Basingstoke and Deane

Housing Standards Enforcement Policy

February 2026

Introduction

This policy sets out the Council's principles for enforcing and executing its duties as a Housing Authority under the relevant statute. Whereas the Council's General Enforcement Policy provides the overarching approach to enforcement, this policy focusses solely on the powers available to enforce housing standards.

S3 Housing Act 2004 imposes a duty on Councils to keep housing conditions in their district under review with a view to identifying any action that may need to be taken by them.

S22 Regulatory Enforcement and Sanctions Act 2008 provides that a Council, acting in its capacity as a regulator of housing standards, must prepare and publish its enforcement policy.

S107 Renters' Rights Act 2025 imposes a duty on the Council to enforce the 'Landlord Legislation'. The Landlord Legislation is comprised of the following:

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

S110 Renters' Rights Act 2025 imposes a duty on the Council to report to the Secretary of State on the exercise of its functions under the Landlord Legislation.

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.

Aims of the Policy

The purpose of this enforcement policy is to provide guidance for Housing Standards officers ("HSO's") to ensure enforcement action is taken in line with the Regulators Code and the principles of good regulation where required by the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 as well as the Councils General Enforcement Policy.

Of particular note, the following pieces of legislation:

- Parts 8, 9 and 10 of the Housing Act 1985
- Part 8 of the Housing Act 1996
- Parts 2 to 5 of the Housing Act 2004

are subject to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007.
This policy document sets out the approach that owners, landlords, their agents or any other person involved in the letting or management of privately rented accommodation, and tenants of private rented sector properties can expect from officers when dealing with non-compliance.

All enforcement action taken will be in accordance with relevant statutory Codes of Practice, Council procedures and protocols, and official guidance from central and local government bodies. The Council will have regard, where required, to the principles laid out in the Regulators Code when undertaking enforcement action, which include proportionality, accountability, consistency, transparency, and appropriate targeting of enforcement action.
As a public body under the Human Rights Act 1998, the Council will apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Approach to Enforcement

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

S5 Housing Act 2004 places a duty on Councils to take formal enforcement action where a Category 1 hazard exists.

S7 Housing Act 2004 gives Councils a discretionary duty to take action where a Category 2 hazard exists. The Council will usually take action where a significant Category 2 hazard exists.

In addition, Council officers will often investigate and identify the need to take enforcement action through proactive inspections of dwellings through licensing provisions; in response to a complaint or request for assistance; and referrals from other public bodies. All HSO's are fully trained, competent and authorised to carry out their duties. All investigations will be carried out in accordance with the relevant statutory requirements. The Council will ensure that appropriate governance is in place to ensure that action is taken in accordance with appropriate policies.

The Council may commence enforcement with formal action instead of informal action in the first instance. In deciding whether to do so, the circumstances of the case will be taken into account. Relevant factors may include:

- Where there is a risk to public health
- Where there is a blatant or deliberate contravention of the law
- Where there is history of non-compliance

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

- Non-compliance with an Improvement Notice
- Offences in relation to the licensing of HMOs
- Unlawful eviction or harassment

The Renters Rights Act 2025 and the 'Landlord Legislation' (as defined by S107) sit outside of the Regulators' Code, and its provisions do not apply. As such, the Council will take formal enforcement action in the first instance for breaches of the Landlord Legislation.

Investigatory Powers

In addition to the Council's informal and formal powers of enforcement, there are investigatory powers relating to the collection of information and relating to the entry of premises including, but not limited to, the powers detailed below.

Power to Investigate

S114 Renters' Rights Act 2025 gives the Council power to provide a notice to a relevant person to require the person to provide specified information to the Council. This may be given to any person with an estate or interest in the land; the licensor; their agents; or a marketer of a property. It may be given in regard to any offence under the following rented accommodation Legislation:

- sections 1 and 1A of the Protection from Eviction Act 1977;
- Chapter 1 of Part 1 of the Housing Act 1988;
- section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013;
- sections 21 to 23 of the Housing and Planning Act 2016;
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

Failure to comply with a s114 notice is an offence under s131 Renters' Rights Act 2025, as is intentionally or recklessly making false or misleading statements in response.

S115 Renters' Rights Act 2025 permits the Council when it reasonably suspects a breach of the above legislation to issue a notice to any person requiring them to provide the information specified. This may only be done to investigate whether a breach has occurred, or to determine the amount of a penalty.

Where an individual has not complied with a s115 notice, s116 Renters' Rights Act 2025 enables the Council to make an application to the Court to enforce the provisions of the notice and seek reimbursement for the costs of the application.

S131 Renters' Rights Act provides that, in addition to the offence of non-compliance with a s114 notice, it is an offence for an individual to obstruct a Council officer seeking to exercise their powers without reasonable excuse. It is also an offence to fail to give an officer any additional assistance or information which they reasonably require without reasonable excuse.

S235 Housing Act 2004 allows the Council to provide a notice to relevant individuals, including occupiers, directing them to provide specified documents under their control for the purpose of investigating whether an offence has been committed

under Parts 1-4 of the Housing Act 2004 or exercising the Council's functions under Parts 1-4 of the Housing Act 2004.

S16 Local Government (Miscellaneous Provisions) Act 1976 also permits the Council to issue a notice to an occupier, manager, or individual with an interest in the land to compel them to provide the Council with information on the nature of their interest and the names and addresses of current occupiers.

Entry of Premises

S118 Renters' Rights Act 2025 permits Council officers to enter business premises of relevant people (including landlords, letting agents, and marketers) if it is necessary for the production or seizure of documents under s122-s123 Renters' Rights Act 2025. This power will be exercised without a warrant.

S120 Renters' Rights Act 2025 allows a Council officer named in a warrant to enter premises used for a rental sector business which is not mainly accommodation if there are documents on the premises which the officer could require under s122 or seize under s123. In addition, for this power to be exercised, one of the following conditions must be met:

- That access to the premises has been or is likely to be refused, and the Council has provided notice of their intention to apply for a warrant to the occupier;
- Those documents on the premises would likely be concealed or interfered with if notice of entry was given;
- That no occupier is present, and waiting for their return might defeat the purpose of the entry.

Following a s118 or s120 Renters' Rights Act 2025 entry, s122 allows an officer at any reasonable time to require a relevant person on the premises to produce any documents relating to the business and to take copies of them. This may only be exercised to ascertain whether there has been a breach of the Rented Accommodation Legislation where an officer reasonably suspects there has been a breach or an offence; or to ascertain whether the documents may be required in evidence for proceedings regarding a breach or offence.

Following a s118 or s120 Renters' Rights Act 2025 entry, s123 authorises Council officers to seize and detain documents which the officer reasonably suspects may be required as evidence in proceedings relating to a breach of, or an offence under, the rented accommodation Legislation. When doing so, the officer will provide evidence of the officer's identity and authority if reasonably practicable. The officer will take reasonable steps to inform the person from whom documents have been seized that they have been seized and provide that person with a written record of what has been taken.

S126 Renters' Rights Act 2025 permits the Council to enter residential premises used for a tenancy at a reasonable time if the officer considers it necessary as part of an investigation into potential offences specified in subsection 1(b). Where required, the Council will give at least 24 notice of this to the occupier and individuals

with an interest in the property who has supplied the address to the Council for the purpose of the entry, detailing in writing why the entry is necessary and the suspected offences. Where there are occupiers found on the premises, the officer will provide evidence of the officer's identity and authority to at least one of the occupiers if reasonably practicable.

In addition, s239 Housing Act 2004 permits Council officers to enter, if necessary and at a reasonable time, a property in order to carry out a survey or examination. This may be done if any one of the following is met:

- to determine if any Part 1-4 enforcement functions should be exercised;
- the premises are part of an Improvement Notice or Prohibition Order;
- a management order is in force under Chapter 1 or 2 of Part 4 on the premises.

In respect of s239 entry, the Council will give at least 24 hours' notice to any known owners and occupiers. This need not be done if the house is entered for the purpose of ascertaining whether an offence has been committed under section 72, 95 or 234 (HMO licensing offences).

Informal action

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

In cases where officers visit an address, whether this is a result of a landlord's failure to adequately resolve a highlighted issue or as part of an audit or other investigation, written or verbal advice may be deemed sufficient should the inspection highlight only minor deficiencies.

Where written advice is deemed appropriate by the Council and is provided, timescales will normally be included to undertake any specified works or actions. For defects that relate to moderate or minor Category 2 hazards, the Council may issue a Hazard Awareness Notice.
While the Council will use its discretion on whether to provide informal action for a Category 2 hazard, it does not need to provide written or verbal advice before commencing formal action.

Formal action

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

Statutory notices
S11 and s12 Housing Act 2004 permits the Council to issue a statutory Improvement Notice in respect of any Category 1 hazards and any Category 2 hazards on the property. This is a notice requiring the person to whom it is served to undertake the remedial action specified on the notice within a given timeframe. The required work

and timeframe will be determined by the Council depending on the nature and scale of the work.

S30 Housing Act 2004 provides that failure to comply with a statutory Improvement Notice is a criminal offence, which will normally be followed by prosecution or the issuing of a civil penalty. 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.

Other formal notices served by the Council will not relate to the landlord undertaking remedial works but will cover a range of other matters including, but not limited to, exercising a right of entry under s.239 of the Housing Act 2004 and a request to provide information or the need to abate or avoid overcrowding.

Work in default

The enforcement options for non-compliance with formal notices or breach of licence conditions include the carrying out of works specified in the notice and take steps to recover the costs incurred, including costs incurred in administering the work in default. This power may be exercised in addition to other enforcement proceedings taken for non-compliance. The Council has no duty to undertake works in default and it will be at its discretion.

Emergency or suspended enforcement action

Where there is a Category 1 hazard present, s43 Housing Act 2004 permits the Council to issue an Emergency Prohibition Order. This immediately prohibits the use of all or part of a dwelling if there is an imminent risk of serious harm to the health or safety of the occupants or others.

S40 Housing Act 2004 allows the Council to undertake Emergency Remedial Action on the Category 1 hazard without prior notice. The Council may then seek reimbursement of costs incurred on the work and the administration of the scheme.

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

Power to charge

In accordance with Sections 49 and 50 of the Housing Act 2004 the Council will normally exercise the power to charge and recover its reasonable costs incurred when:

- Serving an Improvement Notice (or Suspended Improvement Notice)
- Serving a Hazard Awareness Notice
- Making a Prohibition Order (or Suspended Prohibition Order)
- Taking Emergency Remedial Action
- Making an Emergency Prohibition Order
- Making a Demolition Order.

The charge will be calculated using the criteria laid down by Chapter 5 of the Housing Act 2004 and will be charged at the hourly rate for officer time.

All charges will be registered as local land charges and will only be waived in exceptional circumstances such as deficiencies caused by tenant neglect or owner-occupier properties involving a vulnerable person. Any charges waived will only be at the discretion of the Regulatory Services Manager.

Simple Caution

The Council may, at its discretion, issue a Simple Caution as an alternative to prosecution. This option is available to the Council if there is sufficient evidence to charge; the offender admits to the breach; and consents to the Caution. If the offender refuses to accept a Simple Caution, a prosecution will normally be pursued. This option will only be considered for less serious matters.

Prosecution

Where a civil financial penalty is an alternative to prosecution, the Council will consider using its power to prosecute under Part 1 Housing Act 2004 in more serious cases.
The decision to prosecute will be determined by the evidential strength of the Council's case and the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors.

In many circumstances, where an offence is committed by a body corporate, legislation often enables local authorities to pursue persons involved with the body corporate in addition to, or instead of, the body corporate.

The Council will determine, on a case-by-case basis, whether to take enforcement action against any person or persons that they consider fall within this scope addition to prosecuting the body corporate.

Civil financial penalties for specified offences

This section relates exclusively to civil financial penalties issued by the Council for breaches of the provisions below. This enforcement policy should not be used as information for civil financial penalties issued for other offences under the Council's jurisdiction.

The Council has the power to impose a civil financial penalty for the following:

- Failure to comply with an Improvement Notice [s30 Housing Act 2004]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) [s72 Housing Act 2004]
- Offences in relation to the Selective Licensing of 'houses' [s95 Housing Act 2004]
- Failure to comply with an Overcrowding Notice [s139 Housing Act 2004]
- Failure to comply with a management regulation in respect of an HMO [s234 Housing Act 2004]

- Breaches of Regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 [Regulation 11 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020]
- Failure to comply with a banning order [s23 Housing and Planning Act 2016]
- The breaches detailed under section 16 of the Housing Act 1988 as amended by the Renters' Rights Act 2025:
    - Where a landlord or agent relies on a Schedule 2 eviction ground knowing that the landlord would not be able to obtain an order for possession, and the tenant subsequently surrenders the tenancy within four months without a court order having been made;
    - Attempting to let the property for a fixed term;
    - Failure to give a written statement of terms and any other information required by regulations made by the Secretary of State;
    - attempting to end the tenancy orally or by service of a notice to quit;
    - serving an eviction notice that attempts to end a tenancy outside the prescribed section 8 process;
    - failing to provide a tenant with prior notice that a ground which requires it may be used;
    - reletting or remarketing a property within the 12-month no-let period after using the moving and selling grounds.
- Discriminating against prospective tenants during the PRS letting process on the grounds of receiving benefits or having children (Part 1, Chapter 3 Renter's Rights Act 2025)
- Inviting or encouraging any person to offer to pay an amount of rent under the proposed letting that exceeds the stated rent or accepting an offer from any person to pay an amount of rent under the proposed letting that exceeds the stated rent.
- Offences in relation to the PRS database (Part 2, Chapter 3 Renters' Rights Act 2025)
- Offences in relation to the landlord ombudsman (s67 Renters' Rights Act 2025)
- Abusing the new no-fault eviction grounds (s16 Renters' Rights Act 2025)
- Continuing breaches of the tenancy reform changes (s16 Renters' Rights Act 2025)
- Breach of the decent homes standard (s101 Renters' Rights Act 2025)

Civil Financial Penalties in respect of these offences operate according to their own independent separate policy.

Rent Repayment Orders (RROs)

Part 2 of the Housing and Planning Act 2016 permits the Council to seek a Rent Repayment Order at the First Tier Tribunal Property Chamber to require the landlord of the property where the offence(s) has been committed to refund rent to the tenants or the Council. S48 of the Housing and Planning Act 2016 places a duty on

the Council to consider applying for Rent Repayment Orders where a qualifying offence (see below) has been committed.

Where a landlord has been convicted **or** received a Civil Financial Penalty in respect of the offence, the Tribunal must award the maximum applicable amount, except in exceptional circumstances.

This power will be considered in response to all qualifying offences and where there is sufficient evidence for a successful application to the First Tier Tribunal.

The qualifying offences are:

- Failure to comply with an Improvement Notice (Housing Act 2004, s30)
- Failure to comply with a Prohibition Order (Housing Act 2004, s32)
- Breach of a Banning Order (Housing and Planning Act 2016, s21)
- Control or management of an unlicensed HMO (Housing Act 2004, s72)
- Control or management of an unlicensed house under selective licensing (Housing Act 2004, s95)
- Violent entry (Criminal Law Act 1977, s6)
- Illegal eviction or harassment (Protection from Eviction Act 1977, s1)
- Landlord's failure to become a member of a landlord redress scheme (Renters' Rights Act 2025, s68)
- Where an offence has been committed under s16J of the Housing Act 1988 (under the powers given in s16K of the Housing Act 1988 as inserted by s17 Renters' Rights Act 2025)
- Landlord's breach of non-discrimination requirements under ss35, 36, or 41 Renters' Rights Act 2025
- Landlord's acceptance of rent in advance from prospective tenants (Part 1, Chapter 1 Renters' Rights Act 2025)
- Landlord's advertisement or offering of the property without specifying the proposed rent, or encouraging any person to offer to pay more than the stated rent (Part 1, Chapter 6 Renters' Rights Act 2025)
- Landlord's failure to join a PRS database (s93 Renters' Rights Act 2025)
- Landlord's failure to comply with the requirements of a PRS database, or in providing false or misleading information to the database operator (s93 Renters' Rights Act 2025)
- Offences in relation to the landlord ombudsman (s67 Renters' Rights Act 2025)
- Knowingly or recklessly using a possession ground (s16 Renters' Rights Act 2025)
- Abusing the new no-fault eviction grounds (s16 Renters' Rights Act 2025)
- Continuing breaches of the tenancy reform changes (s16 Renters' Rights Act 2025)
- Breach of the decent homes standard (Part 3, s101 Renters' Rights Act 2025)

An application for an RRO may be in addition to other formal action, such as prosecution proceedings or the imposition of a Civil Penalty, in order to reimburse public funds.

Where the Council has issued a civil financial penalty or prosecuted, it will usually apply for a Rent Repayment Order to recover taxpayer funds and to assist the funding of housing enforcement work where public funds have been paid to a criminal landlord.

S49 of the Housing and Planning Act 2016 enables the Council to assist tenants apply for Rent Repayment Orders. The Council will usually assist tenants by referring them to a reputable support service.

Banning Orders

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

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

The Council may consider applying for a banning order for the more serious offenders. It will take into account the seriousness of the offence(s), whether the landlord has committed other banning order offences (or received any civil penalty in relation to a banning order offence) and any history of failing to comply with their obligations or legal responsibilities. The Council will also take into account other relevant factors, including:

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

Entry onto the Private Rental Sector (PRS) database

Under s84(1) of the Renters' Rights Act 2025, the Authority has a duty to make an entry on the Private Rental Sector database in respect of a person where:

- A relevant banning order has been made against that person following an application by the authority
- The person has been convicted of a relevant banning order offence following criminal proceedings brought by the authority, or
- The authority has imposed a financial penalty on the person in relation to a banning order offence.

Under section 84(2), the Authority has a power to make an entry where:

- The person has been convicted of a relevant banning order offence following criminal proceedings brought by someone other than a local housing authority, or
- A financial penalty has been imposed on the person in relation to a relevant banning order offence by a person other than a local housing authority.

Representations and appeals

Contact may be made with the Council about any matters listed here by email at ehteam@basingstoke.gov.uk or by post at:

Basingstoke and Deane Borough Council
Civic Offices
London Road
Basingstoke
RG21 4AH

A service user 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.

Where statutory notices have been served, making a complaint does not replace the statutory rights of appeal or the right to make representation. Nor does it allow extra time to comply with any notice or order.

If a service user disagrees with a statutory notice then they should take action specified in the notice or order to make an appeal, if any exists. Reference should be made to any notes that may accompany the notice or order for more detail. All Landlords who wish to appeal a notice are advised to obtain independent legal advice.

Appendix 1 – Statement of principles to determine the amount of a penalty charge under Part 4 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 ("the Regulations")

Section 13 of the Regulations requires local housing authorities to prepare and publish a statement of principles which they propose to follow in determining the amount of a penalty charge.

The Regulations introduced legal requirements on relevant landlords to:

1. Equip a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation.

2. During any period when the premises were occupied under the tenancy, to ensure that a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and which contains fixed combustion appliance other than a gas cooker.

3. Carry out checks by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

4. Where, following a report made on or after 1st October 2022 by a tenant or by their nominated representative to the landlord, a prescribed alarm is found not to be in proper working order, the alarm is repaired or replaced.

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

Where the Council believe that a landlord is in breach of one or more of the above duties, the Council must serve a remedial notice on the landlord. The remedial notice is a notice served under Regulation 5 of the Regulations.

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

The Council will usually impose a penalty charge where it is satisfied, on the balance of probabilities, that the landlord has not complied with the action specified in the remedial notice within the required timescale.

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

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

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

- Evidence obtained from a property inspection
- Evidence provided by the tenant or agent
- Evidence provided by the landlord demonstrating compliance with the Regulations by supplying dated photographs of alarms, together with installation records
- That all detector heads have not passed their expiration or replacement date

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

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

Where a landlord is in breach, the local housing authority may serve a remedial notice. Failure to comply with each remedial notice can lead to a fine of up to £5,000. Fines will be applied per breach, rather than per landlord or property

When determining the amount of the penalty charge, regard will be had to whether this is a first breach under the Regulations.

Determining the amount of the penalty charge for a first breach

The minimum amount of a penalty charge for a first breach of the Regulations will be £2500.
The starting level of a penalty charge for a first breach of the Regulations will be £3000. The penalty charge amount will then be varied depending on aggravating and mitigating factors.

Aggravating factor include, but are not limited to:

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

- Attempts to obstruct the investigation

Mitigating factors include, but are not limited to:

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

Determining the amount of the penalty charge for a subsequent breach

The penalty for subsequent breaches by the same landlord will be £5000.

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

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

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

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

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

An energy performance certificate (EPC) gives the property an energy efficiency rating – A rated properties are the most energy efficient and G rated are the least efficient. It's valid for 10 years and must be provided by the owner of a property, when it is rented or sold.

If you are a landlord and you fail, when requested, to provide an EPC for the start of a tenancy, you will be in breach of the Regulations.

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

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

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

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

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

The "publication penalty" means publication, for a minimum period of 12 months, or such longer period as the Council may decide, on the PRS Exemptions Register of such of the following information in relation to a penalty notice as the Council decides:

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

The Council will usually impose the following financial penalties:

(a) letting a property with an F or G rating for less than 3 months: £2,000
(b) letting a property with an F or G rating for more than 3 months: £4,000
(c) registering false or misleading information on the PRS exemptions register: £1,000
(d) failing to provide information to the Council demanded by a compliance notice: £2,000

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