

Private Sector Housing Enforcement Policy

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Introduction

- 1.1 This policy sets out how Haringey Council as the Local Housing Authority will deal with breaches of housing law and other public health legislation. The Authority will aim to ensure the law is applied fairly and consistently, and to tackle offenders in proportion to any crime committed, whilst minimising the impact for the complainant.
- 1.2 This policy deals with the practical application of enforcement procedures that will be used to achieve compliance with housing and environmental standards. The full range of enforcement options can be found in appendix 1.
- 1.3 The Council expects landlords to comply with the law and proactively manage their properties. This is to ensure that the health and welfare of tenants are protected and their properties, and activities at their properties, are not having a negative effect on the neighbouring population.
- 1.4 Our overall aim of our enforcement action is to protect health and improve housing standards by;
 - changing the behaviour and seeking legal punishment of those who flout the law;
 - eliminating financial gain or benefit from non-compliance;
 - providing transparent and consistent regulation within a private market;
 - promoting professionalism and resilience within the private rented sector.
- 1.5 Enforcement action and resources will be applied proportionally based on the seriousness of the offence(s) and focused toward seeking the highest penalties for the worst offenders. This means taking legal action where we detect serious or systematic breaches of housing and public health legislation.
- 1.6 Where less significant breaches of the law are witnessed and/or the risk to health is lower, we will attempt to resolve problems through the signposting of complainants, possibly using lesser civil legal routes or through informal action. This will enable economic growth for compliant businesses.

2. How we investigate

- 2.1 We will use intelligence on licenced properties to target our proactive and reactive inspections on those premises with disrepair, overcrowding, nuisances and other public health issues and also those without property licences and those in breach of their licence.
- 2.2 In the first instance for most cases, tenant(s) are expected to take their own action to resolve the problem. This will usually need to be in the form of a written complaint to their landlord, allowing them sufficient time to respond. Where tenant(s) approach the service with a complaint, we will ask to see a copy of any such correspondence prior to initiating action.
- 2.3 Leaseholder complaints: Haringey Council is generally not able to respond to complaints by long leaseholders requesting assistance in taking action against other long leaseholders or freeholders (this includes all tenure types). Haringey will only offer assistance in cases where there are exceptional circumstances; this may include cases where there is imminent risk to health.
- 2.4 In all other situations the leaseholder will be redirected to:
The Leasehold Advisory Service - Fleetbank House,
2-6 Salisbury Square, London, EC4Y 8JX
Telephone: 020 7832 2500
<http://www.lease-advice.org>
- 2.5 We will endeavour to provide general information, advice and guidance to make it easier for landlords to understand and meet their regulatory obligations. We will also attempt to signpost those landlords who have more complex questions or require legal advice. Such information will be provided via the Council's website.
- 2.6 The Council's additional HMO licencing scheme will be 'light touch' for compliant landlords and its enforcement focus will be on the non-compliant landlords. We will achieve this through the risk assessment of data from various sources, such as complaints, licensing audits and historical data.
- 2.7 The Council will assist landlords, licence holders and agents where possible on its licensing procedures and requirements. In most cases the Council will attempt to communicate with Landlords where contraventions are suspected unless the suspicions are serious or if the suspect has a history of poor standards and/or non-compliance. Where required, property inspections will then be carried out, with a view to immediate enforcement.
- 2.8 Where property defects and evidence of poor management are identified, which are likely to significantly impact on health, the Council will take action. It will also take action where information is not provided or misleading information is given and when fraud is uncovered.
- 2.9 A significant health impact is related to the existence of Category 1 hazards, statutory nuisances, management regulations breaches and other significant

public health hazards.

- 2.10 The Council will usually serve a statutory Notice or Order where Category 1 or multiple high category 2 hazards are found. Reasonable time will be given to complete the works if a notice is served.
- 2.11 Nuisances and other public health matters that are not abated by the responsible person before the Council witnesses the offence will result in the relevant statutory notice being served. Breaches of HMO management regulations and/or breach of the conditions of the property licence will normally lead to enforcement as detailed appendix 1.
- 2.12 Charges for the service of each notice will normally be made, where Applicable.
- 2.13 Where landlords fail to comply with notices, the Council will normally take legal action against the appropriate person. It may also carry out works in default of the owner. The cost of these works and the administrative costs will be raised as a charge against the property (see below).
- 2.14 Where legal action is necessary to address housing offences and other related offences, the Authority will consider the appropriate action required on a case by case basis. The Authority will usually consider imposing a civil penalty as the primary enforcement tool having regard to the most up to date Statutory Guidance published by the Department for Communities and Local Government on 'Civil Penalties under The Housing and Planning Act 2016'. The same criminal standard of proof is required for a civil penalty as for a prosecution.
- 2.15 The Authority may consider whether a prosecution is the most appropriate course of action. Cases will be referred for Prosecution as an alternative to issuing a civil penalty where there has been;
- serious neglect of their responsibilities as a landlord/agent, or
 - significant harm as a result of their criminality, or
 - where there have been previous criminal convictions or out of court disposals particularly for similar offences, or
 - Poor history of compliance with housing and associated legislation, or
 - the criminality has had significant adverse effects on tenants or other victims, or
 - Issuing a Financial Penalty is not likely to change perpetrator behaviour or housing conditions.
- 2.16 Whether or not the Authority issues a civil penalty or refers the case for a prosecution, in both instances they must be satisfied the case meets the tests set out in Crown Prosecution Service 'Code for Crown Prosecutors' and that there is a 'realistic prospect of conviction'.
- 2.17 The Council may also, and in addition to other action, seek to obtain a Rent

Repayment Order (RRO) from the offender to recover up to 12 months of Housing Benefit/Universal Credit that was payed top them by their tenant/s.

- 2.18 Where financial penalty, RRO and/or charges are not repaid civil action will be taken to recover outstanding debt and other charges incurred.
- 2.19 In cases where breaches of housing law and other public health legislation are witnessed, but the public interest test is in question, a simple caution may be offered. This may mean criminal landlords repaying Haringey's legal and enforcement costs.
- 2.20 All information obtained will be treated in confidence and in accordance with the Data Protection Act 1998 and the EU General Data Protection Regulation (GDPR) 2018. However, it must be recognised that the Council operate secure mechanisms to share information with other internal and external agencies and law enforcement bodies, there will be circumstances where shared or complimentary enforcement action may be taken with other agencies to help target resources and activities and minimise duplication.
- 2.21 To reduce the likelihood of retaliatory eviction, enforcement action will continue until the property is brought up to a satisfactory condition, whether or not the original tenant remains in the property.
- 2.22 To ensure consistency and adherence to the enforcement policy, internal procedures will be put in place to ensure legal actions are monitored and reviewed.
- 2.23 A list of enforcement options and outcomes can be found in **appendix 1**.

3. Complaints, Feedback or Compliments

- 3.1 Those persons and individuals who are regulated by this department should expect that they will be dealt with professionally and in a manner in accordance with the Council's code of conduct for officers.
- 3.2 In the event that an individual or company is not satisfied with the service or if not in agreement with the action taken by the investigating officer or wish to give feedback about the service they have received, they should first contact the Team Manager.
- 3.3 If you wish to make a compliment you should also contact the Team at Email: environmentalhealth.andhousing@haringey.gov.uk
- 3.4 If this does not resolve the complaint, the Council also has a formal complaints system. Please visit <https://www.haringey.gov.uk>
- 3.5 Please note you can still make a complaint in cases where the Council has instigated legal proceedings. However, making a complaint will not stop any

impending legal action.

- 3.6 Where statutory notices have been served, making a complaint does not replace your statutory rights of appeal or your right to make representation. Nor does it allow you extra time to comply with any notice.
- 3.7 If you disagree with a statutory notice then you should take action specified in the notice to make an appeal, if any exists. Please read the notes that accompany the notice for more detail.
- 3.8 If a summons or directions have been issued by a Court or Tribunal you must continue to follow these. As with all cases where legal action is being taken, it is strongly recommended that you seek legal advice.

4. Charging and Compensation

- 4.1 There will be a charge for Notices served and Orders made under the Housing Act 2004, excluding management regulations. More information can be found within the Notice Charging procedure.
- 4.2 The proposed recipient of any charging notice can make representations as to their personal circumstances. The charge will only be waived in exceptional circumstances following consideration of the particular merits of any such representations received. If there is an appeal against the Notice or Order, then the charge will not be applied until the appeal is resolved and if the notice or order is upheld.
- 4.3 There is no right of appeal against a charging notice; only to the notice or order to which the charging notice relates.
- 4.4 Where works in default are completed an administrative charge of 30% will be added to the works cost.
- 4.5 We may also seek a contribution to our costs if a simple caution is issued. These costs will be reasonable, and a schedule of costs will be produced on request.

5. Publicity

- 5.1 We will work with various media organisations and persons to promote and inform people about our enforcement regime. We also will look to publish certain prosecutions on the Greater London Authority (GLA) watch list and the Dept. Communities and Local Government (DCLG) statutory database. Media coverage will normally be sought in the following cases:
 - The offence is a serious one or has significant factors such as the risk to health of tenants, visitors or neighbours, the exploitation of tenants, anti-social behaviour or an issue affecting the wider area or private

rented sector.

- Coverage will assist in securing compliance by others or is in the public interest to demonstrate the Council's actions and to help inform issues in the wider housing sector.
- To draw attention to a particular issue or set of hazards;
- To provide potential renters and tenants with information that will enable them to check whether a landlord has a poor operating history. It will seek to ensure the private rented housing market operates in a fairer and more transparent way, and that tenants are protected from exploitation by unscrupulous landlords and letting agents.
- A press release will also be issued about convictions where it is considered that publicity will bring in benefits by promoting compliance with those statutory requirements designed to protect the health, safety and welfare of customers, residents, workers and visitors, as well as the borough's environment.

6 Further Information

- 6.1 If you would like more information on our service, please go to the webpage at [Private sector renting | Haringey Council](#)
- 6.2 If you are a Landlord and would like training and support on property management matters such as Housing Benefit rules, possession proceedings and changes in housing legislation you should visit Haringey's Landlord Accreditation page at [Private sector renting | Haringey Council](#)

Enforcement Options

Action Circumstances

No	Action	Circumstances
1.	No Action	<ul style="list-style-type: none"> • Complaints or allegations of housing legislation breaches or statutory nuisances are of minor or low risk to health and the landlord has not been informed by the complainant, or allegations are unsubstantiated and unwitnessed. • Formal action is inappropriate in the circumstances.
2.	Advisory notices and letters	<ul style="list-style-type: none"> • Where conditions are evidenced to justify action and investigation and it is appropriate to give opportunity to landlords and tenants to make representations, provide information or effect change to meet compliance. • No health impacts are present which poses a risk to health or nuisance.
3.	Formal Notices or Orders	<ul style="list-style-type: none"> • The defect/conditions presents a risk to health and/or a nuisance. • There are previous failures of statutory requirements. • Previous advisory notices/letters ignored or action was not taken in a timely manner or to the correct standard. • There is a lack of confidence in the individual or management i.e. the willingness to respond to an informal approach • The Council is legally required to serve a statutory notice.
4.	Financial Penalties of (up to £30,000)	<ul style="list-style-type: none"> • Non-compliance with an improvement or overcrowding notice. • Failure to obtain a property licence • Significant and/or repeated breaches of HMO management regulations. • Breaches of the conditions of the property licence. • Amount of penalty decided by financial penalty Matrix Used as alternative to a prosecution.
5.	Works in Default- Emergency Remedial Action & Emergency Prohibition Order	<ul style="list-style-type: none"> • There is an imminent risk to health and safety to the occupant and/or public • Awaiting the service of a notice or a prosecution would not adequately protect the public interest. • However this does not rule out subsequent action being taken in conjunction with a prosecution, financial penalty, RRO or other legal action.

6.	Works in Default-non-compliance with a notice	<ul style="list-style-type: none"> • We may choose to carry out works required by a notice if they have not been completed within the permitted time or are not likely to be completed within the permitted time. • This may be taken in conjunction or followed with a prosecution or financial penalty and/or RRO.
7.	Reducing the term (length) of an additional HMO Licence.	<ul style="list-style-type: none"> • When assessing a Property Licence application, where appropriate and in conjunction with the Council's Fit and Proper and Cause for Concern policies, we may reduce the term of the licence. • A Licence holder may continue to stay on a 1 year licence if they still are a 'Cause for Concern'. E.g not fulfilling the training requirement, poor management etc;
8.	Adding new property licence	<ul style="list-style-type: none"> • When assessing a Property Licence application, where appropriate and in conjunction with the Council's Fit and Proper and Cause for Concern policies, we may add further conditions to remedy poor landlord behaviour or standards e.g. not fulfilling the training requirement, poor management etc.;
9.	Formal (Simple) Caution	<ul style="list-style-type: none"> • This will be offered as an alternative to a financial penalty or a prosecution for very low level offending where it is appropriate to do so in line with the Home Office Guidance on Simple Cautions and The Code of Crown Prosecutors.
10.	Refusal to grant a property licence and Revocation of property licences and approvals	<ul style="list-style-type: none"> • Where the Licence application is not made in accordance with the Council's application requirements; or • Where the Licence application is not accompanied by the appropriate fee; or • Where the proposed manager/licence holder is not a 'fit and proper' person; or • Where the proposed manager/licence holder is not the most appropriate person to hold a licence; or • Where the proposed manager/licence holder is not the person or an agent of a person who has control of the property; or • Where the proposed management arrangements are not satisfactory; or • Where the property is not reasonably suitable of occupation in regards the number of persons or households. • Where the Council consider that the licence holder or any other person has committed a serious breach or repeated breaches of a condition of the licence. • Or a combination of the above.
11.	Prosecution	<ul style="list-style-type: none"> • This will be considered for the more serious cases which satisfy the legal tests under the 'Code for Crown Prosecutors' in that it passes the i) evidential stage and ii) public interest stage. At the charging stage, there must be 'a realistic prospect of conviction'.

		<ul style="list-style-type: none"> • Once the case is issued in Court, if the case is contested, the Authority must prove the case 'beyond reasonable doubt'. • See section 2.15 for more detail.
12.	Rent Repayment Orders (RRO)	<ul style="list-style-type: none"> • RRO will be considered after every successful prosecution for failure to comply with an Improvement Notice (section 30); Prohibition Order, including Emergency Prohibition Orders (section 32); Offences in relation to licensing of HMOs (section 72) and in relation to licensing of houses under Part 3 of the Act (section 95). • Where a landlord fails to licence a licensable property and they received a significant amount of Housing Benefit, a RRO application may be made to the First Tier Tribunal.
13.	Banning Order	<ul style="list-style-type: none"> • The Council may decide to seek a Banning Order following the breach of 'banning order offences' by landlords and agents. A banning order last for a minimum of 12 months and prevent landlords or agents from letting their own properties or being involved in the lettings and property management industry across England.
14.	Proceeds of Crime Act	<ul style="list-style-type: none"> • Where landlords or others have benefited from the proceeds of a criminal activity we will work with Trading Act Standards colleagues and other internal departments as necessary to consider applications or legal proceedings under the Proceeds of Crime Act 2002 or other associated legislation.

Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

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

In this policy, the terms 'House of Multiple Occupation' or 'HMO' are defined by the Housing Act 2004.

Section 126 and Schedule 9 of the Housing and Planning Act 2016 provide local authorities with the power, through the insertion of section 249A Housing Act 2004, to impose a civil penalty as an alternative to prosecution in respect of the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice [section 30]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) under Part 2 [section 72]
- Offences in relation to the Selective Licensing of 'houses' under Part 3 [section 95]
- Failure to comply with an Overcrowding Notice [section 139]
- Failure to comply with a management regulation in respect of an HMO [section 234]

Regulation 11 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 provides local authorities with the power to impose a civil penalty in respect of breaches of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

In addition, section 23 of the Housing and Planning Act 2016 provides that a civil penalty may be imposed in respect of a breach of a Banning Order.

The Council has the power to impose a civil penalty of up to a maximum of £30,000 for each separate offence. If multiple offenders have committed the same 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 line with this policy.

This guidance outlines the Council's policy in setting the level of a civil penalty in each case where it has been determined to issue a civil penalty as an alternative to prosecution proceedings.

The Council considers the need for transparency and consistency in the discharge of its functions under the Housing Act 2004 to be of primary importance. The general objective of this policy is, therefore, to promote both transparency and consistency in the imposition of financial penalties under the 2004 Act so that, for example, those managing and having control of rented properties in the Council (a) know how the Council will generally penalise relevant offences and (b) are assured that, generally, like cases will be penalised similarly, and different cases penalised differently. The further objectives of using financial penalties in particular as a means of enforcing the above offences are explained below.

Statutory Guidance

The Government has issued statutory guidance under Schedule 9 of the Housing & Planning Act 2016 entitled "Civil penalties under the Housing and Planning Act 2016. Guidance for Local Housing Authorities". The Council has regard to this guidance in the exercise of their functions in respect of civil penalties.

Paragraph 3.5 of the statutory guidance states that 'The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord's previous record of offending'. The same paragraph sets out several factors that should be taken into account to ensure that the civil penalty is set at an appropriate level in each case:

- a. **Severity of the offence.** The more serious the offence, the higher the penalty should be.
- b. **Culpability and 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.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
- d. **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

e. **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

f. **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.

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

The factors detailed in the statutory guidance and policy aims will be considered by the Council when deciding where, within the Civil Penalties matrix below, a particular offence and penalty fall.

Other Policy Aims

The Council is mindful that despite its best efforts, many landlords may operate unlawfully for a significant period of time without detection, and only a proportion of landlords committing relevant offences will be discovered. The Council is, therefore, mindful that when deciding to impose a Civil Penalty, it should create an environment where it is clear to the offender and others that operating unlawfully as a landlord will be financially disadvantageous when compared to operating lawfully.

The Council intends to create an environment where landlords engage with the Council's requests and demands fulsomely, openly and honestly. This helps create a level playing field which supports the aims of transparency and consistency. No landlord should be able to financially benefit from withholding information the Council deems relevant that is, or should be, in their control to disclose. It is expected that fulsome and complete supporting evidence is provided to support any Written Representations received in response to a Notice of Intent.

Civil Penalties Matrix

In determining the level of a civil penalty, officers will have regard to the matrix set out below, which is to be read in conjunction with the associated guidance. The matrix is intended to provide indicative 'starting level' under the various offence categories, with the final level of the civil penalty adjusted in each case, taking into

account aggravating and mitigating 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.

In deciding what level of penalty to impose, officers will conduct the following four stage process. First, they will consider the seriousness of the relevant housing offence to identify a starting level of the penalty. Second, an assessment of the number of rental properties controlled or owned or managed by the landlord and/or their experience in the letting/management of property will be considered, which may have the effect of increasing or decreasing the penalty. Third, aggravating and mitigating factors that may relate to a number of factors including, but not limited to, culpability, track record and harm will be considered, which may have the effect of increasing or decreasing the penalty. Fourth, if any of the Discounts, as set out below, apply, the penalty will be decreased.

Once the seriousness of the relevant housing offence has been identified, the starting level of the penalty will be identified using the table below with the headings 'Seriousness of offence' and 'Starting level [£]'. Consideration of the number and type of rental properties controlled or owned or managed may adjust the penalty.

To reflect the seriousness of the offence(s) in question, the presence of one or more mitigating factors will rarely result in the penalty being decreased in excess of a total of £5000. In exceptional circumstances, officers may determine that the presence of one or more mitigating factors justify a decrease in the penalty in excess of £5000. The presence of numerous mitigating factors will not automatically be considered as exceptional circumstances.

The Council has not provided a list of mitigating factors in this policy because it acknowledges that there are myriad possible circumstances that might give rise to mitigation.

To ensure that any penalty imposed is proportionate to the offending behaviour the presence of one or more aggravating factors will rarely result in the penalty being increased in excess of a total of £5000. In exceptional circumstances, officers may determine that the presence of one or more aggravating factors justify a increase in the penalty in excess of £5000. The presence of numerous aggravating factors will not automatically be considered as exceptional circumstances.

The Council may, exceptionally, including for the reason given above, increase the penalty by greater than £5000 on account of aggravating factors or, again exceptionally, decrease it by greater than £5000 on account of mitigating factors. In order to meet the objectives of this policy, including the need for transparency and consistency in the use of such penalties, the Council will exercise its discretion to increase or decrease a penalty by greater than £5000 on account of aggravating or mitigating factors in exceptional circumstances only excluding any Discounts as set out below. The Council will consider on a case-by-case basis whether any such circumstances exist.

Seriousness of offence	Starting level [£]
Mild	2500
Moderate	7500
Serious	12500
Very Serious	17500
Severe	22500
Very Severe	27500

Offences where a civil penalty may be levied as an alternative to prosecution and relevant considerations as to the level of that penalty

Failure to comply with an Improvement Notice - Section 30 of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with an Improvement Notice - Unlimited

An Improvement Notice served under Part 1 Housing Act 2004 specifies repairs/improvements that the recipient should carry out in order to address one or more identified Category 1 and/or Category 2 hazards in a property. Category 1 hazards are the most serious hazards, judged to have the highest risk of harm to the occupiers; the Council has a duty to take appropriate action where a dwelling is found to have one or more Category 1 hazards present.

In some cases, the service of an Improvement Notice will have followed an informal stage, where the landlord had been given the opportunity to carry out improvements without the need for formal action. In such cases, an identified failure to comply with an Improvement Notice will represent a continued failure on the part of the landlord to deal appropriately with one or more significant hazards affecting the occupier[s] of the relevant dwelling.

The Council would view the offence of failing to comply with the requirements of an Improvement Notice as a significant issue, exposing the tenant[s] of a dwelling to one or more significant hazards.

The seriousness of the offence is viewed by the Council as being a Severe matter, attracting a financial penalty with a starting level of £22500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £27500.

Aggravating features/factors specific to non-compliance with an Improvement Notice

- The nature and extent of hazards that are present. Multiple hazards and/or severe/extreme hazards that are considered to have a significant impact on the health and/or safety of the occupant[s] in the property or their guests would justify an increase in the level of the civil penalty

Generic aggravating features/factors

The Council will have regard to general factors in determining the final level of the civil penalty including, but not limited to:

- A previous history of non-compliance would justify an increased civil penalty. Non-exhaustive examples of previous non-compliance would include previous successful prosecutions [including recent convictions that were 'spent'], receipt of financial penalties, rent repayment orders, works in default of the landlord and breaches of regulations/obligations, irrespective of whether these breaches had been the subject of separate formal action.
- A failure to cooperate with a Council investigation. Non-exhaustive examples of failure to cooperate would include failing to comply with a s.16 Local Government (Miscellaneous Provisions) Act 1976 notice, failing to comply with a s.235 Housing Act 2004 notice, failing to provide a substantive response to a letter of alleged offence.
- Deliberate intent when committing the offence. Non-exhaustive examples of deliberate intent would include knowledge that the offence was occurring, committing the offence after relevant correspondence was sent by the Council.
- The number of residents placed at risk
- Offending over an extended period of time i.e. 6 months or longer
- Whether any vulnerable residents were in occupation at the time of the offence. Non-exhaustive examples of vulnerable residents include young adults and children, persons vulnerable by virtue of age, persons vulnerable by virtue of disability or sensory impairment, 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 who do not speak English as their first language, victims of trafficking or sexual exploitation, refugees, asylum seekers

Failure to License offences

Maximum Court fine following prosecution that can be levied for failure to license an HMO or Part 3 House – Unlimited

Failure to license a Mandatory ‘HMO’ – Section 72(1) of the Housing Act 2004

Under Part 2 Housing Act 2004, most higher risk HMOs occupied by 5 or more persons forming 2 or more households are required to hold a property licence issued by the local authority. HMO licensing was introduced to allow local authorities to regulate standards and conditions in high risk, multiply occupied residential premises. Through the property licence regime, local authorities ensure that the HMO has sufficient kitchens, baths/showers and WCs and place a limit on the number of persons permitted to occupy it and the licence holder is required to comply with a set of licence conditions.

The Council would view the offence of failing to license an HMO as a significant failing; Licensing was introduced by the Government in order to regulate management, conditions, standards and safety in the properties considered to represent the highest risk to tenants as regards such matters as fire safety and overcrowding.

This seriousness of the offence is viewed by the Council as being a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council’s policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council’s policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council’s policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to failure to licence offences

- The condition of the unlicensed property. The nature and extent of any significant hazards that are present would justify an increase in the level of the civil penalty. Equally, an HMO that was found to be poorly managed and/or lacking amenities/fire safety precautions and/or overcrowded would also justify an increased civil penalty
- Any demonstrated evidence that the landlord/agent was familiar with the need to obtain a property licence e.g. the fact that they were a named licence holder or manager in respect of an already licensed premises

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to license a property under the Council's Additional [HMO] Licensing Scheme – Section 72(1) of the Housing Act 2004

The Council has designated the whole of the borough as an additional licensing area. The scheme came into force on 17 June 2024 and expires on 16 June 2029. Under the scheme, most HMOs occupied by three or more persons forming two or more households sharing one or more basic amenities such as a WC or kitchen, but which fall outside the scope of mandatory HMO licensing, will be required to hold an additional licence in order to be legally let.

The Council would view the offence of failing to license an HMO under its additional licensing scheme as a significant failing. The Council has introduced additional HMO licensing, amongst other reasons, in order to regulate management, conditions, standards and safety in the properties considered to represent a higher risk to tenants as regards such matters as fire safety and overcrowding compared with properties occupied by a single-family household.

This seriousness of the offence is viewed by the Council as being a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to failure to licence offences

- The condition of the unlicensed property. The nature and extent of any significant hazards that are present would justify an increase in the level of the civil penalty. Equally, an HMO that was found to be poorly managed and/or lacking amenities/fire safety precautions and/or overcrowded would also justify an increased civil penalty
- Any demonstrated evidence that the landlord/agent was familiar with the need to obtain a property licence e.g. the fact that they were a named licence holder or manager in respect of an already licensed premises

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to license a property under the Council's Selective Licensing Scheme – Section 95(1) of the Housing Act 2004

The Council has also exercised their powers under section 80 Housing Act 2004 and has designated 14 wards as a selective licensing area. Under this scheme, which came into force on 17 November 2022 and expires on 17 November 2027, most privately rented homes which are occupied by a single-family household or by no more than 2 unrelated persons, are required to have a property licence under this scheme to operate in the borough. Through the Selective Licensing scheme the Council intends to improve the professionalism of private landlords and drive-up property standards in the Private Rented Sector.

The Council would view the offence of failing to ensure that a rented home was licensed under its Selective Licensing Scheme as a significant issue, meaning that the tenants and wider community are not protected by the additional regulatory controls afforded by licensing.

This seriousness of the offence is viewed by the Council as being a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the

letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to non-licensing offences

- The condition of the unlicensed property. The nature and extent of any significant hazards that are present would justify an increase in the level of the civil penalty. Equally, a property that required a Selective Licence and was found to be poorly managed and/or lacking amenities/fire safety precautions and/or overcrowded would also justify an increased civil penalty
- Any demonstrated evidence that the landlord/agent was familiar with the need to obtain a property licence e.g. the fact that they were a named licence holder or manager in respect of an already licensed premises

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to Comply with an Overcrowding Notice – Section 139 of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with an Overcrowding Notice – Unlimited

Section 139 Housing Act 2004 allows the Council to serve an Overcrowding Notice in respect of an HMO that is not required to be licensed under Part 2 Housing Act 2004. The notice specifies, on a room-by-room basis, the maximum number of persons allowed to occupy each room as sleeping accommodation or that the room is not considered suitable for that purpose.

The Council would view the offence of failing to comply with the requirements of an Overcrowding Notice as a significant matter, exposing the tenant[s] of an HMO to unacceptably cramped living conditions.

The seriousness of the offence is viewed by the Council as being a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to non-compliance with an Overcrowding Notice

- The level of overcrowding present – breaches that related to over-occupation of multiple rooms or extreme over-occupation of an individual room would justify a higher civil penalty

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to Comply with a Banning Order – Section 21 of the Housing And Planning Act 2016

Maximum Court fine that can be levied for failure to comply with a Banning Order following prosecution – Unlimited. In addition, the Court can also impose a prison sentence for up to 51 weeks.

The Housing and Planning Act 2016 includes provisions and processes for a person to be banned from being involved, for a specified period, in one or more of the following activities:

- Letting housing
- Engaging in letting agency work
- Engaging in property management work

Banning Orders are reserved for what are recognised as being the most serious housing-related offences. In the event that the Council was satisfied that the offence of breaching a Banning Order had occurred, this would normally be the subject of prosecution proceedings. Where it was determined that a civil penalty would be appropriate in respect of a breach of a Banning Order, this would normally be set at the maximum level of £30,000 to reflect the severity of the offence.

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

Maximum Court fine following prosecution that can be levied for failure to comply with each individual regulation - unlimited

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

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

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

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

It is important that the manager of an HMO complies with all regulations, but the Council recognises that a failure to comply with certain regulations is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with the duty of manager to provide information to occupier

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide information to occupier as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or

five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Management Regulation breach offences

- The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to take safety measures

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to take safety measures as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to maintain water supply and drainage

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the water supply and drainage as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to supply and maintain gas and electricity

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the gas and electricity supply as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to maintain common parts, fixtures, fittings and appliances
The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the common parts, fixture, fittings and appliances as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to maintain living accommodation
The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the living accommodation as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above

Duty to provide waste disposal facilities

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide waste disposal facilities as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Management Regulation breach offences
As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors
As set out under 'Failure to comply with an Improvement Notice' above

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

Maximum Court fine following prosecution that can be levied for failure to comply with a licence condition - unlimited

All granted HMO licences impose a set of conditions on the licence holder. These conditions impose a variety of obligations relating to the letting, management and condition of the rented property.

It is important that the manager 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.

Failure to comply with licence conditions related to:

- *Signage or the provision of information for tenants*
- *Provision of written terms of occupancy for tenants*
- *Procedures regarding complaints*
- *Procedures regarding vetting of incoming tenants*
- *Compliance with deposit protection legislation*
- *The recording and provision of information regarding rent payments*
- *Procedures relating to rent collection and the receipt and transfer of rental monies*
- *The provision of information regarding occupancy of the property*
- *The provision of information regarding change of managers or licence holder details*
- *The provision of information related to changes in the property*
- *Requirements relating to the sale of the property*
- *Attending training courses*
- *Requirements to hold insurance*
- *The provision of insurance documentation*
- *The provision of references*

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one

HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

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

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with 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 ASB*

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

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

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- ***The condition or existence of smoke alarms, carbon monoxide alarms, emergency lighting, gas installations, electric installations and appliances, fire detection or other fire safety features or requirements***
- ***The prevention including provision of safe means of escape***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Severe matter, attracting a financial penalty with a starting level of £22500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £27500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Breach of licence conditions – Section 95(2) Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with a licence condition - unlimited

All granted property licences impose a set of conditions on the licence holder. These conditions impose a variety of obligations relating to the letting, management and condition of the rented property.

It is important that the manager 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.

Failure to comply with licence conditions related to:

- ***Signage or the provision of information for tenants***
- ***Provision of written terms of occupancy for tenants***
- ***Procedures regarding complaints***
- ***Procedures regarding vetting of incoming tenants***
- ***Compliance with deposit protection legislation***
- ***The recording and provision of information regarding rent payments***
- ***Procedures relating to rent collection***
- ***The provision of information regarding occupancy of the property***
- ***The provision of information regarding change of managers or licence holder details***
- ***The provision of information related to changes in the property***
- ***Requirements relating to the sale of the property***
- ***Attending training courses***
- ***Requirements to hold insurance***
- ***The provision of insurance documentation***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no

other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- *Procedures and actions regarding Inspections*
- *Procedures regarding Repair issues*
- *Maintenance and use of common parts (including gardens, outbuildings and property exterior) and living areas*
- *Safeguarding occupiers and minimising disruption during works*
- *The provision of information regarding alterations and construction works,*
- *Procedures regarding emergency issues*
- *Waste and waste receptacles, pests, minor repairs, alterations or decoration.*
- *Giving written notice prior to entry*
- *Allowing access for inspections*
- *Minimising risk of water contamination*

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no

other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

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

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- ***The condition or existence of smoke alarms, carbon monoxide alarms, emergency lighting, gas installations, electric installations and appliances, fire detection or other fire safety features or requirements***
- ***The prevention including provision of safe means of escape***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to Comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 impose duties on private landlords in relation to electrical installations. Regulation 3 is detailed below:

3. Duties of private landlords in relation to electrical installations

(1) A private 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 1st 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 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 local housing authority 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 sub-paragraph (3)(a) indicates that a private landlord is or is potentially in breach of the duty under sub-paragraph (1)(a) and the report requires the private landlord to undertake further investigative or remedial work, the private 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 landlord must—
- (a) obtain written confirmation from a qualified person that the 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 sub-paragraph (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 sub-paragraph (3)(a) which required the further investigative or remedial work to the local housing authority 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 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.

It is important that a private landlord complies with all aspects of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, however, the Council recognises that a failure to comply with certain aspects of Regulation 3 is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (3)(b), 3(d), 3(e)

The Council would view the seriousness of the offence of failing to comply with (3)(b), 3(d) or 3(e) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Electrical Safety Regulations breaches of duty

- The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation
- Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (5)(b), (5)(c)

The Council would view the seriousness of the offence of failing to comply with (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (5)(b) or (5)(c) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Electrical Safety Regulations breaches of duty

- The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation
- Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (4), (5a), (6)

The Council would view the seriousness of the offence of failing to comply with (4), (5a) or (6) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Electrical Safety Regulations breaches of duty

- The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation
- Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Process for imposing a civil penalty and the right to make representations

Before imposing a financial penalty on a person, the Council will give the person a Notice of Intent.

A person who is given a Notice of Intent may make written representations to the Council about the proposal to impose a financial penalty. Any representations must be made within a 28-day period, this period starting the day after the date on which the Notice of Intent was given. As the burden lies with the recipient of any such notice to explain why, exceptionally, the Council should, or should not, depart from the Civil Penalties Matrix and guidance above, the Council will expect the recipient of a Notice of Intent to explain and provide fulsome and cogent evidence to support the existence of any such circumstances when they make representations in response to the notice.

In the event of two or more persons receiving separate Notices of Intent for the same matter, it should be noted that acceptance/payment of a civil penalty by one person will not negate the Council's intention to impose a civil penalty on the second or further persons. Each person served with the Notice of Intent is considered individually liable to pay the civil penalty notified to them. It is therefore important that any recipient of a Notice of Intent takes the opportunity to make representations should they consider for any reason a civil penalty should not be individually imposed upon them.

After the end of the period for representations the Council will:

- (a) Decide whether to impose a financial penalty on the person, and
- (b) If it decides to impose a financial penalty, decide the amount of the penalty

In determining whether to impose a financial penalty, and the level of any penalty, the Council will consider any written representations received in the appropriate time period, and will also consider the totality principle.

Furthermore, an offender's compliance with the identified breach during the representation period would not, in itself, be reason for the Council to determine that the imposition of a financial penalty was inappropriate. However, compliance at that stage may be relevant with respect to any mitigating factors that could decrease the amount of any imposed financial penalty.

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 financial penalty on the person, it will give the person a Final Notice imposing that penalty.

The Final Notice will set out and summarise:

- a) The amount of the financial penalty,
- b) The reasons for imposing the penalty,
- c) Information about how to pay the penalty,
- d) The period for payment of the penalty,
- e) Information about rights of appeal, and
- f) The consequences of failure to comply with the notice

Discounts

The Council will automatically apply the following discounted rates to any imposed financial penalties in the following circumstances:

- A discount of 15% of the original calculated financial penalty will be deducted from the penalty imposed in the Final Notice should the penalty be paid within a specified time period (normally 28 days).

Illustrative example

The landlord of a Mandatory HMO property fails to obtain a licence. They only operate two HMO properties and there are no other relevant factors or aggravating features. The offence is regarded as a Very Serious matter. Upon receipt of the 'Notice of Intent' to impose a £17500 financial penalty. Written representations are made to the Council.

On account of the written representations received by the landlord, the council imposes a financial penalty of £16000. In the event the landlord pays within the specified period a 15% discount is given so that the landlord makes a discounted payment of £13600.