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| Date | Created | 1 st March 2026 | | |
| | Submitted | | | |
| | Approved | | | |
| | Updating Frequency | 5-year review with updates in period subject to changes in law and national guidance | | |
| Status | Version: 0.1 | | | |
| Contributor(s) | | | | |
| Subject | Private Sector Housing Enforcement Policy 2026 - 2031 | | | |
| Type | Policy | | | |
| | Vital Record | | EIR | |
| Coverage | Middlesbrough Council – all wards | | | |
| Language | English | | | |
| Document Control | | | | |
| Version | Date | Revision History | | Reviser |
| 1.0 | | First Draft | | |
| | | | | |
| | | | | |
| Distribution List | | | | |
| Version | Date | Name/Service area | | Action |
| 1.0 | | | | |
| | | | | |

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1. Summary

- 1.1. This policy forms part of the Council's framework for the delivery of regulatory services that support the Council to satisfy its statutory duties and functions, which aim to protect public health, safety and welfare, prevent crime and anti-social behaviour, protect and enhance the environment, ensure fair and equitable trading practices, protect consumer interests and support the local economy.
- 1.2 This policy sets out the Council's principles for enforcing and executing its duties as a Housing Authority under relevant laws, including:-
- The Housing Act 2004, which 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.
 - The Renters' Rights Act 2025, which imposes a duty on the Council to enforce the Landlord Legislation, comprised of the following:
 - Chapters 3 and 6 of Part 1 of the Renters' Rights Act 2025 (Discriminatory practices)
 - Part 2 of the Renters' Rights Act 2025 (Landlord Redress Schemes and Private Rented Sector Database)
 - Sections 1 and 1A of the Protection from Eviction Act 1977 (Unlawful Eviction and Harassment)
 - Chapter 1 of Part 1 of the Housing Act 1988. (Assured Tenancies)
 - Section 110 of the 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.

2. Context

- 2.1 This policy is designed to ensure that enforcement activities and actions under housing-related laws are conducted in an impartial, open and consistent manner.
- 2.2 The Council seeks to ensure compliance with housing-related laws by helping and encouraging landlords, agents and others to understand their duties and responsibilities under relevant housing laws by providing information, education, advice and guidance.
- 2.3 The Renters' Rights Act 2025 and the 'Landlord Legislation' (as defined by Section 107) sit outside of the Regulators' Code, and its provisions do not apply.

2.4 Part 1 of the Housing Act 2004 (housing conditions) is also outside of the scope of the Regulator's Code's. Notwithstanding this, the following legislation and its enforcement does come within the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 and is therefore within the scope of the Regulators Code and the principles of good regulation:

- Parts 8, 9 and 10 of the Housing Act 1985 (incl. area improvement, slum clearance and overcrowding)
- Part 8 of the Housing Act 1996 (incl. offences by corporate bodies)
- Parts 2 to 5 of the Housing Act 2004 (incl. licensing of houses and management orders)

3. Purpose

- 3.1 This policy 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 non-compliance.
- 3.2 All enforcement action will be taken in accordance with relevant statutory Codes of Practice, Council procedures and protocols and official government guidance.
- 3.3 This policy aims to ensure that enforcement activities are focused towards matters with the greatest risk to the health or safety of tenants in the private rented sector and to anyone who may be affected by the condition of rented dwellings; to ensure compliance with tenancy rights and protections; to ensure landlord duties and responsibilities are met, to ensure the marketing and letting of rented dwellings is compliant with expected standards; and, to ensure that enforcement decisions are applied consistently, fairly and transparently and ensure that the regulatory burden on landlords is reduced.

4. Definitions

- 4.1 The term 'landlord' should be read as including letting agents, managing agents, licensors, property owners, directors of corporate landlords and any other person involved in the letting or management of privately rented accommodation.
- 4.2 The term 'House of Multiple Occupation' (HMO) is defined by the Housing Act 2004
- 4.3 A 'person' may be an individual, a company or other legal entity.
- 4.4 The term 'landlord legislation' refers to duties under Chapters 3 and 6 of Part 1 of the Renters' Rights Act 2025, Part 2 of the Renters' Rights Act 2025, Sections 1 and 1A of the Protection from Eviction Act 1977, and Chapter 1 of Part 1 of the Housing Act 1988.

4.5 The term 'rented accommodation legislation' means sections 1 and 1A of the Protection from Eviction Act 1977; Chapter 1 of Part 1 of the Housing Act 1988; Parts 1 to 4 and 7 of the Housing Act 2004 so far as relating to qualifying residential premises within the meaning given by section 2B of that Act; 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; and, Chapter 3 of Part 1 and Part 2 of the Renters Rights Act 2025.

5. Scope

5.1 This policy applies to all persons who are authorised by the Council to deliver statutory duties and functions relating to housing and landlord legislation.

5.2 This policy is a five-year policy and will be reviewed periodically and whenever there are significant changes in legislation and national guidance. Compliance with the policy will be monitored through service delivery processes.

6. Legislative and regulatory framework

6.1 The Council wants to support responsible landlords to raise housing standards and protect tenants' rights. However, the Council expects landlords to have a good understanding of the housing standards and management issues that should be met in privately rented accommodation.

6.2 This policy supports the Council to meet its statutory obligations and to succeed in its ambitions for a successful and ambitious town, to ensure communities are safe and resilient, and to help residents live longer, healthier lives.

7. Policy Detail

7.1 It is the aim of this policy to ensure that enforcement activities in relation to landlord and rented accommodation legislation are applied consistently and transparently.

7.2 Landlords, agents and others engaged in the private rented sector must understand their duties and responsibilities in respect of the marketing, rental and management of the properties they are responsible for, and they must understand the regulatory actions they may be subject to in order to enhance compliance and reduce the regulatory burden on them.

7.3 Section 5 of the Housing Act 2004 places a duty on Councils to take appropriate enforcement action where a 'Category 1' hazard exists.

7.4 Section 7 of the Housing Act 2004 gives Councils a discretionary duty to act where a Category 2 hazard exists. The Council will usually act where Category 2 hazards exist

where there are also Category 1 hazards. Enforcement action for Category 2 hazards will be determined by the nature and extent of the hazard and the overall standards within a rented dwelling, or where there is an evidenced lack of effective management of the property.

- 7.5 In addition, Council officers will often investigate and identify the need to take enforcement action through a range of routes, including (but not limited to): proactive inspections of dwellings through licensing provisions; in response to a complaint or request for assistance; and referrals from other public bodies. All investigations will be carried out in accordance with the relevant statutory requirements. The Council will ensure that appropriate governance is in place to ensure that action is taken in accordance with appropriate policies.
- 7.6 The Council may commence enforcement with formal action instead of informal action in the first instance. In deciding whether to do so, the circumstances of the case will be considered, and relevant factors may include but are not limited to:
- Where there is a risk to public health
 - Where there is a blatant or deliberate contravention of the law
 - Where there is history of non-compliance

The Council will usually take formal action in the first instance if there has been:

- Non-compliance with previous formal or informal action
- Offences in relation to the licensing of HMOs
- Offences in relation to the licensing of houses in a designated selective landlord licensing area.
- Any breach of the Landlord Legislation.

Investigatory powers

- 7.7 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 including, but not limited to, the powers detailed below:
- 7.8 Section 114 of the 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 of the Renters' Rights Act 2025, as is being obstructive and intentionally or recklessly making false or misleading statements in response to a section 114 notice.

- 7.9 Section 115 of the Renters' Rights Act 2025 permits the Council when it reasonably suspects a breach of the 'Rented Accommodation Legislation' to issue a notice to any person requiring them to provide the information specified. This may only be done to investigate whether a breach has occurred under the Rented Accommodation Legislation, or to determine the amount of a penalty.
- 7.10 Where an individual has not complied with a section 115 notice, section 116 of the 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.
- 7.11 Section 131 of the Renters' Rights Act 2025 provides that, in addition to the offence of non-compliance 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 also an offence to fail to give an officer any additional assistance or information which they reasonably require without reasonable excuse.
- 7.12 Section 235 of the 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.
- 7.13 Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 also permits the Council to issue a notice to an occupier, manager, or individual with an interest in the land to compel them to provide the Council with information on the nature of their interest and the names and addresses of current occupiers and of any others with an interest in the land.
- 7.14 Section 118 of the Renters' Rights Act 2025 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 sections 122 and 123 of the Renters' Rights Act 2025. This power will be exercised without a warrant.
- 7.15 Section 121 of the 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 of the Act. In addition, for this power to be exercised, one 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.

7.16 Following a section 118 or section 121 of the 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.

7.17 Following a section 118 or section 121 of the 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 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.

7.18 Section 126 of the Renters' Rights Act 2025 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 one of the occupiers if reasonably practicable. In addition, section 239 of the Housing Act 2004 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 one 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.

In certain circumstance the Council may obtain a warrant to enter, by force if necessary, under section 240 of the Housing Act 2004.

Informal action

7.19 Informal action taken by the Council may be written or verbal advice. Additionally, a visit may be made at the outset by Council Officers in cases where the initial complaint or contact indicates that an immediate investigation is warranted.

7.20 In cases where officers visit an address, whether this is a result of a landlord's failure to adequately resolve a highlighted issue or as part of an audit or other investigation, written

or verbal advice may be deemed sufficient should the inspection highlight only very minor deficiencies.

7.21 Where written advice is deemed appropriate by the Council and is provided, timescales will normally be included to undertake any specified work or actions.

7.22 While the Council will use its discretion on whether to carry out informal action for a Category 2 hazard, it does not need to provide written or verbal advice before commencing formal action.

Formal action

7.23 If formal action is considered appropriate, the following options are available to the Council.

Housing Act 2004 Part 1:

- Issue an Improvement Notice in respect of any Category 1 hazards and any Category 2 hazards on the property. This requires the person to whom it is served to undertake the remedial action specified on the Notice within a given timeframe. The mandated work and the timeframe will be determined by the Council depending on the nature and scale of the work.
- Issue a Prohibition Order in respect of any Category 1 hazards and any Category 2 hazards on the property. This prevents occupation of whole or part of the property, or can be used to limit occupant numbers, within a specified time frame.
- Issue a Hazard Awareness Notice in respect of any Category 1 hazards and any Category 2 hazards on the property. This makes the owner and occupiers aware of the hazards identified; however, it does not require remedial action. As a result, and because it does not secure risk-reducing works within a specified timeframe, a Hazard Awareness Notice will not usually be the most appropriate course of action where remedial works are necessary to reduce the risk of harm to occupiers or potential occupiers.
- Make 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.
- Where there is a Category 1 hazard present, Section 40 of the Housing Act 2004 allows the Council to undertake Emergency Remedial Action on the Category 1 hazard without prior notice.
- The Council also has the power to suspend action taken under Part 1 of the 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 minimising inconvenience to the current occupiers.
- Demolition and Clearance are options for both Category 1 or Category 2 hazards.

- Section 30 of the Housing Act 2004 provides that failure to comply with an Improvement Notice is an offence, which will normally be followed by prosecution or the issuing of a civil penalty.
- Section 32 of the Housing Act 2004 provides that failure to comply with a Prohibition Order is an offence, which will normally be followed by prosecution.
- Other formal notices served by the Council may not relate to the landlord undertaking remedial works but may cover a range of other matters including, but not limited to, exercising a right of entry under section 239 of the Housing Act 2004 and a request to provide information or the need to abate or avoid overcrowding.

Work in default

7.24 The enforcement options for non-compliance with formal Notices or breach of licence conditions include the carrying out of works specified in the Notice. This power may be exercised in addition to other enforcement proceedings taken for non-compliance. The Council has no duty to undertake works in default and it will be at its discretion.

Emergency or suspended enforcement action

7.25 Where there is a Category 1 hazard present, section 43 of the 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.

7.26 Section 40 of the 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.

7.27 The Council also has the power to suspend action taken under Part 1 of the 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 minimising inconvenience to the current occupiers.

Licence conditions

7.28 Conditions can be added to licences to require work to meet specified standards or mandated requirements. In general, we will seek to identify, remove or reduce category 1 or category 2 hazards by exercising powers in Part 1 of the Housing Act 2004 and not by means of licence conditions. However, this does not prevent the Council from imposing licence conditions relating to the installation or maintenance of facilities or equipment even if the same result could be achieved by the exercise of Part 1 powers.

7.29 Failure to comply with licence conditions is an offence, which may result in prosecution or the issuing of a civil penalty.

Other Legislative alternatives

7.30 There may be other legislative alternatives available to remedy deficiencies that cause Category 2 hazards, which we may choose as a more appropriate enforcement approach.

Prosecution

7.31 Where a Civil Financial Penalty is an available alternative to prosecution, the Council will consider using its power to prosecute under Part 1 of the Housing Act 2004 in more serious cases. The General Enforcement Policy for Public Protection, Neighbourhoods and Environmental Enforcement shall take precedent when deciding if a criminal prosecution is being considered.

Civil Financial Penalties for specified offences

7.32 This section relates exclusively to Civil Financial Penalties issued by the Council for breaches of the housing law below.

- Unlawful eviction and harassment of an occupier as defined under the Protection from Eviction Act 1997
- Failure to comply with an Improvement Notice [section 30 of the Housing Act 2004]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) [section 72 of the Housing Act 2004]
- Offences in relation to the Selective Licensing of houses [section 95 of the Housing Act 2004]
- Failure to comply with an Overcrowding Notice [section 139 of the Housing Act 2004]
- Failure to comply with a management regulation in respect of an HMO [section 234 of the 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 of the 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/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

Rent Repayment Orders

- 7.33 Part 2 of the Housing and Planning Act 2016 permits the Council to seek a Rent Repayment Order at the First Tier Tribunal: Property Chamber, to require the landlord of the property where the offence(s) has been committed to refund rent to the tenants or the Council. Section 48 of the Housing and Planning Act 2016 places a duty on the Council to consider applying for Rent Repayment Orders.
- 7.34 Where a landlord has been convicted or received a Civil Financial Penalty in respect of the offence, the Tribunal must award the maximum applicable amount, except in exceptional circumstances.
- 7.35 This power will be considered in response to all qualifying offences and where there is sufficient evidence for a successful application to the First Tier Tribunal. The qualifying offences are:
- Unlawful eviction and harassment of occupiers as defined under the Protection from Eviction Act 1997
 - Failure to comply with an Improvement Notice [section 30 of the Housing Act 2004]
 - Offences in relation to unlicensed HMOs [section 72(1) of the Housing Act 2004]
 - Offences in relation to unlicensed houses [section 95(1) of the Housing Act 2004]
 - Failure to comply with an Improvement Notice [section 30(1) of the Housing Act 2004]
 - Failure to comply with a Prohibition Order [section 32(1) of the Housing Act 2004]
 - Breach of a Banning Order [section 21 of the Housing and Planning Act 2016]
 - Using Violence to secure entry [section 6(1) of the Criminal Law Act 1977]

- Knowingly or recklessly misusing a possession ground [section 16J(1) of the Housing Act 1988]
- Letting or marketing of a property within twelve months of using the 'moving in' or 'selling' ground of eviction [section 16J(2) of the Housing Act 1988]
- Continuous breach of certain tenancy reform requirements [section 16J(3) of the Housing Act 1988]

7.36 An application for a Rent Repayment Order may be in addition to other formal action, such as prosecution proceedings or the imposition of a Civil Penalty. Where the Council has issued a Civil Financial Penalty or pursued prosecution, it will usually apply for a Rent Repayment Order where public funds have been paid to a landlord who has committed a qualifying offence.

Banning Orders

7.37 Part 2, Chapter 2 of the Housing and Planning Act 2016 permits the Council to apply for a Banning Order against a person who has been convicted of one or more of the relevant offences. This would prevent the landlord from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

7.38 The Council may consider a Banning Order for the more serious offenders. It will take into account the seriousness of the offence(s), whether the landlord has committed other offences (or received any Civil Penalty in relation to a Banning Order offence) and any history of failing to comply with their obligations or legal responsibilities. It will also take into account other relevant factors, including but not limited to:

- The harm, or potential harm, caused to the tenant;
- The need to punish the offender;
- The need to deter the offender from repeating the offence;
- The need to deter others from committing similar offences.

Costs and Charges

7.39 The Council incurs costs in carrying out its functions. Where legislation allows, the Council will seek to recover reasonable costs and expenses associated with its enforcement, licensing and wider regulatory activity. This may include (non-exhaustively) costs arising from inspections, investigation, evidence gathering, notices and other statutory documentation, follow-up action, compliance monitoring, and works or other interventions.

7.40 Recovery may be pursued using all available lawful routes, which may include civil action, local land charges, and enforcement against the property. Where permitted, interest may be applied to outstanding sums until paid.

8 Roles and responsibilities

- 8.1 All officers duly authorised to carry out enforcement activities will apply this policy when carrying out investigations and when determining the most appropriate course of action to address a breach(es) of law in regard to landlord and rented accommodation legislation.
- 8.2 The contact and application of the policy will be brought to the attention of all officers involved in the enforcement of laws relevant to the service and will be referenced when making enforcement decisions.
- 8.3 Lead / Principal Officers and Managers shall ensure that the policy is adhered to and shall report to their Head of Service any breach or variation from the policy.

9 Supporting policies, procedures and standards

- 9.1 This policy forms part of a framework of policies and documents that establish the processes and decision making involved in the delivery of regulatory services.

Included within the framework are the following

- Statement of Licensing Policy
- Civil penalties under the Renters' Rights Act 2025 and other housing legislation
- Civil penalties under the Tenant Fees Act 2019
- General Enforcement Policy for Public Protection, Neighbourhoods and Environmental Enforcement 2026-2031

10 Monitoring and review

The Head of Service shall have responsibility for the formal review of the policy, the monitoring of its application and of the enforcement decisions made in line with the policy and will ensure the policy is applied in accordance with Council and Directorate delegated powers / scheme of delegation.

11 Evaluation

This policy will be reviewed and evaluated annually to ensure it remains applicable and appropriate to current laws, government guidance and other relevant legislative provisions

Appendix 1 – 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. Equip 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 1st 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 lavatory.

Where the Council believe that a landlord is in breach of one 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 will 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 seven 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 agent
- 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 local housing authority 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 £2500. Only in exceptional circumstances may the Council depart from the application of this statement of principles and issue a penalty charge for less than £2500.

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 £3000. 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 one per storey)
- Other fire safety concerns/defects in the property which increase the risk posed to the occupants
- The length of time the offence is believed to have been on-going
- 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 HMO (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 non-compliance 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 one-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 £5000. Only in exceptional circumstances may the Council depart from the application of this statement of principles and issue a penalty charge for less than £5000. Exceptional circumstances are rare and unusual and are not established merely by the presence of multiple mitigating factors.

Appendix 2: Statement of principles to determine the amount of a penalty charge for a breach of minimum energy efficiency standards (MEES) with respect to domestic privately rented property

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (“the Regulations”) make it unlawful to rent out a domestic property if it has an EPC (Energy Performance Certificate) rating of F or G (unless a valid exemption has been registered on the PRS Exemptions register).

The Regulations make it unlawful to fail to comply with a compliance notice served by the Council.

The Regulations cover all relevant properties, even where there has been no change of tenancy.

The Regulations were introduced to improve the energy efficiency of housing in the private rented sector and to reduce greenhouse gas emissions and tackle climate change. They should help make tenants’ homes more thermally efficient.

An energy performance certificate (EPC) gives the property an energy efficiency rating – A rated properties are the most energy efficient and G rated are the least efficient. It’s 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.

An EPC contains information about the type of heating system and typical energy costs. It also gives recommendations about how the energy use could be reduced, lowering running costs. You can find the recommended energy efficiency improvements on the current EPC.

If you’re a private landlord, you must either:

- ensure your rented properties have an EPC with a minimum ‘E’ rating
- register a valid PRS exemption on the PRS exemptions register

Failure to do either of these is a breach of the Regulations.

The Council investigates 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 PRS 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 PRS 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 one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.