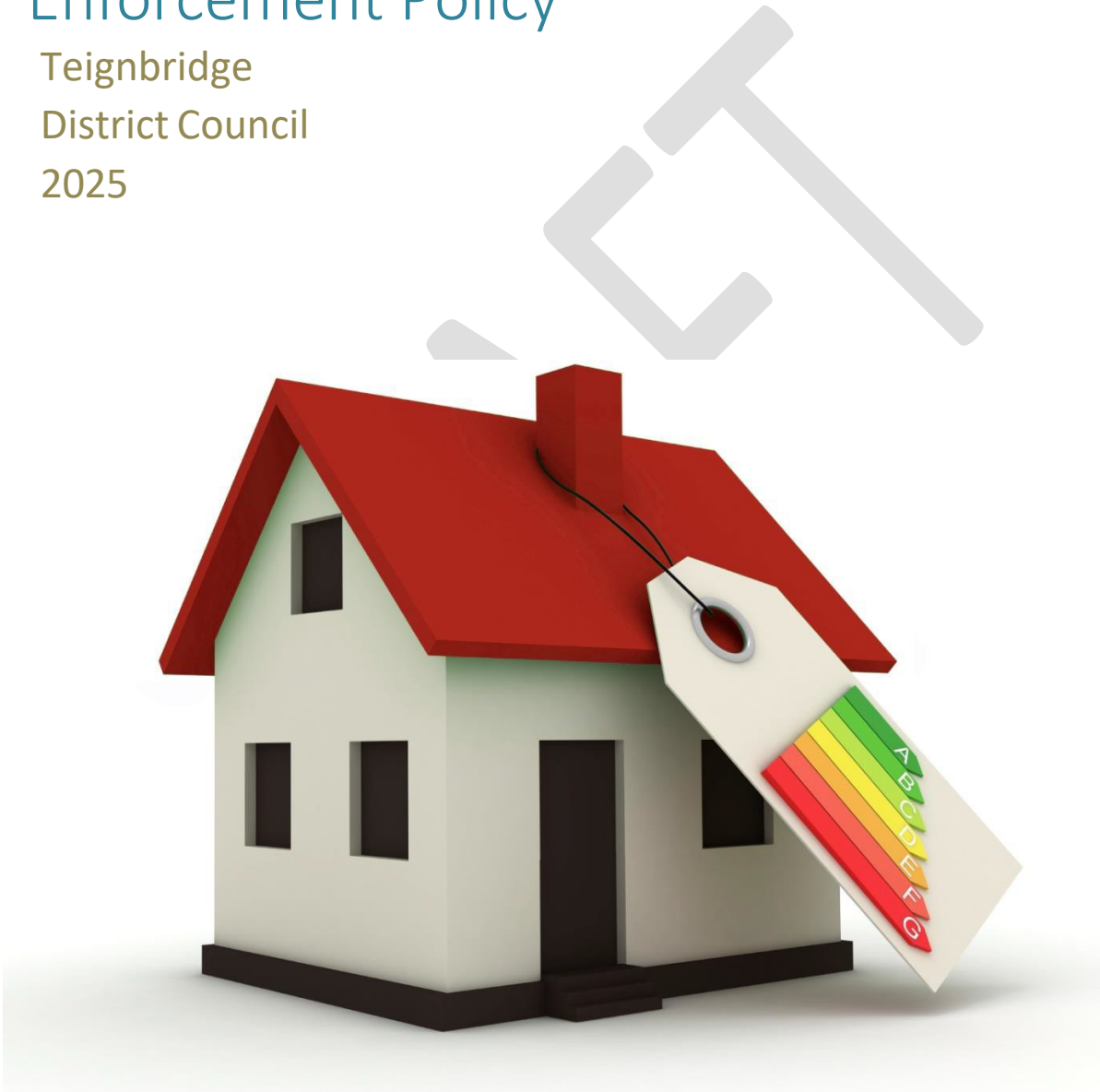


Housing Enforcement Policy

Teignbridge
District Council
2025



Revision Number	
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Date of Change	
Change Description	

		C o n t e n t s	Page
		<u>Housing Enforcement Policy</u>	4
1		<u>Part One</u>	5
	1.01	<u>Approach to enforcement.</u>	5
	1.02	<u>Principles of enforcement</u>	5
	1.03	<u>Expectations and responding to service requests.</u>	6
	1.04	<u>Legislation</u>	7
	1.05	<u>Assessment of housing conditions</u>	8
	1.06	<u>Inspections and Powers of Entry</u>	8
	1.07	<u>Powers to require information.</u>	8
	1.08	<u>Choice of appropriate enforcement action</u>	9
	1.09	<u>Failure to comply</u>	11
2		<u>Part Two</u>	17
	2.01	<u>Houses in Multiple Occupation (HMOs) – Standards and Licensing</u>	17
	2.02	<u>Definition</u>	17
	2.03	<u>Minimum Standards in HMOs</u>	17
	2.04	<u>HMO Management Regulations</u>	18
	2.05	<u>HMO Licensing</u>	18
	2.06	<u>Enforcement of HMO licensing</u>	22
3		<u>Part Three</u>	24
	3.01	<u>Statement of principles to determine the amount of a penalty charge under Part 4 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 (“the Regulations”)</u>	24
4		<u>Part Four</u>	27
	4.01	<u>Statement of principles to determine the amount of a penalty charge for a breach of minimum energy efficiency standards (MEES) with respect to domestic privately rented property.</u>	27
		<u>Appendix 1 - Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020</u>	28
		<u>Appendix 2 - A guide to the minimum standards for amenities and space permitted in a house in multiple occupation.</u>	50

Housing Enforcement Policy

The Housing Enforcement policy provides guidance to council officers, property owners, landlords, managing agents and tenants of residential properties to help ensure a clear and consistent approach to all aspects of housing regulation and enforcement. The policy is set out in four parts:

Part One describes how Teignbridge District Council intend to ensure compliance with the Housing Act 2004 and other relevant housing standards legislation. It covers housing enforcement in all residential dwellings including privately rented, socially rented, owner occupied properties, empty properties and Houses in Multiple Occupation (HMOs); and explains the circumstances where enforcement action will be pursued. It also links to Appendix 1 which sets out the Council's approach to Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

Part Two sets out the minimum standards for Houses in Multiple Occupation (HMOs) and the Council's approach to mandatory licensing of HMOs in accordance with Part 2 of the Housing Act 2004.

Part Three sets out the Council's Statement of principles to determine the amount of a penalty charge under Part 4 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022.

Part Four sets out the Council's Statement of principles to determine the amount of a penalty charge for a breach of minimum energy efficiency standards (MEES) with respect to domestic privately rented property.

1 Part One

1.01 Approach to enforcement.

We recognise that most landlords provide good quality and well-managed accommodation. There are, however, a small number of landlords and property agents who fail to fulfil their legal obligations and rent out sub-standard accommodation, sometimes to vulnerable tenants. We will aim to ensure compliance with the law and acceptable housing standards through advice, education, and informal action. When, however, an informal approach fails to achieve the desired result, or a failure to comply is of a serious nature, we will consider the full range of enforcement options available to achieve compliance and protect residents at risk.

We will target resources to ensure the most serious cases are tackled as a priority and in the most serious contraventions, we will look to prosecute or impose financial penalties. In the case of homeowners, enforcement is unlikely to be the appropriate course of action. Where vulnerable homeowners are unable to carry out essential repairs to their homes, we will provide support as set out in the [Housing Financial Assistance Policy for Loans and Grants](#).

1.02 Principles of enforcement

In line with the principles outlined in The Regulators' Code and section 21 of the Legislative and Regulatory Reform Act 2006, we will carry out enforcement activities in a way that is transparent, accountable, proportionate, consistent and targeted as follows:

Proportionate: We will ensure that enforcement action is proportionate to the risk to the public and any enforcement action taken is appropriate for the nature and seriousness of the offence.

Consistent: We will treat all service users fairly and ensure that our approach to enforcement is consistent. Where circumstances are similar, we will endeavour to act in proportion to other local authorities. We will have regard to guidance and best practice to inform our decision making. We will provide details on how to appeal against decisions and be open and fair in this approach.

Targeted: We will prioritise and direct our regulatory efforts where it is most needed. As resources allow, we will prioritise the reduction and removal of significant health and safety hazards and assist vulnerable people.

Transparent: We aim to deliver our enforcement and regulatory activities in an open and consistent way. We will explain our decisions and publish our policies on our website to ensure that service users, those we regulate and our officers, have clear guidelines for and expectations of our service.

Accountable: Our activities will be guided by clear, fair and accessible policies and supported by an efficient complaint procedure. We will be clear when we can and cannot assist in line with the relevant legislation and where appropriate, signpost customers to other agencies who may be able to assist. We will have regard to any relevant guidance in place at the time when carrying out enforcement action.

Sharing information and joint working: Responsibility for enforcing housing standards will sit within a multi-disciplinary enforcement team who will be responsible for taking action. We will work collaboratively with external agencies (for example the Fire Service) to ensure the

full range of powers available to the council are used in the most efficient way. We will have regard to any agreed procedures and memorandums of understanding.

In situations where enforcement powers rest with another agency, we will act to ensure that the case is transferred to the relevant agency promptly and in accordance with any agreed procedure.

1.03 Expectations and responding to service requests.

Tenants:

- Tenants are expected to report disrepair to their landlord or agent as soon as possible and **before** approaching us for assistance. Tenants should report disrepair in writing as we may ask to see proof that a landlord or agent has been notified of a problem before acting and may provide tenants with protection from no fault eviction.
- Tenants living in social housing must report disrepair to their landlord and should have followed their complaints process to stage 2 before making a service request to us. They will be advised to also pursue their complaint to the Housing Ombudsman.
- Tenants must cooperate with their landlord at all times to get the works carried out and are responsible for keeping officers informed of any contact they have with their landlord or agent which may affect the actions taken by us.
- If a tenant fails to reasonably cooperate with either their landlord or the council, we may consider withdrawing our assistance.
- Where landlords or agents are taking action in a timeframe that we consider reasonable, we will not intervene with the process.

Landlords and managing agents:

- We expect owners, including freeholders or management companies to maintain the properties they own and let.
- We will work with landlords and managing/letting agents to help them comply with their legal obligations. We expect landlords and managing/letting agents to carry out repairs within a reasonable time frame once they've been notified of the problem and without the need for us to instigate formal action. We will monitor the progression of the works to ensure that it is carried out within an acceptable timescale.
- Landlords are expected either to provide any agent acting for them with sufficient authority to act on their behalf if they are contacted by us, or to ensure that they maintain appropriate communication with their agent in order that appropriate decisions and responses can be provided to us. The failure of an agent to respond to communication from us within a specified timescale, or take appropriate action, may be considered a failure by the landlord.
- If the landlord fails to undertake reasonable steps to comply with requirements, we will initiate formal action by the service of an enforcement Notice which may result in prosecution, financial penalty and/or by carrying out works in default.
- In deciding whether to serve Notices or to prosecute or issue a financial penalty, we will have regard to the seriousness of the offence, the risk posed to the public, the benefit of the sanction and whether another course of action would be appropriate. Where prosecution is pursued, we will seek to recover costs.
- Where specified, a charge will be made for the service of a Notice in accordance with our Fees and Charging [Fees and charges - Teignbridge District Council](#)
- Emergency enforcement action will be taken if we consider there is a serious imminent risk to a person's health or safety.

Owners of empty homes:

- We expect owners of empty homes to maintain them and bring them back into use within a reasonable timescale.
- We will work with owners of empty homes to help them bring the property back into use.
- The relevant team, working with other departments and agencies, will consider appropriate enforcement action if an owner does not co-operate and will have regard to our Empty Homes Policy [empty-homes-policy-.pdf \(teignbridge.gov.uk\)](#)

The Council:

- When requested, we will advise landlords/agents of the legislation and help them understand how they can comply with it.
- When officers become aware of a hazard in a property, we will instigate the following procedure:
 - We will respond to service requests from tenants in line with our customer charter and will prioritise cases based on risk and severity. [Customer Charter - Teignbridge District Council](#).
- Within 10 working days of receiving the service request, we will contact the complainant to discuss the nature of the issue. Where necessary, we will carry out an informal inspection of the property.
 - We will contact the landlord or agent following the informal inspection outlining the nature of the problem and what remedial action is required to remedy the hazard(s) or defect(s).
 - The landlord or agent will normally be given 14 working days to outline their intentions to remedy the hazard(s) or defect(s).

The timescales for responses will be accelerated for high risk or high severity cases.

Where a landlord or agent confirms they intend to take remedial action we will monitor this work to ensure it is carried out satisfactorily. However, if works do not progress satisfactorily, or the landlord does not effectively engage with us, the case will be reviewed for formal action and a formal inspection will be arranged. In the most severe cases, or where the landlord does not engage with us or has a track record of non-compliance, we may proceed to take formal action straight away.

1.04 Legislation

The Housing Act 2004 is the principal legislation regulating housing standards. Other legislation and regulations enforced by us includes, but are not limited to:

- Housing Act 1985 (overcrowding).
- Housing and Planning Act 2016.
- Protection from Eviction Act 1977 (harassment and illegal eviction).
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
- Energy Efficiency (Domestic Property) (England and Wales) Regulations 2015.
- Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
- The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to belong to a Scheme etc) (England) Order 2014.
- Human Rights Act 1988.
- The Regulation of Investigatory Powers Act 2000.
- Police and Criminal Evidence Act 1984.

When using regulatory powers, officers will consider which course of action is the most appropriate in the circumstances of a particular case.

1.05 Assessment of housing conditions

Officers will principally use the Housing Health and Safety Rating System (HHSRS) to assess housing conditions. The HHSRS uses a risk assessment to assess the effect of a number of potential hazards on the health and safety of occupiers.

HHSRS provides a score for each hazard identified. It can be applied to all residential premises, whether owner-occupied, rented, or unoccupied.

If a property is assessed as having a category one hazard, we have a **duty** to take action. Where a category two hazard is identified, we have a discretionary **power** to act and may act in the following circumstances:

- Where a high scoring category 2 hazard (Band D or E) exists.
- Where multiple Category 2 hazards are identified, which, when considered together, create a more serious cumulative situation.
- Where a local house condition survey highlights specific local hazards e.g. excessive cold and dampness.
- Any other exceptional case will be determined by the Service Lead in consultation with a member of the Senior Leadership Team.

1.06 Inspections and Powers of Entry

Unless there are exceptional circumstances (i.e. imminent risk of harm), officers will not usually inspect a property at the request of a tenant unless the tenant has first been in contact with their landlord or agent to try to resolve the matter. Where we receive a service request about disrepair and the tenant has tried to resolve the matter with their landlord, officers will assess the situation and will determine whether an informal inspection is required.

In accordance with section 239 of the Housing Act 2004; where an officer deems a formal inspection of a premises is required, they will provide the owner and occupier with a minimum of 24 hours' notice. Officers are not required to give 24 hours' Notice of Entry for the purpose of ascertaining whether an offence has been committed in relation to licensing of houses in multiple occupation (HMOs) and management regulations in respect of HMOs.

Any findings and conclusions from inspections will be confirmed in writing at the earliest opportunity in a clear and straightforward manner.

Where there is reason to believe a hazard may exist, but access to the property is denied, we can apply for a warrant of entry to the property under section 240 of the Housing Act 2004 without prior notice and using force if necessary.

1.07 Powers to require information.

Authorised officers have the power to require:

- Documents be provided under section 235 of the Housing Act 2004 to enable them to carry out their powers and duties.
- Part two Specified information to determine test for fitness etc. and satisfactory management arrangements under section 66 of the Housing Act 2004.

- Gas appliance test certificates for HMOs be provided under section 234 of the Housing Act 2004.
- Electrical inspection and test reports for private rented properties to be provided under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
- Any person with an interest in a property to provide details about its ownership or occupation under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- Specified information for the purpose of deciding whether to apply for a Banning Order against the person under section 19 of the Housing and Planning Act 2016.
- Specified information for the purpose of deciding whether to make an entry in the database of rogue landlords and property agents or to complete an entry or keep it up to date under section 35 of the Housing and Planning Act 2016.

It is an offence not to produce the required information as requested or to provide false or misleading information.

For specific housing purposes we also have the power to:

- Obtain and use Housing Benefit and Council Tax information under section 237 of the Housing Act 2004.
- Request and use tenancy deposit information under section 212A of the Housing Act 2004.
- Access and use information contained within the database of rogue landlords and property agents under section 39 of the Housing and Planning Act 2016.

1.08 Choice of appropriate enforcement action

Where we are confident that remedial action will be taken to address the hazard within a reasonable time frame and it is appropriate to the circumstances of the case, an informal approach will be taken in the first instance.

An informal approach will normally only be possible in cases where hazards are less serious, and where the landlord or agent has established a good track-record or has demonstrated a willingness and ability to comply and put matters right promptly.

Informal approach

This can include the following:

- No action: in certain circumstances where the detrimental impact on the tenant or community is small or a reported breach is unsubstantiated, we may not take any action.
- Advisory or warning letters: we may provide advice and information as a first response where we are notified of a minor housing hazard or defect. Advice, sometimes provided in the form of a warning letter, can assist landlords and agents to rectify breaches as quickly and efficiently as possible and avoid the need for further action.
- Referral to another agency: where appropriate we will refer cases to other council departments or external agencies for further action, e.g. Devon and Somerset Fire and Rescue Authority or other council departments.

Formal Approach

Where an informal approach fails to result in a satisfactory resolution or where a failure to comply is of a serious nature, we will consider formal action.

Where a landlord or agent has a history of non-compliance with housing standards, is not cooperative, or the risk is serious, we may proceed immediately to formal action.

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.

We will take account of current guidance provided by the Government [80597-ODPM-housing \(publishing.service.gov.uk\)](https://www.gov.uk/government/publications/80597-odpm-housing) or any subsequent guidance and will consider the enforcement options available under the Housing Act 2004 as follows:

- An Improvement Notice (including Suspended Notice) to require improvements.
- A Prohibition Order (including Suspended and Emergency Order) to prohibit use of a dwelling or part of a dwelling.
- Emergency Remedial Action to remove an imminent risk of serious harm without the need for prior notice.
- A Hazard Awareness Notice to formally notify the owner of a hazard.
- A Demolition Order to require demolition of the property.
- A Clearance Area Declaration to clear the area of the property.

A statement of reasons will be provided with any Notice or Order served, explaining why we decided to take a particular course of action.

There is a right of appeal against formal Notices and Orders. Details of how to appeal will be included when they are served.

Other legislation may also be used either in conjunction with or instead of housing legislation depending upon the circumstances, for example– a statutory abatement Notice under the Environmental Protection Act 1990, Community Protection Warning/Notice under the Anti-social Behaviour, Crime and Policing Act 2014.

Charges for Notices and Orders

The Housing Act 2004 allows us to charge for serving statutory Notices, Orders and recovering expenses for taking emergency remedial action. If we receive:

- No or an inadequate response from the landlord/agent or
- Proposals that were agreed but not carried out (for example if works fail to start when agreed, fail to make proper progress or are completed to an inadequate standard)

and we proceed with **formal action**, a charge will be made for the service of the Notice except where:

- A Hazard Awareness Notice has been served.
- A Suspended Improvement Notice or Suspended Prohibition Order has been served.
- The property is occupied by an owner occupier.
- The landlord is willing to undertake works but the occupant does not wish for the works to be undertaken.
- A crowding and space hazard exists, and we do not wish to make the current household homeless but wish to limit the number of future occupants.

Details of charges will be published on our website [Fees and charges - Teignbridge District Council](#).

When the charge demand is made the sum recoverable will be a local land charge, which will be removed on receipt of the monies due.

1.09 Failure to comply

If a formal Notice is not complied with, we will consider the following options, which will be decided on a case-by-case basis.

- **Simple caution:** we can issue simple cautions as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, we are likely to consider prosecution. A simple caution will be recorded and be used to inform future decisions on prosecution and may be cited in any subsequent court proceedings.
- **Prosecution:** Failure to comply with an Improvement Notice or a Prohibition Order is an offence punishable by an unlimited fine following conviction; it is an offence to carry on using the premises in breach of the Prohibition Order, attracting a daily fine.

We may decide to prosecute in respect of serious or recurrent breaches, or where other enforcement action, such as statutory Notices, have failed to achieve compliance. Officers will consult and seek advice from the council's legal team when considering prosecution.

Where the investigating officer believes that formal legal action may be required, evidence will be properly collected and stored. The case will be reviewed by a senior officer or team leader before a decision to proceed is taken by the head of service or in the case of prosecutions, the head of the legal team.

Any person subject to potential prosecution may be interviewed under caution, in accordance with the Police and Criminal Evidence Act (PACE) 1984 provisions, prior to any final decision being made. Where those under investigation do not take up this offer; decisions will be made on the available evidence. Prosecution will only be considered where we are satisfied that we have sufficient evidence to provide a realistic prospect of conviction, namely beyond reasonable doubt. When deciding whether to prosecute we will have regard to the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors.

- **Civil Penalty:** In certain cases, we will consider the use of civil penalties as an alternative to prosecution. Financial penalties can be imposed under various acts and regulations. Appendix 1 sets out our Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations and provides full details on how we will apply civil penalties. If a civil penalty is not paid, we can enforce the penalty.
- **Works in default:** we will consider carrying out works to a property where the person responsible has failed to comply with a relevant Notice and where there is an imminent risk to health and safety. Works in default can be carried out either instead of or in addition to a prosecution or civil penalty.

In such cases, we may organise and carry out the work or appoint an agent to complete the work on our behalf and recover the cost of the works plus reasonable

expenses and interest, including officer time, administration, contractor costs, the cost of any specialist reports and supervisory costs.

In the case of officer time, we will calculate costs as follows:

- The actual time spent by council officers on the chargeable activities and recorded using file notes and database.
- Time spent will be converted into a monetary figure using the appropriate hourly rate set for the officer(s) concerned.

The expenses are to be recovered from the person(s) on whom the Notice or Order is/are served ("the relevant person"). Where the relevant person receives the rent on behalf of another, the expenses are also to be recovered from that other person. The expenses will carry interest from the date of service until payment of all sums due under the demand at a rate of 1% over Bank of England Base Rate. The recoverable expenses, together with interest accrued on them, are a charge on the premises.

In addition, as a means of recovering the costs, we may also serve Recovery Notices to recover, receive and give a discharge for any rent or sums in the nature of rent.

As a charge on the property, the costs give the authority the same powers and remedies as a Mortgagee under the Law of Property Act 1925 (Enforced Sale).

- **Database of rogue landlords and property agents:**

We will follow the statutory guidance in relation to the database of rogue landlords and property agents under the Housing and Planning Act 2016 [Database of rogue landlords and property agents guidance \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/544444/database-of-rogue-landlords-and-property-agents-guidance.pdf) or any subsequent guidance.

The database has been designed to help Local Housing Authorities keep track of rogue landlords and property agents operating across council boundaries. We must make an entry on the database for a landlord or property agent who has received a Banning Order. The landlord or property agent will remain on the database for the period that the Banning Order has effect. We also have the discretion to make entries in respect of a person who has been convicted of a Banning Order offence and the offence was committed at a time when the person was a residential landlord or a property agent; or the person has received two or more civil penalties within a 12-month period.

Rent Repayment Orders

A Rent Repayment Order (RRO) can require a landlord to repay up to 12 months' rent, housing benefit, or universal credit. RRO's can be granted to either a local housing authority or a tenant.

We have a duty to consider making an application for an RRO when it becomes aware that a landlord has been convicted of a relevant offence. In deciding whether to apply for an RRO we will have regard to the RRO guidance in place at the time. The relevant offences are specified by the Housing Act 2004 or the Housing and Planning Act 2016.

We may apply for an RRO where we believe we can prove the landlord is guilty of one of the qualifying offences specified by the Housing Act 2004 or the Housing and Planning Act 2016

and where the rent has been paid through Housing Benefit or through the housing element of Universal Credit.

We may offer advice to assist tenants to apply for an RRO if the tenant has paid the rent themselves. A decision on how and if to provide support will be made on a case-by-case basis. We will consider the vulnerability of the tenant, the likelihood of success and the financial implications to the council.

Local Housing Authorities are expected to apply their own policy on when to apply for a Rent Repayment Order and should decide each case independently.

Decisions to apply for an RRO will be recommended by officers and approved by the Head of Service

In the event of a conviction:

We will consider applying for an RRO in all cases where they become aware that a person has been convicted of one or more relevant offence.

We will consider each case individually and will take into account the following factors when deciding to apply for an RRO:

- The severity of the offence.
- The culpability and track record of the offender.
- The harm caused to the tenant.
- If it is in the public interest – has housing benefit/Universal Credit been paid to the landlord.
- If the tenant is intending to apply for a RRO.
- Any mitigating circumstances – would an RRO cause substantial hardship to the offender.

Amount of rent to be repaid:

Where a landlord has been convicted of the offence to which the RRO relates, the First-tier Tribunal (FtT) must order that the maximum amount of rent is repaid (capped at a maximum of 12 months).

Where a landlord has not been convicted of the offence to which the RRO application relates, we will take the following factors into account when considering how much rent to seek to recover:

- **Punishment of the offender:** The RRO should have a meaningful economic impact on the offender (subject to the 12 months maximum amount) and demonstrate consequences of non-compliance with their responsibilities. The conduct of landlord and tenant, the financial circumstances of landlord and whether the landlord has previous similar convictions will be considered.
- **Deter the offender from repeating the offence:** The level of the RRO should be set at a high enough level to deter the offender from repeating the offence.
- **Dissuade others from committing similar offences:** Details of RROs imposed are in the public domain (published by First Tier Tribunal) so robust and proportionate use of RROs may encourage others to comply with their responsibilities.
- **Remove any financial benefit the offender may have obtained as a result of committing the offence:** The landlord should lose much, if not all, of the benefit they accrued by not complying with their responsibilities.

Banning Orders

A Banning Order bans a landlord or property agent from letting houses or engaging in letting agency or property management work in England for a minimum of 12 months.

Under the Housing and Planning Act 2016 we may apply to the First-tier Tribunal (FtT) for banning Orders against residential landlords or property agents who have been convicted of Banning Order offences. A Banning Order prohibits a person from renting out residential accommodation, engaging in letting agency or property management work, or holding an HMO licence. The Order can be issued to persons who have been convicted of 'Banning Order offences' as specified by the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017. When considering applying for Banning Orders we will have regard to the relevant Government guidance. ([Banning Orders for landlords and property agents under the Housing and Planning Act 2016 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/banning-orders-for-landlords-and-property-agents-under-the-housing-and-planning-act-2016)).

Banning Orders are reserved for the most serious offenders who flout their legal obligations and rent out sub-standard accommodation.

In deciding whether to apply for a Banning Order and when recommending the length of any Banning Order we will consider:

- the seriousness of the offence and the sentence imposed by the Court; and
- the previous history of the offender especially in relation to other Banning Order offences.

We will also take into account the likely effect of the ban on the person and anyone else who may be affected, including:

- the harm or potential harm to the tenant, specifically in relation to vulnerable people (Banning Order offences more directly related to health and safety of tenants will be considered more harmful).
- punishment of the offender, ensuring any ban is proportionate and also reflects the severity of the offence; and
- deterring the offender and others from committing similar offences by recommending a sufficiently long ban.

The decision to apply for a Banning Order, including the recommended duration of the ban, will be taken by the Head of Service.

Where a Banning Order is made, the individual will be determined not to be a 'fit and proper' person to hold a licence under Part 2 or 3 of the Housing Act 2004 and any licences in force under those parts will be revoked.

We will consider publishing details of successful Banning Orders including the names of individual landlords subject to legal advice and guidance provided by the Ministry of Justice on whether to publish sentencing outcomes.

We will also consider making information on banned landlords available to tenants on request.

Notices, representations and appeals:

If we decide to apply for a Banning Order, we will first issue the landlord or property agent a Notice of Intent giving notice of our proposal to apply for a Banning Order. A Notice of Intent must be served within six months of the date of conviction.

The Notice of Intent will inform the landlord:

- of our intention to apply for a Banning Order and the reasons for this.
- the length of each proposed ban; and
- the right of the landlord to make representations during the Notice period (minimum 28 days).

Representations in response to a Notice of Intent must be made within 28 days from the date the Notice was given. Properly made representations will be considered by the Head of Service.

Once a decision has been made, we will advise the landlord/property agent whether we intend to apply for a Banning Order or not. The FtT will set the duration of any banning Order, but we are required to recommend a period as part of an application. Only the FtT can make, vary, or revoke a Banning Order.

Once a decision is made by the FtT, any appeals must be made to the Upper-tier Tribunal (UtT).

Enforcement of a Banning Order:

Breach of a banning Order is a criminal offence subject to either prosecution in the Magistrate's Court or civil penalty). The council will consider prosecuting or issuing a civil penalty to any landlord or property agent found to be breaching a banning Order.

Other types of enforcement

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

Energy Efficiency (Domestic Property) (England and Wales) Regulations 2015: Part Four states our Statement of principles to determine the amount of a penalty charge for a breach of minimum energy efficiency standards (MEES) with respect to domestic privately rented property.

Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020: The regulations require landlords to have the electrical installations in their properties inspected and tested by a person who is qualified and competent, at least every five years. Landlords must provide a copy of the electrical safety report to their tenants, and to the council, if requested.

Where we believe that a landlord has breached their duties under the regulations, we may take one, or a combination of, the following actions:

- Serve a Remedial Notice on the landlord, requiring them to take action in respect of the breach.
- Carry out urgent remedial action where a report indicates it is required.
- Carry out remedial action where a landlord is in breach of a Remedial Notice.
- Issue a financial penalty in respect of a breach of the regulations.

[Appendix 1](#) sets out the Council's approach to Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

Protection from Eviction Act 1977: We may consider taking action under the Protection from Eviction Act 1977 where we have reason to believe that an illegal eviction or harassment has taken place. We may investigate to determine whether an offence has been committed and can be established to the required standard.

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

This Order introduced a requirement for letting agents and property managers to belong to an approved redress scheme. The redress scheme must be approved by Government or designated as a government administered redress scheme. Where we become aware that a letting agent or property management organisation does not belong to an approved redress scheme it has a duty to take enforcement action. Enforcement action will be taken in line with the process prescribed by the Order. We may serve a Notice on the offender that requires the payment of a penalty of an amount determined by the council.

Government guidance suggests a penalty of £5,000 should be considered reasonable and should not be exceeded. A lower penalty should only be charged if we are satisfied there are extenuating circumstances.

Where a Notice is served requiring a monetary penalty, there is a right to appeal at the First-tier Tribunal, and the Notice is suspended until the appeal is determined or withdrawn.

Additional Enforcement Options for Empty homes

Interim and Final Empty Management Dwelling Orders (EDMO): Chapter 2 of the Housing Act 2004 allows the council to apply to the FtT to impose an EDMO on the owner of an empty home to achieve occupancy of the dwelling. This Order gives the council management of the house, but not ownership, for a set period of a maximum of seven years, after which another Order could be sought. The property would be let to a tenant and the costs recovered through the rental. If there is any excess income from the rent, it must go to the owner.

Enforced sale: We can seek an Order to complete the sale of the house on the open market to recoup its costs where we have had to carry out works in default and the monies have not been repaid. The owner takes the balance of the sale price.

Compulsory Purchase Order (CPO): The Housing Act 1985 gives us powers to apply to the Secretary of State to allow us to compulsory purchase the property. This power may be used as a last resort to bring dwellings back into use and stop the anti-social "knock on" effects that empty properties inflict upon neighbouring residents. We may work in partnership with a Registered Providers or other agency to secure a back-to-back sale of the property in order to recover costs.

2 Part Two

2.01 Houses in Multiple Occupation (HMOs) – Standards and Licensing

The Council has powers to ensure adequate standards are met and maintained within HMOs whether licensable or not.

2.02 Definition

A building or flat in which 3 or more people forming 2 or more households share a basic amenity such as a toilet, bathroom or kitchen; or the accommodation lacks one or more of these features.

A single household is made up of persons who are members of the same family. Exemptions include:

- Any properties managed by a public sector body.
- Student accommodation which is managed or controlled by an educational establishment.
- Buildings occupied by religious communities.
- Buildings occupied by owners (long leaseholders or freeholders)
- Buildings occupied by two persons (who form two households)

HMOs can include shared houses, bedsits, flats, and converted buildings which include units of accommodation that are not self-contained flats, and buildings converted entirely into self-contained flats (section 257 HMOs).

HMOs occupied by five or more people require an HMO licence from us.

2.03 Minimum standards in HMOs

The Housing Act 2004 and associated regulations set the minimum legal standards required for HMOs. This policy sets out the council's approach on ensuring how the standards are met.

We expect that our HMO standards, as set out in detail in Appendix 2 are achieved in all HMOs and they will inform our enforcement decisions. It is a legal requirement for HMOs to be compliant with the HMO minimum standards.

The council acknowledges however, that there may be exceptional instances where compliance with the minimum standards is not practicable and any variation from the minimum standards will need to be agreed with the council and confirmed in writing.

Summary of Standards

Our standards are set out in [Appendix 2](#). The standards cover the following:

- Minimum room sizes
- Facilities for the storage and preparation and cooking of food
- Personal washing and toilet facilities

- Insulation and heating
- Power supply and electrical sockets
- Lighting and ventilation
- Fire Safety
- Security
- Food storage
- Waste disposal.

For licensable HMOs, the minimum standards may not necessarily be met on the date a licence becomes operative. Where the standards are not met the licence may be issued with conditions requiring compliance with the standards within a specified time period.

2.04 HMO Management Regulations

These regulations impose duties upon landlords and managers of all HMOs whether the property is subject to licensing or not.

In summary, managers of HMOs are required to:

- Provide management information to occupants and display the name, address and telephone number for the manager clearly in the HMO property.
- Take safety measures including fire safety. Keep escape routes free from obstruction and maintain fire alarms and equipment in good working order.
- Protect occupants from injury – appropriate safeguards must be maintained for roofs, balconies and low windowsills.
- Maintain water supply and drainage in good, clean working order and protected from frost damage.
- Supply and maintain gas and electricity; ensure the electrical installation is inspected and tested every 5 years and supply gas safety certificates and electrical reports to us within seven days of a request.
- Maintain common parts, fixtures, fittings and appliances in good order and repair.
- Maintain living accommodation in a clean condition at the beginning of the tenant's occupation and in good repair.
- Provide waste disposal facilities suitable for the size of each household and comply with the councils' waste storage and disposal schemes.

Occupants of HMOs are required not to hinder the manager in their duties and to cooperate with reasonable requests.

Penalties

Failing to comply with HMO management regulations is an offence under the Housing Act 2004, subject to a financial penalty of up to £30,000 (see Appendix 1) or an unlimited fine on summary conviction.

2.05 HMO Licensing

We operate a mandatory licensing scheme under Part 2 of the Housing Act 2004, which applies to all HMOs that are occupied by five or more persons, comprising two or more households and share facilities. The aim of licensing is to ensure that larger HMOs are safe for the occupants and visitors and is properly managed. The responsibility for applying for a licence rest with the person having control of, or the person managing the property.

We also have powers to extend licensing schemes to include both Additional and Selective Licensing Schemes, but currently do not operate either. This is kept under review.

Properties exempt from the licensing regime are prescribed in Schedule 4 of the Housing Act 2004 and associated regulations and include:

- Properties consisting entirely of self-contained flats.
- Where the building is occupied only by the owner (and members of their household) and up to two lodgers.
- Where the building is occupied by only two persons.

Application for HMO licence

A licence application can be made online via the Council website.

To be considered a valid application, the specified documentation and relevant fee must accompany the application.

When we receive an application, we must decide whether to grant or refuse an HMO licence considering the factors below:

- The property is reasonably suitable for occupation by the intended number of occupants or can be made suitable by the imposition of licence conditions. The intended number of occupants is either the number specified in the application, or another number set by us.
- The proposed licence holder and manager are fit and proper persons.
- The proposed licence holder is the most appropriate person to hold the licence.
- The manager is either the person having control or an agent or employee of the person having control.
- The proposed management arrangements are satisfactory.

The following sections explain how we will reach decisions on these matters:

Suitability for multiple occupation

We will refer to HMO standards ([Appendix 2](#))

Fit and Proper Person

When granting a licence, we must be satisfied that the proposed licence holder and any manager are fit and proper persons; and will have regard to relevant guidance when applying the fit and proper test. A person's "fit and proper status" may be reviewed at any time. The criteria considered, but not limited to includes:

- Any unspent convictions for offences involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003.
- Any unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or in connection with the carrying on of a business.
- Any contravention of any provision of the law relating to housing or of landlord and tenant law (including any civil proceedings that resulted in a judgement against you).

Any applicant/property manager who does not declare unspent convictions will be committing an offence and liable to a fine.

Other considerations as to whether a proposed landlord or manager is a fit and proper person include where a person:

- Has had a licence revoked or refused or been convicted of breaching the conditions of a licence under parts 2 or 3 of the Housing Act 2004.
- Owns, manages or has owned or managed an HMO or house which has been the subject of a Control Order under section 379 of the Housing Act 1985 in the five years preceding the date of the application; or any appropriate enforcement actions described in section 5(2) of the Housing Act 2004 (in relation to category 1 hazards).
- Owns or has previously owned a property that has been the subject of an interim or Final Management Order whilst in their ownership, or a special Interim Management Order under the Housing Act 2004.
- Is subject to a Banning Order under section 16 of the Housing and Planning Act 2016.
- Owns or has previously owned a property for which we have undertaken action as described in section 5(2) of the Housing Act 2004, which includes the service of an Improvement Notice, Prohibition Order, Emergency Prohibition Order, Hazard Awareness Notice, Demolition Order or Emergency Remedial Action.

Management Arrangements

We must be satisfied that the proposed management arrangements for an HMO are satisfactory. We expect licence holders to have the following arrangements in place:

- A person to whom tenants can report defects, including an emergency contact, and for this information to be displayed in writing in the premises.
- An established system for periodically inspecting the HMO to identify any repairs or maintenance.
- The ability to finance and to undertake repairs and maintenance in an appropriately timely fashion.
- Where the manager is not the owner of the property, the manager must be able to fund and implement urgent repairs in those situations where it is not possible to obtain the owner's approval without undue delay.
- A system to deal with any anti-social behaviour caused by tenants or their visitors, which causes nuisance or annoyance to people living in the vicinity.
- The council may also consider whether any person involved in the management of the house has a sufficient level of competence and may take into account matters such as the frequency and nature of any valid complaints received in connection with the property or its management, and the adequacy of any response.

Licence Conditions

All licences must have **mandatory** conditions applied as per the provisions of The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.

The Council may also apply **discretionary** conditions to any individual licence as they deem appropriate.

The licence holder is responsible to ensure licence conditions are complied with. Breach of any licence condition is an offence and may result in formal action.

There is no requirement to inspect a property prior to issuing a licence, however, we will usually carry out an inspection to assess compliance with licensing requirements, local

amenity standards, the Housing Health and Safety Rating System and any other relevant legislation to ensure the above criteria is met.

Where a licensable HMO does not meet specific criteria at the time of application for a licence, the Council may reject the application. Alternatively, the Council may use its discretion to issue a licence subject to a condition that the property will comply with the appropriate standards within an agreed period of time from the granting of the licence. Evidence showing that a landlord is not a fit and proper person will result in refusal of a licence.

Licence Term

Licences will generally be issued for five years, except where we have concerns relating to the management of the property, including non-compliance with licence conditions, breaches of the management regulations or contraventions of other relevant legislation. In these cases, licences will generally be issued for one year and the length of licence reviewed upon renewal.

Issuing licences

Draft licences ('Intention Notice') must be issued within a reasonable period of time following the receipt of a valid licence application. We will aim to issue draft licences within 12 weeks of a valid application.

The applicant and any consultee will be given a minimum of 14 days after the date of service of the draft licence to make any representations regarding the proposed licence. Any representations received will be reviewed and a written response provided before the actual licence ('Decision Notice') is issued.

Licences only relate to a single HMO and are non-transferrable.

Tacit consent does not apply. It is in the public interest that we process an application before it can be granted.

Variation of licences

The council may vary a licence either with the agreement of the licence holder or without agreement if it considers there has been a change of circumstances since the licence was granted. Change of circumstances will be taken to include the discovery of new information.

Revocation of licences

The council may revoke a licence either with the agreement of the licence holder or without agreement in the following circumstances:

- Where the council considers that the licence holder or any other relevant person has committed a serious breach of a licence condition or repeated breaches of a condition.
- Where the council no longer consider that the licence holder is a fit and proper person to hold the licence.
- Where the council considers that the management of the premises is no longer being carried out by fit and proper persons.
- Where the property has ceased to be an HMO requiring a licence.
- Where the council considers that, were the licence to expire at that time, it would not grant a further licence because of the structure of the premises.

Appeals of licence decisions

The applicant, anyone with an estate or interest in the premises, a person managing the premises or anyone on whom the licence would place any restriction or obligation, may appeal against our decision to either grant or refuse to grant a licence, or in connection with decisions in relation to revocation or variation. Details of how to appeal will be included with licences ('Decision Notices').

Temporary Exemption Notices (TENs)

Where a landlord or manager makes an application in writing, the council may issue a Temporary Exemption Notice (TEN) for up to three months if we are satisfied that particular steps are being taken to ensure either that the building will cease to be an HMO, or that it will become an HMO that is no longer subject to mandatory licensing. For example, entering into a contract for the sale of the building with vacant possession for use other than as an HMO.

Placing or proposing to place an HMO on the market for sale will not normally be sufficient for the council to agree to issue a TEN.

TENs will be refused in cases where it appears the application has only been sought with the aim of avoiding or evading licensing.

We will confirm our decision in writing by serving a Notice giving the reasons for the decision of whether to grant the exemption. Applicants may appeal the decision and details of how to appeal will be included with the TEN.

TENs can only be granted for a maximum of three months, although in exceptional circumstances it can be renewed for a further three months on further application to us.

If the licence holder dies while the licence is in force the licence ceases and, for three months from the death, the building will be treated as having a TEN granted. During that period the licence holder's personal representatives may apply to the council for an extension to the exemption for a further three months whilst affairs are being sorted out. We do not have to grant a further extension; however, consent is unlikely to be withheld in such cases.

Fees

We will charge a fee for each licence. Fees will be periodically reviewed and revised as necessary through the council's fees and charges setting procedures and as required by any legislative changes. Details of fees will be published on our website. A valid application must accompany the fee. Owners, landlords and managing agents can apply via the Council website. [Fees and charges - Teignbridge District Council](#)

2.06 Enforcement of HMO licensing

It is an offence to:

- Have control of or manage an HMO which is required to be licensed but is not licensed.
- Have control of or manage an HMO which is licensed and to knowingly permit any additional occupiers and thereby exceed maximum occupation stated on the licence.

- Be a licence holder or a person on whom restrictions or obligations are imposed under a licence and fail to comply with any condition of the licence.
- Fail to comply with the relevant HMO Management Regulations.

These offences carry a range of punitive actions which we may wish to pursue, including:

- Prosecution resulting in an unlimited fine on summary conviction
- Seeking Banning Orders following successful conviction
- Financial penalties of up to £30,000 for each offence (See Civil Penalty and Other Penalty Charges Policy).
- Rent Repayment Orders to recover Housing Benefit/Universal Credit
- Assisting tenants to apply for Rent Repayment Orders
- Entering landlords and agents into the 'Rogue Landlords Database'
- Interim or Final Management Orders

Any decision to pursue enforcement action will be taken in line with this policy and in discussion with the Legal and Finance teams.

Additional Enforcement Options for HMOs

Interim Management Orders (IMOs) and Final Management Orders (FMOs): These powers will only be used where other attempts to ensure the health, safety or welfare of occupiers has failed.

IMOs can be made where there is no realistic prospect of a property licence being granted. By making an IMO the management and rental income from a property is removed from the landlord for up to one year. The income 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. Following the granting of an IMO, we can apply for a Final Management Order(FMO) that can be in place for up to seven years. We may engage an external company to manage the property.

Overcrowding Notices (section 139 of the Housing Act 2004): Section 139 of the **Housing Act 2004** allows us to serve an Overcrowding Notice in respect of houses in multiple occupation that falls outside of the scope of HMO licensing. 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.

We will use the HMO bedroom space standards set out in this document (Appendix 2: Houses in Multiple Occupation Standards) as the standard for overcrowding enforcement in all HMOs.

3 Part Three

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

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

The Regulations introduced legal requirements on relevant landlords to:

1. Equip a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation.
2. During any period when the premises were occupied under the tenancy, to ensure that a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation, and which contains fixed combustion appliance other than a gas cooker.
3. Carry out checks by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.
4. Where, following a report made on or after 1st October 2022 by a tenant or by their nominated representative to the landlord, a prescribed alarm is found not to be in proper working order, the alarm is repaired or replaced.

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

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

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

We 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 the remedial notice within the required timescale.

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

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

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

- Evidence obtained from a property inspection.
- Evidence provided by the tenant or agent.
- Evidence provided by the landlord demonstrating compliance with the Regulations by supplying dated photographs of alarms, together with installation records.

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

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

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

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

Determining the amount of the penalty charge for a first breach

The minimum amount of a penalty charge for a first breach of the Regulations will be £2,500. The starting level of a penalty charge for a first breach of the Regulations will be £3,000. The penalty charge amount will then be varied depending on aggravating and mitigating factors.

Aggravating factors include, but are not limited to:

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

Mitigating factors include, but are not limited to:

- Evidence that all required alarms were checked and in working order at the start of the tenancy.
- Written evidence that some efforts to gain access and comply with the remedial notice were made and access was prevented by the occupant.

Determining the amount of the penalty charge for a subsequent breach

The penalty for subsequent breaches by the same landlord will be £5,000.

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4 Part Four

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

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

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

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

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

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

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

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

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

- Ensure your rented properties with a valid EPC meets a minimum ‘E’ rating or
- Register a valid PRS exemption on the PRS exemptions register.

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

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

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

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

We will impose the following financial penalties:

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

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

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

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

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

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

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

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

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

The Council has the power to impose a civil penalty of up to a maximum of £30,000 for each separate offence. If multiple offenders have committed the same offence at the same property, a separate civil penalty can, and usually will, be imposed on each offender. In each case, the level of civil penalty imposed on each offender will be in line with this policy.

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

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

Statutory Guidance

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

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

- a. **Severity of the offence.** The more serious the offence, the higher the penalty should be.
- b. **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
- c. **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
- d. **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
- e. **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- f. **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.
- g. **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

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

Other Policy Aims

The Council is mindful that despite its best efforts, there may be some landlords who operate unlawfully for a significant period of time without detection, and only a proportion of landlords

committing relevant offences will be discovered. The Council is, therefore, mindful that when deciding to impose a Civil Penalty, it should create an environment where it is clear to the offender and others that operating unlawfully as a landlord will be financially disadvantageous when compared to operating lawfully.

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

Civil Penalties Matrix

In determining the level of a civil penalty, officers will have regard to the matrix set out below, which is to be read in conjunction with the associated guidance. The matrix is intended to provide indicative 'starting level' under the various offence categories, with the final level of the civil penalty adjusted in each case, taking into account aggravating and mitigating factors the Council deems significant including, but not limited to, factors relating to the track record and culpability of the landlord and the actual or potential harm to the occupants or those at risk.

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

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

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

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

To ensure that any penalty imposed is proportionate to the offending behaviour the presence of one or more aggravating factors will rarely result in the penalty being increased in excess of a total of £5000. In exceptional circumstances, officers may determine that the presence of one or more aggravating factors justify 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 may, exceptionally, including for the reason given above, increase the penalty by greater than £5000 on account of aggravating factors or, again exceptionally, decrease it by greater than £5000 on account of mitigating factors. In order to meet the objectives of this policy, including the need for transparency and consistency in the use of such penalties, the Council will exercise its discretion to increase or decrease a penalty by greater than £5000 on account of aggravating or mitigating factors in exceptional circumstances only excluding any Discounts as set out below. The Council will consider on a case-by-case basis whether any such circumstances exist.

Seriousness of offence	Starting level [£]
Mild	2,500
Moderate	7,500
Serious	12,500
Very Serious	17,500
Severe	22,500
Very Severe	27,500

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

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

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

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

In most cases, the service of an Improvement Notice will have followed an informal stage, where the landlord had been given the opportunity to carry out improvements without the need for formal action. In such cases, an identified failure to comply with an Improvement Notice will represent a continued failure on the part of the landlord/owner to deal appropriately with one or more significant hazard.

The Council would view the offence of failing to comply with the requirements of an Improvement Notice as a significant issue. The seriousness of the offence is viewed by the Council as being a Severe matter, attracting a financial penalty with a starting level of £22,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £17,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22,500.

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 £27,500.

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

- The nature and extent of hazards that are present. Multiple hazards and/or severe/extreme hazards that are considered to have a significant impact on the health and/or safety of the occupant[s] in the property or visitors to the property whether invited or not would justify an increase in the level of the civil penalty.

Generic aggravating features/factors

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

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

Failure to License offences

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

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

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

WCs and place a limit on the number of persons permitted to occupy it and the licence holder is required to comply with a set of licence conditions.

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

This seriousness of the offence is viewed by the Council as being a Very Serious matter, attracting a financial penalty with a starting level of £17,500.

The civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £12,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

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 £22,500.

Aggravating features/factors specific to failure to licence offences:

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

Generic aggravating features/factors

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

Failure to 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 £17,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12,500.

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

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 £22,500.

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

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

Generic aggravating features/factors

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

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

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

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

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

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

Failure to Comply with The Management of Houses in Multiple Occupation [England] Regulations 2006 and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007

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

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

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

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

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

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

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

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide information to occupier as a Mild matter, attracting a financial penalty with a starting level of £2,500.

The civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £2,000, attracting a civil penalty of £500.

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

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 £2,000, attracting a civil penalty of £4,500.

Aggravating features/factors specific to Management Regulation breach offences:

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

Generic aggravating features/factors

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

Duty of manager to take safety measures

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to take safety measures as a Very Serious matter, attracting a financial penalty with a starting level of £17,500.

The civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £12,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

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 £22,500.

Aggravating features/factors specific to Management Regulation breach offences

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

Generic aggravating features/factors

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

Duty of manager to maintain water supply and drainage

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the water supply and drainage as a Serious matter, attracting a financial penalty with a starting level of £12,500.

The civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £7,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12,500.

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.

Aggravating features/factors specific to Management Regulation breach offences

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

Generic aggravating features/factors

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

Duty of manager to supply and maintain gas and electricity

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the gas and electricity supply as a Serious matter, attracting a financial penalty with a starting level of £12,500.

The civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £7,500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £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 £5000, attracting a civil penalty of £17,500.

Aggravating features/factors specific to Management Regulation breach offences

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

Generic aggravating features/factors

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

Duty of manager to maintain common parts, fixtures, fittings and appliances

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the common parts, fixture, fittings and appliances as a Moderate matter, attracting a financial penalty with a starting level of £7,500.

The civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7,500.

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 £12,500.

Aggravating features/factors specific to Management Regulation breach offences

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

Generic aggravating features/factors

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

Duty of manager to maintain living accommodation

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the living accommodation as a Moderate matter, attracting a financial penalty with a starting level of £7,500.

The civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £2,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7,500.

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 £12,500.

Aggravating features/factors specific to Management Regulation breach offences

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

Generic aggravating features/factors

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

Duty to provide waste disposal facilities

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide waste disposal facilities as a Moderate matter, attracting a financial penalty with a starting level of £7,500.

The civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £2,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7,500.

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 £12,500.

Aggravating features/factors specific to Management Regulation breach offences

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

Generic aggravating features/factors

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

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

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

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

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

Failure to comply with licence conditions related to:

- ***Signage or the provision of information for tenants***
- ***Provision of written terms of occupancy for tenants***
- ***Procedures regarding complaints***
- ***Procedures regarding vetting of incoming tenants***
- ***Compliance with deposit protection legislation***

- ***The recording and provision of information regarding rent payments***
- ***Procedures relating to rent collection***
- ***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***
- ***The provision of information relating to a change in mortgage provider***
- ***Requirements relating to the sale of the property***
- ***Attending training courses***
- ***Requirements to hold insurance***
- ***The provision of insurance documentation***
- ***The provision of or obtaining of suitable references***
- ***The provision of keys and alarm codes***
- ***Security provisions for access to the property***
- ***The provision of suitable means for occupiers to regulate temperature***

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Mild matter, attracting a financial penalty with a starting level of £2,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £2,000, attracting a civil penalty of £500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2,500.

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 £2,000, attracting a civil penalty of £4,500.

Aggravating features/factors specific to Licence Condition breach offences

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

Generic aggravating features/factors

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

Failure to comply with licence conditions related to:

- ***Procedures and actions regarding Inspections***
- ***Procedures regarding Repair issues***
- ***Maintenance and use of common parts (including gardens, outbuildings and property exterior) and living areas***
- ***Safeguarding occupiers and minimising disruption during works***
- ***The provision of information regarding alterations and construction works***
- ***Procedures regarding emergency issues***
- ***Waste and waste receptacles, pests, minor repairs, alterations or decoration.***

- ***Giving written notice prior to entry***
- ***Allowing access for inspections***
- ***Minimising risk of water contamination***
- ***The compliance of furnishings or furniture with fire safety regulations***

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Moderate matter, attracting a financial penalty with a starting level of £7,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £2,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7,500.

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 £12,500.

Aggravating features/factors specific to Licence Condition breach offences

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

Generic aggravating features/factors

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

Failure to comply with licence conditions related to:

- ***The provision of documentation regarding energy performance certificates, fire detection and prevention, emergency lighting, carbon monoxide detection, fire risk assessments, gas installations, electric installations and appliances***
- ***Notification of legal proceedings, contraventions and other relevant information that may affect a fit and proper person status***
- ***Procedures and actions regarding ASB***

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Serious matter, attracting a financial penalty with a starting level of £12,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £7,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12,500.

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.

Aggravating features/factors specific to Licence Condition breach offences

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

Generic aggravating features/factors

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

Failure to comply with licence conditions related to:

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

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Very Serious matter, attracting a financial penalty with a starting level of £17,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

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 £22,500.

Aggravating features/factors specific to Licence Condition breach offences

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

Generic aggravating features/factors

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

Failure to comply with licence conditions related to:

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

- ***The prevention including provision of safe means of escape***

The Council would view the seriousness of the offence of failing to comply with a licence condition relating to the bullet points directly above as a Severe matter, attracting a financial penalty with a starting level of £22,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £17,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22,500.

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 £27,500.

Aggravating features/factors specific to Licence Condition breach offences

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

Generic aggravating features/factors

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

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

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

3. Duties of private landlords in relation to electrical installations

1. A private landlord who grants or intends to grant a specified tenancy must—
 - a. ensure that the electrical safety standards are met during any period when the residential premises are occupied under a specified tenancy;
 - b. ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; and
 - c. ensure the first inspection and testing is carried out—
 - i. before the tenancy commences in relation to a new specified tenancy; or
 - ii. (ii) by 1st April 2021 in relation to an existing specified tenancy.
2. For the purposes of sub-paragraph (1)(b) "at regular intervals" means—
 - a. at intervals of no more than 5 years; or
 - b. where the most recent report under sub-paragraph (3)(a) requires such inspection and testing to be at intervals of less than 5 years, at the intervals specified in that report.
3. Following the inspection and testing required under sub-paragraphs (1)(b) and (c) a private landlord must—

- a. obtain a report from the person conducting that inspection and test, which gives the results of the inspection and test and the date of the next inspection and test;
 - b. supply a copy of that report to each existing tenant of the residential premises within 28 days of the inspection and test;
 - c. supply a copy of that report to the local housing authority within 7 days of receiving a request in writing for it from that authority;
 - d. retain a copy of that report until the next inspection and test is due and supply a copy to the person carrying out the next inspection and test; and
 - e. supply a copy of the most recent report to—
 - i. any new tenant of the specified tenancy to which the report relates before that tenant occupies those premises; and
 - ii. any prospective tenant within 28 days of receiving a request in writing for it from that prospective tenant.
4. Where a report under sub-paragraph (3)(a) indicates that a private landlord is or is potentially in breach of the duty under sub-paragraph (1)(a) and the report requires the private landlord to undertake further investigative or remedial work, the private landlord must ensure that further investigative or remedial work is carried out by a qualified person within—
 - (a) 28 days; or
 - (b) the period specified in the report if less than 28 days, starting with the date of the inspection and testing.
5. Where paragraph (4) applies, a private landlord must—
 - (a) obtain written confirmation from a qualified person that the further investigative or remedial work has been carried out and that—
 - i. the electrical safety standards are met; or
 - ii. further investigative or remedial work is required;
 - (b) supply that written confirmation, together with a copy of the report under sub-paragraph (3)(a) which required the further investigative or remedial work to each existing tenant of the residential premises within 28 days of completion of the further investigative or remedial work; and
 - (c) supply that written confirmation, together with a copy of the report under sub-paragraph (3)(a) which required the further investigative or remedial work to the local housing authority within 28 days of completion of the further investigative or remedial work.
6. Where further investigative work is carried out in accordance with paragraph (4) and the outcome of that further investigative work is that further investigative or remedial work is required, the private landlord must repeat the steps in paragraphs (4) and (5) in respect of that further investigative or remedial work.
7. For the purposes of sub-paragraph (3)(e)(ii) a person is a prospective tenant in relation to residential premises if that person—
 - (a) requests any information about the premises from the prospective landlord for the purpose of deciding whether to rent those premises;
 - (b) makes a request to view the premises for the purpose of deciding whether to rent those premises; or
 - (c) makes an offer, whether oral or written, to rent those premises.

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

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

The Council would view the seriousness of the offence of failing to comply with (3)(b), 3(d) or 3(e) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Mild matter, attracting a financial penalty with a starting level of £2,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £2,000, attracting a civil penalty of £500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2,500.

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 £2,000, attracting a civil penalty of £4,500.

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

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

Generic aggravating features/factors

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

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

The Council would view the seriousness of the offence of failing to comply with (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (5)(b) or (5)(c) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Serious matter, attracting a financial penalty with a starting level of £12,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £7,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12,500.

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.

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

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

Generic aggravating features/factors

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

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

The Council would view the seriousness of the offence of failing to comply with (4), (5a) or (6) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Very Serious matter, attracting a financial penalty with a starting level of £17,500.

The civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5,000, attracting a civil penalty of £12,500.

The civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17,500.

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 £22,500.

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

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

Generic aggravating features/factors

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

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

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

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

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

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

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

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

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

If, following the receipt of written representations and/or the expiry of the time period to make written representations, the Council decides to impose a financial penalty on the person, it will give the person a Final Notice imposing that penalty.

The Final Notice will set out and summarise:

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

Discounts

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

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

Illustrative example

The landlord of a Mandatory HMO property fails to obtain a licence. They only operate two HMO properties and there are no other relevant factors or aggravating features. The offence is regarded as a Very Serious matter. Upon receipt of the 'Notice of Intent' to impose a £17,500 financial penalty. Written representations are made to the Council.

On account of the written representations received by the landlord, the council imposes a financial penalty of £16000. In the event the landlord pays within the specified period a 15% discount is given so that the landlord makes a discounted payment of £13,600.

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Teignbridge District Council HMO Standards

A guide to the minimum standards for amenities and space permitted in a house in multiple occupation.

Introduction

This guidance sets out Teignbridge District Council standards for Houses in Multiple Occupation (HMO). These standards are based on legislative requirements, relevant guidance as well as the Council's expectations. All HMOs are required to meet health and safety standards and have adequate space and amenities for the occupiers. If you have any doubts about any of the standards within this guidance or you wish to vary one or more of the standards because of the property's circumstances, please contact psh@teignbridge.gov.uk.

It is the landlord or owner responsibility to ensure that any works carried out to meet these standards are carried out competently and meet all relevant standards.

What is an HMO

The full definition of a House in Multiple Occupation (HMO) is contained in section 245 of the Housing Act 2004. However, the information below describes the main types of HMO.

HMOs with shared facilities

An HMO is a property occupied by three or more persons who form two or more households, and they share an amenity such as a bathroom, toilet or cooking facilities or where the living accommodation lacks a basic amenity. There must also be an obligation to pay rent (or other consideration) and it is their main or only residence. Once occupancy reaches 5 or more persons then a licence is required.

This includes shared houses (let on joint or separate agreements) and bedsits where occupants share kitchen(s) or bathroom(s). A 'house' also includes a flat that is in multiple occupation. HMOs can also be houses or flats where there is a mix of self-contained units and units of accommodation that share amenities.

Section 257 HMOs (HMOs that are converted blocks of flats)

A S257 HMO is a building which has been converted, or part converted, into self-contained flats that did not comply with the appropriate building standards and still does not comply with those standards, and less than two-thirds of the self-contained flats are owner occupied. Buildings converted into fully self-contained flats will generally not be S257 HMOs, provided that they were converted in accordance, or now comply, with the appropriate building standards required at the time of the conversion. The appropriate building standards, as a minimum, will be the 1991 Building Regulations

The guidance relating to s257 HMOs in this document is based on 1 to 2 person flats. If you are intending to let a flat to 3 or more persons, please contact the Council for further guidance.

Definition of a household

A 'household' is defined as either a single person or members of the same family who are living together:

- Couples married to each other or living together / co-habiting.
- Relatives living together. A foster child living with foster parents is treated as living in the same household.
- Any domestic staff are also included in the household if they are living rent-free in the accommodation provided by the person they are working for.

Room size requirements

Room size requirements are given in square metres (m²). For clarity, a room size of 12m² is equivalent to a room measuring 4m by 3m and also a room measuring 6m by 2m.

Room use	Number of occupants	Bedrooms with shared kitchen facilities	Bedrooms with own kitchen facilities	Section 257 HMOs (fully self-contained flats)
Bedroom or Letting	1	8.5m ²	13m ²	13m ² Min bedroom : 6.5 m ² where bedroom separate from lounge
				19m ²

	2	13m ²	19m ²	Min bedroom: 10.5m ² where bedroom is separate from lounge
Kitchen	Up to 5	7m ²		
	6	8.5m ²		
	7	10m ²		
	8 -10	14m ² (or 2 rooms each 7m ²)		
Shared Living/Dining Room	up to 5	11m ²		
	6	12m ²		
	7	13m ²		
	8	14m ²		
	9	15m ²		
	10	16m ²		

A reduction in bedroom size will only be considered where a communal living room or kitchen with a dining area exists. This will depend on the size, layout and nature of the communal space and facilities available, standards of management and other health and safety considerations.

Licensed HMOs are subject to mandatory minimum sleeping room sizes, which are included within the conditions of the licence. A room smaller than the specified size must not be used as sleeping accommodation, and communal space in other parts of the HMO cannot be used to compensate for rooms smaller than the specified minimum. The mandatory room size conditions are the statutory minimum and are not intended to be the optimal room size. The Council will continue where necessary to have discretion to require higher standards within licence conditions but cannot set lower standards.

The mandatory minimum room sizes (useable floor area):

10.22m²	Two people over 10 years old
6.51m²	One person over 10 years old
4.64m²	One person under 10 years old
Less than 4.64m²	Must not be used as sleeping accommodation

NOTES

- All habitable rooms (bedrooms, living rooms and dining rooms), kitchens, bathrooms, and toilet compartments shall have a minimum floor to ceiling height of 2130mm. In the case of rooms with sloping ceilings, there shall be a minimum height of 2130mm over half of the floor area of the room. Floor area measurements shall be taken on a plane 1500mm above the floor. Any floor area where the ceiling height is less than 1500mm high shall be disregarded.
- The minimum width for sleeping rooms is 1.8m for single occupancy and 2.3m for 2 or more persons.
- These room sizes do not include space for bathroom/shower room or WC. Where ensuite facilities are provided then this must be in addition to the space set out above.
- Fitted wardrobes may be counted as useable space provided they extend from floor to ceiling and the remaining free space and utility are not compromised.
- Rooms must be able to accommodate the required amount of appropriate furniture, allow its effective use and provide enough space for movement around the room.
- In HMOs without a shared living room, additional shared dining space is recommended close to any shared kitchen that is more than 1 floor distant from the letting room it serves.

Minimum requirements for kitchen facilities

Occupants	Kitchen area (m ²)	Work surface (m) (600mm standard depth)	Power sockets above worktop	Hob rings	Ovens	Grills	Sinks/ drainers with hot and cold water	Dry food storage cupboard	Fresh and Frozen food storage	Fire Blanket
All Shared Kitchens										
Up to and including 5	7	2	3 double	4	1	1	1	1 x 500mm base unit or 1 x 1000 wall unit per occupant	1 good sized refrigerator shelf per occupant	One suitably located fire blanket in accordance with the current BS EN or equivalent standard at the time of application or renewal
6	8.5	2.5	4 double	4	2 ⁺	2 ⁺	2 [#]		1 good sized freezer shelf per occupant	
7	10	3	4 double	6	2 ⁺	2 ⁺	2 [#]			
8	14	4	5 double	8	2	2	2			
9	14	4	5 double	8	2	2	2			
10	14 [14m ² may be achieved by 2 kitchens each of 7m ²]	4 At least 1m of the work surface should be a continuous unobstructed length in ALL kitchens	5 double	8	2	2	2		Shelf should be at least 30x40cm with height of 20cm	
Kitchens in individual lettings										
1 or 2	4	1	2 double	2	1	1	1	1 x 500mm base unit or 1 x 1000 wall unit per occupant	1 good sized refrigerator shelf per occupant 1 good sized freezer shelf per occupant	One suitably located fire blanket in accordance with BS
					or a safely located combination microwave/oven/ grill					

NOTES

- To provide some flexibility where 6 or 7 occupants share a kitchen:
 - (+) a safely located combination microwave/oven/grill is acceptable in place of an additional oven and grill.
 - (#) a dishwasher is acceptable in place of an additional sink/drain.
- To clarify, where the requirement is for a space minimum of 14m² this can be achieved by providing 2 rooms each of 7m²
- Kitchen facilities **must not** be located within a fire escape route and must be separated from an escape route by a proper fire door.
- The kitchen layout must be such to prevent risk of collision, allow safe transfer of hot items and ease of use of equipment/appliances. Where there are 6 or more occupants, multiple workstations must be considered to avoid congestion and allow safe working arrangements.
- Shared kitchens must be available for use 24 hours a day.
- Kitchens should not be located more than one floor distance away from bedrooms unless it is a kitchen/diner, or a communal room is available on the same floor as the kitchen.
- See general guidance relating to all HMOs for mechanical extract ventilation, waste disposal, hygiene and storage.

Minimum requirements for bathrooms/shower rooms and toilet facilities

Occupants sharing	Bathrooms Comprising 1 Bath/Shower Unit <i>and may contain a toilet</i>	Toilet and wash hand basin	Separate or combined	Ventilation (suitable and adequate)	Adequate size and layout: Minimum floor area for safe use of bathroom
Less than 5	1	1	Can be in the same room as the bath or in a separate room	Mechanical ventilation is required in all bathrooms and toilet compartments which lack natural ventilation via an openable window. It will also be required in addition to any natural ventilation, where necessary, to mitigate problems of damp and mould. It is strongly recommended that where possible, in addition to any natural ventilation, mechanical ventilation is provided in all bathrooms and WC compartments.	Bath only 2.3m ² Bath & WHB 2.5m ² Bath,WC & WHB 2.8m ² Shower only 1.7m ² Shower & WHB 2.0m ² Shower,WC & WHB 2.2m ² WC & WHB 1.2 m ²
5	1	1	Where 1 bathroom is provided, a toilet and wash hand basin must be provided separate from the bathroom		
6-8	2	2	Where 2 bathrooms are provided, 2 toilets must be provided but one or both can be within the bathrooms		
9 -10	2	2	One of the toilets must be in a separate room from both bathrooms and have a wash-hand basin		

NOTES

- All bathrooms and toilets must be suitably located in relation to the living accommodation.
- Where facilities are shared they must be accessible from a common area; a bathroom must be no more than one floor distant in relation to the bedroom and the toilet must be within one floor distance of bedrooms and any living room.
- Bathrooms and shower rooms require efficient and safe fixed space-heating that can maintain a minimum temperature of 22°C. The heating must be under the control of the occupiers for timings and temperature.
- All wash basins, baths and showers must be provided with hot and cold running water and connected to a proper drainage system.
- A properly tiled splash-back or alternative impervious, easily cleansable surface must be provided to all baths and hand wash basins.
- Shower cubicles shall have fully tiled walls (or alternative impervious, easily cleansable surface) and be provided with a suitable water-resistant curtain or door to the cubicle. All joints should be adequately sealed.
- The flooring should be capable of being easily cleaned and slip resistant.
- Obscured glazing should be fitted as necessary to ensure privacy.

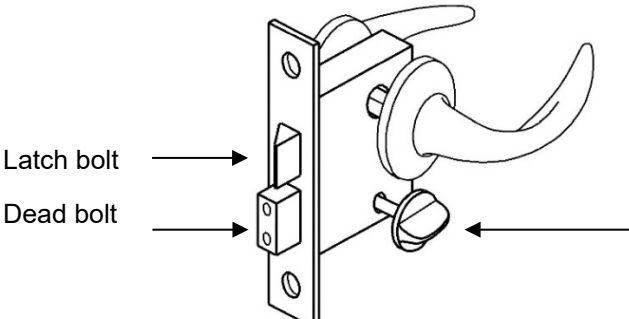
Guidance relating to all HMOs

Insulation and Heating	<p>Each unit of living accommodation in an HMO must be equipped with adequate means of fixed space heating.</p> <ul style="list-style-type: none"> • Heating shall be provided in every habitable room, the common parts and bathroom and capable of maintaining the following internal temperatures when the external temperature is -1°C: Living room, dining room and rooms used for sleeping 21°C Bathroom 22°C Elsewhere 18°C • The heating provision must be capable of being safely used at any time and be suitably guarded. It must be suitable, affordable to operate, appropriate to the design, layout and construction of the dwelling and be controllable by the occupants. • In the case of gas central heating, radiators must be fitted with thermostatic valves and a programmable timer clock fitted. • An electrical heating system will be acceptable in the form of a combined storage heater/panel heater that can be run on both “off peak and standard day rate” electricity tariffs, together with a fixed electric fan heater, located in the bathroom, powered from a fused spur. It must be capable of providing instantaneous energy efficient heating and controllability, on the optimum electricity tariff available. • All appliances shall be maintained by a competent person. Gas appliances shall be inspected annually by a Gas Safe Registered Engineer and certificated in accordance with the current Gas Safety Regulations and all applicable British Standards. • Work to electrical appliances must be undertaken by an electrician able to certify the work under the one of the following schemes: BRE Certification Limited British Standards Institution (BSI) ELECSA Limited, NAPIT Registration Limited, NICEIC Group Ltd. • The use of portable paraffin or oil-fired heaters and liquefied petroleum gas heaters (LPG) (bottled gas heaters) are prohibited under any circumstances, whether provided by the landlord or the tenant. <p>All reasonable steps should be taken to insulate HMO accommodation to improve energy efficiency and reduce condensation risk. Particular attention should be paid to basement and attic rooms and conversions must comply with Building Regulations.</p>
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Power Supply and Electrical Sockets	<p>HMOs must be designed with adequate electrical power output for their expected loading. Conversion of buildings to large HMOs will require an increased electrical supply, over and above a standard domestic supply.</p> <p>Electrical sockets must be adequate in number and suitably located to minimise the need for use of adaptors and trailing leads which introduce additional hazards. The following is expected as a minimum:</p>		
	Bedrooms with shared kitchen facilities	Bedrooms with own kitchen facilities	Section 257 HMOs (fully self-contained (flats))
	3 double sockets	3 double sockets + 2 double sockets above kitchen worktop area	3 double sockets + 2 double sockets above kitchen worktop area
	<p>Adequate electrical sockets must be provided to serve all electrical appliances provided by the landlord. In shared kitchens a minimum of 3 double sockets must be suitably located above work surfaces.</p> <p>In shared living rooms, a minimum of 3 double sockets must be provided.</p>		
Lighting and Ventilation	<p>All habitable rooms must be provided with adequate <u>natural lighting</u> with a glazed area of window equivalent to 1/10 of the floor area of the room. Bedsit rooms that do not have access to shared communal living space are expected to have an external view, not just a skylight view.</p> <p><u>Artificial lighting</u> must be sufficient to adequately illuminate the room for its intended uses.</p> <p>Lighting on stairs should be capable of being switched on and off from both upstairs and downstairs.</p> <p>All habitable rooms must be provided with <u>adequate ventilation</u>, normally by means of an openable area of window equivalent to 1/20 of the floor area of the room. Ventilation of a sleeping room through reliance solely on opening an external door is not permitted.</p>		

	<p>Where possible, all habitable rooms must have controllable trickle vents and/or windows that can be securely locked in the night-latch position to provide background ventilation without losing too much heat.</p> <p>Mechanical ventilation in kitchens, bathrooms and toilet compartments must operate on suitable systems to remove moist air and minimise noise disturbance. Mechanical ventilation must comply with the Building Regulations that are current at the time of application. Any installation shall be fitted with an overrun device usually connected to the lighting circuit of the room unless the fan is humidity controlled, where this may not be possible.</p> <p>To avoid damp and mould occurring it is recommended to have mechanical extractors with a continuous low background mode and a boost mode controlled by a humidistat set to operate the fan at times of peak relative humidity.</p> <p><u>Window restrictors</u></p> <p>Windows at first floor levels and above that have their openings less than 1100mm from floor level must be restricted to 100mm opening to prevent falls.</p> <p>Where sash windows require restrictors – in order to provide adequate ventilation once the bottom sashes are restricted, the top sashes should be in proper working order and openable without the occupant needing steps to reach up to them.</p> <p><u>Positive pressure whole house ventilation systems</u> are becoming increasingly popular with HMO landlords as a way of managing indoor air quality and reducing the risk of condensation and mould growth. All such systems must be installed and serviced in accordance with manufacturers recommendations and have room by room control.</p> <p>HMOs located where air pollution levels are likely to be particularly high should be designed with air intakes that minimise pollution ingress into the building, having regard to the design principles contained in <u>Appendix D of Building Regulation Approved Document F</u>.</p>
Fire Safety	<p>National guidance has been published by Local Authorities Coordinators of Regulatory Services (LACORS) to address fire safety requirements in certain types of housing including HMOs. It includes examples of how to develop risk appropriate designs having regard to the size and the occupancy type of HMO proposed.</p> <p>LACORS Fire Safety Guidance</p> <p>Whilst this guidance has been adopted in principle, it should be referred to in conjunction with the current British Standards for fire detection and alarm systems in domestic buildings as well as advice from the Council which may vary according to observations, tenancy type and individual property layout.</p> <p><u>A fire safety risk assessment</u> of the HMO must be carried by the responsible person (normally the HMO owner) to identify fire safety risks and controls throughout the building.</p>

	<p>Where a landlord carries out a fire risk assessment (the template below may prove helpful), the Council is not giving approval that it meets the requirements of the Fire Safety Order which is enforced by Devon and Somerset Fire and Rescue Service.</p> <p>Fire Risk Assessment Template</p> <p>An evacuation plan in the event of fire is required and must be provided to all occupiers. This is commonly posted on a communal noticeboard.</p> <p>Information provided to tenants should state that fire precaution measures must not be tampered with and it is strongly recommended that tenants sign to say that they have read the relevant information.</p> <p><u>Emergency Lighting</u> will be required in larger HMOs or where the escape route is long, complicated, and has little effective borrowed light or where occupants are considered vulnerable. Where fitted, it must be maintained and tested annually in accordance with the current British Standard.</p> <p>General Fire Safety guidance for those with legal duties can be found here</p>
Security	<p>HMO design must adequately control security risks without compromising fire safety. External doors must be openable from inside without the use of a key and securely lockable from the outside with either:</p> <ul style="list-style-type: none"> • A key • A security code • A door entry system <p>In all circumstances other than HMOs which are occupied by a stable, cohesive group of sharers (i.e. a genuine shared house with a joint tenancy in place), individual letting rooms must be securely designed. This means doors to individual lettings must be fitted with a combined lock and latch, where the lock is operated from the inside of the bedroom by a thumb-turn or lever, rather than a key. For example a euro cylinder type lockset:</p>

	 <p>Note. The 'thumb-turn' operated lock should be sited on the room side of the door to facilitate escape without the use of a key.</p> <p>This provides adequate security, ease of escape and avoids occupants locking themselves out of their rooms.</p> <p>Key operated window locks are required to all accessible windows (ground floor, basement and adjacent to external structures such as fire escapes and flat rooves). Where the window is an escape window that is an integral part of the means of escape from fire then a suitable alternative security feature will be required so as not to rely on a key.</p>
Food storage	<p>In addition to the sink base unit and hygienic storage for cooking utensils, cutlery and crockery, a <u>food storage cupboard</u> minimum (500mm wide base unit or 1000mm wide wall unit) must be provided per occupant. Lockable food storage cupboards are recommended in HMOs let under separate tenancies.</p> <p>Adequate space for the storage of fresh and frozen food must be provided for each occupant. This means space equivalent to one good sized shelf/compartment in a shared refrigerator and a good sized shelf/compartment in a shared freezer.</p>
Waste Disposal	<p>Adequate and hygienic waste disposal arrangements must be in place within the HMO. In practice this means the provision of suitable bins/receptacles and on-site waste management arrangements having regard to:</p> <ul style="list-style-type: none"> • The number of occupants • The type and size of HMO accommodation • The waste collection and recycling arrangements available either through the local council domestic collection service or a commercial waste contract <p>All HMOs requiring a licence must comply with the local authority storage and waste disposal scheme: https://www.teignbridge.gov.uk/recycling-and-waste/</p>

	The adequacy of waste disposal arrangements will also be subject to compliance checks under licence conditions and/or management regulations.
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Legislation and Management Considerations

Housing Health and Safety Rating System (HHSRS)	<p>The Housing Health and Safety Rating System (HHSRS) introduced by the Housing Act 2004 is a method of assessing hazards in all homes, regardless of tenure. It is a risk-based evaluation tool used by local authorities to help identify and protect against potential risks and hazards to health and safety from deficiencies in dwellings.</p> <p>The HHSRS applies to all HMOs in addition to the regulations for licensing, standards and management. If hazards are identified, the Council can take enforcement action to reduce or remove hazards to an acceptable level. A breach of enforcement action is an offence for which you can be prosecuted or a civil penalty of up to £30,000 per offence can be imposed.</p> <p>HHSRS guidance for landlords can be found here</p>
HMO Management Regulations	<p>The Management of Houses in Multiple Occupation (England) Regulations 2006 apply to all houses and flats which are occupied by three or more unrelated people where one or more basic amenities (WCs, bathrooms, kitchens) are shared. HMO owners and managers must ensure that their accommodation is adequately managed in accordance with these requirements which reflect the additional risks and responsibilities associated with managing this type of accommodation.</p> <p>These Regulations in brief, require the manager to:-</p> <ul style="list-style-type: none"> • Clearly display the manager's contact information within the property • Ensure safety measures are in place, including fire safety • Maintain common parts, fixtures, fittings and appliances • Maintain living accommodation • Supply and maintain gas and electricity • Maintain water supply and drainage • Provide waste disposal facilities. <p>The Council expects maintenance and safety checks to be regularly undertaken and to be logged accordingly. It is a criminal offence to breach HMO management regulations.</p> <p>The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 are prescribed standards for licensable HMOs and which this document expands upon.</p>

	<p>The Licensing and Management of Houses in Multiple Occupation (Additional Provisions)(England) Regulations 2007 apply to section 257 HMOs.</p>
HMO Licensing	<p>Certain HMOs must be licensed and it is the responsibility of HMO owners and managers to check whether a licence is required.</p> <p>A mandatory licence scheme currently operates in Teignbridge – and is required where 5 or more persons forming 2 or more households are in occupation. There are other schemes, namely Additional and Selective Licensing which are available to the Council not currently in operation, but kept under review.</p> <p>S257 HMOs are not subject to landlord licensing, however, the self-contained flats situated within the S257 HMO may be subject to Additional HMO, Mandatory HMO, or Selective licensing.</p> <p>Failure to licence a licensable HMO is an offence which may result in:</p> <ul style="list-style-type: none"> • Prosecution or a civil penalty of up to £30,000 per offence • Rent Repayment Orders for rent paid when the HMO was required to be licensed • Entry onto a national rogue landlord list <p>You can apply for a licence here</p>
Electrical Safety Regulations	<p>The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 require landlords to have electrical installations in their properties inspected and tested by a person who is qualified and competent, at least every 5 years.</p> <p>Landlords should provide a copy of the electrical safety report to their tenants at the start of the tenancy and to the Council when requested. If you are found to be in breach of the electrical safety regulations the local authority can impose a financial penalty.</p> <p>Guidance for landlords in respect of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 can be found here</p>
	<p>It must be ensured that:</p>

The Carbon Monoxide Alarm (Amendment) Regulations 2022	<ul style="list-style-type: none"> • at least one smoke alarm is equipped on each storey of their homes where there is a room used as living accommodation. • A carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers). • Smoke alarms and carbon monoxide alarms are repaired or replaced once informed and found that they are faulty. • <p>The requirements are enforceable by the Council who can impose a fine of up to £5,000 where a landlord fails to comply with a Remedial Notice</p> <p>Please note that these regulations specify the minimum for a domestic property. Please refer to LaCoRS fire safety document and the current British Standard for the appropriate fire alarm system required for a specific HMO. Guidance for landlords can be found here</p>
Minimum Energy Efficiency Standards (MEES)	<p>All rented properties are required to meet an Energy Performance Certificate (EPC) Rating of an E. Although normally room lets/bedsits do not need an EPC, where the house containing the room lets or bedsits has been sold since April 2006, then the whole property would have required an EPC at the point of sale. As an EPC was legally required at the point of sale, then the requirement to reach an EPC E rating would apply, unless a valid exemption is registered. See here for further guidance.</p>
Council Tax	<p>Landlords should be the registered liable person for Council Tax. https://www.teignbridge.gov.uk/council-tax/</p> <p>HMOs occupied entirely by full time students will be exempt from Council Tax, subject to submission of the documentation required by the council tax department.</p> <p>Council Tax fraud is an offence which deprives funding for local services.</p>
Planning Permission and Listed Buildings	<p>Planning permission is required when 7 or more occupants will share facilities. Smaller HMOs do not currently require planning consent, but this is kept under review.</p> <p>If you are intending to do any works to a listed building of any grade, inside or outside, including curtilage buildings and curtilage walls, you should check with the Planning Department to find out if you need to apply for Listed Building Consent. Progression with unauthorised changes may result in a fine or prosecution. https://www.teignbridge.gov.uk/planning/</p>

	Listed buildings - Advice on doing works to a listed building - Teignbridge District Council
Utilities	It is strongly recommended that landlords include utility charges as part of the rent and hold the utility accounts in their name. This will reduce the likelihood of unreasonable interruption to supply.
Parking and/or cycle storage	<p>Where required, planning permission is likely to be dependent on the provision of either adequate vehicle parking and/or secure cycle storage for the number of occupants.</p> <p>Regardless of planning requirements, we recommend that you plan these facilities wherever possible to help occupants to address their transport needs, to reduce the potential for conflict with neighbours and to help avoid management problems such as cycles blocking fire escape routes.</p>