

# Appendix 7 – Statement of Principles for Electrical Safety in the Private Rented Sector.

## Introduction

Gloucester City Council's Private Sector Housing service (PSH) aims to reduce health inequalities and safeguard our residents, who are affected by poor housing conditions, poor property management and unprofessional landlords. The Council is required under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 to ensure individuals and businesses are compliant with their electrical safety requirements in the private rental sector. Officers must follow this guide when deciding whether or not to impose a financial penalty and on the amount of a penalty charge.

This statement of principles provides an effective deterrent against poor property management and maintenance, financial penalties assist in creating a better environment for future discourses in the private rented sector.

This statement of principles adheres to the Council's overarching Regulation of Housing Standards Policy and Civil Penalties Policy.

## The Legal Framework

The Regulations came into force on 1<sup>st</sup> June 2020 and form part of the Council's wider work to improve safety in all residential premises and particularly in the private rented sector.

The purpose of these regulations is to give a framework for both landlords and regulators to adhere to in order that homes in the private rented sector are well maintained and safe.

To comply with the regulations landlords of privately rented residential properties must:

- Ensure national standards for electrical safety are met. These are set out in the [18th edition of the 'Wiring Regulations'](#), which are published as British Standard 7671.
- Ensure the electrical installations in their rented properties are inspected and tested by a qualified and competent person at an interval of at least every 5 years.
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test.

- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supply the local authority with a copy of this report within 7 days of receiving a request for a copy.
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
- Where the report shows that remedial or further investigative work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.
- Supply written confirmation of the completion of the remedial works from the electrician to the tenant and the local authority within 28 days of completion of the works.

The Management of Houses in Multiple Occupation (England) Regulations 2006 previously put specific duties on landlords around electrical safety. This requirement has now been repealed, and HMOs are now covered by the new Electrical Safety Regulations.

The Regulations do not cover electrical appliances, only the fixed electrical installations. Tenants are responsible for making sure that any of their own electrical appliances are safe.

## The Purpose of Imposing a Financial Penalty

The purposes of the Council exercising its powers to impose financial penalties are:

- To reduce health and safety risks to tenants.
- To act as a deterrent against poor property management and maintenance.
- To engender good practices in the private rental sector in Gloucester City.
- To offer a proportional response for the failure of landlords to adhere to the regulations.
- Reimburse the costs incurred by the Council in taking enforcement action and arranging remedial action in default of the landlord.
- Eliminate financial gain or benefit from non-compliance with the regulations.

## Criteria for Imposing a Financial Penalty

The Council has a duty to impose the regulations to which this appendix relates and must determine the appropriate action to take when an offence has been committed.

The Council must have made contact with a landlord either following a complaint or upon a substantiated suspicion that there may be property management or

maintenance issues at a privately rented property. An authorised Council officer should request a copy of the most recent Electrical Installation Condition Report as well as notifying the landlord of the time and date of their inspection in line with Section 239 of the Housing Act 2004. An authorised officer should undertake an inspection of the rental property and undertake a full Housing Health and Safety Rating System assessment as part of their investigation.

An offence has been committed if it can be demonstrated that any of the following has occurred:

- The Landlord has failed to provide a copy of the EICR within 7 days upon request from the Council
- The landlord has failed to remediate Code 1 or Code 2 hazards within 28 days of the date of the EICR date
- If an EICR has indicated that urgent remedial action is required the landlord and they have failed to comply with the report

If a landlord can demonstrate that they have attempted to comply with the regulations and have been prevented from doing so by the tenant, they are not in breach of the regulations.

Also, where appropriate the Council should engage with other services and organisations to inform their decision making.

## Criteria for Determining the Amount of a Financial Penalty

The Council may impose a financial penalty of up to £30,000 if a landlord has been found to be in breach of their duties as required by the regulations.

If an offence has been committed and the criteria for imposing a financial penalty has been met, the value of the penalty to be imposed is calculated using the Financial Penalty Matrix as appended to the Councils Civil Penalty Policy and the criteria given in Tables 1 and 2 below:

Table 1:

<b>Level of Culpability</b>	<b>Criteria</b>
Low	Landlord is in possession of a satisfactory EICR but fails to provide it upon request from the Council.
Medium	Landlord is in possession of an unsatisfactory EICR and has failed to undertake non-urgent remedial action.
High	Landlord is in possession of an unsatisfactory EICR and has failed to undertake urgent remedial action or the landlord has failed to undertake an EICR.

Table 2:

Level of Harm	Criteria
Low	No evidence of electrical hazards
Medium	Evidence of minor electrical hazards that effect the electrical installation but do not represent an imminent risk to the health and safety of the tenant (i.e. sockets not working, water damage to light fittings etc.)
High	Evidence of serious electrical hazards that could represent an imminent risk to the health and safety of the tenant (i.e. broken electrical points or incomplete installations with exposed live mains wires)

Aggravating factors for consideration:

- Previous relevant enforcement action
- Negligence, deliberately concealing an unsatisfactory EICR
- Lack of cooperation and/or communication
- Obstructing an officer's investigation

Mitigating factors for consideration:

- No previous relevant enforcement action
- Good level of cooperation and/or communication
- Medical conditions or disability
- Able to demonstrate good property management and maintenance

## Procedural Matters for Issuing a Financial Penalty

As well as following the procedures set out in the Council's overarching enforcement policy the authorised officer should adhere to the following procedure as required by the regulations.

Before imposing a financial penalty on a private landlord for a breach of the Regulations, a notice of intention to do so must be served on the private landlord (a "notice of intent").

The notice of intent must be served before the end of the period of 6 months beginning with the first day on which the Council is satisfied, that the private landlord is in breach of the Regulations:

If the breach continues beyond the end of the first day that the Council are satisfied that a breach has been committed, the notice of intent may be served at any time when the breach is continuing; or within the period of 6 months beginning with the last day on which the breach occurs.

The notice of intent must set out:

- The amount of the proposed financial penalty;
- The reasons for proposing to impose the penalty; and
- Information about the right to make representations under paragraph 2

The private landlord may, within the period of 28 days beginning with the day after that on which the notice of intent was served, make written representations to the Council about the proposal to impose a financial penalty on the private landlord.

Within 28 days after the end of the period within which the private landlord can make representations, the Council must determine whether or not to impose a financial penalty and the amount of the financial penalty.

If the Council decides to proceed with imposing a financial penalty the authorised officer must issue a final notice and the financial penalty in that notice must be paid by the landlord with 28 days of its issue.

The final notice must include:

- The amount of the financial penalty
- The reasons for imposing the penalty
- Information about how to pay the penalty
- The period for payment of the penalty
- Information about rights of appeal
- The consequences of failure to comply with the notice.

The Council may at any time withdraw a notice of intent or final notice or reduce the value of a penalty in a notice of intent or final notice by giving written notice to the landlord on whom it was served.

If the landlord fails to pay the financial penalty the Council may recover the money owed by a County Court order.

A landlord who has received a financial penalty has 28 days in which they can submit an appeal to the First-tier Tribunal. If the Council is made aware that the Landlord has appealed the financial penalty, debt recovery should be halted until the outcome of that appeal process is known.

## Undertaking Remedial Action as Works in Default

If the Council has reasonable grounds to believe that a private landlord is in breach of one or more of their duties under the regulations (with the exception of urgent remedial action), the authority must serve a remedial notice (within 21 days of determining there are reasonable grounds) on the private landlord.

A landlord is given the opportunity to make representations within 21 days of being served the notice. Where a private landlord makes written representations, the remedial notice is suspended while the Council considers these representations. The Council must have responded to these representations within 7 days and the Council is able to withdraw the notice at any time.

The landlord has 28 days of the notice being active within which to comply.

If a landlord fails to comply with a remedial notice the Council has the power to undertake remedial action as works in default. Prior to undertaking remedial action, the Council must serve a notice in line with the regulations on the landlord and undertake the remedial action within 28 days of serving that notice. Prior to undertaking the remedial action, a minimum of 48 hours' notice must be given to the tenant(s). The landlord has a right to appeal the Council's decision to undertake remedial action.

Where the Council determines that urgent remedial action is required, this may be done with the consent of the tenants and not within 48 hours' notice of the Council giving serving notice on the landlord and occupants of the property of concern. The landlord has a right to appeal the Council's decision to undertake urgent remedial action.

Where remedial action has been undertaken by the Council, the costs of the works are recoverable from the landlord. The Council will incur a 30% charge to be added to the costs of any works undertaken as remedial action, with a minimum of a £300 charge being recovered from the landlord in line with the Council's Fees and Charges Policy.

## Further Guidance

[Electrical safety standards in the private rented sector: guidance for landlords, tenants and local authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector/guidance-for-landlords-tenants-and-local-authorities)

[The Electrical Safety Standards in the Private Rented Sector \(England\) Regulations 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2020/1083/the-electrical-safety-standards-in-the-private-rented-sector-england-regulations-2020)

[BS 7671 - 18th Edition \(theiet.org\)](https://theiet.org/standards/standards-and-publications/standards/bs-7671-18th-edition)