500. Exceptional circumstances are rare and unusual and are not established merely by the presence of multiple mitigating factors

The starting level of a penalty charge for a first breach of the Regulations will be £3,000. The penalty charge amount will then be varied depending on aggravating and mitigating factors.

Aggravating factors include, but are not limited to:

- The number of alarms not working or missing (the Regulations state there should be 1 per storey)
- Other fire safety concerns or defects in the property which increase the risk posed to the occupants
- The length of time the offence is believed to have been ongoing
- The frequency of complaints by the occupiers to the Landlord about the non working or missing alarms
- The costs of any remedial work the Council have carried out in response to the breach
- Whether the property is let as a Houses in Multiple Occupation (which increases the overall risk)
- The number of occupants living in the property
- Presence of vulnerable occupiers such as elderly, children or disabled people
- Any history of previous enforcement or noncompliance of the Landlord
- Attempts to obstruct the investigation

Mitigating factors include, but are not limited to:

- The property being small and low risk (for example a 1 bedroom ground floor flat with a large number of fire escapes including large windows)
- A single occupant living in the property
- Evidence that all required alarms were checked and in working order at the start of the tenancy
- Written evidence that some efforts to gain access and comply with the Remedial Notice were made and access was prevented by the occupant

Determining the amount of the penalty charge for a subsequent breach

The penalty for subsequent breaches by the same Landlord will be £5,000. Only in exceptional circumstances may the Council depart from the application of this statement of principles and issue a penalty charge for less than £5,000. Exceptional circumstances are rare and unusual and are not established merely by the presence of multiple mitigating factors.

Appendix 13 - Redress scheme for lettings agency and property management work

All Letting Agents and Property Managers must belong to 1 of the Government approved redress schemes. These schemes include:

- The Property Ombudsman
- The Property Redress Scheme

On implementation of Phase 2 of the Renters' Rights Act 2025, this will in addition include:

- The Private Rented Housing Ombudsman

The Council will act where is it satisfied that, on the balance of probability, someone is engaged in letting or management work and is required to be a member of a Redress Scheme but has not joined. The level of Penalty Notice applying is set out in Appendix 3.

The Council may impose further penalties if a Lettings Agent or Property Manager continues to fail to join a Redress Scheme despite having previously had a penalty imposed.

There is no limit to the number of penalties that may be imposed on an individual Letting Agent or Property Manager and further penalties may be applied if they continue to be in breach of the legislation.

Appendix 14 - Enforced Sale

Enforced sale is a legal process by which a person or organisation can sell a property or site if they are owed money. Long term empty homes and sites are wasted resources that are in short supply. The enforced sale of empty homes is a solution to bring empty homes and vacant land back into use when owners refuse, or are unable, to do this themselves.

The Council will actively pursue enforced sale of empty homes and sites in circumstances where over £1,000 is owed to the Council and the owner is either absent, unwilling or unable to pay, and it is unlikely that the debt will be repaid; or the amount is lower than £1,000 but the impact of the property on neighbours or the neighbourhood is significant.

Using the powers available under the Law of Property Act 1925 our aims are to

- Bring empty residential properties back into use as housing stock
- Reduce debts owed to the Council
- Improve local neighbourhoods.

Benefits of Enforced Sale

Social benefits

Empty properties and sites can have an adverse impact on individuals and broader communities in several ways, for example

- Visual impact on the surrounding area
- Antisocial Behaviour (ASB) and crime
- Reduction in local property values
- Wasted housing resource adding to the pressure to build new houses
- Vermin infestations

Selling an empty home or plot of land makes it likely that the owner will improve the condition of a problematic property and bring it back into occupation or, if it is a plot of land, bring it back into commercial or other active use.

If the Council sell a property or land under this Policy, enforceable conditions that the property is brought back into use within a fixed time period can be imposed.

Financial benefits

Debts owed to the Council directly affect the Council's budgets and service delivery. Debts which could otherwise prove impossible to recover, are discharged out of the proceeds of an enforced sale.

The prospect of having the property sold can bring about the payment of the debt by the owner and potentially a voluntary sale of the property. There is a fee income advantage in respect of a sale (legal, surveyors and administration fees) to the Local Authority as the costs to the Local Authority in undertaking an enforced sale are fully recoverable if the process is completed.

Housing Services, Legal Services, Property Services and Environmental Health Services costs can be added to the amount recovered provided there is adequate equity in the property. Sevenoaks District Council employs staff, time and resources to undertake enforcement action to keep empty properties safe and reduce their impact on the neighbourhood. This level of intervention is unnecessary when properties are occupied.

The sale of a property can proceed in circumstances where the usual debt recovery process can go no further. For example:

- Where the property has changed ownership, and the enabling statute does not enable the Council to recover the debt from the new owner but confers the benefit of a charge on the property which would enable a sale under this Policy to proceed
- Where debt recovery cannot be pursued because it is statute barred (6 years has expired) but the limitation period in respect of a sale under this Policy is not statute barred (12 years).

Reduced Anti-Social Behaviour

One of the key objectives in the Sevenoaks District is to cut crime and reduce anti social behaviour. Empty homes and sites are a focus for this type of activity. Empty homes are frequently broken into, fly tipped, subject to graffiti and used for unlawful activity.

Increased Housing Provision

The use of enforced sale will contribute to the Council commitment to bring empty homes back into use. Properties considered for enforced sale are likely to be the longer term, more problematic properties which are otherwise difficult to turn around.

There are a large number of empty homes in the District, as at March 2026 more than 700 were long term empty homes (over 6 months). Some of these properties have remained empty for many years and are causing significant problems.

Bringing empty homes back into use reduces the need for building new homes and increases availability in the marketplace. This contributes towards housing stock gain both numerically, as more houses are occupied, and qualitatively as most properties are refurbished before they are reoccupied. Each property that is occupied brings money into the area through the economic activity of the occupants including housing repairs, shopping, utility payments and social activities.

The Legal Context

There are 2 legal options for undertaking enforced sale:

Law of Property Act 1925 (The Act)

This allows Sevenoaks District Council to take action without recourse to the Courts, by serving Notice on the debtor then following a process to transfer the property which is clearly documented by the Land Registry. This is the same legislation used by mortgage companies to recover property.

The legislation, in brief, is as follows

- Section 7 provides that a financial Local Land Charge takes effect, as if it had been created by a Deed of Charge within the meaning of the Law of Property Act 1925
- Section 101(i) confers on a mortgagee a power of sale. An Order of the Court is not necessary as the legislation itself provides that power
- Section 87(1) confers a right of possession. In addition, many of the statutes used by the Council, which result in carrying out Work in Default, gives the Council a power of sale and a right of priority over other charges
- 103(i) The Council may not exercise the power of sale unless and until this Notice (requiring payment of the mortgage money) has been given, and a default of payment has been made for 3 months after the service of the notice

Common Law

This is the process for the recovery of any debt. The Council must apply to Court for a Liability Order, this can then be followed up by a Charging Order which is then registered against the property and after this the sale of the property can be enforced.

This Policy only covers the use of the Law of Property Act, the Liability Order route is more complex, costly and time intensive. It would normally only be used where the Law of Property Act cannot be used.

Alternatives to Enforced Sale

In all cases the Council is obliged to have attempted to recover the debt from the owner and the owner is allowed several months to arrange payment even after formal enforced sale action starts. If payment in full is received, including interest, before the sale is finalized the process stops and the Council would be unable to recover costs relating to the forced sale.

The Council will make attempts to contact the owner to offer alternatives to enforced sale where these are available, for example

- Use of a payment plan
- Voluntary buy back (available for certain properties); the Council has specific

capital funding to purchase properties to add to the Council's housing stock

Where the owner is unknown correspondence will be fixed to the property itself to give the owner, or someone who knows them, the chance to see it.

A Compulsory Purchase Order is a potential alternative to enforced sale. The Compulsory Purchase Guidance states that a Compulsory Purchase Order is a last resort. If enforced sale is an option, pursuing a Compulsory Purchase Order is not a last resort. Enforced sale is normally more expedient than a Compulsory Purchase Order and more efficient, involving far less officer time than making a Compulsory Purchase Order. Recovery of debts can still occur through the Council's debt recovery process, which can include contacting the debtor and referral to an external debt recovery agency. The sale of a property can proceed in circumstances where the debt recovery process can go no further.

Appendix 15 - Key Policy details

Policy Location

This Policy can be found at xxxxx

Policy Review Plans

This Policy is subject to a scheduled review once every 5 years or earlier if there is a change in legislation or local Policy that requires it.

Approvals

Version No	Approval Date	Approved by
1.0		

Revision history

Version Control	Revision Date	Summary of Changes

Equality Analysis

Has an Equality Impact Assessment form been completed as part of creating/ reviewing/amending this Policy	Yes
If yes, where can a copy of the Equality Impact Assessment form be found?	xxxx