

Report of:	Director of Adult Social Care and Health Integration Executive Member for Adult Social Care and Public Protection, ICT and Digital Inclusion
Submitted to:	Executive Member for Adult Social Care and Public Protection, ICT and Digital Inclusion
Date:	20 th October 2022
Title:	Approval of the framework for calculating the level of civil penalty charge in relation to breaches of the Tenant Fees Act 2019 and relevant Letting Agency legislation.
Report for:	Decision
Status:	Public
Strategic priority:	Crime and anti-social behaviour
Key decision:	Yes
Why:	Decision(s) will have a significant impact in two or more wards
Urgent:	No
Why:	

Executive summary

Approval is being sought for a framework for calculating financial penalty charges for offences committed by letting agencies, landlords and property management companies under the Tenant Fees Act 2019. The ability to issue financial penalty charges is an alternative to prosecution and is in accordance with Public Protection Regulatory Services Enforcement Policy and follows Tenant Fees Act Statutory Guidance for enforcement authorities.

The framework has been developed in line with national guidance however, the method for calculating the financial penalty charge is not prescribed in law or by Government. It lies with local authorities to develop their own framework.

The implications of the recommendation(s) have been considered by the appropriate officers of the Council and are set out in the main body of the report. This report falls within the Terms of Reference of this Committee as the policies proposed will impact on

all wards within the Borough and represents a change in the policy on the approach of enforcement.

Purpose

1. To seek approval for the framework to calculate the financial penalty charges for breaches of relevant letting agency legislation by landlords, letting agents and property management companies.

Background and relevant information

2. The Public Protection Service is the enforcing authority for the Tenant Fees Act 2019 (the Act) and relevant legislation relating to the letting of private sector residential properties. The Act places a duty on enforcing authorities to protect consumers from unfair payments and practices in relation to their tenancies and imposes requirements regarding the conduct of landlords, lettings agents and property management companies
3. The Public Protection Service carries out inspections of rented accommodation under housing laws and includes matters relating to the management of properties. The Service also responds to complaints or concerns regarding fees or charges for services provided by landlords and/or their agents. Following investigation if breaches of relevant legislation are found, the Act allows the Council, as the enforcing authority, to impose a financial penalty as an alternative to prosecution. This includes a penalty on the person(s) breaching the laws of up to £5,000 for a first breach of prohibited payments restrictions and up to £30,000 for a breach of a redress scheme, client money protection scheme or subsequent breaches of prohibited payments. Civil penalties can be used as a more appropriate cost effective alternative to prosecution.
4. The Act sets out the fees and charges that are permitted, making any other fees or charges unlawful. Fees that are permitted include;
 - a. the rent
 - b. a refundable deposit capped at no more than 5 weeks rent if the annual rent is less than £50,000, and 6 weeks if the annual rent is more than £50,000
 - c. a deposit to reserve a property capped at no more than one weeks rent
 - d. a default fee under the terms of the tenancy agreement (for example replacing lost keys or for late payment of rent)
 - e. fees of up to £50 for the administration of changes to tenancy agreements requested by the tenant.
 - f. payments associated with early termination of a tenancy when requested by the tenant, which must not exceed the loss of income from early termination.

The Act also amends other legislation including the Consumer Rights Act 2015 which requires agents to display information about their fees and membership of redress and client money protection schemes; and the Housing and Planning Act 2016 which includes requirements in regard to the protection of tenant's deposit. Breaching the requirements of these Acts can be dealt with by civil penalty.

5. The Act does not set a level of civil penalty that can be imposed. It is the decision of every enforcing authority to determine how it applies civil penalties and the monetary amount of any penalty issued. However, there is statutory guidance that enforcing

authorities are required to consider when deciding on enforcement options under the Act and associated legislation.

6. It is proposed that Middlesbrough Council applies the civil penalty charging model detailed in Appendix 1 to this report. It is a model developed by National Trading Standards Estate and Letting Agency Team and this approach would be consistent with local, regional and national enforcement authorities.

7. The recovery of unpaid penalties is through the County Court and the Council would consider the most appropriate means of recovery the debt, such as to seek;
 - A Warrant of Control for amounts below £5000
 - A Third Party Debt Order
 - A Charging Order
 - Bankruptcy or insolvency

What decision(s) are being recommended?

8. That the Executive approves the framework for calculating the civil penalty charges in relation to the Act and associated legislation.

Rationale for the recommended decision(s)

9. Using a civil penalty charge instead of prosecution is considered to deal more effectively with breaches of law, to encourage compliance, drive up standards in private rented accommodation and deter unfair practices. It also provides an alternative way for the Council to deal with criminal, rogue and irresponsible landlords, letting agents and property management companies.

10. The Civil penalty charge can be up to £5,000 for first breaches in respect of prohibited payments, non-publication of lettings fees, transparency issues in relation to membership of redress and client money protection schemes, and up to £30,000 for subsequent breaches or for other offences including non-membership of redress or client money protection schemes. Establishing a means for calculating the level of penalty is designed to ensure transparency, consistency and fairness.

11. The use of civil penalties will not remove the Council's ability to take legal action and for the most serious breaches this option will be considered first. Any enforcement decision will be made in accordance with the Council's Public Protection Enforcement Policy.

Other potential decision(s) and why these have not been recommended

12. Do not introduce a civil penalty charge. If this is not introduced there would be no change to current enforcement practices in that prosecution action would be taken for offences, where appropriate. This is a time consuming process for officers and Legal

Services, it can take many months or years to achieve an outcome and does not always achieve the desired results in terms of level of penalty or a deterrent.

13. The use of civil penalties offers a reduced cost enforcement option that will act as an immediate and more effective deterrent. This enforcement tool will address the poor management of properties and unfair business practices in the private rented sector and drive up standards and levels of compliance. The framework for calculating the level of charge will provide transparency and consistency in this approach.

Impact(s) of the recommended decision(s)

Legal Section

14. The Act allows enforcing authorities to impose civil penalties as a financial sanction for breaches of the Act and associated legislation. Civil penalties are used as an alternative to prosecution with the amount of penalty determined by the Council but in line within maximum statutory levels. Civil penalties are treated as if they had been issued by a Court. Non-payment of a civil penalty may be enforced through the County or High Court by an Order of that Court. There is a right of Appeal against the Civil Penalty in the First Tier Property Tribunal that has the power to confirm, vary, increase or reduce the size of the penalty or cancel the civil penalty. Ultimately the local authority may be required to use County Court Bailiffs to recover the debt, which may result in additional administrative and legal costs.

Strategic priorities and risks

15. The use of civil penalties as an additional regulatory tool will help improve compliance with property lettings laws. There would be no impact on the policy framework.
16. Non-payment of a civil penalty may be enforced through the County or High Court by an Order of that Court. There is a right of Appeal against the Civil Penalty in the First Tier Property Tribunal which has the power to confirm, vary, increase or reduce the size of the penalty or cancel the civil penalty.

Human Rights, Equality and Data Protection

17. An Equality Impact Assessment has been completed and is attached to this report (Appendix 2). There will be no negative, differential impact on diverse groups and communities associated with this report.

Financial

18. Local Authorities are able to retain income from civil penalties. Any income from penalties related to Prohibited payments and client money protection is required to be used for furthering the statutory functions in relation to private sector housing, otherwise it must be returned to the Secretary of State. There will be minimal costs associated with setting up the scheme. The council will seek to recover any legal costs in the event that it is required to defend its decision at a tribunal.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
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<p>The civil penalty scheme will be implemented upon approval and will become part of the enforcement options available to the Council when dealing with breaches under relevant letting agency legislation. The use of civil penalties will become part of the enforcement policy.</p>	<p>Judith Hedgley, Head of Public Protection</p>	<p>Within 6 weeks of Executive approval</p>
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Appendices

1	Civil Penalty Charging Procedure for relevant letting agency legislation
2	Equality Impact Assessment Screening

Background papers

Body	Report title	Date
Ministry of Housing, Communities and Local Government	Tenant Fees Act 2019: STATUTORY GUIDANCE FOR ENFORCEMENT AUTHORITIES	Published 1 st April 2019, last updated 30 th September 2020

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Appendix 1: Civil penalties charging framework

The Tenant Fees Act 2019 introduced the ability for enforcing authorities to issue a civil penalty as an alternative to prosecution for breaches under relevant lettings legislation, namely:

- The Tenant Fees Act 2019 [the Act]
- The Consumer Rights Act 2015 (Chapter 3 of Part 3)
- The Enterprise and Regulatory Reform Act 2013 (section 83(1) and 84(1))
- The Housing and Planning Act 2016 (sections 133 – 135)

Civil penalties can be imposed by the enforcing authority to the value determined by the authority but to a maximum of £5,000 or £30,000 as follows:-

Fines up to £5,000

- Prohibited payments under the Tenants Fees Act 2019 (s1 and s2- first breach only) or breach of schedule 2. (fees associated with rent, tenancy deposits, holding deposits, default payments eg lost keys or security devices, fees for late payment of rent, changed to tenancy agreement, early repayment charges, services included in the rent).
- Non-publication of letting agents fees s83(3) of the Consumer Rights Act 2015
- Non membership of a redress scheme - The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 - Art 3 & 5)
- Failure to notify client of alteration or revocation of a client money protection scheme (CMP) within 14 days - Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019, 4(2)
- Failure to obtain, display, publish on website, or produce certification in relation to client money protection scheme (Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019,R 4(1))

Fines up to £30,000

- Non membership of approved or designated client money protection scheme - Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc. Regulations 2019, Reg 3
- Repeated breaches in relation to offences for prohibited payments under the Tenant Fees Act 2019 within 5 years (s1, s2, s12). For this offence there is also a power to prosecute in the Magistrates Court where an unlimited fine may be imposed

The decision to issue a civil penalty comprises two stages: The first stage is to determine whether a civil penalty is an appropriate sanction and, if appropriate, to determine the level of the proposed civil penalty.

Statutory guidance issued by the Ministry of Housing, Communities and Local Government sets out the factors that must be taken into account when deciding on the appropriate level of penalty:

Sections in this procedure

- 1 Decision to impose a Civil Penalty (Notice) (CPN)
- 2 Authority to serve a CPN
- 3 Format of the CPN
- 4 How to decide the level of penalty amount
- 5 Recovery of penalty

Appendices

Appendix A: Summary of CPN calculation

Appendix B List of vulnerable persons

Appendix C List of relevant convictions

1 Decision to impose a CPN

The decision to impose a civil penalty will be taken in line the Public Protection Regulatory Services Enforcement Policy. Any penalty imposed will be in addition to the requirement for the landlord, letting agent or property management company to repay tenants in respect of any unlawful payments made.

The following are to be taken into consideration when determining the most appropriate course of action;

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

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

c) The harm caused to the tenant. The greater the harm or the potential for harm the higher amount of civil penalty.

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

e) Deter the offender from repeating the offence. The ultimate goal is to prevent any further offending ensuring future compliance with legal responsibilities The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

f) Deter others from committing similar offences. Although issuing a civil penalty is not a matter of public record it is possible that other landlords ,letting agents and property management companies will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that the Council is proactive in levying civil penalties where the need to do so exists and that the level of civil penalty will be set high enough to both punish the offender and deter offending.

g) Remove any financial benefit the offender may have obtained as a result of committing the offence. The offender must not benefit as a result of committing an offence, for example, it should not be cheaper to offend than to rent out housing responsibly.

2 Authority to serve a CPN

The Council has adopted the powers provided to it under Tenants Fees Act 2019, Consumer Rights Act 2015, Enterprise and Regulatory Reform Act 2013 and sections 133-136 of the Housing and Planning Act 2016. Only officers who are deemed competent and duly authorised may carry out inspection and enforcement activities under letting agency law. Decisions in regard to prosecution or the issuing of a CPN will be taken in accordance with the Council's Scheme of Delegation, Public Protection Enforcement Policy and relevant statutory and non-statutory guidelines.

3 Format of the CPN

A notice of intent must be served prior to the CPN which sets out (a) the amount of the fixed penalty; (b) the reasons for the penalty, and (c) information about the recipients right to make representations.

The notice of intent must be served no later than six months after the offence occurred and gives the recipient the following number of days to make representation to the Council:- 7 days in respect of a holding deposit, 7-14 days (As specified in notice) in respect of overpayment to be refunded to the tenant, 28 days in respect of prohibited payments and 29 days in respect of publication of fees, redress and client money protection matters. Any representations are to be considered by the Head of Service or their authorised deputy.

Where a landlord has challenged the amount of the penalty they must provide documentary evidence as to why the amount is wrong. It is important, therefore that the notice of intent gives detail as to how the penalty has been calculated.

Responses to the representations must be made in writing.

Following the representation period and after the Council has considered any representations, the final notice can be served. After consideration of representations the value of the penalty can be reduced but it cannot be increased.

The Final Notice must contain:

- The amount of the financial penalty,
- The reasons for the penalty,
- Information on how to pay,
- Period of payment which must be 28 days starting the day after the date of the notice,
- Information about the rights of appeal,
- The consequences of failure to comply with the notice.

The recipient has the right to appeal to the First Tier Tribunal. During the appeal period the requirement to pay the penalty is suspended until the appeal has been determined or withdrawn.

4 Calculation of the penalty amount

There are four stages to determining the amount of the civil penalty to be imposed.

Stage 1: Determine the starting penalty for the offence

The penalty band is based upon the landlord, letting agent or management company's culpability for the offence and the severity of harm.

Culpability

When assessing culpability the evidence gathered as part of the investigation together with any aggravating or mitigating factors will be carefully considered. This will include statements from tenants, the findings of inspections, interviews with parties involved and consideration of past compliance with relevant laws.

There are four levels of culpability (shown in the table below). Each offence will be considered separately and culpability determined for each offence.

Level of culpability	Examples of offences applicable
Very high	Intentional breach or a flagrant disregard of the law.
High	Actual foresight of, or wilful blindness to, risk of breach but risk nevertheless taken.
Medium	Breach committed through act or omission which a person exercising reasonable care would not commit.
Low	Breach committed with little fault, for example, because - <ul style="list-style-type: none"> • significant effort was made to address the risks, breaches or offences but measures taken were inadequate on this occasion • there was no warning/circumstance indicating that there was a risk of the breach • failings were minor and occurred as an isolated incident

Harm

There are three categories of harm. Dealing with a risk of harm requires consideration of both the likelihood of harm occurring and the extent of harm caused.

Category 1 High likelihood of harm	<ul style="list-style-type: none"> • serious adverse effect(s) on individuals and/or having widespread impact due to the nature and /or scale of the landlord's or agent's or property management company's business • high risk of an adverse effect on individual(s), including where persons are vulnerable
Category 2 Medium likelihood of harm	<ul style="list-style-type: none"> • adverse effect on individual (s) (not amounting to category 1) • medium risk of an adverse effect on individuals or low risk of serious adverse effect • tenants and /or legitimate landlords or agents substantially undermined by the conduct • the Council's work as a regulator is inhibited • tenant or prospective tenant misled
Category 3 Low likelihood of harm	<ul style="list-style-type: none"> • Low risk of an adverse effect on actual or prospective tenants • Public misled but little or no risk of actual adverse effect on individual(s)

Harm is to be considered widely and victims may suffer financial loss, damage to health or psychological distress (especially vulnerable cases). There are gradations of harm within all these categories.

The nature of harm will depend on personal characteristics and circumstances of the victim and the assessment of harm will be an effective and important way of taking into consideration the impact of a crime on the victim.

In some cases, no actual harm may have resulted and the Council will be concerned with assessing the relative dangerousness of the offender's conduct; it will consider the likelihood of harm occurring and the gravity of the harm that could have resulted.

Some offences cause harm to the community at large (instead of or as well as to an individual victim) and may include economic loss, harm to public health, or interference with the administration of justice.

Penalty

Once the levels of culpability and harm have been determined the starting point for the penalty is a combination of the two. The tables below show the starting point (SP) and the maximum penalty (MP) that can be issued. Consideration is then given to increasing or decreasing the penalty for aggravating and mitigating factors.

Offences up to £5,000

Culpability	Very high	High	Medium	Low
Harm				
Category 1	SP £4000	£3250	£2500	£1750
	MP £5000	£4250	£3500	£2750
Category 2	SP £3750	£3000	£2250	£1500
	MP £4750	£4000	£3250	£2500
Category 3	SP £3500	£2750	£2000	£1250
	MP £4500	£3750	£3000	£2250

Offences up to £30,000

Culpability	Very High	High	Medium	Low
Harm				
Category 1	SP £20000	£18000	£12500	£8500
	MP £30000	£26000	£22000	£15000
Category 2	SP £17500	£15000	£10500	£6500
	MP £28000	£24000	£20000	£10000
Category 3	SP £15000	£10500	£6500	£3500
	MP £24000	£20000	£17000	£8000

Stage 2 – Adjusting the penalty for aggravating and/or mitigating factors

Aggravating factors

The track record and behaviour of the landlord, letting agent or property management company will be an important factor in determining the final amount of civil penalty to be imposed. The Council will identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point of the penalty. A higher penalty will be appropriate where the landlord, letting agent or property management company has a history of non-compliance.

Factors increasing seriousness	amount to be added to starting point	monetary value
Is there historic offending (non-compliance with law, cautioned, prosecuted, issued a CPN for any relevant offence in the last 5 years?)	10%	
There are multiple offences of relevant lettings laws to be taken into consideration	20%	
They have gained financially or caused loss to others	10%	
The offending has been concealed / others have been blamed.	10%	
Did they obstruct the investigation	10%	
There is evidence of targeting or exploiting a vulnerable person	10%	
Have they demonstrated a reticence to engage with enforcement authorities eg not accepted advice or refused training or not become a member of an accreditation scheme	10%	

Mitigating factors

Factors decreasing seriousness	amount to be deducted from starting point	monetary value
Reasonable voluntarily steps to remedy the problem have been taken and prohibited payments repaid to tenants	10%	
Have they cooperated with the investigation beyond what would be reasonably expected	10%	
Have they made full admissions and accepted responsibility for the breach(s)	10%	
Has the financial investigation shown that penalties may cause financial difficulties (landlord or agents primary trade or income connected with private rented sector	10%	
Previous good character /exemplary conduct ,no previous breaches	10%	

Stage 3 Calculating financial benefit from the offence(s)

The guiding principle of civil penalties is that they should remove any financial benefit that has been gained by the landlord, agent or managing company by committing the offence. This means that the penalty should never be less than it would have reasonably cost the landlord to comply in the first instance There must be clear proof that financial benefit was obtained but where it can be proven, in monetary terms, the amount of benefit will be considered in deciding the penalty amount.

It is important that tenants should not suffer detriment as a result of the breach or penalty. Therefore the penalty is in addition to the requirement for the landlord, letting agent or property management company to repay the tenants in respect of any prohibited payment or holding deposit. S10 of the Tenant Fees Act enables enforcement authorities to require such payments to be made.

Other related gains from non-compliance such as avoided costs or operating savings will be added to the penalty amount. For example £500 for membership of redress scheme (amount to be confirmed for time of offence).

Stage 4 Final Penalty calculation

Cost will be those identified in stage 1 plus adjustments for factors in stage 2; Aggravating factors to be added, Mitigating factors to be deducted, plus any costs/savings identified in stage 3, assessed against maximum penalty. If amount is higher than the maximum penalty in that penalty band then the cost will be the maximum fine. If the fine is less then that will be the penalty

A summary of the CPN calculation form is attached in Appendix A

Multiple Breaches

Where multiple breaches have occurred and more than one financial penalty is being considered, the Council will take in account the Sentencing Council's guideline on Offences taken into consideration and Totality. In such cases the financial penalty for each individual breach will be determined then the penalties added together. If the total is not considered just and proportionate then there are a number of ways in which this can be achieved.

For example: Where a Landlord or Agent is to be penalised for two or more breaches or where there are multiple breaches of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious breach a financial penalty which reflects the totality of the conduct where this can be achieved within the maximum penalty for that breach. No separate penalty should be imposed for the other breaches.

Where a Landlord or Agent is to be penalised for two or more breaches that arose out of different incidents, it will often be appropriate to impose separate financial penalties for each breach. The Council should add up the financial penalties for each breach and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the Council should consider whether all of the financial penalties can be proportionately reduced. Separate financial penalties should then be imposed. Where separate financial penalties are passed, the Council must take care to ensure that there is no double-counting

Recovery of Penalty

The Council will consider all legal options for the collection of unpaid civil penalties and to pursue unpaid penalties through the county courts, such as to seek;

- A Warrant of Control for amounts below £5000
- A Third Party Debt Order
- A Charging Order
- Bankruptcy or insolvency

The courts will accept a certificate signed by the Director of Finance stating that the amount due has not been received by the required date as conclusive evidence of the outstanding debt. Unpaid repayment of prohibited charges to tenants would be enforced by tenants, who would be referred to Citizens Advice for assistance with any claim.

Any income from Civil Penalties is retained by the Local Weight and Measures Authority which imposed the penalty. The Council must only spend any income from Civil Penalties in relation to Prohibited payments or client money protection on its enforcement functions in relation to the private rented sector, any excess must be returned to the Secretary of State.

Appendices to Framework

Appendix A – Summary of CPN calculation

Starting amount	B1	Enter starting amount determined in Stage 1
Increase due to aggravating factors	B2	Enter the amount to be added as determined in Stage 2
Decrease due to mitigating factors	B3	Enter the amount to be deducted as determined in Stage 2
Maximum penalty	B4	Enter the maximum penalty for the penalty category in stage 1
Sum of B1, add B2 and deduct B3	B5	
Is the amount in B5 higher than B4 – If Yes enter the amount in B4 in B7. If the amount in B5 is lower than in B4 enter this amount in B7	B7	
Was there financial benefit from the offence other than that already required to be paid back to tenants for prohibited payments ie avoided costs/operating savings If Yes enter the amount in B8. If No enter 0 (zero) in B8	B8	
Add the amount in B8 to B7 and enter in B9	B9	
If the amount in B9 is lower than figure in B4 enter the value in B10. If the figure is higher than B4 enter the figure in B4. Into B10	B10	This is the amount of Civil Penalty which is to be written in the Notice of Intent to Impose a Financial Penalty.

Appendix B – Non exhaustive list of vulnerable people to be taken in to consideration when determining level of harm:

- Young adults and children
- Persons vulnerable by virtue of age
- Persons vulnerable by virtue of disability or sensory impairment
- People on a low income
- Persons with a Drug or alcohol addiction
- Victims of domestic abuse
- Children in care or otherwise vulnerable by virtue of age
- People with complex health conditions
- People exploited where English is not their first language.
- Victims of Trafficking or sexual exploitation
- Refugees
- Asylum seekers
- People at risk of harassment or eviction
- People at risk of homelessness.

Appendix C – Non exhaustive list of relevant offences /breaches:to be taken into consideration when determining aggravating features.

- Housing law or landlord and tenant related
- Offences under:
 - The Public Health Acts of 1936 and 1961
 - The Building Act 1984
 - The Environmental Protection Act 1990
 - The Town and Country Planning Act 1990
 - The Prevention of Damage by Pests Act 1949
 - The Protection from Eviction Act 1977
 - The Local Government (Miscellaneous Provisions) Acts of 1982 and 1976
 - The Housing Grants, Construction and Regeneration Act 1996
 - The Local Government and Housing Act 1989
 - The Housing Act 2004
 - The Consumer Protection from Unfair Trading Regulations 2008

Offences involving fraud

Offences in which the victim has been deprived of money, property or other benefit by misrepresentation/deception on the part of the offender including:

- Theft
- Burglary
- Fraud
- Benefit fraud (particularly where tenants are in receipt of Housing Benefit)
- Conspiracy to defraud
- Obtaining money or property by deception
- People trafficking
- Being struck off as a company director

Offences involving violence

A conviction for the offence of:

- Murder
- Manslaughter
- Arson
- Malicious wounding or grievous bodily harm
- Grievous bodily harm with intent
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Criminal damage where the intent was to intimidate or was racially aggravated
- Common assault
- Common assault which is racially aggravated
- Assault occasioning actual bodily harm
- Possession of an offensive weapon
- Possession of a firearm

Offences involving drugs

- Consideration shall be given to the nature of the offence and what bearing it could have on the Landlord or Agents business activities. The nature, quantity, purity and class of drugs should be considered. In addition, where an offence of possession with intent to supply is involved regard should be had to the role and importance of, the subject in the supply chain.

Offences involving sexual offences

- An offence contained in schedule 3 of the Sexual Offences Act 2003.

Unlawful discrimination

- Unlawful discrimination can include findings of an Industrial Tribunal on unlawful employment practice such as discrimination under the Disability Discrimination Act. Consideration shall be given to the nature of the unlawful discrimination and what bearing it could have on the management of a licensable property.

Other offences

- Modern Slavery/ Human Trafficking
- Offences involving the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, for the purpose of exploitation is likely to attach a lower level of culpability.

Appendix 2: Equality Impact Assessment Level 1: Initial screening assessment

Subject of assessment:	Approval of the framework for calculating the level of civil penalty charge in relation to breaches of the Tenant Fees Act 2019 and relevant letting agency legislation.			
Coverage:	All properties in the private rented sector in Middlesbrough			
This is a decision relating to:	<input type="checkbox"/> Strategy	<input checked="" type="checkbox"/> Policy	<input type="checkbox"/> Service	<input type="checkbox"/> Function
	<input checked="" type="checkbox"/> Process/procedure	<input type="checkbox"/> Programme	<input type="checkbox"/> Project	<input type="checkbox"/> Review
	<input type="checkbox"/> Organisational change	<input type="checkbox"/> Other (please state)		
It is a:	New approach:	<input checked="" type="checkbox"/>	Revision of an existing approach:	<input type="checkbox"/>
It is driven by:	Legislation:	<input checked="" type="checkbox"/>	Local or corporate requirements:	<input type="checkbox"/>
Description:	Seek approval for the penalty charges associated with enforcement of the Regulations.			
Live date:	Date of approval			
Lifespan:	Ongoing			
Date of next review:	12-18 months following implementation to ensure that the procedure is adequate.			

Screening questions	Response			Evidence
	No	Yes	Uncertain	
<p>Human Rights Could the decision impact negatively on individual Human Rights as enshrined in UK legislation?*</p>	√	<input type="checkbox"/>	<input type="checkbox"/>	It is considered that the implementation of the policy will not have an unjustified or disproportionate adverse impact upon any of the groups affected by the enforcement.
<p>Equality Could the decision result in adverse differential impacts on groups or individuals with characteristics protected in UK equality law? Could the decision impact differently on other commonly disadvantaged groups?*</p>	√	<input type="checkbox"/>	<input type="checkbox"/>	It is considered that the implementation of the policy will not have an adverse differential impact on groups or individuals with characteristics protected in UK equality law, or other commonly disadvantaged groups
<p>Community cohesion Could the decision impact negatively on relationships between different groups, communities of interest or neighbourhoods within the town?*</p>	√	<input type="checkbox"/>	<input type="checkbox"/>	It is considered that implementation of the policy will not have a negative impact upon the community.
<p>Next steps:</p> <ul style="list-style-type: none"> ➤ If the answer to all of the above screening questions is No then the process is completed. ➤ If the answer of any of the questions is Yes or Uncertain, then a Level 2 Full Impact Assessment must be completed. 				

* Consult the Impact Assessment further guidance appendix for details on the issues covered by each of these broad questions prior to completion.