Private Sector Housing Enforcement Policy

Principles

The Council's Housing Enforcement Policy is based on the following principles:

- **Openness:**
  We will provide clear information in plain English about the rules and regulations we have a duty to enforce. We will discuss these and aim to explain straightforwardly how legislation can be complied with.
- **Transparency:**
  We will be transparent about how we make decisions. We will provide clear information on how formal enforcement can be avoided or complied with. Information will be presented simply and in writing wherever practical.
- **Accountability:**
  We will provide you with information on how you can make complaints or appeal against enforcement action that we take.
- **Proportionality:**
  We will aim to take action that is proportional with the risk identified; protecting the health and safety of tenants and visitors without placing an unreasonable burden on the landlord.
- **Consistency:**
  Whilst we will apply judgment and discretion to individual circumstances, we will apply the legislation in a way that is consistent with the Council's policy and with the spirit of the legislation and any formal guidance issued.
- **Fairness:**
  We will aim to be fair to all parties, with no predisposition to favour either party in a dispute.

What to expect from the Council, and what the Council will expect from you

Landlords and Agents

- We will advise you of the legislation and help you understand how you can comply with it.

- We will expect you to take reasonable care to ensure that you are familiar with your legal obligations and that you comply with them.
- We will advise you what action you need to take to comply with the legislation and ask you to take the necessary action within a reasonable timescale.
- Our aim is to work with your reasonable proposals to allow you to comply.
- We will expect you to keep us informed of what action has been taken.
- If your proposals are not acceptable, or you do not comply with them, we will commence formal action by service of an enforcement notice or carrying out works in default.
- If you have a history of non-compliance, or the breach is serious, we will commence formal action immediately.
- In cases of non-compliance we will impose a civil penalty or prosecute in more serious cases if we believe this to be in the public interest.
- The Council will charge for the reasonable costs of formal enforcement action.

Tenants

- We will respond to complaints as quickly as possible and in all cases within 48 hours.
- If an inspection is required we will aim to carry this out within one week, or within a timescale agreed with you.
- We will expect you to advise your landlord of the issues affecting the property before you contact the Council.
- We will advise you of the possible courses of action we may take, and of the likely timescales involved in taking action.
- We will expect you to co-operate with your landlord to allow any necessary work to be done, and to keep us informed of what action has been taken.
- If we believe that you are preventing the landlord from carrying out works, we will suspend any enforcement action.

Owner Occupiers

- We will expect owners to maintain their homes.
- Enforcement action will only be considered if there is a serious and imminent risk to health and safety, or if there is a risk or nuisance caused to neighbours.

Owners of Empty Homes

- We will work with owners of empty homes to bring empty homes back into use.
- Enforcement action (Compulsory Purchase Order, Empty Dwelling Management Order, and Enforced Sale) will be considered if an owner does not cooperate and the empty property has an impact on the neighbourhood.

The Council will not normally respond to anonymous complaints, unless these have additional support from other sources.

The Council may decide that it is appropriate to carry out inspections in properties where no complaints have been made. This will normally be because of a property owner's record of non-compliance with the requirements of The Act, or because of

the general condition of property in a particular area. Inspections individual properties, or a programmes of inspections carried out on this basis will be authorised in writing at Property Services Group Manager level or above.

Where it is considered necessary to carry out an inspection, either following a complaint or for any other reason, the Council will give 24 hours notice as required under s239 of The Act. This notice may be in writing, by electronic means, or verbally, either by telephone or in person.

Housing Health and Safety Rating System (HHSRS)

The Housing Act 2004 ("the Act") and relevant Regulations made under the Act prescribe the Housing Health and Safety Rating System (HHSRS) as the means by which local authorities assess housing conditions and decide on action to deal with poor housing. The HHSRS identifies 29 classes of hazard that can potentially affect the health of occupiers. Any defects in a property may give rise to one or more of these hazards. Any hazards identified by an inspection are assessed and scored for the severity of their effect on health.

The score resulting from an assessment will place the hazard in a hazard banding between A and J. Hazards in bands A to C are classed as Category 1 hazards, and those in bands D to J are classed as Category 2 hazards. The Council **must** take one of a number of specified courses of action if it finds Category 1 hazards; it **may** take action in relation to Category 2 hazards.

The HHSRS score is based on the risk that a hazard presents to the class of occupier who is most vulnerable to hazards of that type (for example people over the age of 65 are most vulnerable to "excess cold" and children under the age of 5 are most vulnerable to "falls between levels"). However, in determining what action to take, the Council will take account of not only the hazard score, but the risk to the current and likely future occupiers and visitors, the views of the occupiers and whether more than one significant hazard is present.

Statutory Action

It is for the Council to determine what the most appropriate course of action in relation to a hazard is. The relevant courses of action are:

Hazard Awareness Notice (HAN): s28 and 29

- Hazard Awareness Notice relating to Category 1 Hazards; s28
- Hazard Awareness Notice relating to Category 2 Hazards; s29

A HAN is used where a more serious form of action is not considered appropriate. It does however act as a formal way of drawing attention to the need for remedial action. The notice is not registered as a land charge and there is no appeal procedure.

Throughout this document, when we refer to "enforcement action" this does not include service of a HAN, as whilst this is a formal form of notice established by the Act, it is of an advisory nature only.

Improvement Notice (IN): s11 and 12

- Improvement Notice relating to Category 1 Hazards; s11
- Improvement Notice relating to Category 2 Hazards; s12

An IN requires the specified remedial works to be carried out within a timescale set out in the notice. This must give the person on whom the notice is served a reasonable opportunity to do the work. The notice cannot require work to start earlier than 28 days after the service of the notice, and there is a 21 day appeal period.

Prohibition Order (PO): s20 and 21

- Prohibition Order relating to Category 1 Hazards; s20
- Prohibition Order relating to Category 2 Hazards; s21

A PO may prohibit the occupation or use for a specified purpose of part or all of the premises. A PO may be appropriate where serious hazards exist, but remedial action is impossible or impractical. It may also limit the use of part or all of the premises by specific groups of people or to a specified number of people. The notice must be served within 7 days of the date of the order, and appeals may be brought within 28 days of the date of the order.

Improvement Notices or Prohibition Orders may be suspended where action can be postponed for a specific time or until a specified event, for example where there is a change in occupation of a property.

Emergency Remedial Action; s40

Where a Category 1 hazard exists, and this presents an imminent risk of serious harm to the health and safety of and occupiers, the Council may take emergency remedial action. The Council will do this when it considers that immediate action is needed to remove the hazard, that the property owner cannot or will not do this, and that there is a reasonable prospect of the Council recovering its costs in carrying out the action. If this action is taken, them a notice must be served within 7 days. Appeals may be brought within 28 days of the date the action is taken.

Emergency Prohibition Order; s43

Where a Category 1 hazard exists, and this presents an imminent risk of serious harm to the health and safety of and occupiers, the Council may make an Emergency Prohibition Order. This action is likely where emergency remedial action is not considered appropriate for some reason – for example it cannot be completed in a reasonable timescale to remove the harm to occupiers, or there is no realistic prospect of the Council recovering the costs of remedial action. If this action is taken, a notice must be served within seven days of the date of the order. Appeals may be brought within 28 days of the date of the order.

Enforcement Action

Where an inspection shows Category 1 hazards to be present, the Council will immediately take one of the appropriate courses of action specified in The Act. If the

hazard or hazards do not present an imminent risk to health and safety, the most appropriate course of action will normally be the service of a HAN. This will give the property owner a reasonable amount of time to rectify the defects and remove or reduce the hazard to an acceptable level.

If the owner fails to take this action, the HAN will be revoked and an IN served. If the owner has a significant record of non-compliance with the Act, then an IN will be served immediately without the intermediate stage of service of a HAN. An IN may also be served immediately if the hazard is considered to be of a serious nature or if there are a number of Category 1 hazards.

Where an inspection shows Category 2 hazards to be present, and these hazards fall into Band D or E of the HHSRS, the same procedure will be followed as when a Category 1 hazard is present.

Where an inspection finds Category 2 hazards in Band F or below, the Council will not normally take any further action unless there are exceptional circumstances.

If there is a serious risk to the health and safety of the occupiers, then consideration will be given to the service of a PO. If this serious risk is imminent, consideration will be given to the service of an EPO, or to the carrying out of Emergency Remedial Action. Emergency Remedial Action will only normally be taken if the Council considers that there is a reasonable prospect of recovering in full its costs in taking the action.

There is a right of appeal to the FTT against the service of an Improvement Notice or a Prohibition Order

When a complaint is received about an owner occupied property, this will be investigated in the normal way. However, formal action under The Act will be limited to the service of a HAN, other than in exceptional circumstances. If a property is in a condition such that it presents a more general risk or detriment to the neighbourhood, it should be noted that there are other, more appropriate powers available, for example under the terms of the Building Act 1984, or the Environmental Protection Act 1990.

In some exceptional cases, in line with the guidance given by the HHSRS Enforcement Guidance, it will be necessary to serve an Improvement Notice, Suspended Improvement Notice, Prohibition Order or Emergency Prohibition Order in respect of hazards in owner occupied properties. No charge would generally be made for the service of such a notice and the Service will work with the owner to offer advice and assistance in complying with the requirements of the notice. Examples of exceptional cases where the Council may take enforcement action include:

- Vulnerable elderly people who are judged not-capable of making informed decisions about their own welfare.
- Vulnerable individuals who require the intervention of the Council to ensure their welfare is best protected.
- Hazards that might reasonably affect persons other than the occupants.
- Serious risk of life-threatening harm such as electrocution or fire.

- Any other exceptional case determined by the Property Services Group Manager.

Criminal Offences and Civil Penalties

Failure to comply with an Improvement Notice or a Prohibition Order is a criminal offence. The Council takes such a failure to comply seriously, and will consider criminal prosecution if this is considered to be in the public interest.

From April 2017, an alternative to prosecution is available to the Council. s126 of the Housing and Planning Act amended the Housing Act 2004 to allow civil penalties to be imposed as an alternative to prosecution for certain offences. These offences include:

- Section 30 (failure to comply with Improvement Notice)
- Section 72 (licensing of HMOs)
- Section 95 (licensing of houses under Part 3)
- Section 139(7) (failure to comply with overcrowding notice)
- Section 234 (management regulations in respect of HMOs)

The Council can impose a penalty of up to £30,000. The Council would normally expect that any relevant breach would be dealt with by means of financial penalty. The level of the financial penalty will be calculated with reference to the guidelines set out in Appendix 1

Where the Council is minded to issue a civil penalty, it will first issue a notice of intent. The person on whom the notice is served then has a period of 28 days during which to make representations. After this 28 day period, the Council must decide whether to impose a penalty, and if it still wishes to do so, a final notice will be issued. This final notice will contain the following information:

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

The penalty is recoverable through the County Court as though it were an order of that court. There is a general right of appeal to the FTT.

Only in the most serious cases would criminal prosecution be considered. These circumstances might include:

- Extremely serious breach for a first offence
- Long history of non-compliance
- More than one civil penalty previously issued
- An offence which could be a banning order offence appears to have been committed.

It should be noted that breach of a Prohibition Order cannot be dealt with by means of a civil penalty and so can only be sanctioned by criminal prosecution.

In serious cases, where a banning order offence has been committed, The Council may consider applying for a Banning Order. The provision for defining banning order offences is established in the Housing and Planning Act 2016. These will be enacted by October 2017 and are likely to include:

- Offences of fraud, violence, drugs and sexual assault;
- Crown Court offences committed against persons residing at residential premises owned by the offender;
- Relevant housing offence;

Relevant housing offences could include:

- Providing a local authority with false information;
- Permitting or causing overcrowding;
- Illegally evicting or harassing a residential occupier;
- Continuing to let to an illegal immigrant;
- Any Housing Act 2004 offence (by conviction, not civil penalty)

The consequence of a Banning Order would be to prevent the person subject to the order from letting out property for a specified period. This would only be considered in the most serious cases.

Charges for enforcement action

The Council will normally make a charge for its enforcement costs when taking the following action:

- Serving Improvement Notices
- Serving Prohibition Orders
- Serving Emergency Prohibition Orders
- Carrying out work in default
- Carrying out Emergency Remedial Action

The Council will not normally make a charge when action is limited to the service of a Hazard Awareness Notice, but may make a charge in exceptional circumstances.

Charges for enforcement action will be based on the estimated time taken to incur the eligible expenses set out in s49 of The Act. These include:

- Determining whether to serve a notice (e.g. arranging and carrying out inspections, assessing the hazards, determining the most appropriate course of action).
- Identifying what action should be included in the notice.
- Serving the notice.

The total estimated officer time taken will be charged at a rate of £45 per hour. This rate is intended to reflect the range of officers at different grades involved in the process, and the Council's overhead and establishment costs.

Where property owners have a statutory right of appeal to the First Tier Tribunal (Property Chamber) (FTT), this right will be fully outlined on the notice. Where an appeal is made, the Tribunal may confirm, quash, vary or suspend any notice, order or decision.

The Council will take the view that any complaints that are within the jurisdiction of the FTT should be dealt with through that mechanism.

If any party has a complaint about any matter that cannot be dealt with by the FTT, they will be encouraged to use the Council's Complaints Policy.

HMO Licensing

Houses in Multiple Occupation (HMOs) are defined in s254 Housing Act 2004. HMOs are accommodation that does not consist of a self-contained flat or flats, are occupied by persons who do not form a single household, and where two or more households share basic amenities (i.e. kitchens and/or toilets/bathrooms).

Larger HMOs (currently those that consist of three or more storeys and are occupied by five or more people in two or more households) are required by Part 2 of the Act to be licensed. The definition of licensable HMOs may be changed by Government regulation. To gain a HMO licence, the licence holder (and where applicable the manager must show that they are fit and proper persons to hold a notice, and that satisfactory management arrangements are in place.

In making an assessment of whether an applicant or manager are fit and proper persons, the Council must take account of the following:

- Any previous convictions involving violence, sexual offences, drugs or fraud
- Whether the proposed licence holder has contravened any laws relating to housing or landlord and tenant issues
- Whether the person has been found guilty of unlawful discrimination practices
- Whether the person has managed HMOs other than in accordance with any approved code of practice

In addition, *all* HMOs must comply with HMO regulations made under s234 Housing Act 2004. These deal with matters such as provision of information to tenants, safety measures, duty to provide services such as water, drainage, gas and electricity, maintenance of common part and of the accommodation and the provision of waste disposal facilities. These regulations also contain minimum standards for deciding the suitability of the accommodation for occupation by a particular maximum number of persons.

Failure to obtain a licence for a licensable HMO and failure to comply with HMO regulations are both offences. There are no enforcement notice provisions for HMO licensing, or for HMO regulations. So if enforcement action is required this must take the form of prosecution, or the application of a Civil Penalty. The Council will normally impose a financial penalty in these circumstances, unless the breach is extremely serious.

HMO Licence Conditions

Licences are granted for up to five years, and will specify the maximum number of persons permitted to occupy the house. It will also be subject to the appropriate conditions contained in Schedule 4 Housing Act 2004 (mandatory conditions), and s67 Housing Act 2004 (discretionary conditions).

Mandatory conditions:

A licence under Part 2 or 3 must include the following conditions.

- Produce gas safety certificates annually for the Council's inspection.
- Keep electrical appliances provided by the landlord safe and produce on demand a declaration to that effect
- Keep furniture provided by the landlord safe and produce on demand a declaration to that effect
- Ensure that smoke alarms are installed in the house and to keep them in proper working order and produce on demand a declaration as to the condition and positioning of these alarms.
- Supply to the occupiers of the house a written statement of the terms on which they occupy it.

Discretionary Conditions:

- Conditions imposing restrictions on the use or occupation of particular parts of the house by persons occupying it
- Conditions requiring the taking of reasonable and practical steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house
- Conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under s65 of the act (generally kitchen and bathroom facilities)
- Conditions requiring such facilities and equipment to be kept in repair and proper working order
- Conditions for works needed for such facilities to be provided or maintained to be carried out within a specified time period

Charges for HMO Licences

The Council is entitled under s63(2) Housing Act 2004 to charge a fee for HMO licences. The fees at present are:

For properties accommodating up to six people:	£500.00
For each additional person:	£25.00
Up to a maximum licence fee:	£750.00

For subsequent licences for the same property to the same person, a reduction of 20% will be applied (i.e. £400.00 for up to six people, plus £20.00 for each additional person up to a maximum of £600.00)

Charges for non-statutory inspections

The Council will charge for inspections that are non-statutory. These include inspections in support of applications made to the British High Commission for Entry

Clearance into the United Kingdom to confirm the fitness of dwellings, and the fact that there will be no overcrowding. The charge for this service is £110.00

Letting Agents – Requirement to belong to a redress scheme

From 1 October 2014, it has been a requirement that letting agents must belong to one of three redress schemes that are approved by the government. This allows tenants who are dissatisfied to complain to an independent person about the service they have received.

This requirement was brought in by The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014. This regulation was made under the terms of the Enterprise and Regulatory Reform Act 2013. The requirement applies to letting agents and property managers who carry out property management on behalf of landlords. It does not apply to landlords themselves, only to those who take instructions from others. The approved schemes are:

- Ombudsman Services Property (www.ombudsman-services.org/property.html)
- Property Redress Scheme (www.theprs.co.uk)
- The Property Ombudsman (www.tpos.co.uk)

If letting agents fail to register with an approved redress scheme, the requirement will be enforced by local authorities. The local authority can impose a fine of up to £5,000 where an agent or property manager who should have joined a scheme has not done so.

The process for taking enforcement action is as follows:

1. The local authority sends out a notice of intent to impose a penalty, stating the reasons for taking this action and the amount of the penalty;
2. The person on whom the notice of intent is served has 28 days in which to make representations and objections;
3. At the end of this period, the local authority must decide whether to impose the penalty as set out in the notice of intent, modify the penalty, or withdraw the notice;
4. When the local authority has made its decision in (3), it must send out a final notice confirming its decision;
5. The penalty, if not paid, is recoverable on the order of the court;
6. The person on whom the final notice is served has a right of appeal on certain grounds to the First Tier Tribunal.

In cases of non-compliance, the Council will send out a notice of intent as in point 1 above. If any representations are made, these will be considered by a more senior officer, who will decide whether to confirm, modify, or withdraw the penalty. This is without prejudice to the right of appeal to the First Tier Tribunal.

Smoke and Carbon Monoxide Alarm (England) Regulations 2015

On 1st October, The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force. These place duties on private landlords to install smoke alarms and carbon monoxide (CO) alarms in properties subject to residential

tenancies. In a residential property the landlord must install smoke alarms on each floor of a property that contains living accommodation, and CO alarms in each room that is used for living accommodation and contains a solid fuel combustion appliance. These alarms must be checked by the landlord to ensure that they are in working order at the start of any new tenancy.

Duties of the Local Authority

If the local authority reasonably believes that a landlord is in breach of the duties set out above, it must serve a remedial notice on the landlord. It must serve the notice within 21 days of deciding that it has grounds to do so. This notice must require the landlord to take appropriate remedial action within 28 days. It would be the normal practice of Barrow Borough Council to recommend the installation of mains wired alarms with battery back up. The landlord is entitled to make representations to the local authority within this 28 day period.

If the landlord fails to comply with this notice, the local authority must arrange to take remedial action itself, within a further 28 days. The remedial action must be taken by an “authorised person”, that is to say, a person authorised in writing by the local authority for the purpose of taking remedial action.

Penalty Charges

In a case where the landlord is in breach, the local authority may, in addition, require the landlord to pay a penalty charge not exceeding £5000. It must send out the penalty charge notice within six weeks of being satisfied that the landlord is in breach. There is a facility for the local authority to reduce the level of the penalty charge notice if it is paid within 14 days. The local authority must also give a period of at least 28 days for the landlord to request a review of the penalty charge, and the name and address of a person to whom the review and any accompanying representations should be made. Where a landlord is not satisfied with the outcome of a local authority review, the landlord may appeal to the First-tier Tribunal.

Where a penalty charge is payable and no longer subject to review or appeal, the local authority may recover the charge through a court order. Sums recovered through penalty charges may be used in support of any of the local authority’s functions.

Furthermore, the local authority must publish a statement of principles which it proposes to follow in determining the amount of the penalty charge. It must have regard to these principles when determining the amount of the penalty charge. This statement is shown in Appendix 2

APPENDIX 1

Application of Civil Penalties under section 126 Housing and Planning Act 2016

Statement of principles

The level of civil penalty to be applied will be determined with reference to the culpability of the offender, and the harm, or potential harm, caused to occupiers as a result of the breach. The principles that the Council will take into account when applying a civil penalty are:

1. The more serious the offence, the higher the penalty should be.

2. 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.

3. 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.

4. 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 demonstrates the consequences of not complying with their responsibilities.

5. 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.

6. 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 housing 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.

7. 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; it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

These principles will be applied using the Culpability / Harm matrix set out below to arrive at an appropriate penalty.

Culpability

Very High: The offender intentionally breached or flagrantly disregarded the law. This may be evidenced by numerous previous failures to comply with enforcement action.

High: Actual foresight of, or wilful blindness to risk of offending, but risk nevertheless taken. This may be evidenced by some previous enforcement activity.

Medium: Offence committed through act or omission which a person exercising reasonable care would not commit.

Low: Little fault because, for example, efforts were made to address the risk, albeit they were inadequate on this occasion, or failings were minor and occurred as an isolated incident.

Harm:

Level 1: Multiple serious failings giving rise to a number of Category 1 Hazards that posed a substantial risk to occupiers, or very serious breach of HMO management regulations.

Level 2: Significant risk arising from, for example a single Category 1 Hazard, a number of Category 2 Hazards. Significant breach of HMO management regulations.

Level 3: Lower risk arising from one or two Category 2 Hazards only, or from a minor breach of HMO management regulations.

The level of the civil penalty will be calculated with reference to the table below. A history of previous non-compliance and/or evidence of substantial financial gain from the failure to comply will result in a higher penalty within the range being imposed. Previous good character, less financial gain and evidence of efforts to remedy the situation will result in a lower penalty within the range being imposed.

	Starting Point	**Range**
Very High Culpability		
Harm Level 1	£20,000	£10,000 - £30,000
Harm Level 2	£10,000	£5000 - £15,000
Harm Level 3	£5000	£2500 - £7500
High Culpability		
Harm Level 1	£10,000	£5000 - £15,000
Harm Level 2	£7500	£3750 - £11,250
Harm Level 3	£3000	£1500 - £4500

Medium Culpability		
Harm Level 1	£5000	£2500 - £7500
Harm Level 2	£3500	£1750 - £5250
Harm Level 3	£2000	£1000 - £3000
Low Culpability		
Harm Level 1	£3000	£1500 - £4500
Harm Level 2	£2000	£1000 - £3000
Harm Level 3	£1000	£500 - £1500

APPENDIX 2

Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Statement of principles

1. This statement of principles is published as required by Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 ("the Regulations").

2. The statement of principles will be used by Barrow Borough Council ("the Council") to determine the amount of any penalty charge it makes under Regulation 8 of the Regulations. When determining the amount of such a penalty charge, the Council will have regard to this statement of principles.

3. Regulation 8 of the Regulations specifies that the amount of the penalty charge will not exceed £5000.

4. Regulation 9 of the Regulations states that the penalty charge notice may allow for the penalty charge to be reduced if it is paid within 14 days, beginning with the day that the penalty charge notice is served.

5. The Council recognises that Regulation 4 of Regulations requires residential landlords to install smoke and (where the Regulations specify) carbon monoxide alarms. These requirements are designed to protect the physical safety of tenants at relatively low cost to the landlord.

6. Before a penalty charge notice is served, the Council must serve a remedial notice on the landlord, giving the landlord at least 28 days to comply with the requirements of the remedial notice. Only when the landlord fails to comply with the remedial notice can a penalty charge notice be served. Furthermore, the landlord is not in breach of the remedial notice if he or she has taken all reasonable steps short of legal proceedings to comply.

7. If the landlord fails to comply with the remedial notice, not only are they in breach of their duty under Regulation 4, but they place a duty on the Council under Regulation 7 of the Regulations for the Council to take remedial action itself. The breach by the landlord therefore directly results in costs being incurred by the Council.

8. In addition to allowing the recovery of costs incurred by the Council, there is a clear deterrent effect if the penalty charges are set at a high level.

9. The Council considers that the government would not have allowed penalty charges to be set at the level set out in Regulation 8 of the Regulations (£5000) if it did not expect penalty charges to be imposed at this level.

10. Furthermore, to comply with Regulation 4, in the vast majority of cases, the number of alarms that are required to be installed will not vary considerably from property to property. Therefore, the expectations on most landlords are very similar. There will be fewer mitigating or aggravating factors for breaches

of Regulation 4 from case to case. On this basis, the Council considers that it is reasonable to set most penalty notices at the same level.

11. The Council considers that it follows from points 9 and 10 above that the starting point for level of the penalty notice will be the maximum. However, the penalty charge will be reduced for the first offence. The penalty charge will also be reduced if payment is made within 14 days. However, the Council considers that a proportionately smaller reduction is appropriate for early payment for a second or subsequent breach compared with the early payment reduction for a first breach. The charge may also be reduced in other exceptional circumstances.

The level of the penalty charge for a breach of Regulation 4 will therefore (other than in exceptional circumstances) be as follows:

12. For a first offence - £2500 (reduced to £1250 if paid within 14 days)

13. For second and subsequent offences - £5000 (reduced to £3500 if paid within 14 days)