Bath & North East Somerset Council

Improving People's Lives

Housing Services

Enforcement & Financial Penalty Policy

2026

Housing Services
Enforcement & Financial Penalty Policy

Ensuring the health, safety, and well-being of tenants, homeowners, and the public through housing enforcement.

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Introduction

Bath and North East Somerset Council is responsible for the enforcement of legislation to protect the health, safety and welfare of tenants, home owners and the public. Housing Services regard prevention as better than cure and therefore offer information and advice to landlords, tenants and others. However, the Service is concerned with the maintenance of minimum housing standards and the fair treatment of tenants. For this reason, the Council will consider taking enforcement action where it is considered appropriate to promote compliance with the law.

This policy explains how Housing Services will respond to individuals and organizations that do not comply with housing law. It sets out our approach to enforcement, the options available, and how we aim to be fair, consistent, and transparent in all our actions.

Section 3, 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.

Section 22, 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.

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

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

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

Our approach

Bath and North East Somerset Council, Housing Services, will aim to be open, act proportionately, and be consistent and helpful in its approach to enforcement. We will also consider the impact of regulatory intervention on businesses and the business community in accordance with the Regulators' Code. We aim to:

- Provide information to aid compliance with legislation
- Use a risk based approach targeting enforcement action
- Engage and communicate effectively
- Support compliance and growth.

Unless immediate action is necessary, for example to ensure the health and safety of tenants/occupants, we will usually offer the opportunity to discuss the case before formal action is taken. If a landlord has a history of non-compliance or the property is in very poor condition we may go straight to service of a formal notice, financial penalty, or prosecution. The Regulators' Code does not apply to the Renter's Rights Act 2025, the legislation listed in Section 107(5) of the Renters' Rights Act 2025, or Part 1 of the Housing Act 2004.

Where action is considered necessary an explanation of what is required and why such action is required will be given in writing. We will help where we can with explaining works to contractors and making clear to tenants their responsibility to allow access for required work to be carried out. Any rights of appeal will be clearly set out when enforcement action is taken.

Enforcement action referred to in this policy includes the formal requirement to carry out remedial work and penalties for offences under housing law. Typically, enforcement options could be:

- Service of notices/orders
- Simple caution
- Financial penalty
- Prosecution in the Magistrates' Court
- Works in default with recovery of costs.

Bath and North East Somerset Council usually charge for the service of notices and orders which is described in the Housing Services Charging Policy available on the Council website: https://www.bathnes.gov.uk/document-and-policy-library/housing-charging-policy

Penalties for non-compliance

Non-compliance with housing law referred to in this policy is a criminal or civil offence. Typical offences/breaches include:

- Breaches of regulations such as the Management of Houses in Multiple Occupation (England) Regulations 2006 and the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
- Breaches of acts such as the Renters' Rights Act 2025 & Housing Act 1988.
- A breach of a legal Notice or Order without reasonable justification. For example, a Housing Act 2004, Improvement Notice, or Environmental Protection Act 1990, Statutory Abatement Notice.
- Failure to licence a property which is required to be licenced under Part 2 or 3 of the Housing Act 2004.
- Failure to comply with HMO licensing conditions.
- Illegal eviction or harassment by the landlord or any other person responsible.

Several different penalty options are available to the Council dependent upon the circumstances of the offence. The most suitable option will be decided on a case-by-case basis having had regard to this policy. There may be instances where a decision is taken to depart from this policy however, there must be good reasons for doing so and those reasons will be recorded in writing.

Simple Caution

A Simple Caution is an alternative to prosecution. It may typically be used where it is appropriate to the offence and likely to be effective in preventing further non-compliance with the law. A simple caution may be appropriate for minor offences or where there is a practical expression of regret by the offender. In reaching a decision regard will be to this policy and the Ministry of Justice Guidance on Simple Cautions for Adult Offenders (13 April 2015). However, a caution will only be given where the offender admits the offence, understands the significance of the caution and gives their informed consent to the caution. A simple caution will be recorded and may be used to inform future decisions on prosecution and may be cited in any subsequent court proceedings. Further guidance on Simple Cautions can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/416068/cautions-guidance-2015.pdf

Financial Penalty

The Housing and Planning Act 2016 introduced the option of a financial penalty (also known as a civil penalty) for some Housing Act and Housing and Planning Act 2016 offences, as an alternative to prosecution. The same criminal standard of proof is required for a financial penalty as for a prosecution meaning that if the case were to be prosecuted in the Magistrates' or Crown Court, there would be a realistic prospect of conviction.

The Renters' Rights Act 2025 (RRA 2025) enhanced powers for local housing authorities to issue financial penalties for a wide range of housing-related breaches and offences.

A financial penalty may typically be appropriate for offences where the offender has not co-operated with the Council or where there is a serious or flagrant breach of the law, and a financial penalty is the most effective and appropriate sanction.

In reaching a decision on whether or not a financial penalty should be issued by the Council will have regard to this policy and the Housing Services Financial Penalty Policy found at Appendix I.

Specific offences where a financial penalty may be applied include:

- Existence of a Category 1 hazard under the Housing Act 2004
- Failure to comply with an Improvement Notice under section 30 of the Housing Act 2004.
- Failure to comply with management regulations in respect of Houses in Multiple Occupation under section 234 of the Housing Act 2004.
- Offences in relation to licensing of Houses in Multiple Occupation under section 72 of the Housing Act 2004.
- Offences in relation to licensing of houses under section 95 of the Housing Act 2004.
- Offences in contravention of an overcrowding notice under section 139 of the Housing Act 2004
- Breach of a banning order under the Housing and Planning Act 2016
- Offences or breaches in relation to the Housing Act 1988 & Renters' Rights Act 2025.

Circumstances where a financial penalty would be considered include:

- A direct offence where an informal approach has not achieved compliance. The policy to first pursue compliance informally does not apply to penalties for non-compliance with HMO licensing requirements, as the scheme has been widely publicised and an informal approach could be seen as encouraging non-compliance.
- A direct offence where there is a history of non-compliance and therefore an informal approach is unlikely to be successful.

- A failure to comply with an improvement notice.

- A flagrant or serious breach of the law.

Housing Services may also issue a financial penalty for other relevant breaches. These include:

- An offence under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

- An offence under The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020

Prosecution in the Magistrates' or Crown Court

Offences will be considered for prosecution regarding this policy and the Full Code Test for Crown Prosecutors. The Full Code test has two stages: (i) the evidential stage; followed by (ii) the public interest stage. Both stages of the test must be met to bring a prosecution. A copy of The Code for Crown Prosecutors can be found below:
https://www.cps.gov.uk/publication/code-crown-prosecutors-2018-downloadable-version-and-translations

Prosecution of the offender in the Magistrates' or Crown Court is more likely to be appropriate under similar circumstances to financial penalties for repeat offenders or where the seriousness of the offence is such that it is necessary to draw attention to the need for compliance with the law. It may also be appropriate in circumstances where the option of imposing a financial penalty is not available.

Factors which inform enforcement decisions

The decision on which enforcement option to take will be a judgement based on the circumstances of the case and will take account of several factors which include:

- Any previous history of non-compliance or lack of co-operation with the Council.

- The length of time over which the offence has been committed.

- The condition of the property taking into account Part 1 of the Housing Act 2004 and relevant management regulations including the type and severity of the hazard.

- The likely exposure of vulnerable individuals to the hazard.

- The impact of the action on the occupier of the premises concerned.

- Financial or other gain by not complying with housing legislation, for example, failure to apply for a licence as soon as required to do so.

- Any adverse health and safety and environmental impact of the action or inaction.
- Relevant guidance and protocols that are in place; and
- The degree to which the property is being effectively managed.

Works in Default

Works in Default will be considered where the legislation allows remedial action to be taken by the Council. It will typically be appropriate for:

- Emergency Remedial action under the Housing Act 2004; and
- Where works of repair or improvement have been required by Notice and have not been completed within the identified or agreed timescale, or reasonable progress is not being made towards their completion.

Housing Services may organise and carry out the work themselves and recover the cost of works plus all additional costs and administration fees. These costs will be charged to the property owner but can also be placed as a land charge on the property for payment when the property is sold or if money is raised against it.

The Council may also consider prosecution or a financial penalty in addition to carrying out works in default.

Following the carrying out of works in default the Council may pursue enforced sale of a property where the legislation allows.

Interim and Final Management Orders

These powers will only be used as a last resort where other attempts to ensure the health, safety or welfare of occupiers has failed. Interim management orders (IMOs) can be made where there is no realistic prospect of a licence being granted. In making an IMO the management and rental income from a property is taken away from the current landlord for up to a year. The money is used to carry out necessary works to reduce any significant hazards in the property, to maintain the property and to pay any relevant management expenses, any remainder will be returned to the owner. Following an IMO the Council can apply to the First-Tier Tribunal for a Final Management Order (FMO) to be approved that can last for up to five years. Once a Management Order is made the Council may allocate a private company to manage the property.

In exceptional circumstances and where the health, safety and welfare of occupiers need to be protected, the council may apply to the Residential Property Tribunal for authority to make an IMO for privately rented accommodation that is not covered by a current licensing scheme.

Banning Orders and Database of rogue landlords and agents

The Council may apply to the First-Tier Tribunal for a banning order lasting a minimum of 12 months or place a residential landlord or property agent on the Database of rogue landlords and agents.

A banning order is an order by the First-tier Tribunal that bans a landlord from letting housing; letting agency work; property management work; or doing two or more of those things in England. Breach of a banning order is a criminal offence. A banning order offence is an offence of a description specified in The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017. They are listed at Annex A of the Banning Orders Guidance.

https://www.gov.uk/government/publications/banning-orders-for-landlords-and-property-agents-under-the-housing-and-planning-act-2016

An entry on the Database of Rogue Landlords may be made following conviction for a banning order offence and/or following two or more financial penalties in respect of a banning order offence within a period of 12 months. The Council must make an entry on the database for a person or organisation who has received a banning order.

Rent Repayment Orders (RRO)

The offences for which an application for an RRO can be made are:

- Using violence to secure entry contrary to section 6(1) of the Criminal Law Act 1977
- Unlawful eviction or harassment of occupiers contrary to sections 1(2), 1(3) or 1(3A) of the Protection from Eviction Act 1977
- Failure to comply with an Improvement Notice issued under section 30(1) Housing Act 2004
- Failure to comply with a Prohibition Order issued under Section 32(1) Housing Act 2004
- Operating a licensable House in Multiple Occupation (HMO) under without a licence Section 72(1) Housing Act 2004
- Operating an unlicensed house without a licence undersection 95(1) Housing Act 2004
- Breaching a Banning Order issued under the Housing and Planning Act 2016
- Knowingly or recklessly misusing a possession ground under Section 16J (1) of the Housing Act 1988
- Letting or marketing of a property within twelve months of using the ‘moving in’ or ‘selling’ ground of eviction under Section 16J (2) of the Housing Act 1988
- Continuous breach of certain tenancy reform requirements under Section 16J (3) of the Housing Act 1988

The Council will consider assisting tenants in applying for an RRO having regard to this policy. If the rent is paid via Housing Benefits or Universal Credit the Council will be eligible to apply for a RRO, and any money received can be kept by the Council to be used for private rented sector enforcement activities.

The Council will have regard to the statutory guidance: **Rent Repayment orders: guidance for local authorities**: https://www.gov.uk/government/publications/rent-repayment-orders-guidance-for-local-authorities/rent-repayment-orders-guidance-for-local-authorities

Cost Recovery

Proceeds of Crime Act 2002

Where appropriate to the case, the Council, will also consider taking proceedings under the Proceeds of Crime Act 2002 following a successful prosecution.

Unpaid invoices

Where a charge remains unpaid for 3 months following the issue of an invoice or financial penalty notice, Housing Services may seek to recover the money owed in the relevant Court, including the County Court.

Powers of Entry to a Property/Business

Entry to a property is usually required to enable Housing Services to carry out its statutory functions. We will normally make an appointment to visit in the first instance and will give 24 hours' notice to the occupants and owners of our intention to enter properties to inspect them. If notice is not given to the owner prior to the inspection, they will be notified within a reasonable period following the inspection.

Powers of entry will allow an officer, at any reasonable time, to enter a property to carry out an inspection and gather evidence, take someone with them, take appropriate equipment or materials and take any measurements, photographs, recordings and samples as necessary. In some cases, powers of entry will be used to carry out works.

The Council's Housing Services team will exercise its statutory powers to gain entry without giving prior notice to investigate non- compliance with Housing related law or to carry out a statutory duty where it is necessary to do so. Reasons for the use of these powers include:

- Protection of the health and safety of any person or to protect the environment without avoidable delay.
- prevent the obstruction of officers where this is anticipated.
- To determine if a property is an unlicensed HMO.

The Renters' Rights Act contains powers to enter a rental sector business premises without, and with, a warrant under sections 118 and 121 respectively. An authorised person of the Council can enter a business premises at a reasonable time to request documents and/or to seize evidence if you reasonably believe a relevant person is running a rental sector business there. The Council will have regard to the guidance: **Investigatory powers guidance for Renters' Rights Act 2025:** https://www.gov.uk/government/publications/investigatory-powers-guidance-for-renters-rights-act-2025/investigatory-powers-guidance-for-renters-rights-act-2025

Housing Services will apply to the Magistrates Court for a Warrant to Enter Premises if entry has been consistently refused or refusal is reasonably anticipated.

Powers to Require Documents

Authorised officers have the power to require:

- Documents to be provided to enable them to carry out their powers and duties under the Housing Act 2004 and Renters' Rights Act 2025.
- Electrical Installation Condition Reports (EICR) for all rental properties and gas safety record in relation to Houses in Multiple Occupation.
- Any person with an interest in a property to provide details about its ownership or occupation.

It is an offence not to produce the required information. Where information is not provided formal action will be considered such as a simple caution or prosecution if appropriate.

Housing Act 2004

Housing Health and Safety Rating System (HHSRS)

The Housing Act 2004, Part 1, is concerned with assessing housing conditions and reducing housing health and safety hazards.

Bath and North East Somerset Council is under a general duty to take appropriate enforcement action in relation to the most dangerous health and safety hazards referred to as Category 1 Hazards.

The Council has the power to deal with less dangerous Category 2 Hazards. The Council may take enforcement action in relation to Category 2 hazards where it makes the judgement that it would be appropriate in the circumstances of the case.

Following the identification of a significant Housing Health and Safety Rating Hazard, Bath and North East Somerset Council may, as far as practically possible and reasonable according to the circumstances of the case, seek the views of occupiers, landlords, owners and persons in control, including views on the hazards present and how to deal with them. These views will be considered when deciding the most appropriate course of enforcement action. Where the Council is confident that action will be taken to deal with the issue of concern, within a reasonable time scale and subject to the circumstances of the case, an informal enforcement approach may be taken in the first instance.

The interested parties will be informed of the appropriate course of enforcement action when this decision has been made. In determining the most appropriate action, regard will also be given to the Listed Building status, and the impact any course of action would have on the local environment.

Urgent action without consultation can be taken where health and safety hazards pose an imminent risk to the occupants of premises, or other members of the public.

Where a crowding and space hazard under the HHSRS is assessed as a Category 1 hazard, a Hazard Awareness Notice will generally be the appropriate form of enforcement action where the hazard arises as a result of the occupier’s actions. The full range of options for enforcement action will be considered in cases where the hazard is the result of action by a landlord or where any of the current occupants are at increased risk of harm.

The options for formal action to remedy a hazard under the Housing Act 2004 Part 1 are:

- Improvement Notice (including Suspended Notice).
- Prohibition Order (including Suspended Order).
- Emergency Remedial Action.

- Emergency Prohibition Order; and
- Hazard Awareness Notice.

There is a right of appeal to the Residential Property Tribunal against formal Notices or Orders. Details of how to appeal will always be included with formal Notices or Orders served.

Licensing Residential Properties

Licensing of Houses in Multiple Occupation (HMOs)
Part 2 of the Housing Act 2004 requires certain Houses in Multiple Occupation to have a licence to operate. The Council also has the power to designate additional licensing areas and require certain HMOs in a specified area to apply for a licence to operate legally.

Selective Licensing of other residential accommodation
The Council also has the power to designate selective licensing areas under Part 3 of the Housing Act 2004 and require certain rented residential properties in a specified area to apply for a licence to operate legally.

Where the Council has used its power to designate an additional or selective licensing scheme, a designation can last for a maximum of 5 years.

Housing Services will charge a fee for all licence applications as detailed in our Charging Policy and Licensing Fees document.

When issuing a licence, opportunity will be given for interested parties to make representation to Housing Services against the conditions stated on the licence. If agreement cannot be reached there is a right of appeal to the First Tier Tribunal. Details of how to appeal will always be sent with a final licence.

Under the Housing Act 2004, licences may be issued for up to a maximum of 5 years and this will usually be the case. However, licences may be issued for shorter periods appropriate to the circumstances of the case including cases where Housing Services has serious concerns about the management of the property or the correct planning permission is not in place.

All licence holders, managers and other persons involved in the management of the property must be deemed a fit and proper person. The Council may also require a criminal records disclosure check in addition to its fit and proper person checks as considered appropriate. There is a right of appeal to the Residential Property Tribunal against a fit and proper person decision.

A person’s fit and proper person status may be reviewed if they are prosecuted for an offence, if they consistently breach licensing conditions, if there is evidence of poor management or for any other factors deemed relevant by the Council.

Failure to comply with this licensing legislation is an offence. Where the Council identifies a property that requires licensing under Parts 2 and 3 of the Housing Act 2004, but is not so licensed, or where there is non-compliance with licensing conditions, enforcement action will be considered in each case in accordance with this policy.

HMO Management Regulations
Enforcement action for non-compliance with HMO Management Regulations under the Housing Act 2004 will be considered in each case in accordance with this policy.

Other legislation

Other housing related legislation which Housing Servies has the power to enforce:

- Anti-Social Behaviour, Crime & Policing Act 2014
- Building Act 1984
- Environmental Protection Act 1990
- Housing Act 1985
- Housing Act 1996
- Landlord & Tenant Act 1985
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1982
- Local Government and Housing Act 1989
- Prevention of Damage by Pests Act 1949
- Public Health Act 1936
- Public Health Act 1961
- Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

Owner Occupiers

Enforcement action on owner occupiers and long leaseholders will be based on the health and safety risk to the occupants or other affected persons. However, action will not be taken where a more appropriate contractual remedy exists.

Where a Housing Health and Safety Rating inspection identifies a significant hazard, all Housing Act 2004 Part 1 enforcement options apply to owner occupied properties. The Council will consider the most appropriate option dependent on the circumstances of the case.

Where a significant hazard is identified which requires attention, and the person responsible for the property is unable to carry out the recommended works because of financial hardship, they will be made aware of any appropriate financial assistance options available to them from the Council.

Where the conditions at one property causes a health and safety hazard or statutory nuisance to the occupants of another property, or the public, enforcement action will be considered regardless of property tenure.

Protection from Eviction and Harassment

The Protection from Eviction Act 1977 and the Protection from Harassment Act 1977 state the specific legal remedies for illegal eviction and harassment for most types of tenancies.

Illegal eviction and harassment are criminal acts and carry potential penalties of imprisonment and fines. The Housing Act 1988 sets out the liability of landlords who have evicted illegally to pay damages to tenants for the loss of the right to occupy.

Empty Properties

The Empty Property Policy sets out how Housing Services will work to bring empty properties back into use, including the use of enforcement action. In addition, it may also be necessary to take enforcement action under this Enforcement Policy where a property is in such a condition it is creating a health and safety hazard, such as water penetration, to neighbouring properties.

Other enforcement action may be taken in relation to Empty Properties if appropriate to assist in bringing the property back into use or where there is a detrimental impact on the local neighbourhood. Enforcement action in relation to empty properties may include Empty Dwelling Management Orders, Compulsory Purchase Orders, Community Protection Notices, Community Protection Orders or enforced sale.

How to make a suggestion or complaint

Bath and North East Somerset Council is committed to providing a quality service. To help us we welcome comments, suggestions, feedback, complaints and compliments from anyone to whom we provide a service.

You can make a complaint, or submit a comment or compliment either in person, by telephone, email, letter, or online. You can find more details about our Corporate Complaints procedure through our website; www.bathnes.gov.uk or alternatively please contact Housing Services on 01225 396444 or email housing@bathnes.gov.uk

Appendix I: Financial Penalty Policy

1.Introduction

The Housing and Planning Act 2016 introduced a range of measures to discourage rogue landlords and property agents/managers who flout their legal obligations, rent out accommodation, which is substandard, and harass their tenants. This includes financial penalties as an alternative to prosecution for certain specified offences as listed in the Enforcement Policy; and the extension of rent repayment orders to cover illegal eviction, breach of a banning order and certain other specified offences.

On 1 June 2020 the Electrical Safety Standards in the Private and Social Rented Sector (England) Regulations 2020 came into force. These regulations allowing the Council to issue financial penalties in respect of a breach of those regulations.

The Renters' Rights Act 2025 provides enhanced powers for local housing authorities to issue financial penalties for a wide range of housing-related breaches and offences. This enables enforcement without the need to pursue prosecution, while still achieving deterrence, punishment, and protection of tenants.

This Policy sets out how Bath & North East Somerset Council will determine, issue, and administer financial penalties for breaches and offences under the Renters' Rights Act 2025 and other housing legislation.

This policy applies to penalties imposed for housing breaches or offences, committed on or after **1st May 2026.**

Penalties for housing related breaches or offences committed before this date will be governed by the previous policy, Housing Services, Enforcement & Licensing Policy 2022.

2. Scope

This policy applies to all breaches and offences enforceable via financial penalty under:

- The Renters' Rights Act 2025
- The Housing Act 1988
- The Housing Act 2004
- The Housing and Planning Act 2016
- The Protection from Eviction Act 1977

- The Electrical Safety Standards in the Private and Social Rented Sector (England) Regulations 2020 (Electrical Safety Regulations)

It applies to:

- Landlords
- Letting or managing agents
- Corporate landlords and directors
- Any person involved in the letting or management of accommodation

The maximum penalty varies by legislation:

- **£40,000** for offences
- **£7,000** for breaches (except breaches of Electrical Safety Regulations where the maximum is £40,000)

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3. Government Guidance

The Ministry of Housing, Communities and Local Government (MHCLG) has issued statutory guidance titled "Civil Penalties under the Renters' Rights Act 2025 and Other Housing Legislation". Local authorities must have regard to this guidance, which outlines factors to consider when setting penalty levels and recommends that authorities publish their own policy for determining penalty amounts.

MHCLG have also issued guidance in relation to Electrical Safety Regulations for Private and Social Rented sector properties. The guidance on the Electrical Safety regulations directs Local authorities to the same statutory guidance this policy considers when determining the level of a penalty.

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4. Standard of Proof

Before imposing a financial penalty, the Council must be satisfied that the relevant breach or offence has been committed to the appropriate standard of proof.

For breaches relating to rental discrimination and rental bidding under the Renters' Rights Act 2025, the Council will apply the civil standard of proof, namely the balance of probabilities.

For all other breaches and offences covered by this Policy, where prosecution would be an alternative, the Council will apply the criminal standard of proof, namely beyond reasonable doubt.

The applicable standard of proof relied upon in each case will be clearly documented as part of the Council's decision-making record.

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5. General Principles for Setting Financial Penalties

Financial penalties will be determined with reference to:

- **Severity** of the breach or offence. The more serious the breach or offence, the higher the penalty should be.
- **Culpability** and landlord/manager history. 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.
- **Actual or potential harm.** This is a very important factor when determining the level of penalty. The greater the actual harm or the potential for harm, principally to the tenant but also potentially the local community, the higher the penalty should be.
- **Punishment of the offender.** The penalty should, in a way that is fair, both punish the offender and demonstrate the consequences of not complying with their responsibilities.
- **Deter the offender from repeating the offence.** The goal is to prevent any further offending and help ensure that the offender fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a level that is likely to have a significant deterrent effect.
- **Deter others from committing similar offences**. While the fact that someone has received a civil penalty may not be in the public domain, the civil penalty policy itself will be, and local authorities should consider how their formal enforcement activity can be effectively publicised.
  An important part of deterrence is the realisation that the local housing authority is proactive in levying civil penalties where the need to do so exists and the civil penalty will be set at a high enough level such that operating lawfully will be the sensible financial choice.
- **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The principle here is that it should not be in the offender's financial interest to commit a breach or offence rather than comply, for example that the penalty for breaching licensing conditions in respect of occupancy of a property is less than the additional rent received as a result of the over-crowding. The absence of any financial benefit does not mean that the penalty should be reduced.

The Council aims to support responsible landlords/managers while taking robust action against those who place tenants at risk.

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6. Penalty Determination Framework

The Council will follow a **four-step structured process**:

1. Determine starting penalty based on seriousness.
2. Apply aggravating and mitigating factors.
3. Adjustment for factors relating to the type of landlord/manager, and financial considerations.
4. Apply the totality principle.

Step 1 – Starting Penalty for Offences and Breaches

Starting penalties are determined using statutory guidance, supplemented by locally set levels.

Table 1. Offences (Statutory Maximum £40,000)

Nationally prescribed starting penalties for offences, as set out in the statutory guidance.

Offence	Starting Penalty
Protection from Eviction Act 1977	
Unlawful eviction & harassment (s1(2) and (3))	£35,000
Housing Act 1988	
Relying on a ground knowing the landlord would not be able to obtain possession or being reckless as to whether they would (s16J(1))	£30,000
Reletting or remarketing a property within the 12-month no-let period after using the moving or selling grounds (s16J(2))	£25,000
Continuing/repeat breaches within 5 years (s16J (3–4))	Double the starting level for the two constituent breaches added together.

Housing Act 2004	
Failure to comply with improvement notice (s30 (1))	£25,000
Mandatory or Additional HMO unlicensed (s72(1))	£17,000
Knowingly permitting over-occupation of an HMO (s72(2))	£20,000
Selective licensing unlicensed (s95(1))	£12,000
Failure to comply with overcrowding notice (s139(7))	£20,000
The Management of Houses in Multiple Occupation (England) Regulations 2006 & The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007	
Failure to provide information to the occupier	£3,000
Failure to take safety measures	£20,000
Failure to maintain water supply and drainage	£10,000
Failure to supply and maintain gas/electricity or supply gas safety certificate	£12,000
Failure to maintain common parts	£7,000
Failure to maintain living accommodation	£7,000
Failure to provide adequate waste disposal facilities	£7,000
Housing & Planning Act 2016	
Breach of banning order (s.21 (1))	£35,000

Table 2. Breaches (Statutory Maximum £7,000)

Nationally prescribed starting penalties for breaches, as set out in the statutory guidance.

Breach	Starting Penalty
Housing Act 1988	
Attempting to let for a fixed term (16E(1)(a)) *	£4,000
Attempting to end the tenancy by service of a notice to quit (16E(1)(b)) *	£6,000
Attempting to end the tenancy orally, or require that it is ended orally ((16E(1)(c)) *	£6,000
Serving a possession notice that attempts to end the tenancy outside of the prescribed section 8 process (16E(1)(d)) *	£6,000
Relying on a ground where the person does not reasonably believe that the landlord is/will be able to obtain possession (16E(1)(e)) *	£6,000
Failing to provide a tenant with prior notice that a ground which requires it may be used (16E(1)(f)) *	£3,000
Failing to issue a written statement of terms within 28 days of an assured tenancy coming into existence (16D) *	£4,000
Failing to provide an existing tenant with prescribed information about changes made by the Renters' Rights Act (paragraph 7 of schedule 6 to the Renters' Rights Act 2025)	£4,000
Renters' Rights Act 2025	
Discrimination against those on benefits or with children in the lettings process (s.33 and s.34)	£6,000
Failure to specify proposed rent within a written advertisement or offer (s.56(2))	£3,000
Inviting, encouraging or accepting any offer of rent greater than the advertised rate (s.56(3))	£4,000
Housing Act 2004	
Existence of a Category 1 hazard (6a)	£6,000

*Where breaches are continuous or repeated, they constitute an offence. See Table 1 for details of how the starting penalty is calculated.

Table 3: Breaches (Statutory Maximum £40,000)

Locally set starting penalties for breaches.

Breach	Starting Penalty
Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020	
Failure to ensure electrical safety standards are met under Regulation 3(1)	£12,000
Failure to undertake remedial action as required under Regulation 3(4)	£20,000
Failure to provide an electrical report upon request under Regulation 3(3)	£12,000
Failure of registered providers to follow duties for the safety and checking of electrical equipment under 3B, 3C &3D	£12,000
Any other breach of duties under Regulation 3	£7,000

Table 4. Property Licensing Conditions (Statutory Maximum £40,000)

Locally set starting penalties for breaches. N.B. These levels are based on the nationally set starting penalties for offences under the HMO Management regulations.

Property Licence Conditions	Starting Penalty
Failure to comply with HMO Fire Standards relating to fire alarms, fire doors and emergency lighting	£20,000
Failure to comply with HMO Amenity Standards resulting in over-occupation of the HMO or insufficient amenities for the actual number of persons or households	£20,000
Failure to provide safety certificates or safety declarations on demand	£12,000
Failure to provide information or documentation on demand (not including safety certificates or safety declarations)	£3,000
Failure to provide information or documentation to tenants	£3,000
Any other licence conditions not covered above (e.g. conditions relating to antisocial behavior, waste and recycling, other HMO Fire and Amenity Standards etc.)	£7,000

Step 2 – Aggravating and Mitigating Factors

Each breach or offence may have offence-specific mitigating and/or aggravating factors, which will be considered alongside the generic factors set out below.

Where multiple financial penalties are issued under this policy against the same landlord at the same time, and except where expressly stated otherwise, mitigating and aggravating factors will be considered and applied separately to each civil penalty when determining the quantum of each penalty.

Aggravating factors (examples) (+10% for each factor that applies)

The Council may increase the level of a financial penalty by up to 50% of the applicable starting point to reflect the presence of aggravating factors. This uplift is capped at 50% in total, regardless of the number of aggravating factors present.

The following generic aggravating factors will be considered in respect of each breach or offence:

- Previous non-compliance (financial penalty, prosecution, simple caution, warning letter)
- Breach/offence has occurred for more than 6 months.
- Non-cooperating with the Council. Non-exhaustive examples include:
    - failing to provide a substantive response to a letter of alleged offence
    - failing to attend meetings/interviews.
- Deliberate or reckless breach. Non-exhaustive examples include:
    - knowledge that the breach or offence was occurring.
    - continuation of offending after communication from the Council.
    - premeditation or planning, including steps taken to prevent detection or effective investigation.
    - applying pressure to occupants to deter cooperation with the Council.
    - providing false or misleading information to the Council.
- Evidence of a wider/community impact.
- HHSRS Category 1 hazard(s) present at property.
- Actual Harm caused to the tenant/occupant.

Mitigating factors (examples) (-10% for each factor that applies)

The Council may reduce the level of a financial penalty by up to 50% of the applicable starting point to reflect the presence of mitigating factors. This reduction is capped at 50% in total, regardless of the number of mitigating factors present. The following generic mitigating factors will be considered in respect of each breach or offence:

- Prompt remedial works (under 28 days).

- Prompt steps taken to remedy the basis of the breach or offence.
- A high of cooperation.
- Admission of liability / responsibility prior to notice of intent.
- Significant verified health issues.
- Diminished culpability (limited responsibility). The instruction of a managing or letting agent, or reliance on an agent's actions or omissions, will not of itself constitute diminished culpability.
- Self-reporting.
- Good history of compliance.

Step 3 – Landlord Type & Financial Considerations

In considering the appropriate level of financial penalty, the Council may apply an upward or downward adjustment of up to 20% to reflect the scale, experience and sophistication of the person against whom the penalty is being considered.

a) Landlord Type / Portfolio Adjustments

An upward adjustment of 20% of the applicable starting point will be applied where the landlord meets any one or more of the following criteria:

- ≥6 properties which are controlled/owned/managed.
- ≥3 HMOs which are controlled/owned/managed.
- Corporate landlord or director.
- Evidence of high experience/professionalism.
- Professional letting/management agent.

A downward adjustment of 20% of the applicable starting point will be applied only where all of the following criteria are met:

- ≤2 properties ever owned or managed.
- ≤1 HMO ever owned or managed.
- Very limited experience in the letting or management of property.

b) Removal of Financial Benefit created as a result of the breach or offence committed

Where it is evident that the landlord/manager/agent has derived financial benefit from the breach/offence, this will be considered when determining the level of financial penalty. Such benefit may include, but is not limited to:

- Rental income received from accommodating a fifth person in an unlicensed licensable HMO;
- Income from the use of a prohibited part of a dwelling for residential purposes; or
- Additional income arising from overcrowding.

Where additional rental income has been generated as a direct result of the non-compliance, and that income exceeds the calculated financial penalty, an uplift may be applied to reflect the full value of that financial gain.

Any uplift will be applied proportionately and with due regard to the available evidence of the offender’s financial circumstances.

The Council will consider any relevant and reliable information provided regarding the financial circumstances of the person against whom a financial penalty is proposed, where such information is submitted within the timeframe specified in the Notice of Intent.

Any consideration of financial circumstances will form part of the overall assessment to ensure the final penalty remains just, proportionate and capable of achieving punishment, deterrence and removal of financial benefit, and the Council will record its reasoning accordingly.

Step 4 – Totality

Where multiple financial penalties are imposed on the same person at the same time, the Council will consider the aggregate penalty amount to ensure that it remains just and proportionate overall.

If, having applied all relevant steps in this Policy, the total penalty figure is disproportionate, the Council may apply a proportionate reduction across the penalties to achieve a fair outcome.

The application or non-application of the totality principle, and any resulting adjustment, will be supported by recorded reasons.

In accordance with the statutory guidance, any rent repayment orders made in respect of the same breach or offence will be disregarded for the purposes of assessing the totality of financial penalties under this policy.

Appendix II: Statement of Principles for Determining a Penalty Charge

Introduction

Bath and North East Somerset Council (the Council) is required under the Smoke & Carbon Monoxide Alarm (England) Regulations 2015 to prepare and publish a statement of principles which it proposes to follow when deciding on the penalty charge amount for failing to comply with a remedial notice served under these regulations.

The Council may revise its statement of principles at any time and where it does the revision will be published. The statement of principles will be published on the Council website and made available on request.

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

Legal requirement

This statement is required under Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations) and relates to matters that the Council must have regard to in determining the amount of any penalty charge issued under Regulation 8.

Under Regulation 4, a relevant landlord in respect of a specified tenancy must ensure that—

(a) During any period beginning on or after 1st October 2015 when the premises are occupied under the tenancy -

   (i) A smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation.

   (ii) A carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and

(c) checks are made 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.

More details on the requirements, definitions and exemptions can be found in the Regulations and Government guidance (links at the end of this document).

Where the Council has reasonable grounds to believe that there are no or an insufficient number of smoke or carbon monoxide alarms in the property or; the smoke or carbon monoxide alarms were not working at the start of a tenancy or licence, then the Authority shall serve a Remedial Notice under Regulation 5 requiring the landlord to take action to comply with the Regulations within 28 days.

If the Landlord has not complied with the Remedial Notice, the Authority must take remedial action and may require the landlord to pay a penalty charge by serving a penalty charge notice under Regulation 8.

Statement of principles

The purpose of imposing a financial penalty charge

The Council's primary purpose is to protect the public, although in exercising its regulatory powers they may have a punitive effect.

The primary aims of financial penalties will be to:

- change the behaviour of the landlord.
- eliminate any financial gain or benefit from non-compliance with the regulations.
- be proportionate to the nature of the breach of the regulations and the potential harm outcomes.
- aim to deter future non-compliance.
- reimburse the costs incurred by the Council in undertaking remedial work and carrying out its functions.

Criteria for issuing a financial penalty charge

- Failure to comply with the requirements of a remedial notice gives the Authority the power to require the landlord to pay a penalty charge. In considering the imposition of a penalty charge, the authority will have regard to the available evidence of a breach of the remedial notice.

- In deciding whether it would be appropriate to impose a penalty charge, the authority will take full account of the particular facts and circumstances of the breach under consideration.

- The authority must be satisfied that on the balance of probabilities, the landlord on whom it has served a remedial notice under regulation 5 has failed to take the remedial action specified in that notice within the period specified.

- A financial penalty allows the council, amongst other things, to eliminate financial gain or benefit from non-compliance. A financial penalty charge will be considered appropriate in circumstances where the landlord has failed to comply with the requirements of a remedial notice.

Criteria for determining the amount of a financial penalty charge

Regulation 8(2) states the amount of the penalty charge must not exceed £5,000. The penalty charge comprises two parts: a punitive element for failure to comply with the absolute requirement to comply with a remedial notice (subject to any representation made by a landlord to the council) and a cost element relating to the works carried out by the Council.

The period within which the penalty charge is payable is 28 days beginning with the day on which the penalty charge notice is served.

Proposed fine levels

- £2,500 for a first offence of failing to comply with a remedial notice.

- £5,000 for subsequent offences of failing to comply with a remedial notice to deter continued non-compliance.

Having been served with a penalty charge notice, the landlord may give written notice to the Council requesting a review. When reviewing the penalty charge notice, the Council will have regard to this Statement of Principles, including:

- The level of cooperation provided by the landlord,
- any history of previous contraventions of Housing or Housing related legislation,
- the level of risk created by the non-compliance,
- the cost incurred by the Council in enforcing the relevant provision,
- any other circumstances specific to the case.

Rationale for fine levels

The cost of a battery-operated smoke detector is in the region of £10 while a Carbon monoxide detector typically costs less than £20. The cost of complying with the legislation in an average 2 storey property is likely to be less than £50. Therefore, compliance with a Remedial Notice within the required 28 days is not financially burdensome and there is seldom an excuse for a landlord not installing the alarms to comply with a notice.

Smoke and carbon monoxide detectors are a cheap and effective way of saving lives. The fine is therefore set to deter landlords from failing to install potentially lifesaving detection and to be punitive for rogue landlords who refuse to comply with the law.

Procedural matters

The regulations impose several procedural steps which must be taken before the council can impose a financial penalty. Before imposing a requirement on a landlord to pay a penalty charge the council must, within a period of six weeks from the point at which it is satisfied that the landlord has failed to comply with the requirements of the Remedial Notice, serve a penalty charge notice setting out:

- the reasons for imposing the penalty charge.
- the premises to which the penalty charge relates.

- the number and type of prescribed alarms (if any) installed at the premises.
- the amount of the penalty charge.
- the obligation to pay that penalty charge or to give written notice of a request to review the penalty charge.
- how payment of the charge must be made; and
- the name and address of the person to whom a notice requesting a review may be sent.

A landlord may request in writing, a review of the penalty charge imposed. In conducting the review, the council will consider any representations made by the landlord, and serve notice of its decision whether to confirm, vary or withdraw the penalty charge to the landlord.

Having requested a review, the landlord can further appeal to the First-tier Tribunal against the Council's decision.

A landlord will not be in breach of their duty to comply with the remedial notice, if they can demonstrate they have taken all reasonable steps to comply.

Associated documents

Legislation

- The Smoke & Carbon Monoxide Alarm (England) Regulations 2015
- The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022

Guidance

- Explanatory Booklet for Local Authorities
- Q&A booklet for the private rented sector – landlords and tenants