

Appendix 3 – Civil Penalties Policy – Statement of Principles

Introduction

Gloucester City Council is required to prepare and publish a Civil Penalties policy and statement of principles and it must follow this guide when deciding on the amount of a penalty charge to issue for specified offences. This policy is to be read and implemented in conjunction with the Regulation of Housing Standards Policy, relevant legal precedence's, best practice principles and supporting guidance. The power to impose a Civil Penalty as an alternative to prosecution for certain offences was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016 and will further be amended by the enactment of the Renters Rights Act 2025. Other statutes also provide for the application of Civil / Financial penalties, and they will consider the principles as set out in this policy alongside specific considerations as set out in the supporting statements of principles.

Where legal action is necessary to address housing offences and crimes, financial penalties, where applicable, will normally be used as the primary enforcement tool. Financial penalties will be applied proportionally based on the seriousness of the offence/s and focused toward seeking the highest penalties for the worst offences and repeat offenders.

Statutory guidance has been issued by the Secretary of State under Schedule 9 (12) of the Housing and Planning Act 2016 and Local Authorities must have regard to this when exercising its functions in respect of civil penalties.

In developing this policy, the Council have considered the statutory guidance available, precedents set by the Upper Tier Tribunals, Court of Appeal and guidelines published by the Sentencing Council - <https://www.sentencingcouncil.org.uk/the-magistrates-court-sentencing-guidelines/>

The maximum civil penalty that can be set is £30,000 per offence. A minimum penalty level has not been set and the appropriate amount of penalty is to be determined by the Local Housing Authority. Only one penalty can be imposed in respect of the same offence. In determining the Civil Penalty amount, the Local Housing Authority will have regard to the statutory guidance issued under schedule 9 of the Housing and Planning Act 2016 and also to the Civil Penalty Matrix (Appendix A).

The Council intends to create an environment where, landlords, engage with the Council's requests and demands fulsomely, openly and honestly. This helps creates 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 any Notice of Intent. An offender will be assumed to be able to pay a penalty up to the maximum amount unless they can demonstrate otherwise.

The legal framework

The Housing and Planning Act provides for powers that permit local authorities to impose a civil penalty sanction as an alternative to a prosecution. The approach to issuing a Civil Penalty is fundamentally made up of two stages, firstly determining the appropriate sanction and secondly (if appropriate) the level of Civil Penalty charged.

When determining the appropriate regulatory action, the Council should satisfy itself that if the case were to be prosecuted there would be a 'realistic prospect of a conviction'. This is currently determined by consulting the Crown Prosecution Service "Code for Crown Prosecutors" which provides two tests: (i) the evidential test and (ii) the public interest test (Refer to Gloucester City Councils Statement of Principles for Prosecutions and Simple Cautions).

Civil Penalties were introduced by the Housing and Planning Act 2016 under Section 126 and Schedule 9 of that Act. The powers enable Local Authorities to impose Civil Penalties of up to £30,000 in respect of the following offences:

- a) Failure to Comply with an Improvement Notice under Section 30 of the Housing Act 2004.
- b) Offences relating to Licensing of HMOs under Part 2 Section 72 of the Housing Act 2004
- c) Offences relating to Licensing of Houses under Part 3 Section 95 of the Housing Act 2004
- d) Contravention of an overcrowding notice under Section 139 of the Housing Act 2004.
- e) Failure to comply with management regulations in respect of HMOs under Section 234 of the Housing Act 2004.
- f) Where a landlord or agent has breached a Banning Order.

Decision making

Where legal action is necessary to address housing offences and crimes, financial penalties, where applicable, will normally be used as the primary enforcement tool. Ultimately, it is for the Local Authority to decide which regulatory option it wishes to pursue but as a general principle, Gloucester City Council will only normally prosecute in circumstances where an offence is severe, where there are multiple offences witnessed, where there is no other recourse to alternative sanction or where the offender has committed similar offences, and where the offender is an individual or business that fails the fit and proper person and cause for concern tests (refer to Statement of Principles for Licensing and Fit and Proper Persons). Each case will be based on its merits and if it is reasonable and proportionate to do so.

Prosecution in serious cases demonstrates that the Local Authority will not hesitate to take formal action where needed and is likely to act as a strong deterrent both to the offender and other rogue landlords. A prosecution also enables the Local Authority to apply for a banning order following a successful conviction.

Factors in considering imposing penalty levels

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 that are included within this policy.

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.

Determining the amount of Civil Penalty

The maximum civil penalty that can be set is £30,000 per offence. The council has adopted an assessment tool called the Civil Penalty Matrix (Appendix A) for assessing the level of Civil Penalty that should be charged when offences have been committed. The matrix is intended to provide an indicative 'starting level' under the various offence categories with the level of penalty adjusted in each case. In determining the amount of a financial penalty, the authority will take full account of the particular aggravating and mitigating facts and circumstances of the case under consideration.

The application of the Civil Penalty Matrix ensures that the assessment of the level of Civil Penalty reflects the factors to be considered in the statutory guidance and takes into account all elements set out by Gloucester City Council through its enforcement policy and procedures.

In deciding what level of penalty to impose, officers will conduct the following three stage process.

Stage 1 - consider the seriousness of the relevant housing offence to identify a starting level of the penalty.

Stage 2 - 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.

Stage 3 – Consider aggravating and mitigating factors that may relate to a number of factors including, but not limited to, culpability, track record and harm, which may have the effect of increasing or decreasing the penalty.

Once the seriousness of the relevant housing offence has been identified, the starting level of the penalty will be identified using the table 1 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 complete list of mitigating factors in this policy because it acknowledges that there are myriad possible circumstances that might give rise to mitigation. However, some key mitigations are captured in the assessment matrix as starting principles. Other mitigations may be considered as part of any representations received.

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 an increase in the penalty in excess of £5000. The presence of numerous aggravating factors will not automatically be considered as exceptional circumstances.

The Council has not provided a complete list of aggravating factors in this policy because it acknowledges that there are myriad possible circumstances that might give rise to aggravating an offence. However, some key aggravations are captured in the assessment matrix as starting principles. Other aggravations may be considered as part of any representations received.

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. The Council will consider on a

case-by-case basis whether any such circumstances exist. When considering aggravating and mitigating factors the Civil Penalty imposed must remain proportionate to the offence.

Table 1

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 - s30 of the Housing Act 2004

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

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 a small portfolio of one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features, 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 medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, 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, with no other relevant factors or aggravating factors, will increase by £5000, attracting a civil penalty of £27500.

Failure to License offences – s72 of the Housing Act 2004

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

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.

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 only a small portfolio of one or two HMO dwelling and/or no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features, 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 medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, 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, with no other relevant factors or aggravating factors, will increase by £5000, attracting a civil penalty of £22500.

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

In determining the level of a civil penalty for breaches of licence conditions the Council will consider in their initial assessment,

- the number and nature of the licence condition breaches.
- the nature and extent of deficiencies within each licence condition breach

Failure to comply with licence conditions (where applicable) 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
- 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

The Council would view the seriousness of the offence of failing to comply with these 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 a small portfolio of one or two dwellings, including no more than one HMO, with no other

relevant factors or aggravating features, 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 medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, 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, with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Failure to comply with licence conditions (where applicable) related to:

- Procedures and actions regarding Inspections
- Procedures regarding Repair issues
- Maintenance and use of common parts (including gardens and outbuildings) and living areas.
- Safeguarding occupiers and minimising disruption during works
- Providing information regarding alteration and constructions works,
- Procedures regarding emergency issues
- Waste and waste receptacles, pests, minor repairs, alterations or decoration.
- Giving written notice prior to entry
- Procedures and actions regarding anti -social behaviour

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 a small portfolio of one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features, 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 medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, 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, with no other relevant factors or aggravating factors, will increase by £5000, attracting a civil penalty of £12500.

Failure to comply with licence conditions (where applicable) related to:

- The provision of documentation regarding energy performance certificates, fire detection, emergency lighting, gas installations and electric installations

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 £12,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing a small portfolio of one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features, will reduce by £5000, attracting a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, will attract a civil penalty of £12,500.

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, with no other relevant factors or aggravating factors, will increase by £5,000, attracting a civil penalty of £17,500.

Failure to comply with licence conditions (where applicable) related to:

- Minimum floor areas
- Occupancy rates
- Occupancy of rooms that are not to be used as sleeping accommodation.
- Limits on the 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 £17,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing a small portfolio of one or two dwellings, including no more than one HMO, with no other relevant or aggravating features, will reduce the penalty by £5,000, attracting a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, will attract a civil penalty of £17,500.

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 with no other relevant factors or aggravating factors, will increase by £5,000, attracting a civil penalty of £22,500.

Failure to comply with licence conditions (where applicable) related to:

- The condition or existence of smoke alarms, carbon monoxide alarms, emergency lighting, gas installations, electric installations, 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 £22,500.

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

relevant factors or aggravating features, will reduce by £5000, attracting a civil penalty of £17,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, will attract a civil penalty of £22,500.

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 with no other relevant factors or aggravating factors, will increase by £5,000, attracting a civil penalty of £27,500.

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/landlord 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.

In determining the level of a civil penalty for breaches of the management regulations, the Council will consider in their initial assessment,

- the number and nature of the regulation breaches.

- the nature and extent of deficiencies within each regulation breach

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 £2,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only a small portfolio of one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features, will reduce by £2,000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, will attract a civil penalty of £2,500.

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, with no other relevant factors or aggravating factors, will increase by £2,000, attracting a civil penalty of £4,500.

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 £17,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only a small portfolio of one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features, will reduce by £5000, attracting a civil penalty of £12,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, will attract a civil penalty of £17,500.

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, with no other relevant factors or aggravating factors, will increase by £5000, attracting a civil penalty of £22,500.

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 £12,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only a small portfolio of one HMO dwelling and no more than one other dwelling that is not an

HMO, with no other relevant factors or aggravating features, will reduce by £5,000, attracting a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, will attract a civil penalty of £12,500.

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 with no other relevant factors or aggravating factors, will increase by £5000, attracting a civil penalty of £17,500.

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 £12,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only a small portfolio of one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features, will reduce by £5,000, attracting a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a medium property portfolio, being three, four, or five dwellings, and/or HMO's with no other relevant factors or aggravating feature, will attract a civil penalty of £12,500.

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 £5,000, attracting a civil penalty of £17,500.

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 £7,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only a small portfolio of one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features, will reduce by £5,000, attracting a civil penalty of £2,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, will attract a civil penalty of £7,500.

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 with no other relevant factors or aggravating factors, will increase by £5,000, attracting a civil penalty of £12,500.

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 £7,500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only a small portfolio of 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 £5,000, attracting a civil penalty of £2,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a medium 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 £7,500.

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 £12,500.

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 a small portfolio of one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features, 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 medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, 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 with no other relevant factors or aggravating factors, will increase by £5000, attracting a civil penalty of £12500.

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 a portfolio of one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features, 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 medium property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features, 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, with no other relevant factors or aggravating factors, will increase by £5000, attracting a civil penalty of £22500.

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 severe 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.

An offender will be assumed to be able to pay a penalty up to the maximum amount unless they can demonstrate otherwise.

Civil Penalties – Multiple Offences

Where the Local Housing Authority are satisfied that more than one offence is being committed concurrently in respect of a single property, they may issue multiple Civil Penalty notices. If there are multiple breaches under a single offence provision under the primary legislation (for example, where there are multiple breaches of the HMO Management Regulations - s234 Housing Act 2004) the Council will consider the totality principle across those offences in determining the number of penalties and level of penalty. If there are multiple offences under different provisions of the primary legislation (for example, where there are multiple breaches of the HMO Management Regulations and a failure to licence the property – s234 and s72 Housing Act 2004 respectively) then multiple financial penalty notices will be issued.

However, where satisfied on the merits of the case and/or where the authority considers that issuing multiple penalties at the same time would result in an excessive cumulative penalty, nothing in this policy shall require the authority to do that. The authority may take action in respect of one or more of the offences and warn the offender that future alternative action in respect of the remaining offences will be taken if they continue.

Where a landlord receives two or more civil penalties over a 12-month period, local housing authorities may include that person's details in the database of rogue landlords and property agents.

Procedural matters for Penalty Charge Notices

The legislation as amended sets out the procedural steps which must be taken before the Council can impose a requirement on a landlord to pay a civil penalty charge.

- The council must first be satisfied that an individual or business is guilty of an offence as set out above and if the case were to be prosecuted there would be a 'realistic prospect of a conviction'.
- The council will serve a Notice of Intention to issue a Financial Penalty which sets out the reasons for decision, the amount of the penalty and invites the recipient to make representations.

Where a landlord makes a representation requesting a review of the decision within one month from when the notice of intention is served, the council will consider any representations made by the landlord and either confirm, vary or withdraw the penalty and serve a final notice of its decision. 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 policy 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(s), 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 of all the offences.

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.

A landlord who has made a representation of a penalty charge notice and has been served with a notice confirming or varying the penalty charge notice, may appeal to the First-tier Tribunal against the Council's decision. Appeals should be made within 28 days from the notice served of the Council's decision on review. The penalty charge notice will be suspended until the case has been determined. To ensure fairness and transparency and following a review, every decision to confirm a Penalty Notice will be subject to approval by the Team Leader or Manager.

If the penalty charge remains unpaid then the charges and administrative costs will be raised as a charge against the property whilst repayment opportunities and debt recovery methods are exhausted including recovery through the County Court. Where landlords do make an appeal to the First-tier Tribunal, recovery will commence after one month from when the appeal is determined or withdrawn.

The council also still reserves the right to carry out works in default where appropriate. Where works in default has been undertaken by the Council, the costs of the works are recoverable. The Council will incur a 30% charge to be added to the costs of any works undertaken as remedial action, with a minimum charge being recovered from the landlord in line with the Council's Fees and Charges Policy.

Version Control:

Version 1 – February 2024 - Archived

Version 2 - December 2024 - Active

Further Guidance

[Civil penalties under the Housing and Planning Act 2016 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/civil-penalties-under-the-housing-and-planning-act-2016)

[Civil penalties under the Housing and Planning Act 2016 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/)

[Housing and Planning Act 2016 \(legislation.gov.uk\)](https://www.legislation.gov.uk/2016/10/Housing-and-Planning-Act-2016)

[Support for Local Authorities | Justice for Tenants](https://www.gov.uk/government/organisations/support-for-local-authorities-justice-for-tenants)